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the cost of the publication of this Monograph from
The State Government of Melaka
PETRONAS
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Edited for the Council of the Malaysian Branch of the
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The MALAYSIAN BRANCH of the ROYAL ASIATIC SOCIETY
MONOGRAPH No. 16

NANING in MELAKA

by

JONATHAN CAVE

Printed for the Council of the Malaysian Branch of the Royal Asiatic Society
by Eagle Trading Co. Sdn Bhd,
81, Jalan SS25/32, Taman Mayang 47301 Petaling Jaya.

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ACKNOWLEDGMENTS

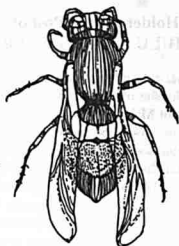
Among many old friends and colleagues, Haji Nordin bin H. Mat Som, a Naning man and son of a Penghulu, was Land Office Clerk and later Deputy C.L.R. at Alor Gajah and introduced me to the Custom, which we have discussed over a span of forty years; Dato' Mohamed Shah, who succeeded when I was in Melaka, has always been welcoming and has helped me with references from his own 'Book of Naning', which contains detail no outsider can acquire; Tun Mohamed Suffian opened many doors and made many valuable introductions, and contributed laughter; and Tan Sri Dato' Dr. Mubin Sheppard helped me with unpublished correspondence, advice on an early draft, and encouragement at all times. More recently officials at Melaka and Alor Gajah were uniformly helpful to an old man turning up out of the past. To them and many others (including my wife), who checked my translations but none of them is responsible for any errors or opinions: these are my own.

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Jonathan Cave

ABBREVIATIONS

AGLC	Alor Gajah Land Cases Notebooks
AGPK	Alor Gajah Distribution Suits Notebooks
AR	<i>Annual Report</i>
B.Pol.	Bengal Political Consultations
B. Pub.	Bengal Public Consultations
B. Rev.	Bengal Revenue Proceedings
B. Sec.	Bengal Secret Consultations
B. Sec. Pol.	Bengal Secret and Political Consultations
CO	Colonial Office
DNB	Dictionary Gazette Notification
GN	Government Gazette Notification
JIA	Journal of the Indian Archipelago 1847-1855
JIA (NS)	<i>Ibid. New Series 1856-1859</i>
JMBRAS	<i>Journal of the Royal Asiatic Society,</i> <i>Malayan Branch 1923-1963</i> <i>Malaysian Branch 1964 -</i>
JSBRAS	<i>Journal of the Royal Asiatic Society Straits Branch</i> <i>1878-1922</i>
LP&J	Public and Judicial Department
MLJ	<i>Malayan Law Journal</i>
MNR	Ministry of Natural Resources, Federation of Malaya
PMS	<i>Papers on Malay Subjects</i>
RCOM	Resident Councillor's' (after 1946 Commissioner's) Office Malacca
SG	Surveyor-General's Office, Federation of Malaya
SSR	Factory Records, Strait Settlements
Wilkinson	Malay-English Dictionary, 2 vols.



NANING

An explanatory Note

Balthazar Bort, the Governor of Malacca, wrote and published a Report on Malacca in 1678.

A Note at the end of the report read:
Naning: a large species of Wasp;
the name of the territory lying to the North of Malacca.

R.J. Wilkinson. M.C.S. published his English-Malay Dictionary in Singapore in 1901.

It included the word Naning: a large yellow banded wasp.

In a separate alphabetical section he added:
Aning-aning: a large wasp, very venomous, bigger than a hornet.

Naning can still be seen at Taboh Naning in 1989.

Holders of the Post of DATO' PENGHULU NANING, SRI RAJA MERAH

It is probable that there were holders of the Post of Dato' Penghulu Naning during the Sultanate of Malacca (1400 - 1511), and during the Portuguese occupation of Malacca, (1511 - 1641), but no records of the names of the holders are now to be found, and the earliest list of Dato Penghulu Naning begins soon after the commencement of the Dutch occupation, and even this list does not contain the dates of appointment.

In Rembau, a neighbouring territory, the earliest Chief, ('Undang Luak') on record was named Dato Maharaja Gelebang, and his appointment dated from 1540. It is improbable that the appointment of a major Chief in Rembau preceded a similar event in neighbouring Naning.

A list of eighteen Dato Penghulu Naning is set out below:

The dates of the 14th. to 18th. holders have been obtained from records in Taboh Naning.

1. Dato' Megat Alam Melintang
2. Dato' Megat Junjongan Limau
3. Dato' Juara Megat
4. Dato' Kekak (Zohri)
5. Dato' Gahan Berhulu
6. Dato' Janggut (Selamat Idris)
7. Dato' Timba
8. Dato' Anjak
9. Dato' Abdul Said (Doll Syed)
10. Dato' Idas
11. Dato' Mohammed Salleh ('Dato' Arab')
12. Dato' Ranting
13. Dato' Hassan
14. Dato' Omar 1918-1923
15. Dato' Arshad Pemangku (Regent) during the minority of Othman bin Kering : 1923-1932.
16. Dato' Othman bin Kering (Prisoner of war killed by Japanese) 1932-1942
17. Dato' Che' Lah bin Mat'Sah (abducted and killed during the Emergency) 1946.
18. Dato' Mohammed Shah 1950.

Note by Mr. Cave:

I am indebted to Dato' Mohammed Shah for this list, given to me by him at Taboh Naning in 1978.

The eighth Dato' was appointed in 1786. He died in 1801 and was succeeded by Dato' Dol Sa'aid. The post of Dato Naning was abolished by the British East India Company in 1832. The post was officially revived by the British administration in Malacca in 1932. (See Journal of the Malayan Branch of the Royal Asiatic Society, Vol. 53, Part 2, 1980, pp. 96-100).

Editor.

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BOOK ONE

THE HISTORY

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Chapter 1

Early Times and the Malacca Sultanate

Naning covers twenty-five mukims or parishes across the northern part of the State of Melaka¹ and marches on its northern boundary with Rembau and Tampin, constituent States of the Negri Sembilan; southwards down-river are mukims such as Beringin, Durian Tunggal and Kesang whose inhabitants follow the usual *Adat Melayu* sometimes called *Adat Temenggong*,² while the coastal mukims from Kuala Linggi have vestiges of *Adat Laut*.³ It has an area of some 220 square miles and is the most southerly of the Districts or *Luak* where the *Adat Perpatih* obtains; but it was politically disjointed from its cousins by four and a half centuries of Portuguese, Dutch and British presence in Malacca.

The first inhabitants have been thought to have been among those megalith builders who came in the second wave of migration south.⁴ The megaliths and alignments of *batu hidop* ('stones which are alive') are earlier than the establishment of a settled Muslim culture,⁵ and together with these, the matrilineal system, the possible meanings of 'Taboh' and 'Naning', the significance of colours, of flags and other characteristics, led Winstedt to consider an origin shared by the Khassis of Assam.⁶

There were certainly inhabitants when the first settlers arrived from Minangkabau in Sumatra: these inhabitants were 'the black crows from the hills' as distinct from the 'white egrets from over the sea'. There is no evidence in Naning of Mon Khmer settlement or exploitation before the collapse of that empire in A.D. 1451, and the inhabitants must have been aborigines and proto-Malays, variously called 'Benua' and 'Mantra' by early writers and now classified as Temuan.⁷

'Malacca and all the great Island belongs to us', an aborigine told Logan in 1847 when he visited Bukit Panchor. 'It belongs to us: the Malays have come into our country, but Malacca and all the land is ours and not theirs.'⁸ This heir of the long-dispossessed was a Besisi refugee from Rembau and a member of that race which Wilkinson wrote was to be found down to Gunung Tampin (just across the Naning border) and indeed on the Sumatran side of the Straits of Malacca.⁹ At the time of the 1947 Census, there was an established group of aborigines living on Bukit Payong in the mukim of Taboh Naning, and they said that they were Besisi, but also that their headman was a Jekra and that their Batin was at Kenaboi.¹⁰ (They were lively and genial, and took such matters as rice ration cards, kerosene

lamps and khaki drill shorts for granted; the Malay penghulu, Land Bailiff and Bailiff's Follower were clearly not at ease.)¹¹ At that same time, there was a Jakun Reserve on the eastern boundary of the Bukit Panchor Reserve, in Machap, then a Naning mukim, where a few families who had intermarried with Chinese lived in small huts and allowed squatters to market-garden in their area. These were what remained in that District of the Jakun found across Johore¹² and the 'Benuas' of d'Eredia,¹³ Bort,¹⁴ Logan¹⁵ and others.

One legend¹⁶ says that these 'Sakai' came from Johore, from Skudai in the Pulai hills, up to Johol, led by three men and one woman. The woman stayed in Johol, and the men went on to Jelebu, another to Sungei Ujong, and the last to Klang: of the lesser chiefs in their company, one was sent to Naning and another to Rembau. Another legend¹⁷ stated that Dato' Klana Putra of Sungei Ujong established Naning and Rembau and placed his sons over them. This To' Klana Putra was a son of To' Entah, first Batin, who amongst other things reduced the number of sons from three to one and was the first man ever to feel thirsty, so this would seem to have been fairly early in the world's history.

The traditions however include the Bendahara Sekudai,¹⁸ who has been identified as an historical figure of the first half of the seventeenth century by Winstedt,¹⁹ and he names Tun Perak, later Bendahara of Malacca, as the first Klana Putra.²⁰ This implies that the proto-Malays of the west coast of central Peninsular Malaysia came within the embrace of political organisation in the period between *circa* A.D. 1450²¹ and 1644 as the last possible date, when the Sultan of Johore disclaimed responsibility for the Minangkabaus and said they were the Bendahara's tenants;²² the opening date was accepted by both Winstedt²³ and Wilkinson.²⁴ The closeness of the embrace depended on the effectiveness of the Malacca Sultanate's rule over such of the population as had ceased to be nomadic, and this was greatly loosened but not entirely broken by the Portuguese capture of Malacca in A.D. 1511. Before that date 'Malacca had become a capital instead of being an entire State in itself'²⁵ with expansion in the mid-Fifteenth century of suzerainty over Pahang, Kampar and Indragiri.

What was this capital and its State? Both Tomé Pires²⁶ and d'Albuquerque²⁷ attributed its beginnings to 'Cellates'²⁸ 'robbers who used to go about piratting over the sea in launches...' who 'fished in the river that runs at the foot of the fortress....' (that is, the Malacca River):

...as they often went up the said river fishing, for a distance of a league or two away from the sea, they saw a large and spacious place with large fields and lovely waters, and they saw how well this place was adapted for a large town, and that they could sow large fields of rice

there, plant gardens, pasture herds...and they gave it the name of Bretam, which means spacious plain....

This small group (Pires said there were eighteen) reported this to the 'Parimicura', then at Muar after being driven out of Singapore some years before. He came, and saw that it was good, and he established himself there with his followers: d'Albuquerque says²⁹ that within two years (*circa* A.D. 1400) there was a population of two thousand.

✓ The other details given by Pires raise some queries. A map contemporary with his work³⁰ shows a small river north-west of the Malacca River and running to the sea, and marked as the 'Rio Bretam'. This tallies with the Sungei Hitam, the estuary of which is still known³¹ by the honorific 'Kuala Sungei Sri Melaka' and meets the sea at Klebang Kechil: this river, now canalised, drains the padi-growing areas of Balai Panjang mukim, and one tributary runs down from Bertam Ulu. There is a low watershed between its basin and that of the Malacca River. Place names have not shifted: Bort³² listed 'Groot Bretang' and 'Kleen Bretang' as divided by Malim and nearer Malacca than Kandang. Pires said³³ that 'with the tide they can descend from Bretão to Malacca in an hour'. By the Malacca River it is over eight miles upstream to where the Sungei Ceng joins it, opposite Kandang: and high water ordinary spring tides reach hardly to Pringgit, three miles up; even in A.D. 1511 there was a bar in the Malacca River on which Antonio d'Abreu's ship grounded during the first Portuguese attack on Malacca. The distance from the confluence of the Sungei Bertam Ulu and Sungei Ayer Salak to form the Ayer Hitam is about eight miles, of which nearly half is by sea passage along the coast; and the latter is the more likely to be the hour's journey with a favourable tide.³⁴

By the time of Alaedin Riayat Shah (A.D. 1477 to 1488)³⁵ the population, according to d'Albuquerque, had reached forty thousand, and at the time of its fall had one hundred thousand inhabitants and extended a good league along the coast.³⁶ Pires says³⁷ that 'from the Alcoa Panajy (i.e. Kuala Linggi) to the river of Muar along the sea, Malacca had a cate of men-at-arms who could fight. That is 100,000 men'. These must be apocalyptic figures: when Sultan Mahmud counter-attacked the first Portuguese assault on Malacca bridge, he had a force of two thousand men³⁸ in support of seven hundred Javanese already committed to the fight — and this when he had had time to mobilise in the week or two while the Portuguese fleet lay off Malacca and d'Albuquerque sent demand after demand. The captains and crews of five Chinese junks which had been requisitioned by Sultan Mahmud Shah reported to d'Albuquerque that inside the city 'were more than twenty thousand fighting men, Javanese, Persians and Coracones, with twenty war elephants....',³⁹ but these forces did not appear in the battles. D'Albuquerque also stated⁴⁰ that:

...three thousand pieces of artillery were taken, and among them there were about two thousand in bronze, and one very large gun which the King of Calicut had sent to the King of Malacca....Let not those who read this writing be astonished when I say that in Malacca were taken three thousand guns, for Ruy d'Araujo and Ninachatu declared to Afonso d'Albuquerque that there were eight thousand in Malacca...for in Malacca was much copper and much tin, and the gun-founders were as good as those of Germany....

This has been questioned,⁴¹ but while the figures may err towards the grandiose, they are not inherently improbable. A gun-breech mould found at Jeram Kwi on the Tembeling in Pahang was attributed by Linehan to not later than the mid-fifteenth century,⁴² and the guns themselves seem to have been less lethal than decorative and ceremonial — and perhaps psychological like the cannons used at Crecy, which frightened horses but inflicted no casualty other than on the crew of one which blew up. Their muzzle velocity and range were low: Antonio d'Abreu, as part of the second attack⁴³ on Malacca bridge, sailed his requisitioned junk within crossbow range of the bridge, and 'the Moors began to open fire on him...with large matchlocks, blowing tubes and poisoned arrows, and with bombards which threw leaden shot as large as an *espera*....'; d'Abreu did not seek cover and 'was hit with a bullet from a large matchlock' which struck him on the jaw and carried away many of his teeth and part of his tongue'.⁴⁴ This was at about daylight: by about two in the afternoon he was back in the battle, 'by this time well of his wound in the jaw'.⁴⁵ Before that same attack d'Albuquerque:

...ordered the ironsmiths whom he had brought from Goa to set up their forges and to begin to repair some weapons which were out of order, and they made a magazine for the crossbows for they were much in need of it.⁴⁶

Malacca was a great and rich port: 'this city of Malacca is the richest seaport with the greatest number of wholesale merchants and abundance of shipping and trade that can be found in the whole world' wrote Duarte Barbosa in 1517–1518;⁴⁷ 'there is no doubt that Malacca is of such importance and profit that it seems to me that it has no equal in the world' said Pires⁴⁸ four years earlier; and d'Albuquerque reports his father⁴⁹ as addressing his captains on the plan to build a fortress:

...seeing that Malacca was the principal seaport of the whole world, and thither resorted Moors from all parts for spiceries...especially from Cairo and Méca, as well as all the inhabitants of places to the eastward of the gates of the Straits.

If we accept Maxwell's and Hervey's views,⁵⁰ the roadstead ran from Pulau Upeh in the north-west to Pulau Java south-east of the town, three and a half miles as the crow flies, and well sheltered: 'this port of Malacca is very safe; there are no storms to injure it, and never was a ship lost there'.⁵¹

The population was heterogeneous. Pires, describing the organisation of the traders, wrote:⁵²

There are in Malacca four Xabambares, which are municipal offices. They are the men who receive the Captains of the junks, each one according as he is under his jurisdiction. These men present them to the Bendara, allot them warehouses, dispatch their merchandise, provide them with lodging if they have documents, and give orders for the elephants. There is a Xabamdar for the Gujeratees, the most important of all; there is a Xabamdar for the Bunua qujlim, Bengalees, Pegus, Pasé; there is a Xabamdar for the Javanese, Moluccans, Banda, Palembang, Tamjonpura and Luçõs; and there is a Xabamdar for the Chinese, Legueos, Chancheo and Champa.

D'Albuquerque gives approximately the same list:⁵³ 'Every year there used to come to Malacca ships of Cambaya, Chaul, Dabul, Calicut, Adem, Méca, Xaer, Judá, Choramandel and Bengala, of the Chinese, Gores, and Javanese, of Pegu, and all those parts'. These then were the traders coming by sea from China, Korea (the Gores) and Indo-China to the east, Indonesia and the Phillipines (Luções) to the south, and as far as the Red Sea and Persian Gulf to the west. The great majority of these were of course birds of passage, but they had their shore base. Ruy d'Araujo's friend 'Ninachettu' — Nina Chetty, presumably an early Malacca Chettiar — and 'Utemuturaja', leader of the Javanese, were established and prosperous figures with access to the Bendahara and the Sultan: Utimutu Raja is described as a lower-class Javanese Hindu by birth, eighty or ninety years old in 1511, who had been settled in Malacca for half a century⁵⁴ and who, with his sons and sons-in-law, owned five or six thousand Javanese slaves. There were the Court Malays themselves:

...proud men by nature, esteeming themselves highly for killing men adroitly with stabs of the kris...gallant men, they wear good clothing...all their delight is in conversing about military matters, and they are very courteous⁵⁵

And there were the 'Cellates' who 'carry blowpipes with their small arrows of black hellebore which, as they touch blood, kill'.⁵⁶

There is little information on how far the Sultan's, or rather the Bendahara's, writ ran in the hinterland, or how far this was settled. Pires says⁵⁷ that there were:

One thousand one hundred and fifty farms which they call *duções* (*dusun*), some of them with palm groves, some with *oraguas*, some with fruits of various kinds, all good, including the fruit of the durians, which is the best fruit in the world without doubt.

D'Eredia, about a century later, described 'Sarvarátos, the Royal Orchard', whose site was near the source of the Sungei Baru;⁵⁸ this is called 'the Royal Harem' by Mills in his commentary,⁵⁹ and though the word may be archaic Portuguese, the establishment itself must go back to before their arrival. D'Eredia's map⁶⁰ put it on the west bank of the river, inland by the first meander, and this would place it eighteen miles as the crow flies from Malacca and about a mile and a half from the coast.⁶¹ The easy way of reaching it was by sailing along the shore and no doubt silken dalliance in a royal barge would have been appropriate to the destination, but there were presumably roads or paths at least as far as Batang Tiga, passable especially for elephants. Mahmud Shah's Bendahara, the Paduka Raja, had an estate further out at Lubok China, twenty-two miles from Malacca in a direct line and twelve miles from the sea and controlling the river below the junction of the Sungei Rembau and the Sungei Siput which runs from Naning.⁶² In general, however, the impression from both contemporary and later records is of surrounding jungle:

...within the boundary there is a great deal of wood, most of it growing straight up to the sky, for masts and other things: and there are pleasant waters...within the bounds of Malacca there are many wild elephants, and many tigers, and six or seven kinds of deer, which look like oxen and are not.⁶³

The evidence points to a caravanserai of a city, with little of immemorial permanence: there were magnificent wooden buildings⁶⁴ but few of stone, and these — the mosques and royal mausoleum — were quarried by d'Albuquerque to build his fortress. The city stretched along the littoral and was populated by contingents of disparate origins, who felt no great loyalty to the Sultans or to each other. It was ruled, under a known but not comprehensive Code of Laws, by Sultans who had achieved splendour, and their great officers of State — Bendahara, Temenggong and Laxamana: the chief constraint on these was the degree of loyalty they felt towards their Sultan. The great officers ruled through officials of the second rank, like Ninachettu and Utimutu Raja, from the national contingents. They were supported by a caste of Malay courtier-warriors; and all of them lived off the trade and traders as, at the other end of the trade route, did Venice. But their rule could be enforced only at blowpipe and cross-bow range, and their columns against any land enemy advanced only at an

elephant's walking-pace. Outside the city and away from the coast, most long-distance travel was by river, with connexions by portages between river systems. The river approach to Naning, and Rembau, was by going up the River Linggi: the Malacca River gave access only to the fringe of Naning, though there was later if not in A.D. 1511 a path or road towards Melekek. How far the others from Malacca passed along these routes is not known: before A.D. 1511 there is no recorded mention of any place in Naning other than Lubok China.

As Malacca fell,⁶⁵ Mahmud Shah with his daughters and sons-in-law withdrew to Bertam:⁶⁶ d'Albuquerque says that he also took with him some Malay merchants and 'his captains and governors of the land'.⁶⁷ He waited there for the Portuguese to sail away and then, after a week, heard that d'Albuquerque had started work on a keep, and retreated a further two days journey. This was no handful of destitute refugees and the transport and commissariat problems must have been considerable, though to some extent they seem to have lived off the country since 'as the party was sharply pressed for lack of provisions'⁶⁸, Mahmud Shah's son went off with one group about a day's journey and built fortifications and a boom across the river, presumably strategically paced to protect the main party. D'Albuquerque raised a force of thirteen hundred men including six hundred Javanese brought by Utimutu Raja and two hundred men from Pegu) and attacked and destroyed the position, taking among the spoils gilded palanquins and seven elephants, not inconsiderable equipment for a forward defensive position. The prince joined his father: they quarrelled and split up, Ahmad to go south to the Muar River, his father to go to Pahang.⁶⁹

The general view is that Mahmud Shah and his followers crossed by the *penarikan* (portage) linking the headwaters of the Muar River with those of the River Serting, a tributary of the Pahang River, travelling east before going north.⁷⁰ There is a possible alternative: that Mahmud Shah's second base was at Melaka Pindah ('Malacca removed from one place to another');⁷¹ the distances given by d'Albuquerque fit, and the further flight to Pahang could have been up the River Malacca and following the route which certainly existed by the time d'Eredia drew his map, via 'Jol' or Jorak near Pondo to the *penarikan* near Jempol in Negeri Sembilan.

Chapter 2

The Portuguese Era

I

The individual rulers of Malacca changed with the Portuguese victory but the political system remained unaltered. Tomé Pires arrived in the town within eleven months¹ of the victory and remained there for two years and seven months, beginning his account while he was there:

...the Bemdara is a kind of chief-justice in all civil and criminal affairs. He also has charge of the King's revenue. He can order any person to be put to death, of whatever rank or condition, whether nobleman or foreigner. Tamungo is the chief magistrate in the city. He has charge of the guard and has many people under his jurisdiction. All prison cases go first to him and from him to the Bemdara and this office always falls to persons of great esteem.

He does not mention the Laxamana, whose office as Admiral was superseded; and his comments on the Shahbandars have already been noticed. D'Albuquerque gave a similar description, learned from his father:

There used to be in Malacca five principal dignities. The first is Paduciriraja, which signifies Viceroy, and after the King this one is the greatest. The second is Bendara, who is the Controller of the Treasury, and governs the Kingdom....The third is Lassamana: this is Admiral of the Sea. The fourth is Tamungo, who is charged with the administration of justice upon foreigners. The fifth is Xabandar; and of these there were four....And the Tamungo was Judge of the Customs House, over all these.²

Afonso d'Albuquerque remained in Malacca less than a year,³ but within that time he sent an expedition into what is now Naning: it penetrated as far as Padang Cacar and met opposition. Begbie states⁴ that a Portuguese soldier was killed there, and his grave gave rise to the name *Kubor Ferringhi* ('grave of a Portuguese'): Logan, who examined the site in 1849, described it as 'a long earthen mound beside the path, about three feet in height, which has no resemblance whatever to a grave in any form and appears rather to be the wasted remnant of a Malay rampart'.⁵ (His suggestion, in a footnote to his article, that the name properly was *Kubu Ferringhi* ['rampart of the Portuguese'] seems unlikely, as a small expedi-

tionary force was unlikely to carry out such engineering, or to build a fortification of value only if garrisoned. It might, however, be an elliptical reference to the 'rampart concerning the Portuguese'). Newbould placed this position three and a half miles from Taboh Naning through Cerana Puteh,⁶ which would put it at or near Kendong and the present State boundary.

Begbie gave no source for his brief notice of this expedition, or why it set out or what route it took. The most that one can surmise is that it was a mopping-up operation to clear the higher reaches of the Malacca River and beyond, mounted against whoever lived there: there is no indication, for example, that it was against any incomers from Minangkabau, or against the leveés which could be raised by the Bendahara and his lieutenants. It does however, suggest that this was the circumference of the circle of Malacca rule, and perhaps the home territory of the fallen Sultanate.

D'Albuquerque retained Nina Chetty as Shahbandar of the Southern Indians, and appointed him Bendahara;⁷ and he retained Utimutu Raja as Shahbandar of Javanese, until the latter revealed himself as a threat and was publicly beheaded with his sons:⁸ one of his many offences was 'to take possession for himself of certain estates in the interior of the country, which had been deserted by the governors of Malacca when they fled with the King':⁹ then d'Albuquerque appointed another Javanese, Pateh Kadir ('Patequitir'). Regimo di Raja, a Muslim from Luzon, was in charge of his compatriots and of Parsees and Malays: he was appointed Temenggong.¹⁰

Before he left, d'Albuquerque appointed the various Portuguese officials who were to control the administration of Malacca. Ruy de Brito was to be Captain of the Fortress, and Perez d'Andrade was appointed Captain of the Sea (taking over from the Laxamana) to act, if need arose, as Captain of the Fortress as well. Eight ships and their captains remained: Ruy d'Araujo became Factor, Chief Alcaide, and Overseer of the Fortress; he was also to be arbiter in disputes between the various Shahbandars.¹¹ There were to be two 'scriveners' and one Receiver of Supplies. On these appointments Pires commented to his King:

(Malacca) should be provided with excellent officials, expert traders, lovers of peace, not arrogant, quick-tempered, undisciplined, dissolute, but sober and elderly, for Malacca has no white-haired official.¹²

Ruy de Brito was Captain until late 1514 or early 1515 and dealt with the rebellion of Pateh Kadir, who fortified the suburb of Upeh, across the river from the Fortress, with six thousand men¹³ and relied on a seaward blockade of the port by Mahmud Shah's Laxamana. When news of this

reached Afonso d'Albuquerque, then Viceroy at Goa, he sent four ships and two hundred men to reinforce Malacca, for Antonio d'Abreu with three ships and a hundred and twenty men (with forty slaves to man the pumps) had sailed away on an expedition to the Moluccas.¹⁴ The reinforcements were commanded by a cousin,¹⁵ Jorge d'Albuquerque, who carried orders for the recall of de Brito and was to become Captain of the Fortress.¹⁶ The new Captain was faced with the problem of appointing a new Bendahara, for Nina Chetty had died on 27th January 1515 'as I am writing at this point'.¹⁷ Jorge d'Albuquerque invested the King of Kampar as *Mangku Bumi* 'which is a dignity like Viceroy among us'.¹⁸ He was a son-in-law of Mahmud Shah and, according to the 'Malay Annals'¹⁹ was kidnapped by the Portuguese after their fleet had beaten off his father-in-law's attack upon him after he had repudiated Mahmud Shah's suzerainty. Pires in Malacca disapproved: 'he is a youth and foolish, and a Malay....I do not think he will have any success in Malacca'.²⁰ Such success as he had did not last: according to Manuel de Faria y Souza, Mahmud Shah 'perceiving the growth of the city under the wise administration of Abdullah' (the son-in-law) put about a rumour that this was a plot between them to seize the Fort and restore the exiled Sultan: Jorge d'Albuquerque believed this, as was intended, and had the King of Kampar publicly beheaded.²¹

During these unsuccessful attempts to continue the Sultanate's organisation, therefore, Naning and other areas of the interior remained as they had been, but were aware, from the expedition and otherwise, of a new overlord in the Fortress. Ninety years later d'Eredia mentioned 'the native Bandara, having authority over the infidel vassals and strangers'²² and Barretto de Resende said that there was a Temenggong, who by his day was a Portuguese.²³ According to one local tradition²⁴ there was, intermittently at least, a fortification near the mouth of the River Linggi, which controlled this river access to Naning and Rembau; and the Portuguese controlled the other approach, up the Malacca River. What went on there, however, was outside the area within which their orders were effective.

II

The Portuguese power was throughout its rule embattled and precarious. Until 1536 Mahmud Shah and his successors, based successively in Pahang, Riau ('Bintang') and Johore mounted operations to recover the lost capital. From 1537 there was a new enemy, Aceh, whose marauding ambitions included Johore and reduced but did not remove the threat from that quarter. In the second half of the century, in 1568 and 1582, there was

some coalition between Malacca and Johore against Aceh, but thereafter until the end of the century Johore again became the main threat, to the extent that the Portuguese offered aid to Aceh in 1600. Johore sought help from enemies of the Portuguese maritime power: there were Dutch representatives in, and Dutch vessels off, Johore from 1603 until 1613; and when the threat from Johore disappeared with a peace treaty in 1610 and the sack of its capital, Batu Sawar, in 1613, the Acinese remained, as did the Dutch, until the Portuguese defeat in 1641. The city was besieged by Johore in 1522–24, 1551 and 1586, by Aceh in 1537, briefly raided in 1547 and besieged again in 1568, 1575 and 1629, by Japara in 1571, and by the Dutch in 1606 — nine times in a hundred and twenty years; the Portuguese mounted counter-attacks on Johore in 1521, 1524, 1536, 1551, 1587, 1603 and 1605.

In the first phase, during Ruy de Brito's command and after the defeat of Pateh Kadir, there was first the fifth-column enterprise by 'Tuão Maximiliz' and Calascar, Shahbandar of the Javanese, on the Fortress side of the river.²⁵ Four years later, in 1518, the former ruler then in Bintang (Riau) mounted an attack by land and sea on a garrison reduced to two hundred men, 'many of whom were sick but the danger cured them of their fevers, and everyone ran to repel the enemy'²⁶ during a three weeks seige. Pressure was relieved by an attack on Muar, which was razed: three hundred cannon, some of brass, were taken. In 1521, Jorged' Alburquerque attacked his enemy's headquarters at Bintang, without success and losing twenty men killed; in 1522–24 'Malacca was much straitened by the King of Bintang, who sent a powerful armament against it',²⁷ and Pahang abandoned its friendship with the Portuguese. In 1524 Mascarenhas, with four hundred Portuguese soldiers and six hundred Malays 'under Tuan Mahomet and Sinai Raja' stormed the Bintang capital, taking two thousand prisoners and nearly three hundred cannon: 'the King of Bintang died of grief' as Kampar and Mascarenhas installed another ruler 'under vassalage to Portugal'.²⁸ In 1535, after Sang Naya's plot to murder the Portuguese as they sat in church, Johore killed the Malacca envoy²⁹ and Estavao da Gama destroyed Ala'edin Shah's fort in Johore and won another victory. The subsequent peace terms were so favourable to Johore that the Malay Court shifted to Muar.³⁰

The first Acinese attack on Malacca took place in 1537; in 1546 Johore and its allies signally defeated the Acinese off Aru, but in 1547 the Acinese made a brief night landing at Malacca, across the river from the Fortress:

...the City was in an uproar, and the fear and night increas'd the danger, many flying from their own shadows, the crys of the fearful only reach'd the Fortress, for they were surpris'd with fear without danger.³¹

Francisco d'Esá pursued the Acinese flotilla and destroyed it: meanwhile the Johore forces, knowing that the Portuguese fleet was away:

...designed to try if that occasion would make their way to free Malacca...and made bold by their hating us and Cowardly in their fear...design'd in the semblance of Peace, to disguise a Warr....

(It was on this occasion that St. Francis Xavier, then preaching in Malacca, 'was suddainly wrapp't into a profound Extasis, as taking in the Heavenly secrets in a soft silence, till waking from the Mysterious intermission of his senses' told his congregation to give thanks for d'Esá's victory before any news of it had arrived).³² In 1551, Johore again attacked Malacca, besieging it from June to mid-September.³³

The next phase opened with the sack by Aceh of Johore Lama in 1564, and apparently the Sultan was taken to Aceh to make obeisance:³⁴ four years later Aceh again attacked Malacca and the Portuguese asked Johore for help which arrived a fter the Portuguese had driven off the attackers. In 1571 Aceh attacked Malacca with reportedly nearly a hundred sail, seven thousand soldiers and a large train of artillery. 'At this time Malacca was in a miserable condition, excessively poor, having very few men, and these unhealthy and dispirited, having suffered much by shipwreck, sickness and scarcity of provisions' says de Faria y Souza, who added 'not without deserving these calamities, for Malacca was then the Portuguese Nineveh in India. I know not if it be so now'.³⁵ Soon after the Acinese withdrawal, Malacca was attacked by the forces of the Queen of Japara in a seige lasting three months, and in 1575 the Acinese were back, investing the city from the beginning to the end of January. Tristan Vaz, the Portuguese commander, sent three ships and a hundred and twenty men to protect an expected food convoy, and these were destroyed, with only five survivors.

Only 150 men now remained in Malacca, of whom 110 were sick or aged. Being in want both of men and ammunition, Tristan Vaz was under the necessity of remaining very quiet; but the enemy, fearing that he was preparing some strategem against them, raised the seige in a panic of terror, when they might easily have carried the city....³⁶

There is no record of Johore assistance to Malacca during these seiges, but when in 1582 Aceh attacked Johore, the expedition was defeated with

the help of about a dozen Portuguese ships. The Sultan, duly grateful, visited Malacca and trade increased with friendly relations, until 1584. Then Johore blocked the navigation channel in its eastern approaches to Singapore and Portuguese freebooters made attacks on Johore vessels: in 1586 Sultan Abdul Jalil in his turn laid siege to Malacca.

Hitherto during all these tortuous shifts of alliances and desertions Naning had gone unrecorded, but now Naning men joined in the attack on Malacca from the landward:

[the force]...came down from the hinterland, setting fire to and destroying gardens, orchards and all cultivated lands along the Malacca river: this was sorely felt in the city because coming down the river from these places were vegetables, fruit, betel, coconuts and other articles of food which are much appreciated by all in times of dearth.³⁷

The town, shut off from sea-borne supplies by Abdul Jalil's blockade, was indeed starving:

...not only the poor, but even the rich people, fell into utter misery; and all the poor people, and they were many, had to feed themselves on roots from the jungle, on cats and dogs and all sorts of foul things which impaired their health so much that they were dying along the streets and in the forest as if they had been stricken by a contagious disease. Things came to such a pass that some of them devoured those who had breathed their last there, at their side, from hunger. Women threw their children into the river because they had neither milk to give them nor anything else. Others abandoned them in the jungle or in the streets, where all perished miserably.³⁸

Desperate circumstances required a desperate remedy: the Captain of the Fortress, João da Silva, mustered all the men, put one hundred Portuguese and six hundred 'natives' with a supply of four hundred matchlocks (which in action were used in relays, one set being loaded and primed by loaders while the other set was fired) under the command of Diogo d'Azambuja and Don Manoel d'Almada, provided them with boats and 'wished them luck'.³⁹ They went upstream for some way and disembarked at a landing-place,⁴⁰ where they left a rear party to make a stockade and guard the boats. Assuming that the expedition reached this point in two days at the most, it then took them four days to reach Kampong Enau, their objective: 'under the guidance of spies they went inland continually travelling in the thick of a dense forest, crossing swamps and streams where they got entangled and lost their way'. In front of the village a force of two thousand men awaited the Portuguese: Naning had its spies too. The advance guard, of fifty Portuguese, a Jesuit priest, a lay brother and two

hundred 'lascars' attacked 'with much valour and mordant, pressing so hard upon the enemy that they were put to flight by the volleys of musketry which killed a good many of them: he chased them in this way to the Fort' (the stockade built at Kampong Enau) 'making a terrible slaughter of the enemy'. Portuguese casualties were three killed and four wounded, and:

...seeing with what little danger this exploit had been carried out, Diogo d'Azambuja gave the order to set fire to the village of *Nam* and the neighbouring kampongs; he had, therefore, the trees cut down and all the fields laid waste, so that nothing should be left standing. And, as he was told that in another place at a distance of one day's walk, named Rombo, a Captain of the Rajala, called Nadoi, had intrenched himself in a fort with a garrison, he determined to storm it and level it to the ground. While on his way to that place, the inhabitants met him, begging for his mercy and for peace, saying that they were not at war with Malacca....Diogo d'Azambuja granted them mercy and peace, and knowing that he had nothing more to fear, turned back to cross again the forest and repair to the place where he had left the boats.⁴¹

This appears to have ended Naning's support of Raja Ali (Abdul Jalil Riayat Shah) but it did not end the, seige, during which Joao da Silva went mad and the Bishop took over command. The Portuguese succeeded in driving off the Johore forces, and in July and again in August 1587 attacked Johore Lama and set fire to the town.⁴² From the next year onwards the usurper ruler of Aceh opposed Johore, and at the end of the century attacked the Sultan in his new capital of Batu Sawar:⁴³ in November 1600 Portuguese envoys offered aid to Aceh. Johore turned to any other Europeans who might be attracted to help: in 1600 they invited James Neccy⁴⁴ to join in on an attack on Malacca, and with the arrival of the Dutch in 1603 the last phase of Portuguese rule began.

Heemskerk left a representative, Jacob Buyzen, in Johore: this man got in touch with the next Dutch fleet under Wybrand van Warwyck to report that two Portuguese men-of-war and twenty-four other ships were waiting off Johore to convoy Portuguese merchantmen, due from Japan and Macassar, to Malacca. The Dutch attacked and defeated them, watched by Buyzen and the Sultan's brother, Raja Bongsu.⁴⁵ Furtado de Mendoza, the new Portuguese Governor of Malacca, got in touch with Johore assuring the Sultan of the Portuguese wish to live in peace with Johore, but instructed his envoy to require the surrender of any Dutch who might be in Johore and a breach with the Dutch — 'there should never be peace if the King of Djohor would not accept the said conditions'.⁴⁶ The Sultan refused and began negotiations with the Dutch through Raja Bongsu: they supplied him with some cannons and ammunition. In 1606 a reinforced Dutch fleet under Matalief attacked Malacca, ineffectually:

[Matalief]...saw that all the firing to and fro was of no use...and...after mature deliberation he resolved to ask the opinion of the King of Djohor, chiefly because he wanted to make sure if the latter would help him and what his assistance would consist of.⁴⁷

Raja Bongsu (also known as Raja Seberang) negotiated for Johore and made the agreement of 17th May 1606.⁴⁸ Next day Matalief attacked with seven hundred men: he had been told that there were more than three thousand slaves and Malays within the town but not more than eighty Europeans,⁴⁹ but he was met by a troop of four hundred Portuguese and black musketeers and pikemen, and the Dutch found the Fortress impregnable. He had some Malays helping to build a gun platform but 'whenever he asked Radja Sabrang for the help of his men he indeed promised to send him people, but they never appeared...and he became aware that he was knocking at a deaf man's door'⁵⁰ so he raised the siege. It seems, nevertheless, that there was Malay help: fourteen thousand men of 'neighbouring Kings'⁵¹ blockaded Malacca, and again the orchards, gardens and coconut plantations outside the town were destroyed to an extent sufficient to justify an appeal to the King of Spain and Portugal for tax remission.⁵² The Portuguese themselves destroyed Banda Hilir on the Fortress side of the river in a 'scorched earth' policy.⁵³

The Dutch connexion with Johore persisted: there was a representative at Batu Sawar from 1607 to 1609, and an intermittent naval presence.⁵⁴ Raja Bongsu lost influence by 1609, and after a Dutch defeat at sea Johore in 1610 signed a peace treaty with Malacca, although the Dutch merchants remained. This treaty provoked an Acinese attack on Johore in 1610, after which some twenty Dutchmen were taken as prisoners to Aceh along with the Johore Sultan, princes and chiefs.⁵⁵ The Sultan was allowed back to Johore upon condition that there should be an alliance to attack Malacca; when Johore did nothing, Aceh again attacked it, in 1615. A Portuguese force from Malacca in aid of Johore was defeated, and Batu Sawar was again sacked. Raja Bongsu, now Sultan Abdullah, fled to Lingga. from which the Acinese drove him in 1623; and until 1640-41 there was no threat from Johore — which indeed sent some help to Malacca when Aceh again attacked it in 1629.⁵⁶

III

Of the various Portuguese accounts of Malacca, three relate, to the early years: 'Suma Oriental' of Tomé Pires, the 'Book of Duarte Barbosa', and the 'Commentaries' of Afonso d'Albuquerque.

Pires arrived in Malacca to be 'scrivener and accountant of the factory and controller of the drugs'⁵⁷ According to de Barros writing in about 1563, 'besides his distinction and natural inclination to letters...he was very curious in enquiring and knowing things, and he had a lively mind for everything'.⁵⁸ His book was a report to his royal master on the possibilities of Malacca, and he was concerned largely with the trade in spices and gold which then ran overland through Arabia or Egypt to Europe: his remark that 'whoever is lord of Malacca has his hand on the throat of Venice'⁵⁹ was made with this in mind. The local history and detail appear to have been intended as background information. His description⁶⁰ of the territory reads:

...on the side of Upeh...Malacca is bounded by the Acoala Penagy (i.e. Kuala Linggi)...it is about four leagues⁶¹ from the Fortress of Malacca...and on the side of Iler (i.e. Banda Hilir) it is bounded by the Acoala Cacam (i.e. Kuala Kesang): it is about three leagues from the Fortress to this boundary; and then going overland from one boundary to the other round the foot of the hill called...Gunong Ledam which is the boundary on the land side....

We have already noticed his statement that the territory could have raised one hundred thousand men-at-arms and that there were eleven hundred and fifty *dusun*, and his description of the jungle. In his conspectus of the region he describes:

...the land of Menamcabo...the Kings of Menamcabo are three. The chief one is called Raja Cunço Teras...the second is called Raja Bandar, brother of the King already mentioned; the third is called Raja Bonço....The first, they say, has been a Mohammedan for a short time — almost 15 years: the other two they say are still heathens. These often quarrel, and there is war between them most of the day.⁶²

Again, when mentioning Mansur Shah, he wrote:

...another of his sisters married the King of Menamcabo, who was a heathen and made him turn Moor. Others affirm that the said King is still not a Moor to this day. The truth is that he is a Moor, with about a hundred of his men: all the others are still heathens.⁶³

In another connexion, he was optimistic about Malacca's prospects 'once the influence is finished that this ex-King of Malacca still exercises'.⁶⁴ (Pires had no opportunity of adding to his report: he was sent with a mission to China and was personally welcomed, but the behaviour of his grantee captain so affronted the Emperor that Pires was not allowed to leave but lived his life out there).

Duarte Barbosa was another 'writer' who served in India from about 1500, to 1516/17, and he wrote his book in the next year. He went on Magelhaes' expedition as captain of one of his ships and was killed at Cebu in 1524. He had visited Malacca. His account⁶⁵ also deals with the entire Orient, relies more on hearsay, and thinks in terms of trade. He mentioned the gold trade with Pahang: '*Pam* has its own individual King and there is much base gold there'.⁶⁶ He also mentions Minangkabau: '...Macaboo which has much gold found here, which they take to Malacca in dust....Manancabo, which is the principal source of the mined gold found in this island' — he was then writing of Sumatra — 'It is like that found on the shores of streams and rivers, a wonderful thing'.⁶⁷ He mentions the Chettians⁶⁸ of Malacca and alludes briefly to the Malay defence in 1511⁶⁹ but otherwise made no comment on town or territory.

D'Albuquerque, writing after 1566,⁷⁰ worked for the greater glory of his natural father and the family, and as a reminder to his King of services that deserved reward: his concern was more with derring-do than economic geography or political systems. He did not visit Malacca, although building the Portuguese empire was almost a family industry,⁷¹ but he had access to his father's papers —

I do not speak here of the numerous lands, Kingdoms and provinces that lie around these parts although I had certain information of them in the letters which I used to see from Alfonso d'Albuquerque to the King Dom Manoel, wherein he gave an account....⁷²

The detail must have come from eye-witnesses, particularly his father. His description of the officials on Sultanate Malacca and his catalogue of the races to be found there has already been given.

None of these three mentions the 1511 expedition as far as Padang Cacar or the, death (or fort) of any Portuguese there, let alone why it set out or against whom it fought. Yet it was an exploit (if it took place) during the great d'Albuquerque's command and one which his son might be expected to acclaim; and it would have been fresh in the memories of those whom Pires and Barbosa met. Pires, for all that he was curious in enquiring and knowing things, makes no connexion between the 'Menancabos' and any tribes living anywhere in Malacca, whether under the influence of the ex-King or not, and contents himself with a reference to Cellates with their small arrows and black hellebore. Barbosa, himself on occasion a man for curiosities,⁷³ says nothing of 'Monancabos' in Malacca or relate them to his 'heathen' in Sumatra.

Half a century latter Barros commented generally on the area that 'especially after we had taken Malacca...the Malay Moors after they had

been cast out thence sought for new settlements along the coast'.⁷⁴ The term 'Malay Moors' was used with exactitude, distinguishing the indigeneous population from Javanese and other immigrants, and noting that they were Muslim. He did not refer to any Minangkabaus in Malacca territory: neither did Fernando Mendes Pinto, who was in Malacca briefly in the same period, nor Linschoten (a Netherlander in the service of Spain) who was in Goa for five years from 1583 make any reference to Naning or to Manangkabau people.⁷⁵ De Couto, writing after 1586 about Diogo d'Azambuja's expedition, says that the march on Kampong Enau was decided upon 'notwithstanding the hardships in perspective on account of the road which was almost impracticable,⁷⁶ and mentions the 'Manicabers who were friends of the Fortress'. Otherwise, we have to wait until the next century for information, from Godinho d'Eredia, Barretto de Resende and Bocarro.

D'Eredia was the son of a fifteen-year old Bugis princess who had been newly baptised with her family as Christians by the missionary Sacerdotal Administrator of Malacca when she stowed away to elope with Juan d'Eredia, thereby causing a diplomatic incident.⁷⁷ He was born in Malacca in 1563 and lived there until he was thirteen, when he was sent to Goa to continue his education. He was back in Malacca from 1600 to 1604, exploring the territory from Kuala Linggi to Muar, where he built a fort to control that river. He then returned to Goa, explored Gujerat, and became interested in the Australian seas and 'Luca Antara' and tried to get information about an unknown continent. Thus he had some connexion with the Malay world, and had spent his boyhood and some of his late thirties in Malacca, but wrote after a ten-year gap. He was susceptible to fable and the marvellous, but even in his accounts of these, matter-of-fact details appear. He could change his views in deference to persons of importance, but he was no armchair explorer. Groups of Minangkabaus were already coming down river in 1560, as we learn from his chapter 'Concerning the Medecines'.⁷⁸ In 1602 there were at least twenty Christians living in the Sungei Putat area in Batu Berendam and moving before daylight, for they were rowing downstream to Mass at St. Lazaro, some three miles upstream from Malacca, and it was then that they saw the vision also seen by d'Eredia 'out early navigating the river in the service of the King' and prospecting for 'gold, silver, mercury, tin or *calem*, iron and other metals, precious stones, and other minerals, including nitre'.⁷⁹ (The vision consisted of a blue cross some three fathoms long, 'and from the upper side of the headpiece there sprouted green branches resembling branches of marjoram': it faded before 7 a.m. as certified by Father Belchior Figueira, who formally declared that 'this occurrence caused astonishment as well as

great devotion among the Christians').⁸⁰ We also learn that an excursion from Malacca to Kuala Linggi was not a formidable undertaking: the Portuguese Ambassador to Aceh made one merely to examine the talking bamboos.⁸¹

Most of d'Eredia's exploration was necessarily done by river, and his map⁸² shows the river systems with considerable accuracy, although his orientations and distances are often wrong — not surprisingly, given that any form of triangulation was impossible. There are omissions, perhaps because of the small scale on which he drew: he put in only one river between the Malacca River and the Sungei Baru and called it 'Riobatang-tiga': this reached the sea some six and a half (English) miles, to measure by his scale,⁸³ from Malacca and seems to be the Sungei Lereh, with no intervening Sungei Ayer Hitam — though he marked an indentation which corresponds with Tanjong Sri Melaka.

Going upstream from Kuala Linggi on the boundary of what he says was Malacca territory, he marked in nothing before the confluence of a river flowing from Lubok Kepong, Sungei Kepong, Sungei Buloh and Lendu. This is the river now known in its lower stream as the Sungei Siput: it rises in Taboh Naning mukim below the westward slopes of Bukit Payung and is now known there as the Sungei Simpang Ampat; it is joined by a stream rising below the eastern slopes of that same hill and flowing through Kemus and Perling, and forms the Sungei Kundangan through the mukim of Melekek until it is joined by the Sungei Lendu and Sungei Buloh (which d'Eredia mentioned) to become the Sungei Siput. D'Eredia's 'Landu' appears to be the kampong of that name in Sungei Siput mukim, or derived from the river itself, rather than the present mukim of Lendu. On the rest of this river system he has much less detail, showing in the River Linggi leading past an unidentified 'Lucoth' to Sungei Ujung, and the River Rembau running down from 'Rombo', described as the metropolis of that district, the 'Regiam de Monancabos'.

D'Eredia gave full value to the bends and meanders of the Malacca River in its lower lengths but made the Sungei Machap — his 'Rio Machat' larger than it is, and running further east. He showed the Batang Malaka, but had his proportions and bearings wrong. He put in the stream running to Ganun in Gadek Mukim, and the beginning of the much larger Sungei Tampin (which flows from Gunung Tampin in Negri Sembilan through the mukims of Pulau Sebang, Tanjung Rimau and Padang Sebang to join the Malacca River near Gadek) but he brought Repah and Jorak on the Pondoi tributary of the Batang Melaka too close.

He also showed tracks running through and beyond Malacca territory. In particular, he put one in along the western bank of the Sungei Baru from

Sarvátos ('the Royal Harem') to his 'Landu' and thence to Sungei Buloh, where it crossed the river and divided to lead to Lubok Kepung, Sungei Kepung and Naning. Naning lay on a track from Pengkalan Naning on the Malacca River to Rembau; Pengkalan Naning itself along the western bank of the river, and to Batang Melaka, Jorak, Repah and Ganum, all in what is now the Negri Sembilan area of the headwaters of the Malacca River. Repah is marked as connecting with a track to Johol and the Portage to the Pahang River system leading to the China Sea. That was marked as 'Regiam de Banuas: Satyros',⁸⁴ as distinguished from the 'Regiam de Saletes' west of the River Linggi.

In 'Concerning the District' he claims the same territory as Tomé Pires:

...the north and north-eastern boundary...forms a semi-circle with a diameter of eight leagues, till it reaches the mountains of Batang Melaka and the sources of the River Penagim (Linggi) and Muar; that is to say, the source of a branch of the River Penagim near Sunecopon and Nany, and the source of another branch of the River Muar, near Jol....In the interior, the flat land as well as the mountains is completely covered with flowers and green medicinal plants: one finds thick groves containing...camphor, dragon's blood and other aromatics: in particular there are so many trees yielding gums and oils that one could fill a ship's hold with their products.⁸⁵

He was the first to speak of agricultural self-sufficiency:

The land is very fertile, and suitable for cultivation of all kinds of rice and grains: the local harvests can provide all the foodstuffs necessary for existence without recourse to the produce brought by the foreign Jao merchants...[but]...the natives are negligent and careless in the matter of husbandry: they do not make the best use of the fertile fields threaded with rivers and streams of good water, which...irrigate the Hinterland so effectually that it might produce a variety of herbs and plants as marvellous as those of Thessaly....The natives dwell in their orchards and gardens along the banks of the Malacca River, living contentedly on the produce of the lands and fields, and raising large herds of cattle and smaller animals, besides geese, ducks and fowls.⁸⁶

It was an empty lotus land:

...greater part of the County is uninhabited and deserted, except in the District of Nany which is occupied by Monancabos engaged in the trade of 'betre' [betel], an aromatic plant which is chewed with a mixture of chalk and areca in order to tone the stomach. The Monancabos with their stocks of 'betre' come down from Nany to the 'Pencalan' whence they proceed by boat to the market-place at Malacca.

These were 'vassal Monancabos': 'by the same route past Nany...one proceeds from Malacca to Rombo, head of the Malayo villages in a territory which belongs to the Crown of Djohor: Rombo also is peopled by Monancabos'.⁸⁷

D'Eredia has nothing to say about Naning's attitude to the Portuguese, nor does he condemn them for rebelliousness. In 1614 some Minangkabaus rebelled against the King of Pahang, who asked for Portuguese help — duly given — against them.⁸⁸ These were not Naning Minangkabaus, whose liege lords were the Portuguese in the Fortress, at least by Portuguese reckoning; and Naning seems not to have been concerned.

In 1629–30 'the Menacabos who dwell two leagues from Malacca at Our Lady of Guadeloupe and are our friends' were thought to have agreed with the Acinese then besieging the Fort to get into the Fortress and kill all the occupants in return for a payment of thirty thousand cruzados.⁸⁹ Guadeloupe was not far up-river, on the present boundary between Batu Berendam and Durian Tunggal mukims (and Central and Alor Gajah Districts) and well within the area of Portuguese orchards and estates⁹⁰ and this is a puzzling statement. One possible explanation is that they were raiders like Bort's later 'Manicaber kidnappers',⁹¹ and the 'enemy Manicabers' who drove Malays out of Batang Tiga;⁹² another is that they had expanded into a wider area than before, or since;⁹³ and a third is that if these people were frightening and treacherous they must have been Minangkabaus.

Bocarro wrote his account not later than 1638⁹⁴ and his work was used and extended by Barretto de Resende.⁹⁵ They say:

Inland the land borders on that of the Menacabos, Moors of a land called Rindo, vassals of the King of Pam, and close by live five or six thousand of the same Manamcabo Moors, vassals of His Majesty, under the Government of a Portuguese married man called Tamungam, an office conferred by the viceroy. To him they owe obedience and should one of these Moors die without heirs, the said Tamungam inherits his property, and if there are heirs he makes an arrangement with them and receives ten per cent. upon such goods as he thinks fit. At the present day a Portuguese holds the appointment for life. These Moors cultivate extensive lands by which they maintain themselves. They especially cultivate the betre. They purchase tin from the inhabitants of the interior and bring it to Malacca.⁹⁶

This trade was organised: the agreement with Naning made by the Dutch in the year of their capture of Malacca dealt with traffic, mooring rights, tolls and officials. It also claimed that tithe was paid by Naning, on rice and fruit as well as betel, on the basis of a valuation by an official

'valiador de hortos',⁹⁷ and the use of a Portuguese designation in a Dutch document reinforces the view that this was a Portuguese institution.

Lastly, we have Dutch accounts, before and just after the fall of Malacca in 1641. The blockade began in June 1640,⁹⁸ and on 11th October the Governor-General and Council of India wrote to Adriaen Antonisz and the Council of Malacca (then on the attacking ships) commenting on a letter from the latter received on 28th September. This had reported deserters as saying that 'leading inhabitants have sent their womenfolk to Nanning and Rambou' and Batavia instructed that:

...the people in Moar, Rambou and Nanning should be continually warned by us and the Malays, not to assist the Portuguese as if they do they will be considered our enemies and be liable to be assaulted. Nanning and Rambou should be cautioned seriously either to respect their promise of helping Malacca, and to expel and deliver the Portuguese women, or be prepared for ruination. These villagers must be handled very strictly because it is evident that Malacca is deriving great benefits from them.⁹⁹

This raises the question of how the promises were made, by or on behalf of, Nanning and Rembau, and by whom. In the previous May, van Dieman, in commissioning the attack, had written '...we may expect from the Kings of Aceh and Johore assistance in our campaign',¹⁰⁰ a hope which paled by August, when the Governor-General in Council commented that 'Achin's promised help appears to have dwindled, while the Johorite Laxamana's promises are doubtful...',¹⁰¹ and faded in September: '...acute dissension; and strained relations between Achin and Johore have not surprised us. The Achinese propose to subjugate Johore before the capture of Malacca...and they have flatly refused to help us'.¹⁰²

Some Johore help was given: the Commander and Council of Malacca were instructed in September — four months before Malacca fell — that 'on the same happy occasion of the capture of Malacca you will express your sincere appreciation to the King of Johore, not forgetting to make him liberal presents of cannon, gunpowder and shot....'¹⁰³ — though Aceh was to receive two metal and four iron guns at the same time.

The Dutch had landed a force of six hundred men and seven guns, with supporting local troops in the rearguard and five or six hundred Johore men last of all: this force remained on the Transquerah side of the river, and put up a bridge to maintain communication with Bukit China. They could therefore have met emissaries from Nanning, or have sent their own there; but there is no mention of this, nor does it seem likely so early in the siege. The Achinese were not engaged in the investment of the Fortress, nor did they have claim to any suzerainty over Nanning and Rembau. The promises

must therefore, have been made by Johore.

The promises were in fact being carried out, in their fashion: 'on 7th September another two hundred Manicabers came down from the mountains to our assistance, and later three hundred men from Rambou who do nothing but make the place unsafe'.¹⁰⁴ The rumour about Portuguese wives was denied;

...the information given by the prisoners of women fugitives detained in Nanning...is false...[and indeed] the people of Moar Rambou and Nanning are very faithful to us and they do much damage to the enemy...the Johorites with Manicabers are two to three thousand strong, of whom six to seven hundred are sick.¹⁰⁵

The cordiality did not last: exactly a month after the actual capture of the Fortress, the new Governor van Twist and Commissary Schouten told Batavia 'we also need horses to explore the fields...and to keep in check the Manicabers and villagers who have already started "to prick up their ears"'.¹⁰⁶

The imperial power of His Lusitanian Majesty was limited, and was imposed by 'soldados' or men-at-arms, supported by 'lascara' and reinforced for defence by the 'casados', the Portuguese 'married men'. The 'soldados' or soldiers were the more numerous and also the more miserable class of the two'.¹⁰⁷ The 'casados' (who wore mantles) were not compellable for foreign expeditions. The original assault force was strong, and there were four hundred Portuguese in the expedition after Malacca fell against Mahmud Shah's son and his fortifications up the Malacca River, but a hundred and twenty of these went off with Antonio d'Abreu to the Moluccas. There were two hundred when Johore attacked in 1518;¹⁰⁸ there were 'very few men' in 1571; in 1575 the loss of a hundred and fifteen men at sea forced de Vaz to silence against the Acinese; and all the men in the Fortress — which included 'casados' — were mustered and produced a field force of one hundred to go with Diogo d'Azambuja to Naning in 1586. Matalief was told that there were only eighty Europeans in the Fortress (though the counter-attack force consisted of four hundred in all) in 1606. Fugitives from the beleaguered city told Adriaen Antonisz in October 1640 that there were in Malacca 'still three hundred¹⁰⁹ soldiers of the King, two hundred and fifty Casados, and about three hundred natives who can handle guns'.¹¹⁰ Such a garrison could provide detachments of marines¹¹¹ for Portuguese ships, maintain the guard which closed the Linggi River,¹¹² mount short campaigns against Johore and Aceh, and defend their base, as they did with courage and tenacity; but it could not maintain a continuous presence across the territory claimed by d'Eredia and de Resende. That presence was provided by the 'casados'.

Pires and Barbosa were too early for the Portuguese to have married or settled, but by d'Eredia's day there were three hundred Portuguese 'married men' with their families within the walls of the Fortress.¹¹³ In the suburbs there were 'Christians' to the total of five thousand two hundred, together with infidels not worthy of enumeration; and in the interior along the river bank up to Our Lady of Guadeloupe and Our Lady of Hope, that is, as far as Bukit Gereja short of the present Melaka Pindah — 'stretching along the river bank, they contain two hundred Christians besides infidel vassals, who live in the hinterland on their farms, where they raise cattle and farm animals'.¹¹⁴ He had earlier written, in his 'Report on the Golden Chersonese' (1597–1600) that 'there are all told six hundred married Portuguese and landed proprietors, and in addition two thousand subjects, including Christians, Idolators, and Mauthemistas or Moors'.¹¹⁵

De Resende said:

There are in the town two hundred and fifty married whites who would possess two thousand black captives of different races, all competent to carry arms, of which there is a sufficient supply: as rarely is a married man without his supply of lances and six, eight or ten muskets or flintlocks, with their ammunition. However, of these two hundred and fifty married white men, one hundred live on the other side of the river...¹¹⁶ [in the suburb of Upeh or Tranquerah.] A number of native married Christians live outside Malacca, they are all very good soldiers, and use all kinds of arms, especially muskets, in the use of which they are very skillful. In times of war they are very ready and active: the majority of them seek a means of livelihood.

They were members of the Church Militant: 'they are so hasty, for very little they will run a man through the belly with a kris, and there is little if any cure for the wound....'.¹¹⁷

The married men of Malacca possess many leagues of land extending on one side as far as Cape Rachado and on the other to River Fermoza and also many leagues in the interior, but all uninhabited with none to cultivate the land, though it is fertile and would yield much rice.¹¹⁸

It is clear that both writers intend a difference between a 'Portuguese married man' and a 'Christian': the former was one of a group of largely European blood and mode of life, marrying or forming liaisons with local girls, like the father of d'Eredia himself, and recruiting fresh Portuguese blood from those soldiers of the garrison who like soldiers the world over got their feet under the table of local families. In the three or four generations of Portuguese occupation, a population of mixed blood was established and recruited from the Dutch Garrison from the very beginning: Schouten reported¹¹⁹ that:

...some Netherlanders have married Portuguese mesties women, which...[to his colder northern Calvinist mind]...does not augur well because these women are used to a lazy life and spend money lavishly for pleasure and luxury. They lead a shameless life and always manage somehow to procure money for their high life...[and this, he added.]...despite the warnings on the notice board for their correction.

Some Portuguese families struck root: that Antonio d'Abreu who lost his teeth in 1511 had a namesake, Pero d'Abreu, who was appointed Temenggong in 1641; and the surnames of both Henrique Mendes de Vasconcellos and Correa whom he murdered in 1539¹²⁰ appear in Bort's list¹²¹ of landowners in 1678, with 'gardens' at Gajah Berang and Guadeloupe. The 'black' or 'native' Christians, for their part, can have been Malay or other inhabitants who embraced the faith, and their descendants; or the Eurasian class whose Portuguese blood ran thinner in their veins and who were financially unable to maintain pretensions to a place in the Portuguese society.¹²² It is clear that it was they who lived on the 'orchards' and 'gardens', while the 'casado' lived nearer the fount of honour in the greater security of the town.

Bort says¹²³ that the 1644 expedition against Rembau was sent because, among other things, the inhabitants had failed to restore the 'village Tampin inhabited by a resident of Malacca, one Alexander Mendos, to which they laid claim in virtue of a gift from the King of Johor' and that a party going up-river in 1642 had been met at Pengkalan Naning 'by the Penghulu of the place and head of the estate'; but although his Report dealt in detail with lands granted out and in hand, he made no mention of any grant in either area. The most that one can deduce is that Alexander Mendes had tried some sort of settlement at Tampin¹²⁴ and that 'estate' has a vague descriptive meaning. Otherwise, the evidence of d'Eredia and his contemporaries taken together with that of Bort is that Portuguese occupation, permanent or absentee, extended up-river only as far as Panchor, Melaka Pindah and Bukit Gereja, and stopped two miles short of Pengkalan Naning.¹²⁵ Beyond that, they could rely only on obedience to the 'Tommagon' and memories of the punitive expeditions of 1511 and 1586; and Naning, at least in the last half-century, paid some allegiance to Johore, which had called them out twice against the Fortress.

Chapter 3

The Dutch East India Company

I

The Dutch did not send an expedition to Nanning in the year they conquered Malacca, as the Portuguese are said to have done: instead, they made an arrangement and some appointments for its administration. Their expedition did not set out until February 1644.

Commissary Schouten left Malacca on 14th July 1641¹ after some six months (part of which was spent on a mission to Aceh) there, and he wrote his report on the armed yacht *Francker* on an irritatingly slow voyage:² it was laid before the Council of India in Batavia on 7th September.³ It was confidential in the sense that it was presented straight to the 'Seventeen Gentlemen' of the Council, without scrutiny by anyone in Malacca; and Schouten did not mince words. He gave a detailed account of the state of the town and suburbs and of the problems which faced the Dutch in their new trading-post, and he made recommendations intended to secure its mercantile and political future.

Serious efforts, [he wrote,] were made to subdue the Manicabers of Nanning and make them return the fugitives, the stolen Christian slaves and the guns, but evidently these faithless Moors were aware of our weakness and so would not part with the booty but shammed obedience with lies and excuses. Pero d'Abreu was, at their request, appointed provisional *Tommagon* but to no purpose. Similarly we installed Radja Merah as Chief of Nanning and its dependent villages and Intje Vador [Kadir] as agent but they were disobeyed and in spite of serious warnings and threats the people continued their old evil practices....A certain Lebeh Muda, chief of the villages of *Tamping* and *Sebang*, has been arrested for his past and present theft of slaves. Also a certain Intje Hitam who wanted to run away with a Pera vessel.⁴

It was not only Nanning that was recalcitrant:

...the people of Rombou also (being divided) did not desist from retaining Christian slaves, nor did those of Ringy [Renggak in south Malacca] who had even asked the Governor's protection against the Johor Laxamana. These roguish Moors and Johore Islanders continued to steal slaves as usual, so that a price was paid for each Saletter dead or alive.⁵

In his section on 'the Past and Present of Malacca' he returned to the subject, treating Naning and Renggek under one head.⁶

These two villages have been under the rule of Malacca as vassals of the Crown of Portugal. The former is inhabited by Monicabers and the latter by Malays. They planted rice, cultivated Siri fruits and bred cattle and sold them in the Malacca market. Being under a Tommagon they had to pay him certain dues. In times of war they were bound to assist the King's army with a certain number of armed men. Nanning lies inland at about eight miles⁷ from Malacca with about a thousand inhabitants who are governed by one or two Orang Kaya, under a Portuguese Tommagon or Chief. The neighbouring villages of *Tampia*, *Sabang Simelangsa* and other estates are under its rule but these are poorly inhabited and are of little importance.⁸

He mentioned Rembau again:

Rombow lies above the river Panagy about ten to twelve miles from Malacca and has a population of about a thousand, mostly Monicaber and some Malays who are farmers and have cattle. They are governed by a certain Monicaber called *Lella Maradja*, who is subject to the Crown of Johor and must pay a tribute to Datoe Bandara who is collecting the income. Three other places are under Rombow namely Soengi Oedjang where tin and aquila are produced, Kling with cattle and Ginting⁹ (near Nanning) with many gardens and cattle. They have a collective population of about a thousand. The villages have no other entrance but the river Panagy which was closed to foreigners by the Portuguese and those boats which ventured in were confiscated. A Portuguese vessel was always on watch and the people were forced to trade only with Malacca.¹⁰

His report must have been intermittently written, for he returned to those topics in the same section.

These two villages [of Naning and Renggek] are vassals to the Netherlands States in the same way as they were subject to the Portuguese Crown, but they do not show such obedience and respect as they did to the Portuguese government under pressure. These cunning Moors knowing our present weak state do not listen to friendly talk or to threats and refuse to restore the large number of stolen guns, the Christian refugees and the kidnapped slaves....

This was as before, but:

...the arrest of Lebeh Moedah and Intje Hitam following this refusal has put such fear into these timid people that for a long time they have not appeared in Malacca with their Siri, fruits, cattle and other

wares....The people in Nanning were not pleased with the appointment of Radja Merah chiefly because he had promised to restore all Christians and guns and they could not come to an agreement over the captured slaves. But serious negotiations followed and at last Captain Alexander Mendes had to be sent there to quell the unrest. This had the result that on 24th July [the day Schouten left Malacca] Datoe Bongsoe and the brother of Radja Merah came to Malacca with the Intje's father and the permanent Chiefs of Nanning to offer their allegiance to the Netherlands State. Datoe Bongsoe and Radja Merah were then appointed regents and promised to confirm their allegiance in writing after my departure. We expect these people to be peaceful hereafter....We are of opinion that these villages will remain in peace hereafter if they are treated as the Portuguese did. For this purpose an experienced Tommago should be appointed. Pero d'Abreu (alias Muka Merah) is competent but in my opinion he is not to be trusted. There is a certain local born Antoneo Pengero in Malacca who is more suitable for that office. (He is married to the Shahbandar's sister-in-law.) There is another Portuguese by the name of Anthonio Lucas Pingero who would also make a good candidate, as he is known to be honest and has a fair knowledge of the Malay language.¹¹

In his section of recommendations he repeated that Nanning:

...should be governed exactly as at the time of the Portuguese by a decent Tommagon without cancelling any of the old privileges or customs enjoyed by the vassal inhabitants, but rather relieving them of some of their minor obligations by way of privileges in order to win them over and so help the places to become more populated rather than depopulate them by frightening them with punishment for old mistakes.

He added a Machiavellian touch:

...no new style of Government should be introduced especially at the initial stage, because according to wise politicians such alterations are harmful. They say it is a fixed rule that when a Prince wishes to change an old manner of government he can do so only slowly, and then the new regime should resemble the old at least in appearance.¹²

This was to apply to Rembau also:

Rombouw should not be frightened with threats for its past misdeeds. On the contrary she should be enticed with friendly treatment. When Malacca becomes stronger and more notable, it will in our opinion be easier to demand restitution. The old right of closing the river Panagy should be maintained, in order that Malacca may derive full benefit from that place and the neighbouring places as at the time of the Portuguese.¹³

Much of Schouten's report was based on personal inspection: his comments on the armaments in the fortifications, that the Spanish gun-carriages were too heavy, and that *attap* coverings should be put up,¹⁴ or for building on the 'gradually rising ground' of the southern suburb¹⁵ read like points picked up on the ground rather than in the Council chamber. Similarly, his descriptions of the churches, hermitages and other public buildings which became Dutch Company property read as though the Commissary visited them, though he could have called for a report. He described:

Nossa Signo da Guadeloupe: This was a noble structure of stone, situated on the left hand side of the river about four miles from the city. It had two altars, the high altar was dedicated to the Patrons and the other was in the name of St. Amaro. This Church also had its vicar who enjoyed "a stipend from the Alfandega of 160 cruzados yearly besides the income from Church services".¹⁶ Out of all the parish churches only these two [the other being St. Jeronimo nearer Malacca] can be repaired, because they are built of stone. They are of no use to the Company unless they are made into residences.¹⁷

He made no mention of the church of Our Lady of Hope at Bukit Gereja further up-river, presumably because he did not go so far for otherwise he would have seen vestiges of it;¹⁸ nor does he mention Pengkalan Naning. Yet in those months Lebai Muda and Inche Hitam had been arrested, Pero d'Abreu made Temenggong at Naning's request, and Alexander Mendes sent to Naning.

Lebai Muda came from Tampin and Sebang: Tampin was as much Rembau as Naning, while Sebang was in the catchment area of the Malacca River and not of the Sungei Siput and its tributaries. Hitam may have escaped:

...the people in Rambouw keep themselves aloof because they are also guilty of retaining Christian refugees...following the bad example of Nanning. Besides this they are afraid of Intji Hitam who is in Rumbou.¹⁹

Pero d'Abreu, with his Malay nickname of 'Redface', had avoided the rigours of the siege by remaining at Renggek — 'smuggling provisions to Malacca and...in this way helped the Portuguese to hold out six weeks longer....'²⁰ — until 25th January, when he turned up with two hundred men, women and children: he was received with ten or twelve of his own slaves, but the rest stayed outside, and next day sixty were impressed into a party carrying stone and lime for repairing the fortifications.²¹ Alexander Mendes had commanded a company of Malaccans during the Acinese

seige in 1629,²² and in 1641 he was Captain-Major of the Malaccans, in charge not only of both sides of the river but also upstream. He was senior to the Captains of the 'black Malaccans' in Upeh and Banda Hilir, and had a salary of ten cruzados a month²³, which was little more than Bort's junior merchants and Lieutenants were paid;²⁴ we have seen that he laid claim to land at Tampin, and he knew the country, for he went with Jan Janz Menie via Pengkalan Naning to visit the Benuas in 1642.²⁵

Schouten's report reads as though the arrests and the appointment of Raja Merah had already taken place before Mendes went up river. Where were the arrests made, and by whom? Where, and why, was Raja Merah appointed? In the absence of any recorded expedition by the Dutch or instruction given by them, it seems likely that Lebai Muda and Hitam were taken prisoner in or near their own areas, and by some of the local inhabitants: they opposed the Raja Merah, who was trying to impose his newly-found (or newly confirmed) authority, and they were therefore candidates for capture — and this would be good reason for Hitam later to be in Rembau rather than Naning. Mendes had an interest in Lebai Muda's territory. The Dutch had to support their nominee the Raja Merah, and would have been disposed to listen to their Captain-Major of Malaccans.

Begbie gives no answer, but indicates a possibility. On 8th August 1641, a fortnight after Schouten had left and a week before emissaries arrived from Naning, an expeditionary force of two hundred Dutchmen, supported by sailors, clerks and Portuguese and with four elephants each carrying a swivel gun, was assembled to march on Naning. It did not set out because two envoys from Johore arrived at the Fortress:²⁶

...the Raja of Johore being too powerful for the Dutch to venture on converting him into an enemy, which they apprehended would be the result of their marching against Nanningites, the expedition was postponed, for which decision an additional reason was found in the espousal of that tribe's cause by the people of Rumbow...[and (dealing with 1643)]...the lawless state of the districts of Mullikei Ynas and Purlios in the Nanning's territory attracted the attention of Government....One of the chiefs, named Merah Tuan Lella Maharajah, had been banished from the whole of the territories subject to Malacca and Rajah Merah had been appointed to succeed him. But the Minangkabaus...refused to obey the orders of Rajah Merah on the plea that he was unacquainted with their peculiar customs.²⁷

The 'Nanningites' clearly had to give some reason for their opposition, and ignorance of Minangkabau custom may have been trumped up as especially damaging, but as an objection it would be much weightier to them than to the Dutch. One of the recurring themes of all writers on the

Minangkabau is their familiarity with their sayings, the *kata pesaka* and *teromba* embodying their customary law and legendary history; and if the complaint had any basis in fact it implies that Raja Merah was an interloper, imposed by outsiders. The timing — his appointment after Johore had called out Naning and Rembau against the Fortress — and the fear that the proposed 1641 expedition would offend Johore, suggest that Raja Merah was recommended if not nominated by Johore and appointed by the Dutch in Malacca, not in Naning.

From the context it seems that the banished Chief had previously held the jurisdiction given to Raja Merah, and that he had been acquainted with Minangkabau custom. It does not follow that he was himself of Minangkabau descent, though his title 'Merah'²⁸ suggests that he was a Chief over Minangkabaus rather than Malays.

An unexplained feature of the business is why the settlement was arranged by Mendes rather than d'Abreu.²⁹

The management of the Manicabers...was entrusted to the Tommagon....He settled all disputes and punished the guilty and communicated with the Governor of the Castle about the prisoners who were sentenced to death....He had his Agent in Nanning who reported everything....³⁰

The caution which Schouten had advised may have made d'Abreu unacceptable: the work he should have done was soon being carried out by the new Shahbandar, Menie.

II

Bort dealt with the Agreement of 15th August 1641 in detail, reproducing the original³¹ in the Memorandum he left for his successor: it was a formal engagement signed on behalf of the Dutch by the Governor and his Council of Malacca, and it was completed in the Fortress itself. The Dutch were concerned with regularising a number of matters: suzerainty, security, trade and their monopoly of it, taxes and tolls, protection of Christians and control of slaves, and the government of Naning.

Firstly, (Clauses 1 and 2) the Naning leaders swore allegiance of the whole community (as distinct from Minangkabaus and Malays and Christians to whom later clauses specifically applied) to the States-General, the Stadtholder, the Dutch East India Company, the Governor in Council of India and the Governor in Council of Malacca. Rebellious or runaway Minangkabaus and Malays were to be handed over for judgment by the Governor in Council whenever the Temenggong or the Fiscaal so directed.

Next, the district was to be disarmed and movement controlled. All weapons and ammunition were to be handed in within a specified period (Clause 20); emigration by any inhabitant required a permit signed by the Dato' Lela Pahlawan and stamped with the Dutch seal (Clause 13), while Minangkabaus coming in paid a heavy poll-tax and they required consent from the Temenggong or Collector³² to leave, with a fine of ten Spanish dollars if the poll tax had not been paid.

Trading craft from Naning had to tie up or moor by the warehouse, which was to be maintained by the Dutch as a staging-post, with two meals a day supplied "free" to traders (Clauses 8 and 9); each *prau* paid one cruzado for this, as well as a tithe of its cargo of betel leaves, with another tithe for the Shahbandar's staff. (The Shahbandar provided official betel and sireh to ships' captains on their arrival at Malacca.) The cargo was to be valued or sold before the tithe was paid (Clause 11). The trade, however, was to be in Company boats when possible: Naning *praus* coming down river with cargoes for which Dutch boats were available paid an extra toll of two fifths of a cruzado. All Naning trade was to be by the Malacca River, and the penalty for using the Linggi could be death and forfeiture of all goods (Clause 22). Servicing trade into Naning and therefore in Johol was to be a Naning monopoly: boats going up to Pengkalan Naning were to be off-loaded into the Juru Pengkalan's (wharf manager's) house while he arranged porters. The wharf manager was to be paid by the Company, at five cruzados a month.³³

Apart from the tolls, there was also taxation: Clause 5 required the Minangkabaus and Malays to 'remain bound' — suggesting that this was taken over from the Portuguese — to pay a tithe of rice, fruit, betel and pepper to the Company on an assessment confirmed by the Company's Commissioners, with an *ad valorem* duty of ten per cent. on conveyances of 'plantations' among themselves. This was to be (or already was) the business of the 'elders', who were to receive two hundred gantangs of unhusked rice from the Company, while the 'Captain' received a tithe of fruit as well, and a length of linen and another of fine muslin (Clauses 6 and 7). Minangkabaus, but not Malays, were also subject to 'reliefs' or escheats in the feudal sense: Clauses 3 and 4.

The problems of slaves and Christians were inter-related. All Malacca slaves, whether Christian or Muslim, who escaped to Naning were to be detained and returned, the reward being five cruzados. All Christian slaves sold to Minangkabaus were to be returned within one month, with a ransom paid for those bought during the siege at their value as assessed by the Governor in Council, who could allow the purchasers to retain them (Clauses 16, 17 and 18). Slaves fleeing from Naning to Malacca and

Christianity were to be paid for, but at only half the valuation figure as determined by the Temenggong, Fiskaal or Collector (Clause 15); perhaps the differential was accepted by the Naning Chiefs on the ground that if a slave turned Christian half his or her value evaporated automatically. Free Christians were in a different case: they could remain in Naning to grow betel or in agriculture if they freely chose to do so (Clause 19) and then would be taxed like any other Naning Inhabitant. Selling any Christian to Muslims or pagans attracted the penalty of death and confiscation of all goods — 'more particularly' (if such were possible) if the Christian had been circumcised, a requisite of embracing Islam.

Lastly, the Agreement set out the government of Naning: the Dato' Lela Pahlawan was declared Captain over Naning and its territory 'by common consent' and the 'Radja Mera Perpatty Souwatan Maranga Matta Mera and Bangsa Radja' were elders and councillors acting with him. Their approval was necessary in all matters: without it the Captain's decisions could be annulled and he himself lose office. This consent had to be proved to the Malay Writer for Naning before he issued any form stamped with the Company's seal (Clause 25).

The Agreement was prompted by three considerations. The first and important one was to establish the suzerainty of the Dutch power and terminate any Portuguese influence and arrangements — 'abrogating and annulling all contracts and covenants made before this time by the King of Spain or of Portugal' (Clause 1). The second was to maintain the revenue from Naning: the tithe was described as 'such rents as have hitherto been customary' (Clause 5), the polltax on immigrant Minangkabaus was 'as heretofore' (Clause 14), and the closure of the Linggi by the Portuguese has already been noted. Thirdly, there were arrangements — on the surrender of weapons and slaves, and redemption of runaways — to deal with the consequences of the seige. There is nothing in the Agreement to suggest that it was a *diktaat* imposed out of the blue by a new and harsher master (apart from Schouten's recommended policy); rather, it reads like a codification (the clauses dealing with temporary problems excepted) of previous practice, as existing between Malacca and an autonomous district. The Malay Writer of Naning and the crop valuer/assessment officer seem not to have been considered as Company servants: they each received five cruzados 'for their sole fee and no more' from the collector of tithe (Clause 7).

Raja Merah was absent when the final agreement was made: it was confirmed by the Captain (Dato' Lela Pahlawan) and elders. The description of these in Clause 23 differs slightly from that in the recital of parties at the head of the document. 'Radja Mera Perpatti/Perpatty Souwattan'

appears in both, and can be read as 'Raja Merah Perpatih Sa-batang'. It is impossible to say whether this was one title or two: 'Perpatih' was an ancient Sumatran title,³⁴ but 'Perpatih parang sa-batang' was the legendary law-giver of Minangkabau custom and the words may have been an extension of 'Raja Merah' to emphasise his position.³⁵ 'Marangan Matran Mara' in the opening becomes 'Maranga Mata Mera': the latter has a Minangkabau flavour in 'Merah' even if 'Maranga' is not intended for 'Maharaja'. He appears as 'Orang Kaya Permutu Merah' in Newbold.³⁶ 'Bansade Radje' becomes 'Bangsa Radja', both clearly 'Bangsa di-Raja', 'of the ruler's family'.

Bort said that 'in many particulars they have not observed these articles...nevertheless they showed themselves tolerably obedient until 1644'³⁷ — an over-statement. In January 1642 Jan Janz Menie was sent, with a force for his protection, to advance the trade in betel and rice.³⁸ He was sent as Temenggong, Pero d'Abreu having failed: he was well equipped to deal with Naning. While Malacca was besieged he was 'looked upon by the Malays as their chief';³⁹ he was 'very popular among the Johorites'⁴⁰ and went as an emissary to Aceh; and after the capture he was appointed Shahbandar although he was suspected of concealing loot:⁴¹ as such 'he spends most of his time giving advices. He is qualified for his office and should continue in his service. He is liked by the Governor for his other services'.⁴² He had been in command of a section under Lamotius, the Commander-in-Chief, and had only two men sick at a time when plague was inducing a casualty rate of over fifty per cent. throughout the force,⁴³ and he had been in the advance guard in the assault.⁴⁴ To his other qualifications he added local knowledge of the Temenggong's duties, for on 2nd June 1641 he was married by the newly-arrived minister Johannes Loosvelt after his first sermon to 'Dona Isabella da Mora, widow of Manoel de Roger who was the Tommabon of this city'.⁴⁵ Claim by popularity, knowledge, marriage: Jan Janz Menie had it all.

Menie returned on 20th January after blocking the River Linggi with timber, and in February spent twelve days in Naning and Rembau, where he redeemed thirty Christians for 649½ cruzados and obtained a promise from Rembau to trade only with Malacca, in consideration of which the Linggi was again opened. In March he went with twelve four-oared boats and fifty armed men to collect the tenth of the padi crop, as under the 1641 agreement: he found Naning in dissension and made the Chiefs swear on the Koran to administer justice as in former times.⁴⁶ They brought two thousand gantangs of padi down-river in May, and at this time the Dutch ordered that no Portuguese should visit Naning without a pass from the Temenggong.⁴⁷ In September Menie, Alexander Mendes and Kadir the

Malay Writer in Naning went to Pengkalan Naning, where 'they met the Penghulu of the place' and went inland to meet aborigines (probably on Bukit Panchor): Menie prudently sent Mendes a little ahead of him. Menie invited them to visit Malacca, offering as hostages Mendes and the Penghulu and his wife, but the 'savages' would not accept this: 'they had become alarmed since some of the Manicabers had deceived them with fair words, surrounded them and carried off their wives and children'.⁴⁸ In October, Naning asked to commute the tenth on rice and provide pepper in lieu, with all pepper to be sold in Malacca⁴⁹ at thirty cruzados a load of 375 Dutch pounds,⁵⁰ or about £1.50 a pikul of 133 $\frac{1}{3}$ lbs. avoirdupois.

In the next year, 1643, there was the unrest which Begbie described. Newbold, describing the same event, stated that the banished Chief was 'Meni Tuan Lela Riawan',⁵¹ whom Winstedt identifies⁵² with the To' Lela Pahlawan of the 1641 Agreement; and Newbold has it that he was banished by 'Raja Merah, first Penghulu of Naning'.

The Council resolved that it:

...or some qualified individual deputed in its stead, should proceed to Naning with a view to persuading the Menangkabaus to adopt that agricultural and peaceful mode of life to which the fertility of the soil naturally invited them⁵³ [- that was] to persuade them to abandon the state of barbarism under which they laboured and to infuse into their minds the advantages resulting from habits of industry.⁵⁴

On this motion there was no opposition 'while the second and more important part of it, viz. as to whom the same should be carried into effect, was warmly debated'.⁵⁵ The Council nominated Snoecq,⁵⁶ Senior Merchant and ranking next to the Governor and thus senior to Menie, but he showed that he did not know enough Malay, could not travel the roads, and that he had bad legs. Nevertheless, preparations were made, and on 3rd February 1644 the expedition set out.

Governor van Vliet headed it: with him, in addition to Jan Janz Menie, were Forsenburgh, Captain of Malacca (who had commanded the advance guard in the assault on the Fortress and there lost two fingers shot off),⁵⁷ Gerrit Rijser the Fiscal or legal officer, the Secretary Truitman, and Alexander Mendes. They were accompanied by a force of sixty Dutch soldiers, sixty armed Malaccans and '...forty blacks, among them twenty Kaffirs'. The objects of the expedition were:

...to compose the strife which was raging between some chiefs and the common people, to punish the ill-doers, and to get out of their hands the black Christians, both free and bond, and the arms fallen into their possession during the seige of Malacca.⁵⁸

The retinue arrived at Pengkalan Naning some three hours before sunset, and was met by the Raja Merah and some of his Chiefs: they spent the night there. Next day they marched through forests to Melekek and on to Taboh Naning.

Rajah Merah, [wrote van Vliet,] with some of the principal chiefs of Naning and a great concourse of people came to receive us and pay their homage. They conducted us to Naning and had a band of musicians marching before us....The chiefs and inhabitants of Naning had constructed a sumptuous bungalow for our reception, and showed us all possible attention and respect....In Naning we desired Raja Merah and the chiefs to be called and pointed out to them the atrocities which had been committed by them and the inhabitants during the past year, viz. that murder and robbery were common practices with them, arising from no other cause than a state of ignorance and idleness. It was therefore advisable, that they should devote their time to agricultural pursuits, such as planting a more considerable quantity of pepper or paddy. Were they to lead an industrious life, it would prove much to their benefit and malignity would then, no doubt, be entirely eradicated.⁵⁹

The Dutch then announced the agenda: the selection of three men from whom one should be chosen as successor to Woddad, headman of Melekek, who had been dismissed: keeping the river clear and navigable from Pengkalan Naning down stream to Pengkalan Aur; payment of the tithe in padi; performance of homage by Raja Merah and his chiefs, in person or by deputy, in Malacca; hearing of complaints against Raja Merah and other chiefs; and instructions to him and them on how they should conduct themselves and the limits on their authority.

There was objection only to one point:

...they made some difficulty in complying with that paragraph which enjoined them to keep the river clear, [van Vliet continued,]...for they considered themselves as Raja Merah's subjects, not his slaves. Raja Merah further stated, that the limited authority with which he was invested was not calculated to commend obedience.

The Governor pointed out that this task required only four men for a short time and that the Company was clearing from Pengkalan Aur to Malacca, all to improve trade. He then ordered the people to assemble at beat of gong, and briefed Mendes on what he should say. Mendes talked down the opposition from objectors who complained that they lived far from the river, and emphasised the imprudence of opposing the Governor's orders; Menie and the Raja Merah reinforced this, and 'the people with one consent and loud voice exclaimed "The will of the Governor of Malacca be done!" and promised to be obedient to all his orders'.⁶⁰

Everyone then agreed that there was no ground for complaint against the Raja Merah, who was then installed⁶¹ as 'sub-chief' over Naning, Melekek from which Woddat had been removed, 'Inak' — which is more likely to be Enau near Taboh Naning than Ina in Pulau Sebang mukim — and Perling, whose previous headman was fined one hundred dollars for his 'enormous crimes' or to be scourged and banished on default in payment. (This man was Contella Lascara, or Contella [?Contelho] the Soldier,⁶² who from his name and nickname seems to have been a Malacca Portuguese). The Orang Kaya Permuttu Merah, signatory of the 1641 Agreement, was fined fifty cruzados: Newbold described him as 'once one of the chiefs of Naning',⁶³ so he too had been purged. Raja Merah selected three men from Melekek and from Perling from whom 'one will be chosen, in order to increase the numbers of the members of the Council of Naning, and each of them should be the headman of a village'.⁶⁴ The Governor was well pleased: 'Everything at Naning has turned out to our wishes. Raja Merah and the chiefs were very submissive, and the inhabitants very obedient to our orders'.

Begbie, who shared the animus against the Dutch found in many of the English Company's officials and military in the early nineteenth century, could not forbear to comment:

It will be evident...that however much the Dutch may attempt to gloss over this their first transaction with the inhabitants of Nanning, their conduct was marked by the same duplicity and oppression which have distinguished their proceedings in every portion of the Archipelago, in which they have ever obtained a footing. The third article of the agreement⁶⁵ (it cannot be termed a Treaty) has been in existence now for nearly two hundred years, and although thus sanctioned by antiquity, is nearly as obnoxious and unpalatable as ever.⁶⁶

It is difficult to point to duplicity or (given that the Dutch honestly believed that they had succeeded to an existing Portuguese rule) to oppression, though of course Naning saw it differently. What shines through, over three centuries later, is the artlessness of the Dutch in supposing that the Protestant work ethic would have immediate appeal along the overgrown banks of the higher reaches of the Malacca River.

III

This was perhaps the Dutch zenith in Naning, and the glory was short-lived. Rembau had already been troublesome: in 1643 some of their men burned a Malacca boat at Sungei Baru, and Rembau was thought to have browbeaten the Raja Merah into staying away from Malacca;⁶⁷ and

Alexander Mendes' losses in Tampin led the Dutch to send a deputation to Rembau from their base at Naning 'to hasten matters somewhat'. Menie, Forsenburgh and six soldiers set out and were ambushed and killed; a reinforcement of a sergeant and twenty was ambushed, the sergeant killed and the rest scattered; and van Vliet, following up with the remainder of his force, was attacked to such purpose that the Governor hardly escaped, losing his chest with 13,000 dollars, under-garments, his red satin doublet with gold buttons and his silver-plated clothes hanger,⁶⁸ and losing also thirty men dead.⁶⁹

Van Vliet regained Malacca, and next day three hundred men were mustered under Jan Hermansz, the Chief Merchant: they did not set out because of 'a sudden outcry and alarm in the suburb that the Manicabers were coming to Malacca in great force, which although false, caused great dejection'.⁷⁰ Six months later a new threat arose:

What an abominable treason and conspiracy have we not discovered in Naning in the conduct of five Malays, named Inchi Hitam, Bongsoe, Silap, Poetara, and a slave of the name of Patchium, who had been compelled by his masters to join the conspirators against Malacca.

Hitam had undertaken to lead a thousand 'Manicabers' to Malacca to destroy the settlement and murder the Council in the Council chamber. Hitam is a fairly common name, but he may have been the Hitam whom Schouten noted as being in Rembau;⁷¹ Bongsu, though not so common is not rare, and he may have been that Dato' Bongsu who had been appointed co-regent with the Raja Merah in 1641;⁷² as dispossessed leaders they would have had temptation and influence enough to toy with conspiracy plans on this scale. Patchium turned informer, and the others were sentenced by the Council (which had awaited the return of Snoecq of the bad legs from Johore) to salutary modes of death.

The following is resolved:

That Inchi Hitam be tortured to death and his body be exposed upon a gibbet

That Sillap and Bongsoe be decapitated, and their bodies divided into four parts and exposed in several conspicuous places

That Poetara be beheaded, his head placed upon a gibbet, his body separated and exposed in several conspicuous places. He has confessed to being guilty of horrid crimes

God preserve Malacca and all States and fortresses from such evil designing people.

The Dutch record noted that two Rembau men had been caught on the Muar River: they were executed, their heads placed on stakes and their

Resolved that the expense incurred for the
papers of Lieutenant Mann be sanctioned, but, in future
nothing can be allowed in excess of the 8 Rupees per day
authorised by the Regulations.

Malacca.
11th March 1829.
Balthasar Bort

Adjourned.
H. B. Bort
L. M. Bort

bodies gibbeted. 'God grant...[the record continued,] that we may apprehend some more of these traitors, they shall all be dealt with in this way'.⁷³ The Dagregister for 16th August 1644 noted 'Manicabers coming within musket shot of the fort and laying waste Bukit China',⁷⁴ so the fervency of the Council's prayer can be understood.

The Dutch catastrophe on the border of Naning and Rembau alarmed the Sultan of Johore, who sent two emissaries to Malacca to commiserate over the death of Menie, and two others to Batavia to show that the Minangkabaus were not his subjects but tenants of the Bendahara. The Council of India thought this a matter for Malacca, and required the Sultan to punish Naning and Rembau⁷⁵ — a surprising reaction in that it was a tacit acceptance of some sort of Johore overlordship over Naning as well as Rembau, despite the first Article of the 1641 Agreement. The Sultan commanded his Bendahara to deal with his tenants, and the great Bendahara Sekudai went to Rembau and appointed, among other Chiefs, the first Undang, the Lela Maharaja Sri Rama.⁷⁶ Newbold included Naning and this Undang among the Minangkabau States and their Chiefs ruled and appointed by the Sultan of Johore, to whom obeisance was made (*menghadap*) once a year at Johore.⁷⁷ The Sultan was Abdul Jalil Shah (1623–1677) who returned to Johore at Makam Tauhid near Batu Sawar, in 1641.⁷⁸

The force which stood down in February 1644 set out on 8th February 1645, led by the Secretary Truitman and Lieutenant Cruger, with sixty Dutch sailors, ninety-six local troops, ten Dutch military officers, and a carrying-party of seventy-four.⁷⁹ Truitman had reported to the Council in 1643 before van Vliet's ill-starred expedition that a road affording easy ingress to Naning and Rembau had recently been discovered,⁸⁰ and his column reached Melekek, where the houses were burnt and padi fields and orchards laid waste. The objective had been:

...to attack and exterminate the men not only of Rombouw but of Nanning also because they had combined and united with the former since the aforesaid treachery and Massacre [of Forsenburgh and Menie] though the men of Nanning pretended that they had been persuaded and constrained thereto by their neighbours in Rombouw, these being stronger than themselves.

Bort commented flatly:

...the result achieved by our troops was of no great importance....They were unable to follow up their first attempts, through lack of food [despite the carrying party] and by reason of the fatigue of our men. Moreover the enemy were gathering together and their number

had already increased (according to the report of our forces) to two thousand armed men.⁸¹

Naning behaviour did not improve: 'they went on robbing and plundering every day both in the jungle and along the shore'. The new Governor, de Flamingh van Outshorn, prepared yet another expedition in 1645, of a more warlike composition — four hundred and eighty fighting men and ninety slaves — which set off under the Senior Merchant, van Gistelen. It met some opposition, and after five days it reached Taboh Naning. The Dutch not only burned the houses and devastated the padi fields, but felled over seven hundred coconut and areca palms to make a stockade, which they occupied for two days '...so that they might not appear to be fleeing from the enemy through fear, but to be turning back satisfied',⁸² although they were so short of ammunition that the plan of attacking Rembau also had to be abandoned.

Before the Dutch began their return march the Naning Chiefs showed a flag of truce, and it was agreed that envoys should go down to Malacca five days later to make peace. The Dutch force reached Malacca on 10th March 1645, with one man who died of wounds.

Seven envoys, led by the Undang of Rembau's brother-in-law and the Rembau Shahbandar's son-in-law, duly arrived with written authority to conclude a lasting peace: at their request five more 'persons of quality' joined the two leaders. Bort makes no mention of any Chief or special representative from Naning.

The Dutch demanded retribution, restitution and submission. Three 'persons of quality' from Rembau and three from Naning were to be executed in return for the 'murders' of Forsenburgh and Menie, and three of the 'common people' for each of their escort killed, another eighteen lives. Governor van Vliet's treasure chest, or its value put at two thousand Spanish dollars, and 'all stolen persons' were to be handed back, and the costs of the expedition were to be reimbursed. Lastly, they were to make public confession of their misdeeds and to promise behaviour 'in all friendship and good faith' and to do 'due homage, as was customary in former times'. The demand for twenty-four persons for execution 'distressed' the envoys and they asked for pardon and promised, in return, to carry out the rest of the demands 'so far as it should be possible'. This resistance divided the members of Council, which decided to refer the matter to Batavia, by letter sent 29th March. The envoys remained in Malacca.⁸³

The Council of India's instructions arrived on 4th June. Their Honours expressed their 'great satisfaction' that the expedition against the rebels of Naning and Rembau had brought these 'to the point of earnestly begging for pardon for the rebellion and for the murder... [and to the offer]

...to live henceforth under a valid contract of peace...as obedient children'. They saw to their regret 'what we long ago recognised as the truth' that Governor van Vliet was mainly to blame 'by reason of his demands, accompanied by violent threats... [and] also that this was the sole reason for taking up such a desperate resolution and continuing the war....'⁸⁴

Acceptance of this enabled the Seventeen Gentlemen to proceed, after a judicious consideration of the points on this hand and on that — 'we agree with the demand for a heavy punishment...but it would engender bitterness rather than reverence...and by the shedding of blood the dead cannot be brought back to life...', to order remission of the death penalties. The Council of India commented that 'we wish the matter had been settled by your Honour, whereby you would have acquired great respect and credit' (an indication of the decentralisation of power under the Dutch East India Company) and went on to employ a device which Governor Cavenagh was to use in Malacca two centuries later: 'giving them strictly to understand that our consent would not have been given..if your Honour and the Council in Malacca had not so urgently interceded for them'. All the other demands were to be promptly met, and they were to make convenient roads from their villages to Malacca.⁸⁵

The envoys were told that the death sentences, 'which had been richly deserved', had been remitted if they accepted the other requirements. The envoys then said that they could not enter into a final contract without 'first acquainting their Chiefs Lella Maharadja⁸⁶ and Radja Mera with our desires'; they asked the Dutch to write, or to send their own envoys. The Dutch chose to send letters: they wanted plenipotentiaries, or written authority to the envoys, sent to Malacca: the Chiefs wanted Dutch envoys — the Shahbandar and the Malay Writer Kadir — to go to them. In the end the Dutch representatives went, after a debate in Council of such differences and gravity that individual views were recorded, the Governor himself being in the opposition. Abraham Steen and Kadir took the Naning and Rembau envoys with them, and although they obtained no document — 'owing to the uncivilised character of these people, in no respect more in evidence than in their aversion to much writing',⁸⁷ — there was agreement on the terms except that which provided for reimbursement of the costs of the expedition. Reparation of van Vliet's funds was to be by three instalments spread over nine months; meanwhile, they returned six slaves, some silver (one candlestick, two spoons and eight trenchers) one Spanish cassock, one under-garment, the red satin doublet with its gold buttons and the clothes-hanger.

On 24th October 1646 the Raja Merah and six of his Chiefs arrived in Malacca, and two days later they appeared in the Council chamber. They

stood bare-headed, betokening contrition to the Dutch but informality and even disrespect to the Malays, while the Pardon was read aloud in Portuguese and Malay, and handed over in the presence of the Chinese Captain so that he could pass on the facts. Then Raja Merah was given a black velvet cassock edged with gold galloon,⁸⁸ while his Chiefs each received a garment and a turban.⁸⁹

IV

This was a climactic in the internal history of Nanning. The bare-headed Raja Merah, contrite or not, was recognised 'as Chief of Nanning and the department villages and hamlets Melesque, Perlin, Cammoy, Batouampa, Cherenepoete, Sabangh and Inar' begging pardon for himself 'and his subjects'. The To' Lela Pahlawan was in exile; Bongsu. Hitam and the others dead: Woddatt of Melekek gone, Permuttu Merah and Contella of Perling dismissed, and he had one of his own nominees from their villages as members of his Council. He and his successor in office, survived the next thirty years without effectual challenge, and the Dutch imprisoned Chiefs for him,⁹⁰ although there were plots and moments when the Dutch could have intervened in his rule. And the Minangkabau settlers established their ascendancy.

Local tradition quoted by Newbold⁹¹ and repeated by Parr and Mackray⁹² dated the first arrival of the Minangkabau at A.H. 773, or A.D. 1338, though Newbold thought there was perhaps a later invasion. Winstedt has them arrive by A.D. 1467;⁹³ he appears to have based this on the assumption that the megaliths at Pengkalan Kempas (outside Nanning) were Minangkabau artefacts and that the inscriptions which bore that date were approximately contemporary. This has been questioned,⁹⁴ and indeed Winstedt may have changed his view,⁹⁵ but even so his opinion was that the Minangkabau of Negeri Sembilan were still Hindus when d'Albuquerque conquered Malacca in 1511.⁹⁶ Wilkinson, earlier, had a different approach:

...the "Sons of Minangkabau" came down first to Siak; then they crossed the Straits to the Linggi River; thence they made their way to Nanning, Rembau and the other Negeri Sembilan States. When few and weak they protected themselves by admitting the supremacy of Johor: gaining courage as time went on, they selected a prince of their own blood...from Minangkabau.⁹⁷ [Raja Melawar in 1770].

He put the invasion at about the middle of the seventeenth century:

...after the decline of Acheh and before the coming of the Bugis, a large number of Minangkabau Malays migrated in small detachments

from Sumatra to the Peninsula....Migration appears to have been peaceful. The first comers occupied the nearest lands in the District of Naning; the next arrivals settled in Rembau; the latest settlers had to go further afield — to Sri Menanti, Inas, Sungei Ujong and Jelebu.⁹⁸

This set of events is supported by both legend⁹⁹ and probability: the River Linggi lay across the Straits from their home ports; it was wide, sheltered and inviting even if blockaded, while entering the Malacca River meant passing under the eyes and the guns of the Sultanate, the Portuguese and the Dutch. Settlement first along one tributary in Naning and then another in Rembau was a natural sequence. His date, however, is too late for Naning and Rembau though not necessarily for the inland States.

There were Minangkabaus killing a python in Malacca in 1586; and two thousand of their warriors were drawn up at Kampong Enau in 1560; they were trading regularly down river from the 'District of Naning' in 1600, and d'Eredia plotted some of its main villages. The Minangkabau presence was perceptible half way through the Portuguese rule in Malacca, and strong at its end: so far as the absence of earlier references is evidence of anything it indicates that they were not noteworthy when the Portuguese established the Fortress. The Minangkabau and the other inhabitants of Naning owed allegiance of some sort to Johore, which invoked it in 1586 and 1641; but Johore itself suffered vicissitudes, collapsing with the sack of Johore Lama in 1587 and the destruction of Batu Sawar in 1613. It follows that the earlier arrivals came and accepted such overlordship as Johore could offer or impose, and such control as the Bendahara could exert, but that the next generation of immigrants came at a time when there was little to stop or control them. Events in Sumatra may have encouraged the influx, with the depredations of Aceh and its conquest of Aru, and the rulers of Minangkabau itself making war 'most of the day'.

The list of Naning tribes¹⁰⁰ contains no Biduanda tribe with its *waris* claiming original ownership of the soil, or associated in legend with Sakai daughters, as found in Rembau, Jelebu and the other Minangkabau States: nor in these States is there a tribe of 'Anak Melaka', the 'children of Malacca'. It is true that there were some Biduanda in Naning in Newbold's day and there are others today and recognised as a sub-clan, as there are Anak Melaka in Rembau; but they are swallowed up in the clan structures in their respective Districts. The other Naning tribes have names deriving from their Sumatran origins, and the contrast between these and 'Anak Melaka' points to the likelihood that the large Anak Melaka tribe in Naning today descends from Malays already settled when the Minangkabaus began to establish their ascendancy,¹⁰¹ and they are strong in Melekek and Lendu mukims, which lie south of the Naning heartland. Nor was the tribal

system totally established by 1646: the 1641 Agreement spoke in its preamble of 'the elders of Naning and the surrounding villages': van Vliet's report describing the change in chiefs from Melekek and Perling that 'each of them shall be a headman over a village'¹⁰² (and indeed Contella the Soldier and probably Inche Woddat, who had none of the honorifics found among the tribal chiefs, were not Minangkabaus); and later Bort, writing to the Raja Merah, addressed 'the elders in Nanning and also of the villages under their jurisdiction'. The early Dutch references are as much territorial as tribal.

The question arises as to where the Raja Merah himself came from. Val Vliet's unlucky expedition set out to compose the strife raging between some of the Chiefs — presumably Contella, Woddat and the Orang Kaya Permuttu Merah, since they were dismissed — and the common people; the Minangkabaus objected that Raja Merah did not understand their custom; and he worked with Lela Maharaja, first Undang of Rembau. The latter was appointed by Johore, and was of the Bendahara's family.¹⁰³ The traditional list of the Penghulus of Naning, the Raja Merah, begins with 'Dato' Serban¹⁰⁴ Kuning' (Dato' with the Yellow Turban), which does no more than make him of royal descent.¹⁰⁵ However, the present Dato's own list¹⁰⁶ names him as 'Dato' Megat Alam Melintang', the Megat of the Crosswise Flag; his successor was 'Dato' Megat Junjongan Limau'. Abdullah Munshi, writing circa 1830, said that the two first Datos of Naning were of the Biduanda tribe,¹⁰⁷ but there was no such tribe, and the explanation must lie in the titles. Wilkinson gives 'Megat' as 'an hereditary title borne by the descendants of commoners married to princesses', and as an honorific in the 'Malay Annals'. Winstedt is more precise:¹⁰⁸ 'If a female Raja marry an inferior her son will be a Megat. If a Megat's sister marry beneath her e.g. a Mantri, her son is a Biduanda'. and earlier he wrote¹⁰⁹ that Biduanda was a polite term at the Malacca Court for protected persons who were not Muslims or were recent converts, while Wilkinson gave as its primary meaning 'page, insignia-bearer, palace orderly'. The conclusion is that the Raja Merah was a junior member of the Bendahara's family, like his fellow Penghulu of Rembau¹¹⁰ — perhaps suggested when Johore and the Dutch were still besieging Malacca and the Manicabers came down from the mountains to make the place unsafe.¹¹¹

V

Balthasar Bort arrived in Malacca in the year of the Pardon and served as Secretary until 1649, when he also acted as Fiscal. He was then posted away, serving part of the time as Commander at Ligor which was under the

governor of Malacca; he returned in 1656 as 'Supercargo and Secunda' jointly with Gerhard Herberts for a year. He came back as Commander and President in 1665, became substantive governor in 1668, and held that post for eleven years.¹¹² Maria Bort, 'probably a daughter' by his first wife, and wife of Nicholas Muller, Under-merchant and Warehouse-keeper, was buried in Malacca in 1661 and his second wife Johanna, daughter of Emmanuel du Moulin, Harbour Master 1656-60, was buried there in 1676.¹¹³ In 1670 he was appointed an Extraordinary Member of the Council of India and a full Member in 1678. His knowledge of Malacca was based on at least seventeen years' service there, with eleven of them in the senior post; and he was a man of considerable eminence in the Dutch Company's service. He knew the Dutch records in Malacca, and he wrote to his successor that 'in all these particulars I have collected from far and near, as it were'.¹¹⁴

To him the Minangkabau of Naning and Rembau were the arch-enemy: they were 'an idle, sluggish, lazy, faithless and perfidious race',¹¹⁵ and it was necessary to deal with them before sending a force to Kedah, whose King had 'for a long time past richly deserved, by his murders of our people and the withholding of a considerable sum of money, to be forced by arms to give satisfaction'.¹¹⁶

At first Naning and Rembau kept to the agreements, 'more or less': in 1647 the Junior Merchant Clinkert went to Rembau to collect what the 'men of Rambouw' had undertaken to restore and received in all:

81 reals weight of silver plate, 79 small gold buttons set with small diamonds, 38 gold buttons, 2 old blood-stained hats and 2 ditto ragged pairs of breeches, 270 gantangs¹¹⁷ of padi and 22½ reals in cash: [they said that they could pay no more] since there were no more slaves or goods in existence, and they were incapable through poverty of giving money in their stead.¹¹⁸

Naning was slightly more satisfactory:

...the tithe of the paddy crops the people of Nanning allowed us to have, if we sent our people for it to their villages, but still no more than they chose, and that in so small a quantity that the expenses incurred were greater than the proceeds....¹¹⁹

In 1651 the Raja Merah helped catch a runaway slave and was publicly thanked for his services; in 1652 he came down river with his three sons and two Orang Kaya to present some pepper to the Dutch Government 'as an ordinary tribute' and received in return a Malay sarasah,¹²⁰ a piece of red cloth and another of white, and a length of calico; there were inferior presents to his sons and to the Chiefs. In that same year however, Naning

behaved with too great an independence: the Raja Merah's son-in-law tried to kill him and [as the Dutch Minute recorded):

...the offender was put to death by command of the Chiefs. This, he must confess, is a horrid deed, but at all events the offender should have been delivered into our hands, and a regular course of trial instituted against him.¹²¹

Begbie says that the son-in-law was executed in 'a summary manner' and also 'in strict accordance with the method of administering justice which had prevailed among them prior to Dutch interference' (i.e. that it was not summary):

...and in itself was highly disinterested, as they punished an attempt which, had it been crowned with success, would have delivered them from the control of an individual whom they rightly esteemed to be a creature of the Dutch.¹²²

The deduction is that the Chiefs applied full Adat consideration and machinery to the matter. Naning claimed ignorance and, according to the Daghregister, expressed 'sincere contrition' and agreed that they had exceeded their authority (according to Begbie); and the Dutch response to this was to resolve 'that another individual of the name of Inche Jumat' who had attempted the life of his Chief in Naning should also be put to death.¹²³ In 1664 another Dutch party set off for Naning, under Truitman the Secretary,¹²⁴ and fell in with a crowd of villagers with some buffaloes: the Dutch opened fire and killed two of them.¹²⁵

Eleven years later the Raja Merah was allowed to move his house and was lent one hundred dollars to do it. In 1664 Raja Setia Wangsa, who had been quarrelling with the Raja Merah, was dismissed and the Orang Kaya Sri Rama Penghulu was appointed second Chief in his place.¹²⁶ Raja Setia Wangsa was brought to Malacca; in the autumn he escaped, returned to Naning where he paid homage and handed over twenty dollars as the initial payment of the compensation he was ordered to make, and then took to the jungle with some of his people, plundering: he was captured and brought to Malacca where he was imprisoned in Slavenburgh.

Relations were apparently easy; in 1665 the Raja Merah was self-assured enough to complain that the Dutch were not keeping to the 1641 Agreement on the administration of Naning traders in Malacca: the Collector took up to five days to value and sell the government's portion of betel, so that the rest was too stale to find a good market; moreover, the place where the Naning traders staged had become dilapidated, and Maria Silvens the Collector had caused 'much inconvenience and disagreement amongst the Nanning people': he suggested two possible replacements.

Silvens was dismissed by the Malacca Council, and Manuel Frere (one of the Raja Merah's nominees) was appointed in his place.¹²⁷ During these years the title of padi in was commuted:

...therefore our people ... were satisfied if they came in prison here to Malacca every year to pay a definite amount in money. This amounted to from 28 to 30 or 35 reals less than the fees and presents made on these occasions to the Raja Merah and the orang kaya (who usually brought a goat and a little betel or sirij with them as an offering) but was nevertheless continued so long as long as they did not fail in their chief duty of obedience, and, if they complained of bad crops and dear rice, they were released also on their petition from the contribution, though scarcely worthy of the name in view of its small amount.¹²⁸

By 1675 Bort's trust in Naning and Rembau had vanished. He ordered Lieutenant Temmer, Sergeant Kennecke and the Burgher force Captain Jacob Sonnemann to advance up river with a troop 'to the jungle to watch the kidnappers who maintain themselves there'. These kidnappers did not 'scruple to attack unawares and carry off both free men and slaves and then sell them elsewhere; if they cannot secure them alive they kill them'. Bort wrote that they were 'certainly Malays, though they bear the names of Manicabers and Saletters'.¹²⁹ Naning and Rembau warned the Dutch by letter that 'one Asy About Jabaar had assembled many of these rogues for the purpose...of doing us all possible damage' as revenge for the death 'of one of their friends...a haji who ran amok or played the raving madman'. The fact that these rogues were Malays and that Naning had sent warnings did not work in its favour: 'these people of Nanning and Rambouw...have been always suspected of being accessory to this kidnapping and sharing the guilt thereof....' Naning and Rembau threw the blame on each other, but:

...we believe they are in collusion and that we must put little trust in either, still before as yet undertaking anything against them except keeping a close watch on their doings and actions, we intend to drive these kidnappers away or to destroy them.

To this end:

...there is no need for you to bring back any prisoners, cut off their heads on the spot where you find them and hang the bodies by the legs to the trees....All the heads cut off you may send us from time to time to be exposed.¹³⁰

Naning itself was treated circumspectly:

...the contribution was remitted in 1675, 1676 and 1677 when we

contented ourselves with their coming down the Malacca river to the frontier daily bringing their betel leaf, fowls, and sometimes also a little tin: they were at liberty to take back with them what they needed in salt, rice and cloth, which they did.¹³¹

In March 1677 the Dutch received a 'hypocritical letter' in which the writer:

....gave himself a number of bombastic high titles and honours and which contained complaints that his people were interfered with by our patrols in the Straits...and notifying us that he was now established in Nanningh and Rombouw....¹³²

This was from 'Raja Ibrahim', noted in the Dagregister as a Minangkabau, holy and a miracle-worker, whose ancestors had possessed land¹³³ In Malacca.¹³⁴ Bort says he claimed to be a cousin of the King of Johore, but was a fugitive Mohammedan priest driven out of Siak: he slipped up the River Linggi with a few followers, and was to some extent recognised by Sungei Ujong, Rembau and Naning as 'a king for themselves from among the Manicaber princes of Sumatra'. His letter was brought by a deputation of seven, who appeared before the Council, which had no information about his selection as ruler and judged the letter to have been written on the orders of a 'presumptuous insolent madman'. The letter had no proper seal, so that the sender was without credentials from Johore or Pagar Ruyong or elsewhere; and such black seal as it had was 'very slovenly and ugly', from which the Council could rightly deduce that it was intended to be 'insolent'.¹³⁵ The Council sent it back unanswered, but almost immediately received reports that an army of three thousand seven hundred and seventy men was to be led by this Pretender to attack Malacca. The 'superstitious black Roman Catholics and other silly credulous people' were so affected by rumours about Raja Ibrahim's magic powers (which were of great value in war:

...he could poison the wind and make it blow wherever he liked in order to do men to death, bewitch cannon and firearms so that they could not be fired, harden his warriors to such a degree that they could not be wounded...and that he himself could change his shape three times a day and even make himself invisible....)

...that the Council began preparing defences in the Upeh and Tranquerah suburbs. At the same time a warning letter was written to the Raja Merah and his Chiefs explaining why the letter had been returned and summoning them — except the Raja Merah himself, excused 'on account of his great age' — to Malacca. Meanwhile:

...let us have the aforesaid letter back, that we may be able to send it in due time to the rightful Manicaber King. Your Honours may perchance have a letter from him some day to give neither heed nor hearing to this imposter, as we also hereby earnestly enjoin upon you.¹³⁶

The letter was given to a Malacca Malay and three Naning men down with their betel, for delivery: *en route* they were attacked; the Naning men slipped off, and the Malay brought the letter back. It was then given to a visiting Johore enjoy, who was induced to try and deliver it: he met enemy detachments who let him through 'out of respect to the king of Johor', and he met Raja Merah, who would not accept the letter until the 'elected king' was present. The latter heard the letter and announced his intention of conquering the town and fort within a few days. Ossenina Maharaja, the Johore enjoy, advised against attempting it (so he told the Dutch) and told the Pretender that he would not be successful even if he besieged it for several years. He returned to Malacca after two days away, and reported that the enemy was advancing in great numbers.

The Dutch declared war, prepared for siege, and threw up fortifications,¹³⁷ including brickwork using 'fired brick which lay ready to hand' at Roelof Gerritz's garden and brickworks.¹³⁸ (Gerritz' wife had already been evacuated from the 'garden' on the Malacca side of the Gajah Berang¹³⁹ where he had made bricks and tiles under a monopoly).¹⁴⁰ The first attack took place on the same night as these defences were completed, and was driven off: the enemy was already at Batang Tiga, from which the population of some seventy Malays families of padi-planters fled. The defences held against various attacks, and in June the Manicabers 'retired entirely and retreated to their robbers' den by the way they came'. The Dutch casualty list was none killed and three wounded.¹⁴¹

Bort expected a renewed attack: Jan Gordon the riding master¹⁴² and fourteen horsemen went out on patrol daily 'both morning and afternoon, into field and forest in order to catch the Manicaber kidnapers, who are now our open enemies';¹⁴³ one of the garrison was posted at Gerritz' house;¹⁴⁴ the yacht *t Wape van Malacca* (100 tons, 27 crew, 6 guns) and sloop *Onrust* (10 tons, 8 crew, 4 brass guns) closed the Linggi:¹⁴⁵ and in June 1678 Bort told Batavia that 'Raja Ibrahim' intended to attack again after harvest — as a result of which reinforcements arrived in Malacca. No attack was made, and when Bort handed over to Jacob Jorisz Pits he drew attention to a deficit of 7814 florins:

...the amount of the new expenditure on the recent Manicaber war, in order to have it met by the community by freewill offerings of moneys asked for by us of them. Up to the present, however, only 578 reals [Spanish dollars] have been raised and handed to the Lieutenant Sr. Jan

Beeck, to pay for further expenditure which had to be made and is still necessary now and then on behalf of the burgher guard, especially the building of a spacious new guardhouse in the northern suburb near the seashore....¹⁴⁶

In 1679 'Raja Ibrahim', in his normal shape and entirely visible, was killed¹⁴⁷ by the Raja Merah's Bugis slave Baggia, formerly of Malacca.¹⁴⁸ Pits reported to Batavia that 'the little king of Nanning and Rombouw has been put to death by his own people who now pray the Compagnie for peace'.¹⁴⁹

This peace was made in January 1680: the contracting parties representing Naning were:

Sri Maharaja Baginda Maulana, sons and deputies of Raja Merah, Setia Hulubalang head of the Tiga Batu folk, Raja Begagar head of the Sri Melenggang folk, Sri Rara [Raja?] Garar head of the Batu Hampar folk, and Che Abdu'l-Backy head of the foreigners, envoys of Raja Merah Chief of Nanning.

Rembau sent as its representatives their Shahbandar; the heads of the Batu Hampar and Tiga Batu tribes as from Naning, and of the Mungkal and Paya Kumbuh tribes; a representative of the Johore folk as a deputy for the 'Captain'; and the head of the foreigners.¹⁵⁰ The recital shows a shift in power: the majority of the Naning representatives came from the Minangkabau tribes and there was only one (Abdul Baki, again without an honorific) from the 'foreigners', who may have included the non-Minangkabau Anak Melaka. The Mungkar tribe, one of the four in Naning today, was not represented while the Batu Hampar, who were represented, are now a sub-tribe. By comparison, the representatives from Rembau were more equally divided: there were four tribal chiefs; but there was also the Shahbandar (an appointment deriving from old Malacca and Johore), a non-Minangkabau representative of subjects of Johore, and another for the 'foreigners'.

The envoys accepted a fine, and left hostages. Six months later the Raja Merah and his three sons went down to Malacca to make excuse, by pleading poverty, for not handing over the sixty slaves, hundred buffaloes and twenty-five cattle that Naning had been ordered, and agreed, to produce. The list reads as though this was restituti on of slaves and cattle stolen or killed in the recent war. The reparation was not made: seven months later again Naning and Rembau pleaded inability to repay, and the hostages were released.¹⁵¹ In 1679 Naning was given permission by the Dutch to make an alliance with Rembau¹⁵² and in 1701, by the Treaty of Protection made between Malacca and Johore, suzerainty of Naning was

relinquished by Johore to the Dutch.¹⁵³

Bort claimed a wider jurisdiction than the Portuguese and earlier asserted:

...it extends about eighteen [Dutch] miles on the north side beyond the river Pannagie and Cabo Rachado to Callang, on the south side as far as Moar, about six miles, and inland up to the village of Rombouw. All these places used to be under Johor and are still to some extent subject to it.¹⁵⁴

Klang, now part of Selangor, was not settled by the Dutch; Muar, with its own ruler, was part of Johore; Rembau was acknowledged by Bort to be under Johore suzerainty — 'these people of Nanning and Rombouw, the former being Manicabers subject to Malacca and the latter to Johor....'¹⁵⁵

He also described the territory of Malacca:

...to the northward up to the aforesaid river Pannagie and southwards as far as a place called Cassingh, situated near Moar above-mentioned and for six miles up the river on both sides there are gardens and orchards planted with various fruit trees, especially mangosteen, durian, and cashew. They are now mostly in the possession of inhabitants, but some, which are out of the way, still belong to the Honourable Company and at fruit-harvest time are farmed out to such persons as apply for them, half the fruit going to the profit of the Honourable Company. The rest are subject to a payment of 10%.¹⁵⁶

In his list,¹⁵⁷ the gardens nearest Naning and 'possessed by inhabitants' are those of Belimbing, Pengkalan Aur and Panchor on the south-eastern bank, and at Tanah Merah (in Krubong mukim) and Beringin, owned by 'Intje Aron' or Harun, on the north-western bank; those 'out of the way' and retained by the Company were at Rembia, Seberang Gajah, Batang Tunggal, Batu Berendam, Malaka Pindah, Batu Hampar and 'Groot Cabaca' and 'Kleen Cabaca', these last unidentified. It is clear from his list that he worked outwards from Malacca: thus 'Sangoe Baroo' (Sungei Baru, noted as in the Company's hand) is the furthest along the coast towards the River Linggi. Comparison with the late Portuguese accounts — for example, d'Eredia's — shows that the Dutch had not expanded far in their first thirty-five years of rule: the frontier stopped short of Pengkalan Naning, and probably short of Bukit Gereja and Our Lady of Hope, which Bort does not mention.

His census of population and houses lists 137 brick houses in all, of which 23 were occupied by Dutch burgher families, 6 by Portuguese 'halfcastes and blacks' and 27 by Moors and Gentoos (Muslim and Hindu

Indians) as against 81 by Chinese. Only one Dutch family lived outside the suburbs of Upeh and Banada Hilir,¹⁵⁸ along the shore; and he notes none as living up river by Bunga Raya. There were one hundred and forty-five in the Dutch burgher families, a thousand four hundred and sixty-nine Portuguese Eurasians, and a total population of four thousand eight hundred and eighty-four, exclusive of a government and trading staff of one hundred and eighty-eight and a garrison of three hundred and forty-seven.¹⁵⁹ His figures include no 'Manicabers' and it is clear that Naning was outside the purview of these administrative figures.

Whether Sultan Abdul Jalil Raiyat Shah relinquished such suzerainty as Johore had over Naning in 1701 or not, its influence continued. In 1703 the Dutch took action against the Naning Malay Writer: after flogging him they banished him from the Fortress and anywhere less than eight miles from it: his crime had been to fight and wound the Dutch Government's own Malay Writer.¹⁶⁰ In that year also the Raja Merah, Dato' Megat Junjongan Limau retired:¹⁶¹ it was twenty-six years since Bort had excused the then Raja Merah from coming down to Malacca 'on account of his great age'.

What followed next is uncertain. Begbie's account¹⁶² is that the retiring Chief's brother:

Sing Maharajah received the seal of appointment from the Company but the inhabitants refused to obey the new Punghooloo, or "Captain" as the Dutch termed him, and the country altogether was in such an unsettled and lawless state as to be brought to the notice of Council. The Captain of Malays was directed to proceed to Naning with Sing Maharaja and the Interpreter, and proclaim the authority of the former, a measure which apparently had the desired effect.

He then went on, after references to events in 1720 and 1721, to remark: 'It was somewhere about this time, although I cannot fix the precise year, that the title of Sri Raja Merah... was conferred on the Punghooloo of Nanning by the Rajah of Johore' and recounted the story of the pursuit of the Johore Sultan's concubine and her seducer. He was partly in error, for the Raja Merah was named in Dutch documents forty year before, though this does not necessarily invalidate the rest of his story.

Newbold has it that Sultan Abdul Jalil recommended the new Chief to the Dutch, who sent two commissioners, Peter Figaredo a burgher and Inche Harun, 'Captain of the Malays', to Naning. They were firstly to congratulate the Sri Raja Merah on his retirement from office, and to tell him 'that his brother has been nominated to fill the vacant office, for which he has received the arms of the East India Company as a mark of his

authority'. Then followed instructions on homage:

2nd. You shall require the Chiefs at Naning to pay all due respect to the authority who holds the said seals, and with regard to the navigation of the river by boats, they shall invariably conduct themselves as we have desired.

3rd. Two days after your arrival you shall nominate and appoint the new Chief in the name of the East India Company, and command all persons to pay due respect and show due submission to him; in failure thereof, they shall be liable to punishment.

The rest was concerned with an enquiry into the case of 'Seathum and his followers', which was another case of sentence without reference to Malacca; with refugees from Malacca; with the need for permits to enter Malacca; and with trade. He named the new Chief as 'Sri Maharajah Juara Magat' and said that he was the former Chief's brother.¹⁶³

There is general agreement that Juara Megat was the third Raja Merah, and the first of the Semelenggang tribe. He could not have been full brother to the retiring Chief unless the old man, Dato' Junjongan Limau, had been of that tribe also, though he could have been a half-brother by a Semelenggang wife; but if he had been a son of Dato' Megat Alam Melintang, he also would have had the rank of Megat, and he did not: in his case and with the word following his name it was either a possessive — 'the Megat's Juara' (Juara means Fighting-cock trainer) — or a soubriquet: 'Juara so-called Megat' or 'Juara who goes on like a Megat'. Begbie called him 'Joowanna Lengang',¹⁶⁴ plainly 'Juara Lenggang' or 'Juara with the swagger', so that the nickname meaning of 'Megat' seems the more likely — especially in view of the story of how he came to the notice of the Sultan of Johore.

A Malacca Portuguese Gampada Langhe,¹⁶⁵ *alias* Genta di-Langit¹⁶⁶ ('Bell in the sky': the significance of this is lost, but it may be onomatopoeic Malay for the Portuguese) had run away with one of the Sultan's concubines, and the Sultan approached the Malay 'Captain' Harun, 'desiring him most earnestly to wipe off this stain on his honour' (Begbie) and 'to tear away the pig's hide which covers his head and rub him with ashes till his face is black'.¹⁶⁷ Harun summoned Juara from Naning and gave him the commission; Juara followed the couple to Muar, killed the Portuguese and returned the woman to Inche Harun, who restored her to Johore. Beside recommending Juara to the Dutch, the Sultan gave him three slaves, two women and one man ('probably Jakauns from whom the suku or tribe at present known by the appellation of Tiga Nenek...sprang'),¹⁶⁸ *kebesaran* (regalia) and a tract of land at Gemenchah,

north of Batang Melaka and Naning territory and east of Tampin and Rembau territory.

The explanation seems to be that both Begbie and Newbold telescoped events, and that the family of the two first Chiefs was set aside when it was seen that the brother could not establish himself and a new Chief, from one of the tribes but also suggested by the Sultan of Johore, was appointed; and he established himself so securely that all his successors to this day are of his family. Whoever the earlier family were, their yielding place to one of the Minangkabau tribes marks a further step in Minangkabau ascendancy. Juara Megat was duly installed and in 1705 the new Sri Raja Merah rounded out his *de facto* position shown by the Company's silver seals by a *de jure* claim by seal and insignia from the Sultan of Johore. 'It is singular that this transaction, although so intimately connected with the Dutch government, appears to have been unnoticed by them'.¹⁶⁹

By 1720 the political organisation of Naning had reached the position in which it has remained ever since: a Penghulu and four tribes with their Chiefs. Naning had given no trouble in the intervening years, but on 14th May the Dutch had to send a reprimand:

Harmanes van Suchtelen Governor and Director together with the council of the Town and Fortress of Malacca and the places subordinate, to the Captain of Nanning Orang Kaya Sree Rajah Merah and to the four Sukus.¹⁷⁰

When Orang Cayah Cachil left this for Nanning with a letter from us - The Governor in Council verbally desired him to inform the Captain of Nanning that His Excellency had received intelligence that the Captain had prevented the Prows Coming down from Nanning to Malacca and had imposed new Taxes and oppressed the Inhabitants, and that if this intelligence were true, that the Captain do immediately discontinue such malpractices.

But to our great surprise notwithstanding this admonition the Captain still continues in his illegal proceedings. So it is that we have resolved in order to put a Stop to these Evils, to Command you and your subordinate Chjefs collectively and You are hereby Commanded on the receipt of this letter to refrain from such practices and to conduct yourselves by the old-established rules and Orders without making new Regulations.

Our Order also is that no Persons quit Nanning for this place, nor will they be admitted here without they bring a pass from the Punghulloo with his seal affixed, nor is it our wish that our subjects of Nanning should be burthened with any new taxes.

It is further Ordered that you prevent all vagabonds and evil

disposed persons leaving Nanning for this place.¹⁷¹

This letter appears to be the first in which a reference was made to the Penghulu (under whatever title) and 'four Sucus' of Naning, a practice which continued down to and during the English East India Company's rule. The term seems to have been personalised and used to mean the four Chiefs rather than to the tribes in general: it is unlikely that in this and later letters there an intended declaration to all the people. The usage is not found in late-nineteenth and twentieth century references, and seems etymologically improper,¹⁷² though vocabulary fashions may have changed. The letter is interesting also as showing the suspicion in which the Dutch still held the rascally Manicabers and their intention to keep infection out of Malacca.

The letter apparently put the Dato' Penghulu of Naning and the four Chiefs in their place: in the next year they applied to Malacca for arms so that they could defend themselves against 'the son of a king of Minangkabau' then in Sri Menanti to lead the war against the invading Bugis.¹⁷³ The Dutch understandably declined to send arms which might be used against them, and assured Naning that it could rely on full protection.

Otherwise, relations seem to have been without incident. It is possible that pressures in Naning were released by expansion into Jempol, where according to tradition Semelenggang women (and not male birds of passage) settled Anak Ayer Songsang, and Tiga Batu women from Pulau Sebang settled Sungei Sialang, at a time when Juara Megat was head of Semelenggang.¹⁷⁴ Taxation, as already noted by Bort, was light and the attempt to commute the tithe on padi into its worth in pepper or cash had failed, and Bort had remitted it in 1675, 1676 and 1677.¹⁷⁵ It was in effect self-assessed, since the Dutch did not estimate the crop of which they took their tenth part. In 1744 it dropped to two hundred gantangs,¹⁷⁶ and two years later it was commuted to four hundred gantangs to be paid as tribute, not tithe; and of this half was immediately remitted, and indeed was remitted annually for the next thirty years. In 1765 a purely nominal tribute was accepted.¹⁷⁷

In any case, by mid-century the Dutch were concentrating on the tin trade, particularly with Perak: Governor Albinus, who assumed duty in 1745, found that the tin 'from the hinterlands of Malacca — Sungei Ujong, Sri Menanti, etc — as well as that which is found along the rivers Pannagie and Linggi' — disappeared to Kedah, Selangor or Riau, or went east to Pahang and Trengganu. He sent agents who paid slightly more than the market price, and attracted the trade back. Naning in itself merited no comment for his successor's guidance in 1750.¹⁷⁸

Kedah, Selangor and Perak were all controlled by Bugis adventurer-invasers from the Moluccas, and Sultan Suleiman of Johore and Riau had himself been appointed by the Bugis princes.¹⁷⁹ Both the Dutch and Johore found their trade, and their possessions, threatened; and this drove them into treaty relations. In 1754 they made arrangements for the future of Siak (nominally part of the Johore empire, but previously held against the Sultan by Raja Kechil who had killed the Sultan's father) after it should be captured, and there were joint operations. Siak fell but was recaptured by the Bugis and in 1756 the treaty was annulled. In April 1756 Bugis burned houses in Malacca, and in the October Daing Kemboja, the Bugis leader from Selangor, brought allies from Remau to waste Malacca territory: the Dutch were driven out of Klebang, along the shore from the 'northern suburb'.¹⁸⁰ The Dutch took the fight back and in 1757 blockaded Daing Kemboja in the Linggi, and on 12th December Sultan Suleiman, with no military power of his own, ceded to the more successful Dutch the suzerainty of Rembau and its 'nine countries':¹⁸¹ Begbie says that it was the nominal overlordship of Naning, Sungei Ujong, Rembau and Johol.¹⁸² These were rights on paper, as the Dutch must have told themselves, and they were evanescent: Suleiman's son and regent ceded the sovereignty of Rembau at least to the Bugis and perhaps to Raja Melewar¹⁸³ at one time or another. In November 1759 another treaty was signed, this time between the Dutch and the Bugis and the heads of the 'nine countries', at Fort Filipina at Kuala Linggi: it provided for friendship and Dutch monopoly of the tin trade. No representative of Naning was present.¹⁸⁴ In 1759 the Johore Sultan made an agreement with the Bugis; in 1760 he sent his son and co-regent to invite Daing Kemboja to Riau; in 1760 he died; in 1761 his son and successor died; Daing declared himself guardian of the newly-dead Sultan's son, who also died; and the Bugis proclaimed another son, less than two years old, as successor with Kemboja as regent.¹⁸⁵ There was no-one left who could appeal to the old royal suzerainty of Johore over Naning, even if Naning had been minded to respond.

In 1761 there were again complaints of Naning behaviour:

...several irregularities and deliberate murders having been committed in Naning, the Panghooloo was repeatedly summoned to appear at Malacca to answer for his conduct, but he pertinaciously refused to make his appearance.¹⁸⁶

In 1768 the Council of Malacca referred in a Minute¹⁸⁷ to the treaty 'concluded with certain chiefs' which declared that Naning belonged to Malacca and Rembau to Johore: this was harking back some time, to the

1757 Treaty and even to the 1701 Treaty, and it seems to have followed:

...a Resolution...dated 15th September 1768 by which it appears that the Panghooloo and four sookoos of Nanning were brought down to Malacca to answer in person to certain charges made against them respecting the murder of a Chinaman...and only escaped punishment in consequence of their humble supplication and promise of good conduct....¹⁸⁸

The promise was to some extent fulfilled, but distrust remained. In 1772 'a son of the Sultan of Minangkabau' appeared in Rembau willing to lead the tribes against the Bugis, and Nanning again asked the Dutch for arms and were again refused, being advised to stay neutral.¹⁸⁹ In 1773 the retiring Governor Schippers warned his successor, Jan Crans, that:

...the inhabitants of Nanning, though vassals and subjects of the Company, are in general very disloyal and inconstant. They sometimes work closely with the people of Rombouw: the similarities of their natures and the proximity of their lands give them great opportunity for doing so. They are moreover fickle and much inclined to change. They must therefore be kept carefully and constantly within the bounds of their duty, and for this purpose they have been urged and held to their due annual homage to the Company, for experience has taught that if this is neglected they become somewhat forgetful of their dependence on the Company and of their due loyalty and obedience to it; they insensibly turn aside from it, and sometimes pass on to disobedience and even intrigue.¹⁹⁰

To reinforce the point, the remission of tribute ceased in 1776 and the full four hundred gantangs was demanded.¹⁹¹

The Bugis, under the renowned Raja Haji (who was killed in the last battle) attacked Malacca itself in 1784: they ravaged Tanjong Kling and put up their stockades at Batang Tiga in January.¹⁹² A counter-attack was planned, and on 8th February seven vessels left the river for the roads;

...further, in the garden of the late Soeratter Malek Faizullah, outside Tranquera, were posted 200 Nanningers and Achinese from up country, to be transported next day to Tandjong Kling if the landing there was decided on. *Feb. 9.* In the morning at 4 o'clock the *Dolphijn* and the rest of the vessels destined for the expedition against the Selangor Bugis left the roads near Tandjong Kling, but remained the whole day before the place without doing anything. Meantime, at daybreak, with the opening of the gates the news was received that 100 nanningers, posted in the deceased Malek Faizullah's garden, had run away in the night, but that the 100 Achinese who had been with them had already gone on the

ships....¹⁹³

The siege continued until June, with Malacca increasingly closely invested, until Tranquerah, Bukit China, Banda Hilir, Bunga Raya and Pengkalan Rama were all under attack,¹⁹⁴ but Naning was not mentioned again in the Dagregister. The ninety-five verses of 'Sha'ir Acheh'¹⁹⁵ written by a contemporary Malacca Malay make no mention of Naning support for either side.

In 1786 there was a change of Penghulu Naning. On 6th October:

....on the demise of the previous incumbent, the four Sookoos produce the Insignia of Office, a Cane with Gold Head¹⁹⁶ and a Silver Seal, bearing the Arms of the East India Company. The Sookoos request that the grandson may succeed to the vacancy, the Orang Cayah requests that he may succeed himself and promises to conduct himself as a faithful upright and obedient vassal of the Company: the Orang Cayah Anjak is accordingly appointed, authorised to adopt the usual title of Sree Rajah Marah (sic), has the usual Oath administered to him, and receives the Insignia of Office as a token of the trust which the Company confides in him.¹⁹⁷

It would be interesting to know why the Dutch set aside the choice of all four Chiefs: by Minangkabau political theory a unanimous vote is both necessary and conclusive. Their choice however, would seem itself to breach the Custom: traditionally the succession passed to a son of the deceased Dato's eldest sister. The grandson's claim, such as it was, had in the matrilineal society to be through his mother, the late Dato' Timba's daughter. Anjak may have taken the point but the Dutch are likely merely to have preferred an older man in whom they hoped to trust.

VI

In May 1795, in Europe, Holland made a separate peace with Revolutionary France and was annexed in all but name:

[when men]....looked at the aggressive action, the novel tactics, the daring strategy and the ultimate victory of the French Republican armies, it was clear that a new Power of an incalculable and dangerous kind had come into the history of Europe.¹⁹⁸

The Dutch Stadtholder was a refugee in England, 'French privateers were cruising off the cape of Atjeh',¹⁹⁹ and any change in allegiance of the Dutch settlements along the China Passage had to be forestalled.²⁰⁰ Abraham Couperus (who as Fiscal in 1784 had commanded a mixed

Company of Chinese, Malays and Hindus against Raja Haji)²⁰¹ was Governor with an effective force of three hundred and thirty-four, of whom seventy-three were Europeans:²⁰² he had more guns than artillery-men.²⁰³ The English made an unopposed night landing with nearly fourteen hundred men (not without missing their beach-head and having to be guided by a Beach Officer wading in the surf)²⁰⁴ near Adriaan Koek's estate near St. John's Hill, and next day, 18th August, Malacca capitulated on terms, the Union and Netherlands flags flying side by side.

Couperus thought the English very correct:

...we were very surprised when, after we had capitulated to the English and they had taken possession of Malacca, a proposal was put before us that the capitulation should be set aside and a joint government established. But we quickly saw that the motives which had led the English naval and military commanders to make this proposal derived from the purest of intentions...they convinced us that their only object was to take Malacca, defenceless as it was, under their temporary care in order to protect it from the French. After getting the place in their hands, they exhibited a strong desire to maintain good order and to promote the prosperity of the inhabitants. Being unfamiliar with local language, they were anxious to guard against unwitting errors when arbitrating disputes, and foresaw that suspension of the law courts would lead to disorder.²⁰⁵

The joint Council was established, with Captain Newcombe, the naval commander, a member of it; and Malacca was administered by Major Brown, until December.

[Then]...six ships arrived from Pulau Pinang, including the one commended by Admiral Rainier:²⁰⁶ with the arrival of Rainier, everything in Malacca was changed. The political Council was dissolved...some of the judges of the Supreme Court were replaced...²⁰⁷

It did not occur to Couperus to offer Government House to Rainier, who with his staff was bidden to dinner and afterwards listened to Madame Couperus — sister of Adriaan Koek²⁰⁸ — playing a Batavia-made harp without pedals and slaves playing violins.

[She]...was dressed in the most unbecoming manner possible, a mixture between the Malay and Portuguese... her hair was drawn so tight to the crown of her head, and the skin of her forehead so stretched, that she could scarce wink her eyelids; she seemed however very affable and well-bred for a person never out of Malacca...She chewed betel incessantly, as did the other ladies in company, and every chair in the room was furnished with a cuspidor to spit in, for while the ladies chewed and

played, the Dutchmen smoked their long pipes and drank klein beer.²⁰⁹

Rainier's administration soon disabused Couperus and also Major Brown, who resigned. Prize Agents began taking account of all public effects, and protest by Couperus —

If, Sir, the books are not brought up and our respective Sovereigns decide after peace is concluded that this settlement is to be handed back in the same state as it was before the occupation, how can the transfer take place? How shall we on the Dutch side frame our demands?

led to his being sent off to internment at Madras for twelve years.²¹⁰

Lennon, who was both Secretary and Principal Engineer to Rainier, had a grasp of *realpolitik*. He made a careful survey of the fortifications, the town and its trade.

The works of the fort of the town...are in tolerably good repair..though should it remain eventually in our possession, which is not unlikely.....it would be absolutely necessary to modernize the whole river face....²¹¹

There will be found advantages and trade sufficient to support both this and Penang. This it is clearly necessary to keep, to prevent any other power establishing themselves in it, and it is likely that the Americans would avail themselves of the circumstances of its being evacuated in a short time, which might be attended with very inconvenient effects to us hereafter...²¹²

Moreover, this would be for the benefit of the native inhabitants:

..the severity which the Dutch have constantly exercised in the Government has impressed itself so forcibly on the minds of the inhabitants of all denominations, that they can hardly conceive the English to be now their rulers, from the mildness of our administration and the politeness we show to the Dutch...it was but a short time before our arrival that a young woman with child was whipped so unmercifully that she died in a short time. They sometimes proportion the punishment to the time of smoking their pipes; meaning that the criminal is to be flogged during the time that the phlegmatic Fiscal smokes one or two pipes of tobacco.²¹³

Of Naning he learned nothing. The population of fourteen or fifteen thousand consisted of:

Malays, Chinese, Chulears and Europeans; and as there is nothing bearing any resemblance to a Raja or Supreme Head among them from the interior of the country, each caste has its own Chief or Captain as he is called, who are all subordinate to the Government.²¹⁴

The disposition of the Malays about Malacca is quite inoffensive,

nor has there been any act of treachery, that I could learn, committed by them for a considerable time past.²¹⁵

The town and territory itself, though with:

...a soil capable of yielding the richest productions of every kind, and though under the dominion of a European power for about 250 years,... remains even to the foot of the lines of the town, as well and uncultivated as if there had never been a settlement formed here; and except by the small river that passes between the fort and the town, you cannot penetrate into the country in any direction above a few miles; nor is even this extent general, being confined to the roads that run along the seashore about two miles each way, and one that goes inland. Mr. Couperus has a country house about four miles along this latter road: and there were, some time ago, gambier gardens about seven miles inland, to which this road led, but it is at present not cleared farther than Mr. Couperus' house...The gardens immediately next to the town are so choked with coconut trees...they grow indeed so thick as very much to obstruct the free circulation of the air...²¹⁶

Nevertheless, some Naning people had been on the move. The account at Appendix D is of a migration south-west from the ancestral tribal areas, and the people brought their tribal organisation with them. The appointment of a penghulu was a Dutch idea, and not theirs, although when it was put to the headmen the status and financial benefit — of exemption from tithes — appealed to all of them. The area into which they came was a No-Man's-Lan, for in Naning proper the Dutch appointed no penghulus but dealt with the 'Rajah Merah and Four Sookoos'. It is clear that this happened some time before 1824, since the three original penghulus had already been succeeded by a fourth appointed before that date.²¹⁷

If 'Badariang' existed and could be identified, it would be possible to give an approximate date to this event. It was, however, no part of a Company official's duty to appoint penghulus: it is clear from what the 'Dutch Proprietors' told Garling in 1824²¹⁸ that these headmen were their officials, as and when they wished; and the deduction is that the three tribal headmen were called in by the Dutch Grantee. A Grant²¹⁹ was made in January 1794 to Bellemont, a 'free burgher'.²²⁰ The difference between 'Badariang' or 'Badarian' or 'Bellemont' is considerable, but it is possible that there was corruption over the generations, particularly as the names were rendered into Jawi and back again:²²¹ the surrounding circumstances suggest that it may well have been Bellemont who called the Malays into Malacca. He was the first Grantee; it was up to him to appoint a penghulu; the land adjoining traditional Naning territory — 'Bukit Penbagian' (Boundary Marker Hill) was stated to be such by Lewis thirty²²² years later

and by Dol Said in 1829;²²³ and the Dato' complained of incursion into Naning by Adriaan Koek, to whom Bellemont transferred the Grant for five hundred Spanish dollars in 1804.²²⁴

In 1801 Dato' Anjak died and the Chiefs chose Abdul Said, setting aside his elder brother.²²⁵ The new Raja Merah received a Letter of Appointment²²⁶ from 'Lieutenant Colonel Aldwell Taylor Gobernador Commandant who was seated in sovereignty over the government of the country of Malacca and who was over Raja Merah who was established in Naning':

...We make known that, because he is trusted by the English race and is without defect and is moreover expert, we in exercise of our power appoint him to the rank and position of Kapitan over all the races of Minangkabau and Malays and all others in the land of Naning and its dependencies which are under the suzerainty of Malacca the territory of the English Company, with the precedence which is appropriate to him over all Minangkabau people and any and all of them and he is to be accorded honour and respect both by those now present there and by those who shall arrive hereafter.

Moreover the Kapitan shall be prepared, ready and obedient to every order and permission given by...[text corrupt]...that is to say the Governor and all his Judges and from the Tuan²²⁷ so long as he is here without fail, and if there is any failure this will be annulled.²²⁸

The Malay text was convoluted, and caused difficulties of construction twenty-five years later: a literal translation of a formal English letter of Appointment — 'To our trusty and well-beloved...' 'Know all men by these presents' etc., — would itself produce problems of interpretation. The reference to the lack of disqualification and to the expert knowledge — *dengan tiada kechelaan-nya lagi dengan kepandaian* ('is without defect and is moreover expert') — may be declaratory to dull the edge of any complaint which might be expected from other claimants. The reference twice to the Minangkabau people is also interesting.

Taylor took the opportunity of obtaining a Treaty²²⁹ or Agreement just as the Dutch had done in 1641, and it reads a though the English took the Dutch agreement as a draft to be amended, even to the recital that it was made by 'Sinyor Colonel Aldwell Taylor Gobernador':²³⁰ the Portuguese terms had been taken over by the Dutch. Comparison between the two Treaties shows that the English Company no longer claimed escheat of the estates of Minangkabau who died without heirs, or of murderers;²³¹ there was no reference to the allowance of two hundred gantangs of padi to the Chiefs or payments to the Valuer or Malay Writer,²³² or to tolls payable by

Naning vessels or the arrangements for them at Malacca,²³³ and there was no clause that Naning should be disarmed by surrender of weapons.²³⁴

There were variations of other clauses in the 1641 Agreement: the 1744 commutation of the tithe of padi and fruit into a nominal tribute of four hundred gantangs of padi was enshrined in Clause Three of the new Treaty, and the payment for runaway slaves returned to Malacca was raised to ten dollars payable in Surat rupees. Malacca people without limitation by religion, as distinct from Christians only, were to be allowed to settle as cultivators in Naning.²³⁵

The other and main, provisions were repeated: any Minangkabau or Malay who disobeyed the Governor or contravened the articles of the Treaty was to be taken to Malacca for judgment. Naning visitors to Malacca were to have passes signed by the Raja Merah, and visitors from Malacca to Naning were to have passes signed by the Shahbandar — a provision not in the 1641 Agreement, but introduced in 1642. Malacca retained its trade monopoly, with the River Linggi remaining closed, and there was a specific reference to the tin from Rembau, Sri Menanti and Sungei Ujong and a fixed price, both of tin and pepper: breach of this laid the offender open to loss of all goods and a heavy punishment in addition — but no longer to capital punishment. The value of slaves escaping to become Christians was still discounted by fifty per cent. Anyone who took a Malacca Christian, free or slave, by force or agreement, for sale to a Muslim or for circumcision, or for conversion to any other religion, would lose life and forfeit all property.

The Malay version was a free and even inexact translation²³⁶ perhaps intended by the translator as an emollient to the Naning Chiefs: the preamble 'Articles and conditions dictated' of the English text becomes *Perjanjian* — 'agreement' or 'formal contract', in the Malay. It seems to have been the work of a Malacca Malay: the Chiefs of the English version become *penghulu* (not then a Naning term) and the Malay text refers to the Dato' Penghulu as 'Kapitan' throughout. As has been seen, 'Kapitan' or 'Captain' was a position conferred on national leaders by the Portuguese and their Dutch successors (and continued by the English until June 1828)²³⁷ and they exercised a somewhat limited criminal and wider civil jurisdiction independently over their own people. In particular, Article 8 of the English Treaty:

The Panghulu and Chiefs promise...that whenever the Chief Rulers happen to resign the Government, or any misfortune befall them, they shall...propose one of the nearest and most qualified of his family, to the Governor of Malacca for his successor; but it is not to be expected that such

a proposal must always meet the Governor's approbation: on the contrary it is optional with him whom he thinks proper to appoint...[became, in the Malay:]

Moreover the Kapitan and headmen affirm that if a Penghulu comes to the time that he vacates office or dies then whoever is most knowledgeable among the near relations shall come to Malacca to the Governor-in-Council but that person cannot be called 'Kapitan' for it would be before the command of the Governor-in-Council and whoever they wish shall become it [that official].²³⁸

Dol Said could not read or write²³⁹ and it is unlikely that he often had the Malay document rehearsed to him so that he could ponder niceties of textual interpretation, but his correspondence twenty years later with Garling and Lewis shows that he had a general impression of what his position really was: that he was, in effect, Sri Raja Merah in his own right and Kapitan by appointment, *ex officio*, with a dual role, though the sophisticated concept in terms was beyond him — and that the Agreement did not change his position. Indeed, Lewis reported in 1827²⁴⁰ that:

The present Punghulloo was the one who signed the Treaty with Col' Taylor. I cannot learn from him their motive in making a new Treaty for he declares that everything existed precisely the same before it was made, in their obligation to acknowledge their fealty by paying a tribute of four hundred gantangs annually as well as obeying the rest of the engagements in the Treaty.

The Naning signatories were Sri Raja Merah Dol Said himself, Lela Hulubalang (perhaps a representative of the Anak Melaka, whose Chief did not sign) and the Chiefs of the Mungkar, Tiga Batu and Semelenggang (Orang Kaya Kechil, Dato' Membangun and Maharajah Nana Kaya) together with the head of the Bunga Tanjong sub-tribe of Semelenggang, Dato' Maulana Garang.²⁴¹

In 1798 the Batavian Republic had annulled the Dutch East India Company's charter and took over its possessions, and this Agreement was intended to record, and emphasise in the minds of the Naning Chiefs, a categorical switch of allegiance from the Dutch to the English and no others: the preamble and first Article in the Malay version recite that the Kapitan and senior penghulus in the name of all the people of Naning voluntarily swore loyalty to the Ruler (*Tuan Besar* and not *Baginda* or *Raja*, King) of England, the Governor General-in-Council in Madras, the Governor-in-Council in Malacca and their successors, abandoning former trade agreements with others which might damage the Company. This did not accord very comfortably with the English claim, on their arrival in

1795, that they were protecting Dutch interests against the marauding French, but the provision was timely: in 1802 the Treaty of Amiens ended the war in Europe and provided, amongst other things, for the return of Malacca to the Dutch, who in November that year appointed Cranssen as the new Governor²⁴² — the unhappy Couperus was still at Tranquebar — but the resumption of war in May 1803 forestalled any British withdrawal. Dol Said and his chiefs knew who was their suzerain: in 1831 they appealed to William IV of England.²⁴³

In 1805 there was an execution, of a Kedah Malay, at Taboh Naning. He had abducted a Chinese man and a Chinese woman from Malacca, and at Lendu in Naning territory the man resisted and was stabbed to death with a *kris*; the woman was carried off to Kuala Pilah and sold. The criminal was taken bound to Execution Hill (Bukit Penyalang) and was examined by the Dato' Naning in front of the four Chiefs, twelve Panglimas, the entire body of Chiefs of second rank who were the tribes' military commanders — the Bendahara and Makhdum,²⁴⁴ according to Islamic law which of course applied. The evidence was conclusive and he was sentenced to pay one bhara (300 katties or 400 lbs. of tin, valued at the 1801 Agreement rate at \$44 but Newbold put it at \$24.30) or to suffer death. He was unable to pay and was executed: the Panglima Besar drove a kris down past the collarbone to the heart, with cotton round the blade to prevent any blood being spilt.²⁴⁵

Everything in this account points to the fact that there was meticulous justice: the offence took place in Naning, and the murderer was tried according to his own law; there appears to have a unanimous verdict, and since the convicted man was a foreigner with no clan to give surety for him or to make restitution to the murdered man's family, he was told to produce compensation money according to the milder Minangkabau custom: as he could not do so, he was executed. Newbold's comment that this man Salleh was found guilty 'according to the forms of Mohammedan law' may or may not be denigratory, but his statement that 'Juara Megat...arrogated the power of inflicting capital punishment on the inhabitants confided to his charge (and) it was exercised and abused by this successors until 1809'²⁴⁶ seems unfounded in both its arms: the power was not arrogated but vested in Penghulus in Balai,²⁴⁷ and there is no evidence of abuse.

In 1809 Colonel Farquhar, then in charge of Malacca, remitted the tribute of buffaloes and the toll of 45½ cents a boat which went unmentioned in the 1801 Agreement on condition that the Raja Merah gave up his powers of capital punishment.

Farquhar was still at Malacca in 1818 when the Dutch returned, following restitution of possessions to the Dutch by the Treaty of Vienna. His

report²⁴⁸ stated that:

...although there was no King's Court of Judicature, atrocious crimners were by no means common among them; and that during the whole time that the British have had possession of Malacca (now upwards of 21 years) one man only, a Batta slave, has been executed; and that it was but doing common justice to the community at large to state that it would be difficult to find, in any place containing the same number of inhabitants, a more quiet and orderly set of people.

The incoming Dutch Governor, Timmerman Thyssen, had a forward policy. He negotiated with Raja Ali, a Bugis-descended interloper in Minangkabau Rembau who established himself temporarily as Yam Tuan Muda, and with the Rembau Chiefs to re-affirm the 1759 Treaty of Fort Filipina with Daing Kemboja, extending the Dutch trading monopoly and 'friendship'; but his superiors at Batavia would not ratify it.²⁴⁹ In 1822 he had prepared for him a statement of crop production from Naning lands so that tithe could be collected,²⁵⁰ a plan to which he was doubtless impelled because in the last years of pre-War Dutch rule. In 1791, Batavia had reduced the Civil and military establishments of Malacca because of its declining trade and revenue.²⁵¹ In 1824 the Acting Governor, Adriaan Koek, issued regulations for simultaneous padi planting, expressly stating that they were to apply to Naning. Malacca was handed over to the English Company before Batavia approved any scheme or anything was done. Possibly Governor Fullerton and Lewis took over the ideas: Malacca-born officials in the Land Office would have known of these proposals.

Chapter 4

The Establishment of British Rule

I

In the next five years Malacca officials basked in the short-lived grandeur of the Fourth Presidency ranking with Bengal, Madras and Bombay, and then after the Bentinck reforms found themselves reduced to a care-and-maintenance basis which lasted for a quarter-century. They were to be divided in opinion on law and policy and to find themselves in false positions not altogether of their own making; there were to be two campaigns in the Naning War, and the chieftainships of the Raja Merah and the Sukus were to be formally abolished by proclamation which, as it turned out, Naning quietly ignored.

The newly-arrived English Resident Councillor Cracroft wrote to the 'Penghulu Naning Raja Merah' on 30th April 1825,¹ announcing his arrival and the hoisting of the 'distinguished English flag' over Malacca, and enclosing a letter for forwarding to Raja Ali in Rembau. At the end of May the Penghulu and Chiefs arrived in Malacca and met the Resident for a conference on the boundary with Rembau: Cracroft sent another letter² which was in effect a Minute of that meeting. The boundary, as taken from a plan drawn by the Dutch Commissioner, ran:

...from Gunong Ledang on the east, north to Bukit Belanggang, thence north to Batang Melaka, and north to Bukit Putus, to Dusun Sungga and Dusun Gapoh and Dusun Ferringhi to Tampin [quoted as Tampong] Tengah to the foot of Gunong Rembau and Gunong Kendong. Thence it ran northerly to Lanjut Manis and to Rumenia Chendong, to Paya Belantai, to Bukit Jelutong and along the edge of Paya Merbau to the upper Sungei Besar (the Linggi) near Ramuan China Kechil: this was the boundary of the Company's lands in Naning.

The letter was sent, Cracroft wrote, to the Penghulu and four Chiefs so that they could watch very carefully because all the land and kampongs inside it were in Naning and the Company's territory of Malacca: they were to watch over the boundary in a conciliatory manner and with good will³ and were not to extend their authority beyond it, and they were not to approve other people's trespass this side of it.

Cracroft also enquired about the Raja Merah's official authority and asked to see the 1801 Letter of Appointment and Treaty. Raja Merah and

the Chiefs brought them down to Malacca, where on 10th July they, together with twenty-seven Dutch, one Chinese, two Malays and Samuel Kidd a missionary, swore an oath of loyalty to King William IV of England. After their return he wrote again:⁴

This letter with unbreakable affection comes from us...to Raja Merah and the four Sucus with peace and tranquility.

We received from the Malay Kapitan the Letter of Authority made by Colonel Taylor: that letter was done at a time when the English had taken Malacca from the Dutch by force, and many things in that letter are in our view harsh and oppressive, and wrong according to English and Malacca law...All the country under the rule of Malacca has become English...and the Penghulu together with the four Sucus and all people in Naning have become subjects of England similar to ourselves⁵ and all rights and freedoms which are appropriate to people of good character have vested in Naning people as in people in Malacca and all districts and countries under the English Government...so let the Penghulu and the four Sucus rule over those now in Naning, and those who come in, with justice following the laws and ancient custom without varying them and with the freedom and equity which are known to all mankind as the right of people under the English flag...

As to the produce which comes from Naning, in former times the custom was that one tenth was due to the Company which owned the land...The Penghulus and four Sucus have outlays in ruling the district, and of that revenue two thirds goes to them for the administration, and the remaining one third the Penghulu should send to Malacca every six months, in dollars or tin until the Governor-General of Bengal's wishes are known.

...from the produce, we know that Naning people have no resources from which they can gather wealth, and it is not our wish to make things hard for the common people, so let the Penghulu and four Sucus consider this generously now, so that all Malay people can come and dwell under the protection of English rule to start rice fields and gardens and all sorts of undertakings in freedom and with easy minds.

Next, as to people from inland districts such as Johore, Rembau, Pahang and Trengganu and elsewhere using the roads of Naning to bring merchandise to Malacca, the Penghulu should not take any percentage or toll or tax or large present whatsoever until we give permission, but should help with unwieldy and difficult loads so long as they come in good faith...and if they want to buy or sell as they travel in Naning let them do so at fair prices...

As to the boundary of the Company's territory in Naning, we have written to the Penghulu and four Sucus: they should let the people who live near it (whether within or outside it) know about it so that there are no disputes...

Concerning all the Naning land along the Sungei Besar Rembau, we saw no large orchards or kampongs there. If the Penghulu and four Sucus can persuade people to open up Kuala Lendu and Kuala Semerbau and other places on the bank of that river with gardens and clearings and rice fields, this under our protection the river is deep and it will be easy for *praus* to get in and out and sell the produce in Malacca and other markets — but all this should only be done because they want to do it...

...We send this letter with great hopes that the district will become populous and that the Penghulu and four Sucus will look after all poor people with an equitable authority...

This was not an unworthy letter, and it was courteously written. The salutation, though perhaps not what Western eyes would expect in communications from administrative officials, paid and preserved the respect that Malays regard as a sign of good manners; and the proposals — and perhaps warnings — were couched as suggestions and advice rather than as commands. All these points would of course profit the Company and its trade, with traders from Trengganu and Pahang rejoicing in the help they received as they passed through Naning and a prosperous peasantry intent on keeping the peace along the frontier and opening up all Naning. The repeated references to life under the English flag ring awkwardly in apologetic post-Imperial ears, but the remark that the people of Naning were now English subjects to the same degree as Cracroft himself is startling. It cannot be seriously argued that the letter was cynical fabrication to delude Dol Said and his Chiefs, and others — Garling and Church, and Fullerton and even Lewis — showed something of the same attachment to principle when writing officially to each other in the next few years. The letter, though there is no indication that anyone other than Cracroft was concerned in the statement of policy implied by it, was a declaration of the new age under the Fourth Presidency; and the era of whimsical justice while the Fiscal smoked a pipe or two had gone — in India as well as Malacca, for the English Company had had officials every bit as outrageous.⁶

II

Relations with Naning are comprehensible only within the history of Malacca at that time: there was no 'Naning Department' in the Resident Councillor's Office and dealings with it were incidental, and accidental, consequences of fiscal and judicial changes and of the attitudes of the officials who tried to establish them. The two main problems were land revenue administration and the jurisdiction of the Supreme Court, on both

of which there were differing views: any outside reluctance was taken as an implicit denial of Company supremacy.

The 'Malacca Land Problem'⁷ began with an enquiry into the rights of the 'Dutch Grantees' in particular and into tenures in general, continued with the determination of the Straits Government to establish, as far as possible, the same system of land tenure and administration in all three Settlements, and ended in a system, or lack of it, in which rights were unclear, areas undefined, revenue under-collected, and administration minimal — a situation which outlasted Company and India Office rule and survived in Naning for sixty years.

As for jurisdiction, there was a Charter of Justice, a Commission of the Peace and a Grand Jury to present alleged offenders for trial at Sessions conducted by a Recorder — based in Penang but on assize at Malacca and Singapore — sitting with Justices. The Recorder was conscious of his dignity and independence of Governor and Resident Councillors, and when he resigned or did not travel (Claridge the first Recorder refused to travel when his request for a steam vessel was turned down) the Court which was to give justice to all was open to none. When the Recorder resigned, there was an interregnum: whatever the quality of the justice done (and Newbold was critical) it was undeniably delayed. Nor was there separation from the executive, for in Malacca in 1828 the three Justices were the Resident Councillor, the Deputy Resident and the Assistant Resident, who was *inter alia* Superintendent of Police.

The officials, from the Governor down, wrote to and of each other in terms that would make a modern civil servant's toes curl;⁸ they seem to have been preoccupied with improving, or maintaining, their individual importance (and perhaps the money that went with it) vis-à-vis their colleagues. It is difficult to resist the conclusion that the antipathies they had for each others' personalities extended to include their ideas. They stabbed each other on stage, in front of the audience that mattered to them, for they all knew that the Diaries, Consultations and other documents were forwarded to Bengal and the Court of Directors and wrote accordingly — and Lewis twice formally appealed to the Court. A very small cast shaped the action to come, and the *dramatis personae* repay examination.

Robert Fullerton, Governor until 1830 and then Chief Commissioner while the Fourth Presidency was wound up, was a Scot who had arrived in Madras in 1789 at the age of sixteen and served there thirty-nine years, being a member of Council for his last seven before being appointed Governor of Penang in 1820: in 1827 he became Governor of the Straits Settlements at the age of fifty-four. His experience had been gained in the Presidency where Read and Munro had initiated the 'Peasant Settlement'

by going out into the district and settling the revenue due to Government on the basis of the actual production of the land the cultivator occupied, the incidentally hearing complaints about the claims to title to land and everything else. Fullerton had been only of middle rank when his contemporary Hodgson persuaded the Madras Government to introduce the Bengal system of officials who were collectors of land revenue and nothing else, for a three-year trial: it failed and was abandoned, with the former system being resumed.⁹ He had served outstation, but was a Secretariat man.

To judge by his memoranda and minutes, he had a trained and orderly mind of some considerable power,¹⁰ a legalistic bent and usually an authoritative manner, though he failed to quell Garling. He was at home in routine administration, disinclined to consider issues until they had become problems (as with the exact position of the Dato' Naning, or the jurisdiction of the Court, or slavery) and temperamentally inclined to leave decisions on such matters to the Judiciary rather than the Executive — an understandable and praiseworthy attitude, liable however to be overtaken by events. He was Indian-trained, and efficient: because of his training he knew little of Malays and less of Minangkabaus and was not in a position to assess the comments of Garling and Anderson, and because he was efficient he addressed himself to such concrete evidence as he had, the Dutch documents put up to him. It has been said that Lewis 'had great influence with the Governor',¹¹ but this is to under-rate Fullerton and over-rate Lewis: the records show that Fullerton made his own analysis of the documents Lewis discovered and proceeded on his own rather dry conclusions and not on Lewis's woollier statements — though these of course do not show the effects of whatever personal discussions there were. Only in two instances did Fullerton accept Lewis's statements, without more: one was that the Dato' Naning and Chiefs could be bought out — and Fullerton later wrote¹² that he had made a mistake and in any case the idea was never put to the test; the other was to be blinded by Lewis's arithmetic on potential crop production, and therefore revenue, from land in the Settlement. Garling accused Fullerton of protecting Lewis, but the more exact position is that Fullerton discounted Garling's comments: Garling was not Fullerton's sort of man. Even on so minor a matter as the Dutch petition for a Calvinist minister Fullerton matched Garling's four reasons for refusing — ending with the statement that the Church of England was the church for Englishmen, with four reasons for agreeing, the last being that Scots were Presbyterian.¹³

Samuel Garling, Resident Councillor at Malacca from August 1826, had joined the Company's service at Bencoolen in 1809, and was 'covenanted': that is, he had been recruited in England on the nomination of a Director, and he or his family had given a bond for his good behaviour. 'Covenanted servants' formed the permanent establishment, and were forbidden to engage in trade.¹⁴ He has been called 'easy-going'¹⁵ and 'pleasant and conscientious but...not an imposing character: he lacked drive and self assurance'.¹⁶ He seems to have been what in his day was called 'choleric' and is today mis-called 'paranoid': he wrote angry or disparaging minutes and letters to or about the Governor, W.T. Lewis, Captain Wiggins, Lieutenant Geoghan, the Recorder, in fact all the senior officials and officers who appeared in Malacca, except Church.¹⁷ He could be careless: he made a mess of Commissariat accounts in Singapore in 1819;¹⁸ he forgot to sign the Treasury accounts when he went on leave in November 1829;¹⁹ he was personally reprimanded 'for gross errors and absurdities contained in the reports...for which the Resident Councillor will hereafter be responsible'.²⁰ He was sedentary: there is no indication in the Diary that in his first five years in Malacca that he visited Naning or Kuala Linggi or any other place in the 'interior', and from its context Fullerton's jibe about officers 'who confine their views to the extent of the Evening Drive round the precincts of the Town of Malacca'²¹ was aimed at him. He had served out-station in Sumatra and had been Deputy Resident at Moco-Moco; he had experience and knowledge of Malay ideas and organisation which Fullerton could not equal and appears unwilling to accept. Garling's minutes and memoranda are often long, and he sometimes chose a word or turned a phrase to suggest that he was amusing himself with irony or by coining them; but they show a considerable intelligence, and his almost eighteenth-century statement of beneficent principle are matched by terse statements of incontrovertible common-sense. He went on to be Resident Councillor Penang and acted as Governor in 1846; he retired in 1855.²² He emerges from the records as an oddly attractive character, infuriating but with a generosity of spirit and (other than to his colleagues) a delicacy of approach — as in the matter of the 'Malacca Observer', or slavery, or his instructions to Church before the latter went to Naning, or when the Dato' eventually surrendered — not equalled by his contemporaries.

Thomas Church also was 'covenanted' and joined at Bencoolen in 1815. He and Garling had the same sort of origins and experience, and were personally friends: they plainly supported each other. There are indications that he too was informed about Sumatran Malay customs and could speak Malay: his important report on Naning in 1829 reads as though the

people found him to be a man who would listen, and whom they could trust. Before he was posted to Malacca he was Accountant and Auditor, Penang; he was appointed Deputy Resident Malacca (senior to Lewis) to assume charge of the Record Office and Accountant's Office and to be Recorder of External Commerce, at a salary of Rs.1500 a month with effect from 1st September 1828;²³ less than a year later, after the attempt apparently initiated by Garling to supersede Lewis as Superintendent of Police,²⁴ he was posted back to Penang with a hint of promotion. He acted as Governor in 1834 (when Garling was still Resident Councillor Malacca) and resigned in 1856 after nineteen years as Resident Councillor Singapore.²⁵ His letters, during this period and later, show him as less flamboyant than Garling, less opinionated than Fullerton, retiring rather than aggressive.

The next main character was William Thomas Lewis. He was 'Extra covenanted', locally recruited. He wrote of himself on 3rd November 1829²⁶ that he had 'now seen the Malays in most parts of their Archipelago and after a residence among them of twenty-three years have become familiar to their Customs'. In 1824 he was Warehouse-keeper at Bencoolen at Rs.1000 a month plus commission averaging Rs.375: with the cession of that Factory and the acquisition of Malacca he was found a job there in 1826 at Rs.800. He petitioned the Court of Directors:

...in the memorialist which you have transmitted to us Mr. Lewis represents this degradation which he experiences in point of Rank by being placed below all the regular Civil Servants and prays as the most effectual mode of relief in that respect that he may be appointed to the Regular Service... We cannot comply with this application nor do we see any reason to depart from the opinion expressed in our despatch dated 12th October 1826 that the extra covenanted service of whom Mr. W.T. Lewis is one "have no claim to a relative rank with our Regular Civil Servants".²⁷

He was to get the difference between his salary at Malacca and his former salary plus commission but minus housing allowance, but that was not what Lewis was after: precedence and rank were important to him. In January 1827 he was also appointed Malay Translator at Rs.200 a month, Superintendent of Convicts at Rs.300 a month, and Superintendent of Police and Lands at an allowance of ten per cent. of the gross receipts derived from lands.²⁸ He also became Commissioner of the Court of Requests in November 1827, and his allowance as Superintendent was increased to Rs.1000 with effect from 1st January 1828.²⁹

He was energetic. He went up to Naning several times; he personally supervised the cutting of a canal two and a half miles long from Malim to

the sea;³⁰ he walked from Sungei Baru to Sungei Udang to find a trace for a road;³¹ he supervised the building of Government bungalows at Tanjong Kling, Cheng Hill, Sungei Petai on the border of Naning, 'Chatapang', Merlimau and Pengkalan Minyak;³² he went to Nyalas and Jus (now Naning mukims in Jasin District) to confront Raja Barima who was claiming a right to collect a tenth on the crops as the prerogative of the Ruler of Muar; and he climbed Mount Ophir.³³ Fullerton referred to 'the knowledge possessed by Mr. Lewis of the language, habits and customs of the Malays in general',³⁴ Ibbetson wrote of his 'disposition (which) is proverbially kind, considerate and patient',³⁵ and Father Favre described the 'remarkable kindness which that gentleman exhibits to all inferiors'.³⁶ But he was also self-important with 'the seat at Pringgit of W.T. Lewis, Esq.',³⁷ his use of "W.T. Lewis Esquire on of His Majesty's Justices of the Peace for Prince of Wales Island Singapore Malacca and its dependencies"³⁸ and his condescension to the Jakun he took briefly to his house;³⁹ he was a leaper to conclusions⁴⁰ and reliant on a circle of confidants among local residents; and when things grew difficult he crumbled. Morrah⁴¹ considered him 'a highly capable official...frequently up against the opposition of covenanted officials who resented his influence'⁴² and Dickinson said that 'Mr. Lewis must have been a man of great general ability',⁴³ but his career does not support this conclusion: he survived as Assistant Resident and Resident Penang until 1860, and one would suppose that even in the nadir of Company rule the Resident Councillor Penang had to possess routine competence, but Governor Cavenagh retired him on grounds of inefficiency,⁴⁴ after which he embarked on the last of his agricultural ventures and started a colonisation scheme in Krian which collapsed.⁴⁵ He had been given to agricultural experiments from which he drew dubious arithmetical conclusions: while still in Bencoolen he, 'as one of the most knowledgeable of the planters' (and not as Warehouse-keeper) informed the Dutch Colonel Nahuijs that each tree in the nutmeg plantations there would cost five Spanish piasters by the time it came into bearing;⁴⁶ he cleared land on his estates at Pringgit for agricultural ventures;⁴⁷ and his estimates of produce from the 'Dutch Proprietors' lands and those of Naning will be noticed later.

Lastly, Ibbetson was in the wings until 1829. Born in 1787, he was appointed to the Penang service as a cadet in 1805 and became Resident Councillor of the three Settlements (the post having been down-graded by the Bentinck reforms) in 1830 at the age of forty-three, and he retired three years later — though he went back twenty years later.⁴⁸ The abolition of the Governorship-in-Council made his personal position in the Settlements more authoritarian, and the cessation of Factory Records means that

there is less documentation of whatever discussions of policy went on; but the impression left by his despatches to Bengal, and their enclosures, is that he made up his mind quickly and did not suffer argument thereafter. He had little of Fullerton's respect for the Judiciary or reliance on judicial solutions: while he was still in Penang, Ibbetson though Sheriff did not attend Court or on the Recorder,⁴⁹ and in the case of the 'Parit Melana Seven' after the first Naning campaign he saw to it that there should be no risk to security from due process of law in open court. He comes off the pages as pragmatic, moderate, independent and self-assured: there is a passing note of panic in his first despatch after the debacle of the first Naning campaign, and his response to a suggestion from the Governor-General himself before the second campaign sounds fulsome to modern ears, but in general he was level-headed and watched events with appraising eyes.

Chapter 5

The Land and Land Revenue Questions

I

When Garling took over in Malacca in August 1826, relations with Naning were satisfactory, no doubt in the afterglow of Cracroft's letter. At about this time Dol Said received Raja Labu, who had come from Minangkabau in Sumatra and had presented his credentials in Malacca, and escorted him to Rembau, where he was installed with proper formality as Yam Tuan Besar:¹ this incursion into Minangkabau politics attracted no comment from the Company. Garling himself was busy with his establishment and setting about his administration, beginning with an enquiry into land tenure and revenue.

The Resident Councillor was to have a Deputy and an Assistant: his office staff were Thomas Neubronner, William Henry Valberg and Thomas Campbell. The subordinate staff in the Treasury and Pay Office were another Adrian Koek and A. Rodyk; the Police and Magistrate's Office clerks were Adrian Minjoot and John Minass; Jacob Hendryks was Registrar of the Court of Justice and Jacob Rappa and Abraham Keun the clerks. F. J. Neubronner was Master Attendant, J. Lewis was Superintendent of Convicts and Gaoler, Adrian Verhulzen and John Endorff were the bailiffs.² Of these, Campbell and J. Lewis were from Bencoolen: the rest were local, Malacca Dutch. Inevitably the intention of Government became known to the local Dutch community and were passed on — as gossip but not necessarily maliciously — to others; and inevitably British officials like W. T. Lewis listened to what their senior assistants told them.

On 18th September, about a month after taking over, Garling wrote to Naning³ saying that 'his friend named Tuan Lewis' would be coming to Naning to look around that district and see whether it was possible to find land for cultivation, and asking that when Lewis arrived he should be accorded respect and given help in anything he proposed to do. Otherwise, there was no recorded communication with Naning at that time, though a census was taken by the end of the year. It showed eight hundred and sixty-four households, only one man with two wives, and a population of 2,334 free adults and 1294 children, 24 slaves and 34 debt-slaves as against 108 debt-slaves in the rest of Malacca.⁴

Garling applied himself to the question of land administration and revenue: on 27th September he issued a notice that all title deeds should be brought in for registration,⁵ and next day issued invitations to eight Dutch and three Malay (or Muslim) 'Proprietors' to a conference on 10th October. Four Dutch turned up, and another was represented by his sons; there were four Malays as well as the 'Captain Melayu' and 'Apoe Ketchie': two Dutch, the Indian 'Captain' and 'Dasso Bindassa' had been invited 'but unavoidable circumstances detained them elsewhere'.

In his report⁶ Garling wrote that the —

...meeting took place for the purpose of ascertaining the Nature of the agreement subsisting respectively between Government, the Landed Proprietor, the Panghooloo (or intermediate officer between the Landed Proprietors and the tenants) and the immediate Cultivator of the soil....[and on the second point he noted:] The appointment of Panghooloos is not obligatory but is left to the free will of the Proprietor, being solely for his own convenience. On small Estates there may be no intermediate officer. On Estates somewhat larger, but possessing a paucity of tenants, there may be a Mata-mata who, under a more modest designation, is de facto a Panghooloo, both in power and privilege. On Estates possessing 15 or 20 houses there is usually a Panghooloo appointed. On extensive Estates there are several Panghooloos, one being generally appointed for each respective quarter of an Estate, which may incorporate parcels of Ground of different names....The Panghooloo and Mata-mata are exempted from any Tax or Assessment on their property, and are supposed to settle all disputes of minor importance subsisting among the tenants. But this by simple compromise, as they possess no judicial powers. They pay regard to the tranquility of the Estate and are the medium of communication between the Landed Proprietor and the tenant. The Panghooloos are not Government officers in any sense of the terms, and prior to the British Authority receiving over Malacca on 9th April 1825 Government did not in any respect interfere with them. Since that period, the Panghooloos have been compelled to appear in Court, to take an Oath of correctly exercising their authority.

Oaths or not, the Penghulus at this stage were headmen privately appointed, while authority and communication in general were in the hands of the 'Captains'. These posts were not abolished until June 1828, when the holders were pensioned: the reason given for the abolition was that their existence was incompatible with the jurisdiction of the new Supreme Court of Judicature.⁷ Garling indirectly invoked their aid by a letter in December 1826⁸ (one which reads as if he were consciously entertaining himself with his choice of words) to the Landed Proprietors:

It having been found expedient to establish regulations for the suppression...of the clamorous demands of indigent strollers...I rely upon your acquainting your Panghooloos with the Regulations, and also upon your personal and active exertions for suppressing this...uncomely nuisance.

Fullerton later fastened on the idea and developed it, despite demurrers from Garling and Lewis.

On 6th January 1827 Garling wrote⁹ to the Secretary to Government on assessment for the tenth, and suggesting that a policy was necessary in respect of vacant country land:

...In respect of the Landed Proprietors of the interior of Malacca, the Hon'ble the Governor in Council may esteem this question to require his peculiar consideration. The Proprietors hold of Government without paying any quit rent. The terms of the original tenures are now mostly obsolete. The ground with little exception is now uncultivated and thinly populated. Landed Property which from the nature of the Soil and the description of the timber growing thereon, would be exceedingly valuable under the judicious management of able Capitalists inviting labourers to settle on the Estates...(are)...daily dwindling into an empty Name encumbered with Jungle and exhibiting every appearance of poverty in means and energy. On what principle to tax this waste ground I am at a loss to suggest in this place; but on the arrival of the Hon'ble the Governor at Malacca I shall be happy to submit several particulars which [he added darkly, and perhaps with an eye on his Dutch staff] it may not be expedient now to detail....

Before Garling received any reply, a private adventurer, Charles Gray, made a journey to Pahang and back, in January and February¹⁰ 1827. It was a two-day march to Taboh Naning:

...the path, which is formed by the Pahang traders, lies across different paddy fields, up to the village of Malim Kichil. From this to Nanning the path is pretty good....(That night) we remained at Nanning and were well received by the Penghulu of that place, the land in good cultivation....The roads from Nanning to the end of the Company's district, and the whole of that which was found by Colonel Farquhar is stopped up by bushes formed by the inhabitants to keep cattle from entering their plantations of paddy.

On his return journey he 'crossed the river of Malacca and Mount Meashad, from Mount Meashad to Sebang there is a very large wood, and we were obliged to go through it upwards of four miles'.

Whether Gray and Lewis discussed this journey or not, on 28th February Lewis, by then Superintendent of Lands, wrote without formal saluta-

tion to the Penghulu and Sucus of Naning,¹¹ saying that he had been appointed to supervise and inspect the clearance of rivers and had ordered all people who held land on the banks to clear along their individual frontages. The Penghulu and Sucus were to instruct Naning people to clear all undergrowth on the banks of the Malacca River and its tributaries within the boundaries of Naning. They were to fell trees and get out tree-stumps and roots for a width of twelve feet on both sides, and when the work was done the Penghulu was to let Lewis know, so that he could come and inspect. This was much more onerous than van Vliet's four-man task nearly two centuries before, but it was done by the time Lewis visited.¹²

The Secretary to Government's reply to Garling, received on 5th March,¹³ was in wider terms than Garling's suggestion. In the February the Governor-in-Council had decided on the future land alienation policy for all three Settlements.

I am directed by the Hon'ble the Governor-in-Council to enclose a copy of a Minute recorded by the President on 22nd February, from which you will be informed of the general Principles on which the future disposition of the Hon'ble Company's lands is intended to be made. As it is understood that most of the lands of Malacca have already been alienated by the preceding Government, the Principles can only apply to your Settlement in a limited degree. The District of Nanning is understood still to be reserved in the hands of Government. You will therefore institute such enquiries as will enable you to submit to the Governor-in-Council when at Malacca full information as to the State of that District and the terms on which the lands are held by the Resident Inhabitants.

Garling replied two days later:¹⁴

...To enable me to meet the wishes of the Honourable the Governor in Council I propose to avail myself of the services of Mr. Lewis....I purpose to employ Mr. Lewis in collecting such useful information as may enable the Hon'ble Governor in Council to determine upon his future arrangements in respect of the interior....

A fortnight later Garling wrote to Naning¹⁵ informing 'his friend' that Dato' Penghulu that Lewis had been asked to go upstream to examine everything that could bring about an improvement to the revenue, or anything else which could help the development of the country. If there was any news, or proposal, which the Dato' wished to give to Garling, it should be given to Lewis because he represented Garling. To Lewis himself he gave instructions on what to look out for, and said he could take Valberg the surveyor if Lewis wished.

Lewis was back by the end of the month, and reported at length on 31st March.¹⁶

In a manuscript that appears to be well known to the Natives under the name Prang Farringhi (meaning the wars with the Portugeze) of which I have a copy, the boundaries of Malacca are therein very clearly defined.

(He set them out):

I have been thus particular in detailing the boundaries as stated in the manuscript as it agrees exactly with our present position....

4. The boundaries of the District of Nanning by a manuscript in the possession of the Panghooloo I also transcribe as this Chief informs me that he is now and has been for many years past in disputes with two Estates regarding some parts of the lands....

6. On the east side the District of Nanning commences at the foot of Mount Ophir and Gunong Toondoo, along Ulu Kaysang to Pondo Compas, thence to Battoo Berkaroot, Badda Makkan Tanna, Bankoong Chandoong, Bookit Bessar, Dusun Lansat, Bookit Badouree, Bookit Pankhore, Dorian Sehattang and Pengkallan Soompit (on the banks of the river).

7. On the other side of the river is Bookit Grayjah, which is the part in dispute with Inche Haroom. From Bookit Grayjah the boundaries still in a westerly direction go to Teeteean Akhar, Pondo Panjang, Bookit Kayoo Arrang, Bookit Pootoos, Bookit Pambaggean, Ullu Ramoneah China Bezar, Ayer Benteng, Talu Puroon, Bakow Rundah and Qualla Lingey. The rest of the boundaries towards the north and northwest have already been brought to your notice in detailing the boundaries of the Territory of Malacca....

25. The whole of the land defined as Nanning is under the Government of a Panghulloo and four Soocoos or heads of tribes named in the margin.¹⁷ The Punghulooship is hereditary only in some degree. The law handed down to them does not allow the son of the Panghulloo to succeed, but he must be chosen from amongst his particular family who are alone entitled to this distinction, and may be one of his nephews or more distant relations.

26. The Soocoos or Chiefs of Tribes are altogether elective. On the death of any one of them, the Panghulloo and people of the tribe are immediately convened; a proper person is chosen and recommended to the Panghulloo for the vacancy. The Panghulloo however has the right to object to the man chosen; as his influence and authority appear to be absolute amongst them, I do not doubt but his choice is previously well known and that his creatures are elected....

31. No tax of any kind is levied on the people but that which is supposed to be done for the purpose of paying Government the annual tribute of 400 gantangs of paddy which is accompanied usually with some fowls as a present. In order to this (sic), every house sends to his Chief a Gantang of paddy and one fowl. The Chiefs appropriate the

surplus, the whole given in by the people being about five Coyangs: calculating the quantity cultivated at the lowest estimation of 10 Gantang of seed each house, this would be not more than half and is probably only one quarter per cent.

32. The Chiefs inform me that the lands were assigned to their ancestors by the Malays before the Portuguese were in possession of Malacca.

33. The principle on which the landed tenure is conducted is the same here as in all the lands of Malacca.

34. The landholder altho' with every title to the estate has no right to dispossess the Tenant of his Paddy Sawah and ground occupied by his house which he may have planted with fruit trees. These grounds the occupier has had handed down to him from father to son for many generations and they buy and sell them without consulting the Proprietor (excepting it is by courtesy). These lands that have been alienated and given to Individuals pay Ten per cent. of every produce, but the people of Nanning have never paid anything in the shape of a tax.

35. Almost all the land therefore in the shape of Sawah or low paddy ground in Nanning is occupied. There are however large tracts of forests in different parts particularly in Sabang and all the lands from thence to Mount Ophir both high and low remain unoccupied.

36. The Chiefs acknowledge the Company (or Government) as sovereign of the land and consider themselves bound to obey all orders that are issued to them.

37. With respect to roads there are two to Nanning one on each side of the Malacca River, which have lately been cleared away in consequence of my going there. They are at present mere pathways....

Five points attract comment. The first is the description of the internal boundary against Malacca and the fact that it was recorded in a document, presumably in Malay and in the Jawi script, since Lewis transcribed it: it was some sort of Nanning archive which the Dato' knew but could not himself read. The boundary was well-known to him: in a letter to Garling in 1830 he quoted the same landmarks. Secondly, the remarks on succession to the position of Sri Raja Merah and the Immemorial descent of land from father to son indicate that Lewis did not pick up the essential feature of Minangkabau inheritance, claim through the mother's descent and tribal ownership of land. Next, the references to 'Landholders' and the tenth from cultivators were irrelevant: there were no 'Proprietors' in Nanning (except in the areas under dispute, if the Grantees' claims were ultimately upheld) as Lewis knew, for he described it as 'bona fide Government property'. Next, his estimate, of padi production in Nanning seems to have been based on figures plucked from the air, unless such examination as he made convinced him that every household in Nanning

held an average of two and three quarter tons.¹⁸ Lastly, the, obedience of Naning was comprehensively stated by the Chiefs themselves.

On 7th April seven slaves escaped from Malacca and were returned by the Raja Merah's son, who brought a letter from his father stating that they had been caught in Rembau. The reward was twice that for apprehension in Naning, perhaps because it had to be shared. Lewis wrote on 21st April¹⁹ acknowledging the return of the seven slaves, but whereas the Dato' had said in his letter that he had ordered their capture in Rembau and the custom was that twenty dollars a head should then be paid, the Resident Councillor ('Tuan Raja') had paid ten dollars and Lewis had handed these over to the son: the Penghulu, 'our friend', could accept these. Lewis wrote that he was aware that the customary payment had been twenty dollars, but 'our friend' should remember very clearly that all agreements and other customs were to be observed. This was perhaps a reference to Article 9 of the 1801 Agreement, which did not include any reference to the established Dutch custom of paying the extra reward for slaves recovered from Rembau, and presumably Garling had to authorise the advance of cash: it may have been his idea. The Dato' can only have concluded that his statement that the slaves had been caught in Rembau was not believed, or that he had been short-changed.

II

The first meeting of the Council at Malacca was arranged for July 1827, when Fullerton was to pay his first visit. Garling wrote to Naning on 24th June²⁰ to inform the Dato' Penghulu Naning and four Sukus that the governor would be arriving in Malacca and then sailing again shortly: therefore within three days of the date of that letter the Penghulu was to be in Malacca to meet the Governor, without fail:²¹ there must not be any obstacle or delay, and it was necessary that the Penghulu should come quickly.

He came, and presented a petition. He had already broached the subject to Lewis:

...the Chief informs me that he is now and has been for many years past in dispute with two Estates respecting some parts of the land on which they have made considerable encroachments and being the Company's property he has begged me to represent it to Government.²²

The petition itself read:

After compliments

We the Datu Pangulu and the Datus of the four Sucus solicit a decision relative to the land of Ramooan China and the land of Soongie Peti; and the Pangulu and Datus request that if possible that the case may be settled so that there may be no disturbance, moreover with respect to the land of Salis and Cheng these also they request may be settled so that there may be no trouble. Moreover, with respect to the land of Kamunche, which was always under the government of the Datu of Nanning and the Datus of the Four Sucus and which the Pangulu Jahell has seized, a representation was made to Mr. Koek, but the matter was not settled; and it is therefore requested that the Governor will be pleased if possible to settle it. The circumstances respecting the land of Kamunche are made known to the Governor by the Datu of Nanning and the Datus of the four Sucus and they request a letter from the Governor which they will convey to the Pangulu of Jaheel, in order that the matter may be settled without any disturbance.²³

The petition was referred by the Governor-In-Council to the Resident Councillor Malacca (who was sitting at the Council table) in accordance with administrative procedure: the seat of Government was wherever the Governor happened to be, sitting in Council with the local Resident Councillor and the Secretary to Government, communicating with all three Settlements on their particular matters as occasion required.

Fullerton's first concern was land:

The Government having now for the first time held its sitting at Malacca, the principal object must be the ascertainment of its actual state, either by reference to Records or fresh enquiry and investigation, of which the following must be considered the essential points —

...6th Tenures under which the Lands are held

7th List and description of Landholders with their respective holdings

8th Revenue derivable to Government from Rents or Quit rents or Land Tax....²⁴

Naning was not mentioned.

Whether Dol Said and the Chiefs met Garling and Fullerton is not clear, but they returned to Naning without being dismissed. On 6th July Garling instructed Lewis to prepare a letter to the Dato' Penghulu

...stating to him the expectation of Government that he punctually act up to the Spirit of engagements in respect of the Commutation of the Revenue rightfully derivable from the Nanning lands. It is left to himself to appoint any specific Month, suiting his convenience, but that having fixed upon the period, it will be incumbent upon the Panghooloo to abide by the same; that the Panghooloo is personally to wait upon the Chief

Land Authority as payment falls due; that in Criminal cases adjusted (sic) at Nanning, the Panghooloo is on no account to entail Slavery on any individual, nor affect any punishment affecting life or limb, and in all questions of Capital offences the Panghooloo is to refer the matter to the Court at Malacca. That in respect of Ramooan China, or any other lands in dispute, the Panghooloo is not authorised to disturb the existing state of things without previous reference to the Chief Local Authority, and that Mr. Lewis, as Superintendent of Lands, is to be the immediate channel of communication on all subjects touching Land or Revenue.

With this Order Mr. Lewis will receive a Translation of a letter from Nanning respecting Ramooan China and other matters; and this may form the basis of the letter now to be addressed to the Panghooloo, intimating that the Panghooloo's anxiety to return to Nanning on festive purposes precluded the Resident the opportunity of communicating properly....²⁵

The ironical regrets point to the offended dignity on Garling's part and the letter was clearly intended to put the Dato' Naning in his place, but there was little new or oppressive about its contents: the revenue from Naning was still the commuted tribute (then in arrear); the jurisdiction in capital offences had been ended by Farquhar, and Naning thought in terms of restitution and compensation, not loss of life or limb. Only the prohibition of slavery was new: the British Parliament had abolished the Slave Trade in 1807 and was to abolish slavery everywhere under the British flag in 1833, and Garling personally was opposed to slavery,²⁶ but on the evidence of the Naning census this was a minor matter.

The Naning complaint about Adriaan Koek's encroachment was probably well founded. It concerned the grant to Bellemont conveyed to Koek in 1804,²⁷ and Lewis in his report for the Council in January 1828, was to comment in another connexion on

...the usurpation of Adriaan Koek, [adding] it is a notorious fact that Mr. Koek in those days was greatly feared, and that in fact he did as he pleased. Several acts of possessing himself of lands without any right or title were successfully carried (out) by him many of which are now pending the decision of the Court.²⁸

That report does not mention Sungei Petai, but Garling had addressed his letter on 'indigent strollers' to 'Inche Aroom' in respect of Sungei Petai and Panchor as well as to 'the heirs of Adriaan Koek' in respect *inter alia* of 'Alhor Gaja, Sebrang Gaja' and two Ramuan Chinas.²⁹ The various Cheng estates were listed as belonging to Mrs. Westerhout and her son J. B. Westerhout; 'Salis' was nowhere mentioned.

The claim to Gemenchew was explained on 15th October 1827, when a Haji Ahmat reported³⁰ that gold had been discovered there: Garling reported³¹ to Penang that:

...the mines appear to be in Territory appertaining to Geminche and Ladang. Geminche appears at one time to have constituted a dependency on Nanning and to this day the Panghooloo of Nanning considers himself to possess just title to the District, yet both places may be viewed as dependent States of Johol....I propose that Mr. Lewis should visit the spot and offer his opinion on the subject of the local position.

Meanwhile, no letter went to Johol, and Lewis never visited. He was busy organising the Lands Department: on 14th August he was noted as asking 'for three peons and some coolies. Also requesting a Perambulator and some pistols'.³²

At that same first Malacca meeting of Council Fullerton recorded a Minute, of which he sent a copy with all the other papers on Nanning to Calcutta in 1829. It was taken as authoritative: Church quoted it in 1834. It coloured the thinking of Fullerton himself and of officials in Calcutta, and perhaps those at the India Office.

Extract from Minute of the President dated Malacca 5th July 1827.³³

The following Table shows the square contents produce and value of the Territories under Malacca Nanning being included....

The mean length of Nanning is said to be		14 miles
The mean breadth of Nanning		10 miles
Its square contents is 400 miles or acres		25,600
The mean length of the rest of Malacca		40 miles
The mean breadth of the rest of Malacca		25 miles
The square contents is 10,000 miles or acres		64,000
Total 1,400 square miles-or Acres		<u>89,600</u>
	Gantangs	
There is said to be sown in Nanning		10,046
At the rate of 8 gantangs per acre the number of acres is		1,225 ² / ₈
The seed sown in other parts of Malacca		35,181
At the same rate of gantangs per acres the Number of adres is		<u>4,397²/₈</u>
Total of seed sown is 45,227 Gantangs and acres cultivated is		5,653 ³ / ₈
	Gantangs	Coyans
The 10,046 Gantangs sown in Nanning @ 75-fold increase produces	753,450	941 ³ / ₄
The 35,181 Gantangs sown in Malacca @ 75-fold increase produces	2,638,575	3,298 ¹ / ₄

Total seed sown 45,227 Gantangs produced	4,240
941 $\frac{1}{4}$ Coyans produced in Nanning at 40 Dollars per Coyab	37,670
3,298 $\frac{1}{4}$ Coyan produces in Malacca @ 40 Dollars per Coyan	131,930
Total produce 4,240 Gantangs value	<u>169,600</u>

5,653 Acres producing 169,600 Drs, per Acre

Of other Articles grown an Account is given but the Column of Exports of Malacca produce inserted in the Statement of Trade queries an amount of Sp. Drs. 106,325 on which the tenth is leviable.

Clearly, there are errors by the Calcutta copyist: the '14' of the first line should read '40' and the '10,000' of Malacca area should read '1,000', and he may have omitted the last figure. Furthermore, there was nothing remotely resembling a topographical, cadastral or agronomic survey: Fullerton and his officers were working completely blind. Nevertheless, it is an astonishing document to have gone forward originally in the Governor's handwriting and later under cover of his signature.

It will be noted that in the first section Fullerton worked on the basis that there are 64 acres to the square mile instead of 640: the result was that while he guessed that the area of the Company's territory was 1,400 square miles (as against 640)³⁴ he underestimated the actual total acreage by 320,000. As it happened, this was irrelevant to the rest of his calculations, though the idea of vast empty spaces must have lodged in readers' minds.

The figures with their fractions in the second part of the Table bear all the hallmarks of the Lewis Method of Statistical Analysis. Some sort of return of seed sown was often called for, and in 1834 Garling reported the current figure;³⁵ but the reliability of any figure received was inevitably in doubt, for Lewis, Neubronner and their one or two staff were physically incapable of making adequate enquiries or checking. The scale used was perhaps locally applicable: it works out at 800 gantangs to the Koyang or 20 to the pikul, which would have made one gantang approximately 6 $\frac{2}{3}$ lbs.,³⁶ and the application of seed nearly half a hundredweight to the acre. The postulated seventy-five-fold increase — which compares not unfavourably with the better rates in the Parable of the Sower — made, no allowance for variations in soil, pests, crop failures or the areas³⁷ of *padi huma* or *padi bukit* (dry soil rice) where the yield is about half that from irrigated land.³⁸ The incomplete last line was presumably intended to prove a revenue (on which the tenth was leviable) of \$30 an acre, and the figures for Nanning work out at over two and a half tons for each of the 864 households noted in the 1826 census.

The document is astonishing because nobody picked the arithmetical errors, queried the provenance of the figures, tested what they meant in terms of household stocks, or recorded a rider that they were based on data so nebulous as to be the baseless fabric of this vision. Instead, the implication was that there was a tithe of \$3,767 available from Naning and unlimited scope for expanding it.

III

Garling and Lewis prepared for the next meeting of the Council at Malacca, listed for January 1828. The Resident Councillor wanted pressure brought to bear on the 'Landed Proprietors' to induce them to surrender their grants as far as undeveloped land was concerned:

Malacca, with an exception scarcely worthy of mention, is parcelled out among Landed Proprietors who are as unfruitful to the Revenue as they are useless towards the advancement of the local Prosperity. They have themselves acknowledged that under certain modifications they are to provide for the internal Police of their Estates. Should they be called upon to do so, they will experience the impracticability of keeping up a Police on Estates yielding them a revenue of twenty Rupees per square mile. Should this requisition only excite the energies of the Landed Interest, the demand will not prove unproductive, but if it urge them to resign for a modest consideration that land which under existing circumstances is nearly as useless to themselves as they are to public welfare. Government may possess more ample means than they do at present for rescuing Malacca from that stupefying influence by which it is everywhere pervaded....³⁹

Lewis, drafting his report, approached matters from a different angle.⁴⁰ 'Having not as yet ascertained the exact measurement I have adopted in the margin the number of square miles in the only map extant....' The total was 414 square miles. He touched on difficulties with the boundary to the east: 'It is not however settled how far the British jurisdiction extends...[and it might]...be necessary to assert our rights...and to establish our own Panghooloos at the villages lying on the banks....' of six rivers which he named. Adriaan Koek, trespassing on about half the de Wind Estates, had claimed that he had collected the tenth there as agent for the Raja of Muar, and brought forward perjured witnesses to the Dutch Court In 1809: It was on the strength of that claim that Raja Barima and Allang were collecting the tenth at Chabau and Rim. He then gave details of various 'Estates', with figures in some cases of their production in rice and timber and, occasionally, pepper, gambir and damar. Some proprietors

had farmed their tenth, and he gave recent prices for the sale of these rights. Of the Koek Estates he wrote:

The present holders of these lands are Heirs the of Adriaan Koek who are willing to give it up to Government on receiving equivalent for the tenth (now received) secured to them and their heirs...

Since Adriaan Koek's death the tenth of the produced has been annually farmed. In 1827 it sold for Spanish Dollars 720 and this year for Spanish Dollars 908....

This was a profitable way of obviating proving their title and finding someone to collect the tenth, and Lewis for his part had a vision of a prosperous peasantry:

...the Lands being all in the hands of private individuals may be further added as a cause and is sufficient to discourage the Agriculturalist. It cannot be supposed that an individual if he could subsist otherwise would remain in a state of vassalage, liable to be called upon at all times for petty services, which may appear trifling if coming to our notice singly, which in the aggregate would be found vexatious and oppressive. Having ascertained that it did exist I have merely alluded to it as one of the reasons for the backward state of the Lands, being well aware that under our benign Government such services will never be tolerated: it would however be some time before confidence would be established, and if any means could be adopted by Government for resuming the lands and the planters thereby secured from the oppression of the petty agents, confidence would very soon be established and we might soon expect to see them vigorous in the pursuit of wealth by exerting the talent nature has granted them in common with their fellow creatures.

He had tried out on the others the idea originally discussed with the Heirs of Adriaan Koek: 'being aware how desirable it would be to carry this object' — vigour in the pursuit of wealth —

...into effect, I have for some time past taken the opinion and wishes of the principle (sic) Landholders and have their permission to say that they are ready to meet the Government by giving up their lands and having guaranteed to them and their Heirs an equivalent for the 10 per cent. they have hitherto drawn from the Cultivator.⁴¹

He also drew attention to a further evil which would be cured by establishing Government posts consequent on buying out the Proprietors:

I beg here briefly to state that in consequence of usual practice by the Chinese at the Pepper plantations under cover of religious meetings in which they are combined as a fraternity it would be for the benefit of the Settlement to have Tannah Stations fixed in different parts of the

Country: the Revenues would no doubt be improved as it is well known that they manufacture Spirits and use Opium independently of the legal Farms.

Lastly, he requested 'permission to commence making roads in every direction through the Malacca Territory'. He enclosed copies and translations of three documents: a grant dated 19th June 1700 of land at Batang Tiga on the coast, a Proclamation by Timmerman Thyssen dated 20th May 1819 prohibiting the levy of more than a tenth, and a Proclamation by Governor Crans dated 14th December 1773 containing the same prohibition.

Garling, in his Minute for Council,⁴² took one of his more empyrean flights:

...Malacca should exhibit one unvaried field of industry: her soil is calculated for the Production of Grain; and the demand...should suffice to inspirit the agriculturalist, were the lands apportioned into small Lots and possessed by individuals whose daily subsistence or whose refined sense of Character was staked upon their exertions: the wisdom of Government would have found her province in regulating those resources which emanate from the union of principles, Freedom and Public spirits, in a society whose general character is supported by Intelligence, Judgment and Emulation and whose subsistence spring from the exercise of silent energy and industry....In Malacca these qualifications are lightly esteemed....

He thought in terms of one single payment to buy out the Grantees' interests:

As matters are, it becomes a matter of peculiar interest whether Government would acquiesce in these titles....My individual opinion is that Government should not....Should it be expedient to treat for the purchase of these lands, and the Proprietors feel disposed to meet the wishes of Government upon moderate terms, I do not observe...anything opposed to such an arrangement....To me the question seems to hinge more upon the expedience of the measure, as Government must calculate upon a large pecuniary sacrifice....I do not see any neutral ground whereon to rest a calculation but that which emerges from the consideration of the amount of the annual rents, and the average rate of interest. I should esteem twelve years' purchase as a fair valuation....

Fullerton agreed with Lewis's and Garling's declamation of principle, though in more pedestrian terms:⁴³ the lands

...must be occupied and brought to cultivation, and it is only when General protection shall have been fully established that we can expect

Malacca to assume the appearance of a British Settlement. The communication between the public officers and the People should at all times be directed free and unreserved. The interest of Government can never be separated from the prosperity, protection and happiness of the people. We can therefore have no object in deceit or concealment of our intentions towards them....

He then considered the translations sent in by Lewis and drew his conclusion:

...the right of levying the Government carries with it all the real power of the State, that right vested in Dutch proprietors — by them transferred in the mass to Chinese has established a power and influence in that class to great extent even for the Officers of Government to hold them in check. The advantages therefore that would result from the redemption of the rights of Government are too obvious to require further illustration....

Garling's phrase 'a large pecuniary sacrifice' probably alarmed Fullerton, for all these highflown sentiments were ultimately for the eyes of the Governor-General and Court of Directors to persuade them that the proposed expropriation would be profitable as well as meritorious. He suggested

...a certain annual sum, payable as long as the British Government shall remain in Malacca.... We should then stand in their place in their relation to the actual tenantry. The possession of the lands however occupied and cultivated by them must of course be insured to them, that is on the payment of the regular tenth and no more; due notice must be given then that all existing rights will be fully preserved to them, that regular papers will be given them specifying and defining the land attached to each and securing possession to them and the Heirs on the Established Terms. They must be told that they are relieved from all vassalage and feudal services whatever.... It must however be understood that the Settlement to be made with the occupants will embrace only the lands actually cleared, occupied and cultivated; to all lands actually Waste and Forest, the right of Government is reserved for the gradual clearing of all such lands...and in this respect, the known and established principle will be observed. That is, to grant a cutting paper to such as may apply, to allow...occupation for a number of years after which to be liable to the payment of the established tenth or such other terms as Government may settle with the parties....

That Minute was the genesis of the 'Malacca Land Problem': it was of course accepted by the Governor in Council, and was approved by the Governor-General and the Court; negotiations were opened and an agree-

ment reached with the Grantees; annuities were paid; a Regulation was passed and approved (and later declared *ultra vires* by the Recorder) to govern future alienations of land on the model taken from Singapore⁴⁴ with its very different circumstances; and there was no administrative staff to work the system.

In that same Minute Fullerton wrote:

From the report of Mr. Garling I infer generally that there exists no Police in the Interior, that the authority of Government has never been established, that the few inhabitants occupying lands near our frontier are subjected to constant annoyance from the Chiefs and inhabitants beyond them....

(Garling had referred to Raja Barima and Alang, in the eastern areas of the Settlement).

The enquiries I have made confirm me in the belief that the Panghooloo is the fittest instrument of Police....It could only be necessary to appoint the Panghooloo the superintendent of police, to use the European term, the Constable of his division, to allow him one or more peons.

This, then, was the general frame of mind when the Council came to consider Nanning. On 30th January also, Garling minuted on the question of the tenth:

The Treaty with the Panghooloo of Nanning records the poverty of the community as the reason why Government does not levy the tenth...but what has been the consequence? The Panghooloo has seated himself in the place of Government and levies the full revenue, paying to the Government a trifling substitute.

This appears to have been based, at least in part, on paragraph 31 of Lewis's report of 31st March 1827, and Garling changed his mind later.

If the principle of the Treaty be good as regards the levy and it appears the Mildness of Government has not exonerated the Community from paying the tenth...Government should at once assume their recognized rights...the value of the tenth would in all probability more than meet extra charges.⁴⁵

The charges he had in mind were those which would be incurred by an establishment for Nanning.

Chapter 6

The Question of Jurisdiction

I

On that same day, 30th January, Garling raised the question in Council of the Court's jurisdiction in Nanning. It was a matter of immediate importance to him, for until it was settled he could not properly plan the administration of the Settlement of which he was in charge: there was no establishment of any description for Nanning. Fullerton thought that the question was raised prematurely, and was in any case not one for decision by the Executive. Lewis thought that because Nanning was Malacca territory it should be treated like any other part, and that it was moreover groaning under a tyranny which it was his, and the Company's, duty to end. The discussion continued on paper until August 1829, when it was referred to the Court of Directors for decision; in the meantime the Secretary to Government twice notified an avoidance of a decision.

Garling's opening Minute¹ deserves extended quotation, for it was in fact an accurate statement of the position:

The Court of Judicature...being now in active operation, it is...requisite that the limits of its jurisdiction be defined. The question immediately occurs whether Nanning falls within its control.

The general spirit of the Treaty (of 1801) rather favours the independence of Nanning.

The Panghooloo and his ministers are styled "Chiefs of Nanning and the circumjacent villages who have solemnly accepted and sworn ...". Again, "The said Panghooloo and his Ministers Promise and Swear... in the name and in the behalf of the whole Community of Nanning".

It is also true that the Treaty makes the Chiefs of Nanning "solemnly to swear obedience to the British Authority as is required of all *dutiful subjects* without conjointly or severally attempting any hostile measures against the said Government". It is a strange anomaly for a Sovereign, without any apparent compellant cause, to treat with a distinct body of "dutiful subjects" and for these to be represented by individuals as "Chiefs or Ministers" who themselves are also subjects....A sovereign may be compelled by the overwhelming voice of his people to treat certain points; but for a Sovereign to do so

of his own accord is not reconcilable with the ordinary course of things. It is well for a European surrounded with all the circumstance of Authority to dictate the wording of a Treaty: it is a matter of little difficulty to influence a powerless Chieftan to record his assents. But I question whether the requirements of a Treaty of so singular import as that under consideration, in the 8th Article especially, could ever be viewed as other than a matter of form.

The Second Article of the Treaty favours the independence of Nanning

The third and eighth articles are the principle (sic) arguments opposed to that doctrine. It is difficult to reconcile this Independence with a payment of the tenth of the produce of the Soil (or its substitute) and with the singular control vested in the British Government. Yet the one may be regarded as a stipend to meet the expence of the civil Government and the other as a matter of mere form, certainly not as guaranteeing the exercise of supreme Authority.

The fifth, sixth and seventh articles engage for the delivery of Tin and Pepper, and monopolizing the trade;- These Articles, however defective in principle, are reconcilable with the habitual practice of half a century elsewhere. They argue no proprietary right to the Soil itself in the monopolizing party, on the Contrary the very fact of treating for such supposed privileges is a tacit acknowledgement that no such right is recognized.

The fourth and remaining articles of the Treaty are always opposed to the assumption of our sovereignty over the territory of Nanning. The Panghooloo would appear to acknowledge that "Nanning" is "Tannah Company" or Government land, and that the Assent of Government is an expected preliminary to the confirmation of an individual Panghooloo.

The term "Tannah Company" is exceedingly vague...[and he quoted examples of the use of the term in Sumatra,]...the admission that "Nanning" is "Tannah Company" is a nullity, so far at least as it can be abstractedly (sic) construed into a Sanction of the Doctrine of our bona fide sovereignty over that District....

He dealt with the appointment of the Penghulu.

I refer to the admission of the Panghooloo:- Whilst everything is in its place, he gains the patronage of Government without any sacrifice: but to ascertain efficacy...we should have occasion to...discard an unworthy but high-spirited individual....The exercise of an interposition — [as had happened in Sumatra, he noted] does not necessarily argue a possessive right to the land itself.

The adjudication of civil cases to any extent, and the awarding and execution of sentence in Criminal cases, rest with the Panghooloo. He appears to have remained undisturbed in the exercise of this

prerogative until within the last 17 or 18 years, when Captain Farquhar, the then Resident, prohibited the Panghooloo from awarding sentence in capital cases. There does (sic) not appear to have been above two causes of moment referred to the local Court from Nanning during the above period. Treaties and opinions cannot contend against a fact like this.

The excise Laws do not extend to Nanning...

By the natives, the Panghooloo of Nanning is viewed as in the exercise of independent authority, and as one of the four great native powers of the Interior (Rumbow, Nanning, Johol and Soonghy Oojong) who do not derive their title from any extrinsic aid or delegated power.

After mature consideration I cannot discover any tenable ground upon which the British Government can satisfactorily establish a claim to the Sovereignty of Nanning. I do not see upon what principle we could enforce payment or to what alternative we could resort save that of Military violence, were the Panghooloo to decline the future delivery of the Paddy and Fowls.

I do not consider that the jurisdiction of our Court can extend over Nanning....

Nevertheless he went on to suggest that a junior covenanted officer should be sent to Nanning as (Assistant) Resident, sitting in a Court with a civil jurisdiction of up to two hundred and fifty dollars, and power in criminal cases of fining not more than twenty dollars or to imprison for not more than two months, or one month in irons. Cases more serious were, to be referred to the Resident Councillor in Malacca; and when a civil claim exceeded a thousand dollars, or the punishment in a criminal case exceeded six months, the matter should go before the Governor in Council.

It is difficult to see how this recommendation followed logically on his view of the status of Nanning. It seems to have been a pragmatic attempt, perhaps based on his experience at Moko-Moko, to preserve a separate entity and some autonomy for Nanning, and to bar the jurisdiction of the Supreme Court. The autonomy would have been limited, since it would have required a variation of the 'Articles and conditions dictated' in 1801 accepted by — or imposed on — the Chiefs, and setting up, at the very least, a jurisdiction parallel to theirs. He may have been 'empire-building' and there was perhaps an element of a covenanted officer's belief that covenanted officers and gentlemen made better administrators than promoted Warehouse-keepers, amply proved in this particular case. It is remarkable that Garling's proposed settlement came to be adopted completely sixty years later by the Colonial

Office administration, under the unfolding of events and without any knowledge, so far as can be seen, of Garling's suggestion.

Fullerton's temperament was such that he disagreed with Garling's statement of principle but thought that the question was one for the Court of Judicature, if anyone in Nanning wanted to raise it.

...It may be observed that the question is entirely a Judicial one, to be decided by them only, in case the question should be raised by Parties, interested in one side or other. In my own opinion there can be no doubt in the case. Nanning is evidently a place subject to Malacca and therefore within the jurisdiction of the Court. In the Treaty as it is called...their dependence is distinctly admitted, the right of Government to the tenth of the produce is admitted, in consideration of the Poverty of the People the right is commuted...but the right of imposition of the full tenth remains. The people of Nanning are therefore as much the subjects of Malacca as any other Panghooloo or Proprietors. The document in fact is not a Treaty but articles or conditions dictated by the then Governor of Malacca. They will for the present be adhered to as far as consistent with equity and right, by the principles of which the Government, as well as the Court, must regulate their proceedings....I consider therefore the Panghooloo and Chiefs of Nanning to stand to us on the same relations as do others, the maintenance of the Peace, the Seizure and delivery of all offenders in (sic) their duty. I should acknowledge them as the principal Peace and Police Officers of their Districts, but holding in their hands no power of punishment whatsoever. In respect to the administration of Civil Justice I do not consider them to hold any absolute power. It is probably from their office, and the influence attached to their station, that they do in reality settle the petty disputes and differences of those under them, and I think it better they should continue to do so....I think on the whole so long as peace and tranquility prevail and the people are satisfied with the existing state of things and the decisions of the Panghooloo, that it would not be wise in us by any act of authority to disturb it. It will be time enough to interfere when the case requires it by the commission of any flagrant acts of violence or injustice and consequent complaint: we may be well assured that the natural tendency to litigation and dispute will display itself early enough after the introduction of the Court, without our stirring it up. Our object should be rather to allay rather than excite the disposition to litigation, and above all to avoid the agitation of doubtful questions before they force themselves on our notice.²

Garling found that he had to agitate the matter: on 14th March he wrote to Penang³ sending

...information taken by me in a charge against the Panghooloo of Nanning for oppression in his judicial capacity, together with the Panghooloo's reply. They are submitted to Government with a view to elicit the exact principle on which Judicial matters are in future to be arranged so far as Nanning is concerned, for the case in question seems to deprive us of the power of acting neutrally, if the view of the nature of our control over Nanning as taken by the Hon'ble governor is Correct....

He followed this up:

...I beg to observe that Ah Guan has declined resuming charge of his Plantations or returning to Nanning. The Plantations have been neglected, and the Paddy of his Sawahs devoured or destroyed: his house has fallen to decay, and his Buffaloes and property confiscated. Were he to return to Nanning he would not only be destitute, but be exposed to the Secret Machinations of the Panghooloo, to whose resentment Ah Guan has necessarily made himself obnoxious.⁴

The reply, dated 15th April was brief: 'The Board does not consider the above reference as requiring any particular notice at present'.

In July Nanning forwarded the tribute of a half-coyang of padi, and four dozen fowls and some sugar as a freewill offering, together with a letter.

Letter from the Panghooloo of Nanning to Mr. Lewis with compliments etc.

The Panghooloo of Nanning informs Mr. Lewis that in conformity to the stipulated tribute he has now sent the paddy by Datto Ambangum and Datto Vreko, as also four dozen of fowls.

The Panghooloo also states that from time immemorial the people of Nanning have never paid the tenth/chokey but now they are obliged to do so, but whether it is through orders or not he does not know.⁵

Lewis seized on this as an opportunity for some administrative tidying-up: expropriation of the Grantees had vested the right of collecting the tenth in Government in the rest of Malacca, and collection had been farmed out for six months as an interim measure, and carried out at various road posts. From his letter it is clear that Fullerton had discussed the matter with him and that he was aware that the Governor thought Nanning should pay the tenth — happily for him, since he received commission on all of it, from Nanning if it came, as from elsewhere. Flushed with his success in persuading the Grantees to accept annuities, he thought the Chiefs of Nanning could also be bought out.

I have the honour to report the arrival of the stipulated tribute from Nanning and to forward a translation of a letter received from the Panghooloo.

2. When the farm of the Ching road was sold in June for the ensuing six months it was noticed by all persons who were rendering to rent that Farm, the difficulty that would arise to identify the produce of Nanning from those of the other estates when brought into Malacca. As Nanning was in fact part of the Company's territory (which I had the personal orders of the Hon'ble the Governor to bring as soon as possible under the same footing as the rest of the Lands) all produce that should be brought down that road was to be included as part of the Farm.

3. I have in consequence of your orders communicated with the Renter who informs me that it is such a wide door for evading the paying of the tenth that he could not undertake the farm under a smaller deduction than \$300 leaving the amount of the Farm for the six months only \$455.

4. As there is no doubt but that Nanning is a part of our Territory, it is but justice to all parties that it should be subject to the same rules and regulations as the rest of the Country. People living in those parts of the Malacca Government Lands (such as near Ballye Panjang) might with the same propriety be exempted from paying the tenths....

7. The Panghooloo now having in some measure brought the question forward by the reference he has made, I beg to point it out as a proper opportunity for declaring the intentions of Government.

8. In the 31st Paragraph of my Report of 30th June 1827 I there stated (and as yet have not any reason to alter that opinion) that the tenth of the Produce of Paddy in this District would be at least 140 Coyangs⁶ which may be valued at \$4,500.

9. As the Panghooloo with the Sookoos have derived an advantage by the Station they hold there, I beg to suggest for the consideration of Government that some annual sum be granted them to continue to act as the Officers of Government under the new system of levying the tenths on Paddy. The rest of the Revenue will as it is at present be levied as it comes to the Market.

10. The division of fines etc is in the proportion of one half to the Panghooloo and the other to the four Sookoos. One hundred Rix Dollars per month (or rather as it would appear better) 1200 Rix Dollar per annum equal to Spanish Dollars 738¹/₂ divided in the above proportion would give the Panghooloo Rix Dollars 600 and each of the Sookoos Rix Dollars 150 a very handsome sum for such poor people and far beyond what they can now receive....

Garling forwarded the letter to Penang, adding a warning and an unenthusiastic comment on the proposal to buy the Chiefs out.

Some consideration of this subject seems necessary, as the Chukai (tax) pending results of the reference will be regularly levied, and the people of Nanning look upon the levy as a grievance. Should the Hon'ble Board esteem it advisable...to grant \$738¹/₂ per annum to the Nanning Chiefs, all endeavour shall be made to ascertain previously how far the Panghooloo and his Sookoos are disposed to meet the wishes of Government.⁷

Penang's reply was received on 25th August:

It is desirable that the Lands of Nanning should be placed under the same system as other lands with as little delay as possible....From the letter now before the Board...it would appear that the tenth continues to be levied at certain places in transit...but the Governor in Council wishes it to be held in remembrance that the Tenth is a contribution out of the Produce of each particular Estate....

This remained the attitude of the Board, removed as it was from the practical difficulties: in approving Lewis's establishment in 1829 — Fullerton's method of using the Penghulus having failed — the Secretary to Government added: '...the tenth should be levied on the spot at the cutting of the crops — exactly like the Parson's Tythes in England'.⁸

Lewis went again to Naning shortly after the reply from Penang had arrived, and he reported on 10th October.⁹

I have the honour to report my return from Naning where I met the Panghooloo and Sookoos. These Chiefs in the name of the Nanning Inhabitants beg that Government will not enforce the payment of one tenth of the produce, but at the same time disclaim any pretensions to resist the orders of Government.

Before I left the Chiefs I gave them no hopes of this indulgence being granted, as all other lands belonging to the Company had equally a right to be exempted; and I feel persuaded that the Inhabitants will quietly acquiesce to the order, and I beg to have your orders to intimate to the Chiefs, that it must be paid on the collecting of the ensuing harvest....

The reply from the Secretary to Government can have satisfied neither Garling nor Lewis. There was no argument for remission, 'the less so now as the inhabitants will derive the same benefits resulting from the protection of the Courts of Justice and the establishment of an efficient Police'¹⁰ — despite Garling's voluble arguments that the Court had no jurisdiction, and the refusal to consider his requests for a police establishment for Naning. As for Lewis, 'the Governor in Council entirely approves of the communication by Mr. Lewis to the

Panghooloo', but nothing further was done until Lewis submitted his final report on the documents.¹¹

II

Appositely enough, there was a murder at Lendu in Naning. On 11th December Lewis addressed the Resident Councillor:

A report having privately been brought to me that a man had been shot at a place called Loodoo...and that the Chiefs of the District had in a most arbitrary manner fined the family of the deceased, I issued a warrant for bringing the parties to Malacca and herewith have the honour to forward the depositions taken on the occasion.

With reference to the Murder, the Police are in search of the Person suspected and any further clue that may lead to the discovery of the foul deed — but I consider it incumbent upon me to bring the case of fining the family before the Hon'ble Governor in Council to prove the facts of the tyrannous acts of the Nanning Chiefs, which could not be tolerated under the British Government, nor do I think ever any of the Native Laws could justify it.¹²

Garling forwarded letter and deposition — there was only one — having taken the letter at its face value.

I beg leave to bring to the serious consideration of the Honourable Board the circumstances of the Nanning Chiefs fining the family of the deceased. The fine will not of course be recognized as valid but the fact serves to show the view which the Chief of Nanning entertains of his judicial power. Mr. Lewis will be instructed to communicate with the Panghooloo on the subject....¹³

The deposition¹⁴ made no mention of the Chiefs of Naning or of any fine.

The deposition of Say Dah of Landoo in the territory of Malacca taken before me William T. Lewis Esquire one of His Majesty's Justices of the Peace for the Settlement of Prince of Wales Island Singapore and Malacca and the places subordinate and annexed thereto respecting the murder of Lebbye.

States that 12 days ago, in the evening, when her father Leboh (deceased) was at home, about seven o'clock a man named Dool Rahah came there to purchase sugar, that Deponent told him no sugar was to be had in the night but to come in the next morning for it. That Dool Rahah then answered, if he could not get the sugar immediately it would be of no use to him. Dool Rahah ate some curry and then followed her father Lebbye down the steps of the

house, who had gone below to smoke bamboos for making sugar.

That Deponent's father asked her to bring down a light, and she had just brought it to him when a gun was fired and Deponent's father called out to assist him, that he was wounded. That Deponent then called out for assistance. That Deponent's mother who was in the house and their neighbours came and carried the deceased into the house, where deceased immediately expired.

That Deponent suspects that Dool Rahah must be the offender, as he could not have been many yards distant from the house at the time, and the said Dool Rahah did not return to give assistance when the outcry and the report of the gun was made.

Signed¹⁵ Saydah

Sworn to before me this 8th day of December 1828.

Lewis wrote to the Penghulu, as instructed, and the Chief replied:¹⁶

This letter is from the Dattu Panghulloo of Nanning to Mr. Lewis Assistant Resident in Malacca.

The Dattu Panghulloo of Nanning informs Mr. Lewis that Dattu Majah (sic) Nang Cayah did not receive Twenty Dollars and that Dattu Andeekeh did not pay that sum.

Further respecting the daughter of the person that was killed she gave money amounting to Twenty Surappee (Java Rupees 32). Ten Surappee was for the funeral expenses and the other Ten Surappee for the expences of the third and seventh days.

Si Dool Rah is not now at home but is gone to Soonghy Ujong when he returns he shall be sent to Malacca.

Further on the subject of persons dying by violence or by other causes, if Tuan will not allow of its being settled in the Ooloo (Country) whatever orders Mr. Lewis will give the Panghuloo and four Sookoos are ready to receive them.

Lewis was not prepared to be confused by facts or admit that he might have been wrong.

The Chiefs deny having fined the family and I should fear that in the present state of that District it would be injuring the party were the subject pressed. The enquiry however will I hope have the effect of stopping such arbitrary proceedings as it is well known the Chiefs are practising until some arrangement can be made by Government for the Police of that part of the Country.¹⁷

Garling, in forwarding the translation, made no comment on whether the Sri Raja Merah's explanation was likely to be correct, or even on the Penghulu's and Sukus' acceptance, if need be, of Malacca's

jurisdiction in cases of murder, but he raised the latter point obliquely:

The Hon'ble Board may be aware that there is no Establishment assigned for this especial Police of Nanning. If it be determined that the District is to be administered as precisely as every other part of Malacca, I would submit to the Hon'ble Board whether there should not be a stationary establishment at Nanning.¹⁸

The Secretary to Government replied on 6th January 1829:¹⁹

...The Board observes that such references should not be made to Government. The Magistrates should proceed so as to bring the matter before the Court of Judicature. The execution of the fine was quite illegal and the parties aggrieved may bring the case before the Court.

On the evidence available, the facts are that the alleged murderer had fled, that there had been no trial of any sort, and no fine; but that the daughter had paid customary sums connected with the funeral and subsequent feasts, as was her duty under the Custom. The facts could have been checked comparatively easily, if there had been any reason to suppose that the Penghulu had lied. Nevertheless, the fable of a bizarre miscarriage of justice has passed into history²⁰ and, perhaps more importantly, was accepted by Fullerton and the Bengal Council. Fullerton included the deposition with, and referred to the matter in his Minute to the Bengal Government on the status of Nanning after Church's meeting with the Chiefs in August 1829: the Governor-General in Council heard the accusation but not the rebuttal. Beside this the Secretary to Government's suggested remedy — that a Lendu kampong woman should move the Court so far sitting only in Penang for Mandamus or Certiorari or issue a writ in the name of His Majesty King William IV — was of little consequence.

On the same day as Penang's reply was received, Lewis reported²¹ to Garling, with a significant change of tone. He had written to the Penghulu:

This letter from Mr. Lewis Assistant Resident written to the Panghuloo of Nanning is to inform him that we have heard that the Paddy is reaping.

It is therefore our wish that the Panghuloo will do as we before desired in taking the Tenth from the Produce of Paddy.

On receipt of this letter we desire that the Panghuloo will collect it and answer our letter that we may send a person up to accompany the Panghuloo in collecting the tenth. 5th December.

The Penghulu had replied:

This letter is from the Dattoo Panghuloo of Nanning to Mr. Lewis who lives in Malacca.

The letter Mr. Lewis sent has come to hand in which it is stated that Ten in a Hundred of the produce of Paddy is to be paid. Now if it is possible the Dattoo Panghuloo together with the four Sookoos wish to deliver every year two Coyans.

This is the wish of the Dattoo Panghuloo and four Sookoos which they trust will be granted by Government.

No date.

Lewis's private informer nourished his own prejudices and suspicions and explained why there were difficulties:

I am extremely sorry to have to report that I have not been so successful with regard to the collecting of the Revenue on the Produce of Paddy in the Nanning districts as I had reason at first to expect, and I fear that without being supported by an armed force to keep the Chiefs in awe that they will instigate the people to resist the payment.

2. By persons whom I have employed to watch these Chiefs I am informed that a league has been entered into with the neighbouring Chiefs to assist those of Nanning should they require their aid.

3. Having personally acquainted you with my sentiments on this point a few weeks ago, I wrote to the Panghuloo on the subject of collecting the tenth. He has evaded a direct refusal by offering to raise the annual tribute from 400 to 1600 Gantangs of paddy....

4. If the tribute was an object to Government they could with equal facility send 4000 Gantangs as full this quantity is exacted from the inhabitants, every house being called on to give in annually to the Chiefs 5 Gantangs of paddy, 2 fowls, 2 cocoanuts and 1 Kampee (equal to a Gantang) of rice. These are required ostensibly to pay the tithe to Government of which not $\frac{1}{10}$ part of the Paddy is delivered. The rest is divided among the Panghuloo and Sookoos.

5. To those who are acquainted with the Conduct of these Chiefs and particularly the Panghuloo, it is very manifest that they chiefly fear being prevented in carrying on that system of Tyranny and oppression which they have been allowed to exercise since 1795, and it formed one of their foremost and most particular enquiry (sic) (when I informed them in October last of the intention of Government to levy $\frac{1}{10}$ on the produce) to know whether they would still be allowed to Govern the inhabitants as they had hitherto done. As I knew it to be impossible to guarantee it to them, the case being an evil that must be soon reformed, I tried at the time to avoid answering it by telling them that did not form any part of my instructions.

6. It is of course a very great object with the Chiefs to maintain their right to govern by what they term their Customs and Usages which are similar in all these half Civilized Countries being merely oral and pretended to be handed down from father to son but which a very few dollars enables a Chief to turn the Scale and make black appear white.

7. The instances brought to our notice by a few who have ventured to complain are acts of tyranny to which it is astonishing that any men would tamely submit, but being our officers they adopt Government for their authority and the fear of our power alone prevents the people throwing off the burthen.

8. From what I have collected individually I feel authorised in stating that were these people protected from the arbitrary oppressions of these Chiefs and an European placed over them, they would gladly pay a revenue which in all Countries of the East and I believe in all Hindostan is considered as the least amount a Chief is entitled to levy as Sovereign for the protection they in turn receive.

9. Should it be advisable to assert our right and to maintain our authority I would suggest that at least One Hundred men should be sent there at first and if matters are brought to a peaceable termination One third of the number would afterwards suffice, but for some time to come it would be expedient to keep a force there that the inhabitants might gain confidence and that protection will be given them....

11. From the view taken of the Nanning Districts when the Subject first was agitated, I considered it my duty to collect all the Records extant respecting this District, which I alluded to in the concluding part of my letter of the 9th October last, but I have found much more trouble in decyphering the writing of the earlier Governments than I first apprehended; but as it will form an interesting and useful document I am still engaged on the subject and have employed an intelligent person on this duty.²²

12. The Chiefs however having acknowledged our right to supremacy sets all doubts on this Subject to rest and leaves it for the Honourable Governor in Council to decided upon such measures as may be deemed beneficial....

Lewis sent two enclosures, beside the letters. One was a translation of Governor van Suchtelen's letter of 14th May 1760,²³ to which he made no reference in his letter but which was evidence that the Chiefs of Nanning were congenitally disobedient. The other was a letter to support the statement in his second paragraph: It was a letter from the 'Yang Di Pertuan of Sri Menanti, Raja Allang and Tenku Tealum' to an agent in Tranquerah, Malacca, ordering ten gantangs of gunpowder, two canisters of 'Europe gunpowder'. one hundred gun

flints and two balls of opium, 'this quantity from each of the three Penghooloo Dagangs (agents)'. Payment was offered in dollars or buffaloes, and 'these things...we, want to use immediately'.

This time Garling was measured and sceptical.²⁴ 'It is evident from several occurrences that the absolute and immediate control of this Government over the affairs of Nanning is by no means acceptable to the Chiefs of that District....' Of the letter from Sri Menanti he wrote:

...that this letter was written with a view to provide means for opposing us, I cannot assume. It is probable that this may not be the case but...[he added acutely]...the circumstance of the letter being brought to Mr. Lewis argues the expectation of some of the people about us....

He came back to the theme of jurisdiction over Nanning and the position of the Chiefs:

If Nanning be viewed as united with Malacca...the Control of the Court of Judicature will extend over that District. How this control is compatible with the hereditary rights of the Panghooloo of Nanning, I do not apprehend. I presume that the Panghooloo will be expected to take his oath and fall under the general character of the other fonctionnaires of like designation. Yet if the Panghooloo of Nanning objects to this, and the Native Captains, who have no hereditary rights, actually did object, some difficulty may be experienced in meeting the case....

Van Suchtelen's letter, he thought, supported his view:

...so long as this (authority of Malacca) did not extend to the levying of a revenue by excise, tythe or tax, it argues no more legal authority than the British Power possessed on Sumatra, although this was paramount in its influence and mandatory in its proceedings....

Three days later Garling heard from the Secretary to Government, replying to his letter on the Lendu murder:

I am directed by the Governor in Council to acquaint you...that Nanning is considered a dependency of Malacca and subject in all respects to the jurisdiction of the Court. The Acts of the Panghooloo are cognizable by the Court on application by the parties aggrieved, but it does not form any part of the duty of the Executive Government or officers to interfere in any judicial proceedings.²⁵

Garling passed this on to Lewis, and also warned Penang. To Lewis he wrote:

...after the personal communication I have had with you, it seems to me essential that some prompt Steps should be forthwith taken...I would refer you to a copy of an Extract from the Orders of Council transmitted to you in another letter....These documents will evince to you the confirmed sentiments of the Hon'ble Board, as respects their determination to view Nanning not only as an inseparable district of this Settlement, but as identified with every other portion of it, and subject to the like principle of Government and Revenue....

He promised to provide an armed force, if necessary, but said he was loth to send it unless Lewis required it for his personal security; meanwhile, Lewis was not to write any further letters to the Dato' Naning unless Lewis could not go up to Naning, and then a letter was only to introduce agents who went to fetch the padi.²⁶

III

Notwithstanding the categorical statement of the Board's view passed on by the Secretary to Government, the Council then considered the question of Naning at the Penang meeting of January. Fullerton wrote another Minute recording his 'opinion, not decision, which is a judicial matter'

...that they [the Penghulus of Naning] may have hitherto exerted such powers...under the supposed existence of certain hereditary feudal rights but in reality under the laxity of Government, may be true; but now that Nanning has come within the operation of British Law such powers...being compatible and at variance with their principles must as a matter of course abate....²⁷ The levy of the tenth of produce is...a separate question. The question then is simply this: whether the Panghooloos like...Proprietors...held any right by written deed or prescription to collect for themselves the tenth of the Produce?...²⁸

He thought the 1801 Treaty merely temporary.

Mr. Lewis is fully justified in using his utmost endeavour to bring the landholders direct to Government, still it would not be proper to use military force in its collection....It certainly does appear to the Governor in Council of much importance that the People of Nanning should be relieved from the thralldom under which they seem to have fallen during the time Malacca remained under British Authority (1795 -1818) owing to the neglect and supineness of the Officers employed, and it may be proper to publish to all the Inhabitants of Nanning that no power of punishing, extorting money, or exercising restraint over the people is vested in the Panghooloo or any other

persons....That the British Laws under which they are placed recognize no such power in any one individual...that the power of arresting and confining is vested in only such as may be legally authorised for that purpose and that the power of punishment rests only with the Magistrates and Court of Justice....

Anderson, formerly Secretary to Government, was then Acting Resident Councillor Penang and therefore the member of Council at the seat of Government. He too was a covenanted officer with experience at Bencoolen; in 1824 he had accused the Company of bad faith and duplicity in its treatment of the Sultan of Kedah [when Fullerton had supported him]; he had been Malay Translator to Government in 1826 and 1827,²⁹ and 'had a wide knowledge of Malayan affairs',³⁰ He read the Minutes by Garling and Fullerton, and had no doubt in his own mind.

I have perused with much attention...and am...inclined to think with Mr. Garling that our right to subject the Chiefs of Nanning to the same Government as in Malacca is not very clearly established. The Penghulu has been considered, it would appear, an hereditary Chief and has for a long time past been exercising, without interruption, the Prerogative of a Sovereign in certain cases, within his own District. He is assisted by 4 Dattus. That form of Government is common in the smaller Malay establishments: (at Bencoolen and Batu Bhara the same)....Having heretofore treated the Chiefs of Nanning as tributaries and accepting a trifling or merely nominal tribute for many years past, and taken no part whatever in the Administration of the District nor interfered with the Judicial or revenue institutions.

The claim was estopped.

If the claims of the British Government to entire control over Nanning require the support of old Dutch records of 1720 and 1759, which Mr. Lewis has been searching for some time, allowance must be made for the present Chiefs not coming at once into the views of the Malacca Authorities and assenting to a change which would virtually dispossess them of the privileges enjoyed by themselves and their Ancestors for several generations....It cannot perhaps be a matter of much surprise that the Chiefs should evince a degree of repugnance to the introduction of a system which would at once deprive them and level them with the common stipendiary officer of Police underneath the British Government in the Malacca District....

He advised more thought before even a military escort was sent.³¹

Fullerton found himself in a dilemma, genuinely at a loss on what to do. 'I have perused Mr. Anderson's Minute and have little new

to add to what I have already said,' he wrote³² two days later and adding four pages.

Whether it was altogether expedient to have rendered the Chiefs of Nanning amenable to the Court is a question that should have been thought of before and not after Promulgation of the Charter....The question before us is not what the preceding Authority actually did, but what they had a right to do....

The question of jurisdiction had been complicated by Garling's raising the issue of slavery, after a Sungei Baru man had turned pirate, captured some Malacca men and sold them as slaves to Raja Ali of Rembau. The Secretary to Government's reply then had been:

...the question is properly a judicial one and may be eventually discussed by the Court. The Government is decidedly of opinion that Slavery has not, in any shape, a legal existence to (sic) Malacca; no proviso whatever is made for its continuance by the Treaty of Transfer, and it is not, as in the West Indies, recognized by Act of Parliament or any local law...Justices of the Peace are responsible for their Acts to the Supreme Court and must act under the liability in respect to an application for the punishment and re-delivery of slaves but in the opinion of Government no form of restraint can be legally exerted. The question will be referred to the Law Officer at Calcutta....³³

Nevertheless, the question affected Nanning because of the obligation under the 1801 Treaty to return slaves, including those taken in Rembau, and this consideration entered into Fullerton's Minute. He continued:

Nanning is within the limits of Malacca and is therefore *prima facie* within the jurisdiction of the Court. Whether the Chiefs can show any Deed or Title exempting them from the operation of Laws which the Ruling Power may at all times deem it necessary to enact and vesting in themselves the right of administer and Criminal, is a question that can only be decided when a case is brought regularly before the Court. Till then there is no need whatever for its being agitated whether by Government or its officers. If the conduct of the Chiefs really be oppressive to the Inhabitants, there can be little doubt those who suffer will in due course of time find out the proper channel of appeal and then, and not until then, be determined whether or not appeal is legally admissible. The question was stated by Mr. Garling in January last and I gave my opinion, which I now regret, and perceive it would have been better to have left the matter unnoticed

until it came before the Court to take its legal course.

The question affecting domestic slavery was started in like manner equally prematurely. That question like the other can only be settled by the Court of the Executive Government: as far as Pecuniary considerations are involved it would doubtless be better for the Government that the Chiefs were considered as Tributaries for in that case the Amount of tribute would fall to be settled exclusively by Government and independent of the Court, for if the Chiefs were not amenable and could not be sued, of course they could appeal to that authority. If on the other hand they are under the jurisdiction of the Court like other subjects, then they must have the protection of the Court, and our demand on them for the tenth might become a question cognizable there. It is one which I admit scarcely know how to bring forward, the circumstances of this Government affording no Analogy with those of other Indian Governments, where the relative rights of the State and the subject are clearly defined by Regulations, which Regulations are enforceable only by the Provincial Courts held by Civil Servants. Here we have no such Regulations nor the power of framing them....A Regulation connected with the right of all Parties connected with the land at Malacca was drawn up and I presume sent home under the doubt entertained in the case.³⁴ It certainly seems that no further Proceedings should take place until the Government has the measure of enquiry on the spot, and I conclude that the letter lately addressed to the Resident will have that effect. I cannot but regret however that I was (not)³⁵ informed of Mr. Anderson's opinion before that letter and minutes were despatched, as it might have been advisable to convey the orders of suspension in stronger terms. As it is essentially necessary that the subject should be fully discussed, I propose that the Minutes be sent to Mr. Garling at Malacca and that he be requested to record in his Diary in the shape of a minute any observations which may occur to him which will be taken into consideration whenever Malacca becomes the seat of Government.

Fullerton's Minutes arrived at Malacca on 11th February, and Garling recorded his observations in the Diary in a five-page minute³⁶ over which he obviously thought carefully. It went over some of his reasoning in his minute of January, but he extended the arguments and was now convinced that Naning was an independent district over which the British could not claim full sovereignty. He began by pointing out, in effect, that none of them really knew what they were talking about: 'the original document of Col. Taylor cannot be discovered. What we have is styled a translation from the Dutch and the Document is entitled "Articles and Conditions dictated by Lt. Col. Taylor...."' He went on to the question of whether Naning should pay the tenth

or tribute.

The 3rd Section of these Articles assures, by the translation, that the Inhabitants of Nanning are bound to deliver of the produce of Rice and all fruits to the East India Company. The tenth is then subject to the annual payment of half a Coyang of Paddy. The half Coyang, of Paddy is accordingly paid at the present day.

He passed on to the matter of sovereignty.

The document...forms very insufficient data for any practical conclusion on contended points. The isolated fact of dictating Articles and conditions might argue our sovereignty, but the consideration is much weakened by the tenor of the very first section. By this the Panghooloo of Nanning and the Chiefs solemnly promise on behalf of the whole community of Nanning that they shall not engage in hostilities against the Government. The requirement of such an Oath...appears to me to be a natural though a tacit avowal that the Panghooloo and Sookoos are invested with a degree of independent authority over Nanning, which I venture to submit is not recognized in the Minutes of the Hon'ble President....

...I am of opinion that the nature of local facts affords no more satisfactory data than the document....It cannot be imputed to the Netherlands Authorities in India that they are backward to enlarge their Revenues by every practicable imposition...neither are they very scrupulous of the measures. Yet although the Excise Laws were uniformly enforced throughout Malacca, and extend to the very boundaries of Nanning, this District remained free from the imposition. The same system prevailed under the British Government. That the ruling European Authority was desirous of benefitting from the resources of Nanning may be gathered from the boat duty...a levy upon all prows coming down...from Nanning....

The nature of our just relation with Nanning, can only be elicited by a reference to attested documents, to the admission of the people, and to facts. On none of these points...have we such sufficient data as to satisfy my mind that Nanning is absolutely dependent upon us, and is subject to our control in its minutest details. Where facts offer but dubious conclusions we may reasonably have recourse to analogy, and I consider that Bencoolen affords fair ground for analogy....

It was true that there was no Charter of Justice at Bencoolen, but this was an irrelevant objection:

...if it can be proved that the Charter of Justice warrant the operation of the Court of Judicature within the boundary of Nanning I conceive the question of Revenue and Police admits of no further discussion. Our supremacy over Nanning cannot arise out of the Charter,

and this can only operate where we previously possessed a Title. Therefore if we have no right to levy a revenue at Nanning as freely as in Malacca proper, the Courts cannot in my opinion exercise any control in the affairs of Nanning.

He drew his analogies with Bencoolen. There the local Chiefs made engagements by which their dependants had to grow a specified amount of pepper and the British officials could discipline those who did not plant, or maintain cultivation; but in Nanning 'a burdensome cultivation or forced labour seems never to have been introduced though there was no want of monopolizing power in the Ruling Authorities or the Dictating Power'. There, though there was no conquest or cession, the British collected an excise revenue from drinking, gambling and opium-smoking; in Nanning there was none. There 'a native could not be deprived or sentenced, or imprisoned...without the sanction of the Presiding European Authority': 'at Nanning the Chief has so far as I can discover been permitted from time Immemorial to adjudicate causes'. At Bencoolen, no Chief could succeed without the sanction of the Ruling European Authority, and in one case a woman was appointed by that authority in disregard of local custom: 'none of this could be effected in Nanning'. '...I could cite a variety of instances wherein we exercised in Sumatra a singular degree of authority, in many cases oppression...yet the assumption of sovereignty was never advanced'. His conclusion was that 'the real nature of our legitimate control over...Nanning...would not warrant our asserting a title of absolute sovereignty'.

He forestalled any argument based on the Treaty with Holland and the areas mutually ceded by it.

I do not see that any argument can be drawn from...Nanning being included within the limit of Malacca as laid down in the Map delivered to the British...by the Netherlands....The Map may exhibit the boundary of European influence but...this...no more sanctions our assumption of supremacy than the limits which the British Authority pointed out to the Netherland Commissioners could show the line of their absolute sovereignty in Sumatra. It is a peculiar feature in the fulfilment of the Article of the Treaty of 1824, that we portion out and profess to transfer what was never virtually our own.

There can be little doubt but that it would be generally beneficial to the Community of Nanning (if Government took) control over that District. But the question is whether this exercise, against the will of the Chiefs, and as involving the control of the Court, be legal.

He tried to clear Fullerton's mind: 'The Panghooloo cannot be viewed as in the same light as the late Landed Proprietors. These held their lands in virtue of Government Grants', and came near insubordination.

...under the uncertainty which at present exists and while the minds of the Panghooloo and his Ministers are excited, I do not propose making the publication...in the President's Minute...Were this to be done only in the interior of Malacca proper, the Nanning Community might conclude that we had abandoned the intention of prosecuting the question of our control. And the tenor of the latter part of the...Minute...does not warrant the present intention of such a publication to Nanning.

For the time being he was prepared to go only so far:

Mr. Lewis has been instructed to address...the Panghooloo stating that under the expectation of the early arrival of the Governor...collection of the tenth will be for the present postponed but that officers...are to take an account of the produce subject to the tenth so that in the event of the Government resolving to enforce the levy no misunderstanding may arise.

Finally, he asked for an early decision before the Court itself complicated the position.

It is obvious that the question should now if practicable be brought to issue. While it remains undecided the minds of the people are kept in constant excitement, the Chiefs are dissatisfied and our councils seem unresolved. Such a state of affairs may encourage presumption in petty neighbouring Chiefs. And as the Court will probably open its session at Malacca at an early date and there is some probability of a case being submitted [the grounds for this statement are not shown in the record, but some story may have reached him] in which the question of the nature of our control over Nanning may be agitated, I would urge upon the Hon'ble President to use his most convenient endeavours to be present at Malacca before the arrival of the...Recorder.

He also wrote separately, contradicting Lewis and, implicitly, the Governor.

It has not been proved that the people of Nanning have fallen under greater thralldom since 1795 than that to which their Chiefs subjected them prior to that period....It does not appear that the Panghooloo levies the tenth but that he receives from each house a trifling annual contribution of Paddy, Rice, Fowls and Coconuts. The imposition of the Tenth would then prove an extra Tax on the Cultivator.³⁷

IV

On 17th February Lewis reported that he had written as instructed to Nanning, enclosed a letter from his assistant Neubronner, and commented:

The forbearance of Government however appears to have given (the Penghulu of Nanning) courage to resist this request and as far as I have learned it is his intention to keep himself independent of Malacca.

Neubronner had gone to Nanning to take details of areas and amounts sown, and was armed with a letter from Lewis requesting assistance: he went to Taboh Nanning to the Penghulu's house and asked for two men, or a 'Tandah'.³⁸ Dol Said's reply was brusque:

I have no people nor any Tandah to give you. The People here are busily employed in earning a livelihood, the people of Nanning have their Sookoos, who will know how to act.

Sheikh Omar the interpreter went to a house 'but the man would make no reply, and turned himself away'. On their way back to Malacca, Lewis's party called at Dato' Embangun's house and asked for his help 'but he replied that it was not within his power to comply with my wishes without the concurrence of the Panghooloo'.³⁹

Lewis followed this up with a report,⁴⁰ going further back for the March Council at Malacca. He had sent a man to Nanning, and he was favourably received; on 5th October —

I proceeded to Nanning but was surprised, on my arrival there, to find that the sentiments of the Panghooloo had so soon changed and a very large assemblage of the people collected at his dwelling....I plainly saw from the questions he made that it was not so much the giving of the tenth that he looked to as the loss of his consequence and profits in being deprived of his judicial authority. That he had heard that our Government would not permit it was evident; and could I have assured him that it would not take place, I am confident that the question of the tenth would have been dropt....I asked him if he meant, by his refusal, to consider that he was not an Officer of the British Government....He answered, immediately, that himself and all Nanning were under our Government and had always been protected from the attacks of other countries, and disclaimed all pretension to be considered in any other light....

Lewis then described Neubronner's mishaps, and continued:

Private and positive intelligence was brought to me in the month of January [before Garling had issued his instructions] when the Assistant went to exact the tenth that the Panghooloo had called on all the neighbouring Chiefs to assist him in opposing forces which he had heard we meant to send up. Fortunately these people knew their interest too well to interfere and I have only ascertained that a part of Rambow would have assisted him. The Panghooloo had also gone as far as to prepare to remove from Nanning and to take away the people. The blind obedience of some of these people is certainly very extraordinary....He is considered a great Saint and I have no doubt would draw many of the people after him (out of Malacca) for a time....The Sookoos are, most of them, attached to us, and privately have made complaints of the conduct of the Panghooloo, probably this may arise from not having so much of the plunder as they may think themselves entitled to....

Lewis was concerned about the jurisdiction and his powers to protect the afflicted.

For the present even if Government should refrain from exacting the tenth, I suppose the Justices would not be justified in shutting their ears to complaints and tamely to see these poor people oppressed. The complaints of these persons are not loud and open because their situation is such that a complaint would be followed by Ruin to the individual and most likely by loss of life....

It is now nearly a fortnight since I sent the orders of the Hon'ble the Governor to desire the Panghooloo and Sookoos to come to Malacca.⁴¹ From all private reports I am led to believe that they will not come. If such disobedience and contempt of the Authority of Government is passed over I am fearful of the consequences and that these people would be bold to imagine that we have not the power to enforce our orders.⁴²

With his report Lewis sent translations of van Vliet's report of his visit in 1644 and the appointment of Dato' Anjak in 1786. Fullerton concentrated on these, in his Minute for Council.⁴³

The next paper...is an important document dated 6th October 1786...the Orang Cayah Anjah...promises to conduct himself as a faithful, upright and obedient vassal of the Company...Anjah is appointed, authorised to adopt the usual title...has the usual oath administered to him, and receives the Insignia of Office as a token of the trust which the company confides in him. Now unless we admit the use of the term "vassal" to establish the Feudal relation

of Liege Lord and vassal, demonstrating thereby absolute dependency...the Form of Installation is no more than that of a Common officer, for I know that the Cutwall or Chief Police Officer of the small Dutch settlements on the Coast of Coramandel hold the same Insignia....On the whole the Papers now before me seem to establish the following points

First That Nanning has always been since 1640 an integral part of the Malacca Territories — that Superiority of the Lands then belonged to the Dutch Government and now by transfer belong to the British Government

Second That the Inhabitants of Nanning were from 1640 the subjects of the Dutch East India Company and are now the subjects of His British Majesty

Third That the Sovereign authority over them instead of being exercised directly by the Officers of Government, has been committed to a Panghooloo and Four Sookoos responsible to Government for the exercise of that authority

The arguments of Mr. Garling, as well as those of Mr. Anderson, would lead to the admission that the Panghooloo and Chiefs are entirely independent of us...and how they can reconcile the idea of independence with the papers drawn up by Colonel Taylor and sworn by the Panghooloo and Sookoos as subjects of the British government⁴⁴ I am at a loss to conjecture....

Nevertheless, whether there was legal jurisdiction or not was a matter for the Court, should occasion arise, 'but I confess that in point of expediency it is advisable that the question should be waived rather than forced on'. New terms could be made with a new Penghulu, 'so that on the whole I think it desirable that matters should, if possible, be left as they are, and to keep so will be the object in view'.

The Dato' Naning and Chiefs did not come to Malacca, and Fullerton had to leave to accompany the Governor-General on a tour of the Fourth Presidency. He Instructed Garling to write to Naning in terms part minatory, part face-saving. The Chiefs had been called to Malacca but did not come, and were therefore disobedient and liable to dismissal; but there may have been good reason for the Penghulu's absence, so he was to be given an opportunity of coming down, to see Garling in the Governor's absence. Next,

...that in respect to the affair of the tenth of the produce, that the Governor wished to speak to him on that subject and to inspect the original papers delivered to him by Colonel Taylor.

The inhabitants of Nanning were the Company's subjects and the Penghulu was given care of them, so there must be no oppression. Sixthly,

That the people of Nanning like all other Inhabitants are bound to pay the Tenth if Government require it, but as it is said to be written by Colonel Taylor that the tenth was not to be taken from the present Panghooloo, the Governor in Council do not intend levying it, if it appears to be so written in the Papers given by Colonel Taylor, but this can only be finally settled when the Panghooloo comes in and produces the Paper to Mr. Garling.

Lastly, the Penghulu was to act as previously, making lists of crops and taking the Census.

Garling's letter, translated by Lewis, contained these points — not to Fullerton's satisfaction, since the Secretary to Government commented in April⁴⁵ '...the tenor of the letter addressed to the Chief of Nanning by no means Corresponded with the Governor's Minute...and' (less than accurately) is never intended to conceal...that Government had abandoned the intention of levying the Tenth....' — and received a reply, on 29th March. It was terse: it said that the letter had been received and understood, and 'further the Panghooloo and Ampat Sookoos state that with respect to the old and established usages and orders of Government, they have not been infringed by them but remain as heretofore'.⁴⁶

Garling sent this on to Penang: 'the reply of the Panghooloo displays that evasive and uncompromising tone which characterizes all the correspondence of that Functionary'. He could not see what Fullerton had in mind. 'I beg you will intimate to the Board.' he wrote to the Secretary of the Government —

...that I cannot venture on my own individual responsibility to enforce the appearance of the Panghooloo of Nanning, neither am I aware what especial object would be attained by his appearance, if he is again to be left at large at his own disposal. I request therefore that the Board will point out to me some distinct line of proceedings, or at least some determinate measure, the execution of which I am under any consequence to attempt....

He expressed his —

...detailed disinclination, under present agitation of existing relations with Nanning, against ordering troops into the interior for the enforcement of orders, or commencing any offensive or military operation, without the express cooperation of the Hon'ble Board.⁴⁷

The Board again shelved the matter: the Secretary to Government replied: '...It does not seem necessary to take any further measures, as the Chief declares his intentions of proceeding according to custom. The Board does not expect you to act in the case except under their sanction and responsibility.'⁴⁸

Lewis wrote to Garling asking what steps should be taken about a census in Nanning, and Garling forwarded the letter to Penang: 'it is in vain to address further letters to the Panghooloo, and it does not appear that he is disposed to offer any aid towards effecting any object of Government in Nanning'. The Secretary to Government replied that —

Mr. Lewis should remind the Chief of Nanning of his letter stating his intention of conforming to custom and call upon that Chief to assist as usual in framing the Census of Population. You are requested to report the result.⁴⁹

Lewis sent his translation⁵⁰ of the Penghulu's reply on 23rd May.

This letter comes from the Datto Panghuloo of Nanning with his compliments, to Samuel Garling Esquire Resident Councillor and Chief of Malacca etc.

The Datto Panghuloo states that he has received the Resident's letter which has arrived at Nanning and the contents the Datto understands. Further the Datto Panghuloo states that with respect to the usages and customs of former times being re-established the Datto Panghuloo and Four Sookoos receive the same. However if it is so and the former usages are to be re-established, the Nanning people formerly had not to pay the tenth excepting only in the case of Prows which paid a small sum such as the duty of the Bangshall which was three sukus.⁵¹

Further your request to take a Census of the People of Nanning has not been according to usage required of the Panghuloo of Nanning and Four Sookoos, but now the Resident wants to number the people which the Resident may do if he pleases.

13th day of the month Dool Hydah equal to 18th May N.B. This last expression is rather ambiguous but I should suppose that Panghuloo means it to be understood that the Government are at liberty to take the Census but that it is no business of his or the Ampat Sookoos. The words are "Malynekan ma-loomla ka Tuan Adanyah".⁵²

Garling reported as requested, and Fullerton commented on 22nd June:⁵³

The Panghooloo is bound by the conditions under which he was placed in office to obey all orders he receives. His refusal to assist in taking the Census...and the insolent style of his address are in direct violation of the compact. He has in strict propriety forfeited his office — He should therefore be distinctly informed that unless he obeys the orders he receives he must cease to be Panghooloo....

If Garling agreed, he was to send an agent to tell the Dato' Naning of this decision: he could send Church or Lewis, but Fullerton preferred Church — 'the object is of sufficient magnitude (and) the employment can in no light be viewed as derogatory to the rank and station of the Deputy Resident'. This was perhaps a placatory measure: the quarrel over Church's application for the post of Superintendent of Police⁵⁴ was at its height. Fullerton went into detail as to what could be threatened — the deposition of Dol Said, the election of a new Dato' Naning on different terms including payment of the tenth, and if necessary direct rule.

Garling chose Church, and made his preparations with some care. He instructed Lewis to prepare a letter to be signed by Garling, in terms he laid down.⁵⁵ Government was surprised at the Penghulu's recent conduct, since he should be aware of his relationship to Government; his predecessors and he himself had been invested by Government; he had documents from Taylor and had signed agreeing that he held at Government's pleasure; he was bound by his oath of submission made to Cracroft. It was his duty to obey orders: if he did not, he would cease to be Penghulu. The Government proposed to have a land administration uniform throughout all Malacca territories and would therefore collect the tenth. There was no reason to suppose that the *rayat* would pay more, and the Chiefs would be paid fixed allowances and would therefore not lose by the change. The Penghulu had made difficulties over the Census, which was important to Government, and it was his duty to help with it. If the Penghulu continued in his obstinacy and disobedience, he would be replaced, and Government might even take over the direct administration of Naning.

Garling and Church were friends and had confidence in each other; inevitably they must have discussed Church's mission and how he should carry it out, but for the record Garling wrote to Church:

...The Principal object of your mission is to give weight to the letter of which you will be the bearer, and I refer you to it as the basis of your proceedings. As the Panghooloo may entertain apprehension for his personal safety, you would do well to give timely notice before you enter Nanning, and to make your entry into that

District as quietly as circumstances will admit. For this and other like services, you should entertain a discreet Native upon whom you can rely; but having once entered the District and conferred with the Panghooloo, it will be advisable that your communication with the Panghooloo and Sookoos should be personal....⁵⁶

Church was to insist on the Census, and to take Neubronner and his assistants with him. There was to be no immediate collection of the tenth, but no promise for the future. As for the jurisdiction of the Court, Church —

...may be individually aware that no interference will be needlessly precipitated....The Panghooloo must fully understand that as holding Office of Government he is subject to their orders and must not act beside them...and as long as he fancies such declaration on your part, and admission on his own, does not divest him of any power which he may have heretofore exercised with the concurrence of Government, I see no necessity for your agitating the question....

He also wrote to Captain Wiggins, O.C. Troops.⁵⁷ Church was going to Naning: Wiggins probably knew enough of the circumstances and possible obstacles, but should brief himself by asking Garling. No serious obstacles were expected, but it would be injudicious not to be prepared. A Havildar's guard should go with Church. It was possible that there might be a threat from the Penghulu, so such force as Wiggins thought necessary should be in readiness: Garling thought one Company strength, but its size was to be as he considered suitable.

Wiggins replied immediately: he would have one hundred firelocks and two light field pieces in reserve, behind Church's Havildar's party.

In the event of this force being called forward I shall take it for granted that hostilities may commence and conduct the Military operations in person, when...I shall by adopting vigorous and decided measures endeavour speedily to reduce the Malay Chiefs to order and obedience....

He reassured Garling that he had held a conference with Lewis. 'who put me in full possession of everything connected with the matter'. This galvanised Garling, and he immediately wrote to Church:⁵⁸

...you will therefore exercise your discretion as to the expediency of summoning the Military to your aid and also, after their advance, as to the necessity for the commencement of offensive hostilities. The continuance of hostilities will depend upon you, but not the mode in which they may be conducted.

He then reported to Penang on the steps he had taken, and distanced himself from Fullerton's policy.⁵⁹

Considering the necessity of the case, I entirely concur with the Hon'ble President in the measures which he has proposed to adopt....I rest my case only on the *necessity* of the case and I beg to be understood as yielding only to necessity....Were it admitted that the District of Nanning was in some measure separable from the rest of this territory in so far as to justify the exclusion of the control of the Court of Judicature, I do not suppose that there would be any practicable obstacle opposed to the exercise of the supremacy of Government.

The Government would in my opinion be the guardian of the rights of the people, the guarantee (sic) of the Panghooloo's authority, would have a claim to participate in the resources of the District, would be justified in withdrawing their guarantee from the Panghooloo and even in depriving him should he oppose them or refuse to abide by existing arrangements tending to affect the welfare of that Country. But I should not think that Government could rightfully of their own accord alter the letter of existing arrangements, to the prejudice (fained or real) of any party; nor, unless the paramount demands of Justice, Humanity and Public Interest required it, could enforce a departure from ordinary principles by absolutely divesting the Panghooloo of all Judicial power, or by depriving him of everything but the name of Chief, and possibly of that also....Considering however that the control of the Court is to extend over Nanning, I do not clearly apprehend how the office of Panghooloo is compatible with the strict exercise of the Court's requirements. The Panghooloo of Nanning cannot under any construction be viewed in the same light as the Panghooloos of Malacca proper, for the former possess an inheritance, and tradition carries up their authority beyond the period of European Domination, and confines the succession to one family. How such an Individual can rightly fall under the absolute control of the Court I do not see, unless it be resolved that the Panghooloo has no prerogative or priveleges attached to his person....

He then came back to the administrative problem:

There does exist such a necessity as to warrant the extreme measures in which I have concurred. My reply — by opposing the Census, by obstructing officers, by preventing Officers of Government from coming into immediate contact with the People, by refusing to come down to Malacca — the Panghooloo had opposed Government in the rightful exercise of their authority.

V

A few days later the 'Malacca Observer' published its comments on what was being prepared.⁶⁰ This journal was edited by J. H. Moor of the Free School and was printed on the press installed at the Anglo-Chinese Mission to teach boys this among several useful trades. Free School and Mission each received grants-in-aid, and the paper received a grant of fifty rupees a month: in return, proofs were sent to the Resident Councillor. By letter dated 30th June, Garling received a reprimand from Penang⁶¹ referring to the statement in the paper 'that the arrangements in progress regarding Nanning were resorted to with the view of enforcing the payment of the tenth, an intention which you knew had been long abandoned'. The actual paragraph read:

The lion of the day at Malacca at present is the intended expedition to Nanning, where, it is said, the Malay inhabitants are a little refractory, being unwilling to pay the ten per cent tythe on produce which Government have endeavoured lately to enforce upon them. The people of Nanning claim certain privileges and exemptions allowed them in former times, whether or not on just grounds it is not for us to say. We doubt not, however, but that the matter has been duly weighed before such an important step should be taken as to send up a sufficient force, with artillery, and a Civilian as Political Agent to obtain submission and compliance by intimidation if fairer means fail. We heard some time ago that a strong muster of men from different districts in the interior were in readiness at a short notice to oppose with "hostile front", but we do not expect to hear of any skirmishes taking place, as the Malays, we guess, are easily intimidated, but we expect to hear that on the arrival of the force the place will be deserted, so that the claim upon it will be the stronger, as possession constitutes one of the nine points of the law —
But more anon.⁶²

Garling replied on 22nd July:⁶³ the proof had been sent to him, and he had sent a note to the Editor, followed by a second

...in which I called his notice to the misrepresentation of the proceedings of Government, I did not consider it necessary to expunge the remarks for the following reasons:

...3. It was the misrepresentation alone which I viewed as objectionable. The principle of the levy of the Tenth had once met with the approval of the Board, and might again at a future convenient time: the simple imputation of such a principle was not therefore in my esteem a matter of moment. With these impressions I conceived that the misrepresentation mainly concerned the Editor, whose character

as a faithful journalist was at stake. He received my correction previous to the paper being circulated.

4. I was not unmindful of the orders of the Hon'ble Court. These I conceived to have special reference to attacks upon the character of Government and to offensive comments upon their measures. In neither of these points could I esteem the "Observer" as guilty....

The Hon'ble Board was not mollified and in September the allowance was stopped, on its orders;⁶⁴ Garling informed the Editor of this and said that the proofs therefore need no longer be submitted to him. This angered Fullerton further, and Garling was again reprimanded by the Secretary to Government: his reply was that 'I had considered that the censorship was a necessary consequence of allowance and therefore when the allowance ceased, the Censorship must be withdraw.' Fullerton raised the matter at the November meeting of Council at Malacca:

...a more indecent and scurrilous production has seldom appeared, and I can only again express my unqualified amazement that with all previous discussion before him connected with this paper, Mr. Garling should have thought of removing restraints...⁶⁵

He referred again to the 'gross misrepresentation of the Editor respecting the measures and motives of the arrangements respecting Nanning'. Garling — aware that the matter was being reported to the Court of Directors — wrote a ten-page reply in very defensive terms, but he did not let the reference to Nanning pass: 'I am grieved that the Hon'ble President brought forward the Nanning question, because I had hoped that Government was perfectly satisfied on that topic'.⁶⁶

Read dispassionately, the paragraph comes nowhere near a gross misrepresentation, as Fullerton and the Secretary to Government would presumably have admitted had their own Minutes been read out to them: even the sentence picked out for complaint was true in the wider sense that obedience and compliance were to be secured from the Penghulu, although not so far as the tenth was concerned. No less a person than Lewis had reported the confederacy from neighbouring areas. There is no reason to suppose that it had any immediate effect on the Chiefs, if they even heard of the article, for Church's visit followed within days. It was the sarcasm and irony that outraged Fullerton, that he should be mocked by a young schoolmaster, and a stammering Irishman⁶⁷ at that. Garling's initial insouciance made it worse.

On 9th July, while Church was still in Nanning, Lewis wrote in⁶⁸ with Rappa's latest translations of van Vliet's 1644 mention of the

tenth and reservation of criminal jurisdiction, and the reproof of the Chiefs who put the Raja Merah's son-in-law to death in 1651; and it ended a long letter on a characteristic note:

I have been the more particular in bringing these points to the notice of Government as I am certain that the Chief cause of the late disobedience of the present Chief has arisen from my interference in cases of oppression and Murder which he considers an infringement of his rights and which if not clearly pointed out to him will I fear form a serious cause of trouble hereafter.

All the papers were forwarded to Fullerton.

Church got back to Malacca on 11th July and 'reported that the Panghooloo and Sookoos of Nanning appeared to be relieved from the apprehension which had heretofore perplexed them, that the District was in a state of tranquillity....'⁶⁹ His full report⁷⁰ was made one week later.

It described a remarkable achievement, and was of importance. Garling sent it to Penang with an exuberant letter: 'In concluding, I hope that the Board will approve of Mr. Church's proceedings and will be gratified at the pleasing manner in which they have terminated....'⁷¹ and, understandably twisting the knife, sent a copy of it and the Census Church had carried out to Lewis at the Land Office with instructions that it should be kept for reference.

There are discrepancies and omissions in the report, and answers to some questions did not lead Church to make further enquiries: he picked up, for example, the succession to a Penghulu by a nephew, but seems not to have grasped the line of matrilineal descent. He did not ask who decided which substitute was provided in his 'Balus Edup', and his conclusion in his Paragraph 27 that the 'whole body was corrupt and the evils are so apparent' sits oddly with the immediately preceding paragraphs. Nevertheless he had gathered first-hand information on a wide variety of points, to correct the hearsay account in Lewis's report of March 1827 and to extend the administration's knowledge; and the feelings of the Nanning people were represented with some sympathy. His comments on the political and social organisation of Nanning, its 'Jurisprudence' and its economy imply much discursive conversation during his days in Taboh Nanning with an absence of suspicion and reserve 'totally unlooked for on my part'. Courtesy and goodwill, on both sides, are apparent and Church was justified — as both Garling and the Governor in Council in turn agreed — in not handing over that letter which Fullerton had outlined. Garling had drafted and Lewis turned into Malay⁷² and so the Penghulu and Sukus did not have the

bait of 'pensions' dangled before them.⁷³

Adherents of the conspiracy theory of history may wonder whether this was a put-up job, with Garling restricting his agreement with Fullerton's measures only to the extent of 'necessity' in the hope that the necessity would never arise, and Church well aware of this. Otherwise, Church exercised a remarkable degree of discretion (and common sense) in not referring to, much less handing over, the letter the weight of which was 'the principal object of (the) mission'.

Church was posted to Penang within the month.

On the day that Garling forwarded Church's report, he heard from Penang on his letter on 'necessity':

The Board entirely concurs in the reasoning...and the arguments in support of the measures now in progress in respect to Nanning, namely to maintain relations between Government and the Panghooloo as they have hitherto stood, not to enforce his obedience to the Court of Judicature....As to general arrangements for the Establishment of the same system of Government over Nanning which holds over Malacca generally the Resident Councillor will observe that such is only contemplated in the event of a complete failure in inducing the Panghooloo to adhere to the existing course and the consequent necessity for his supersession....⁷⁴

Garling immediately instructed Lewis: 'You will be pleased to understand that until further advice the affairs of Nanning are to continue under the principle which regulated them previous to the agitation of the Tenth'.⁷⁵

VI

Fullerton, tidying up administratively, wrote to Bengal in a long Minute⁷⁶ with which he forwarded a selection of documents.

Affairs at Nanning having now reverted to their original situation, the present may be a fit time to submit the subject for the consideration of the Supreme Government. The point in discussion has been the relation in which the Panghooloo of that District stood in respect to the Government of Malacca. Whether Nanning was, or was not, an integral part of the Malacca territory, subject to the same laws and regulations with the rest of the Country? Whether the Panghooloo or Chief Officer stood in the situation of a Chief, paying only a small tribute and exercising all the functions of sovereignty in the administration of justice both civil and criminal, to the extent of inflicting capital punishment? Or whether he was

a mere Officer of the British Government acting by commission under their authority and subject in all matters connected with the management of the country to the control and superintendence of the Government? Whether under the Charter Nanning was subject to the jurisdiction of the Court of Judicature, and lastly whether the Inhabitants were liable to the payment of the tenth of the produce in the same manner as the rest of the Inhabitants of Malacca? As a mere question of right it will be seen that I entertain no doubt whatever upon the subject. Nanning has always been considered an integral part of Malacca, dependant on and subject to the Government in all respects...but though I think the question of right beyond all dispute, I fully admit that it is most expedient that matters should remain as they are for the present. Such was my opinion on first considering the case, and it was only on the representation of Mr. Lewis that it might be practicable to bring Nanning under the same system of administration by amicable arrangements, that I was induced to deviate from the first intention. The demise of the present Panghooloo will fall (sic) to the opportunity of introducing a better system, if deemed advisable. It will then remain to be considered whether we are to issue a new commission, and without one the office cannot exist...

The enclosures consisted of Garling's first Minute raising the question of jurisdiction, Lewis's 1827 report on Nanning, Fullerton's instructions for a report on the documents, the translations Lewis had put up of the Dutch documents, a copy of the oath of allegiance taken before Cracroft, and the documents for the January 1829 Council. It was a voluminous body of papers, with a covering letter signed by both Fullerton and Ibbetson and dated 18th August 1829.

...It will be perceived that it is our desire and intention to maintain, as far as depends on us, the same state of relations that was previously established and the principal object of this address is to obtain the opinion and instruction of Your Lordship as to the expediency of measures being taken for the amelioration of the government of that small district in the event of the demise of the present Panghooloo as well as to obtain the opinion of the Law Officers of Government as to the illegal effect of the Charter of Justice over that District.

While the matter went to the Court for decision, the Governor-General in Council concurred: '...we deem it unnecessary to raise any question at the present time, and are of opinion that the existing arrangement should be left undisturbed'.⁷⁷

Lewis had been disowned, perhaps unfairly since (as has been seen) the financial basis of the amicable arrangements had never been

formally put to the Chiefs: but he remained the channel of communication with Naning. The Malacca Diary mentions⁷⁸ one further item in 1829, the matter of a debt-bondswoman Rabeah who ran away from Naning but left her son there held by the Penghulu, apparently as security for a debt of \$40. Garling went on leave in November, to send his family back to England — and went off without signing the Treasury accounts;⁷⁹ he returned on 5th March 1830.⁸⁰ The Diary recorded receipt from Penang of the Governor-General's concurrence in the *status quo*, and closed in July with the end of the Fourth Presidency.

Chapter 7

The War

I

On 30th September 1830, Lewis wrote to Garling, now called Deputy Resident after the reforms.

I have the honour to forward a petition from Intye Sourin, owner of certain fruit gardens situated near Nanning, complaining of the conduct of the Panghooloo of Nanning, who sent people to take away and destroy fruit.

I beg leave to remind you that I some time ago informed you that this complaint had been brought before me, and suggested the propriety of sending the Surveyor on to the spot with the plan and title deeds of Intye Sourin's ground, and to ascertain by those documents how far he was borne out in his claims.

About the middle of August Mr. Neubronner and Mr. Valberg went to the spot and examined the different courses and boundaries as laid down in the title deeds, and found that these fruit gardens are considerably within the limits, at least four miles.

I sent Intye Sourin to the Panghooloo of Nanning with a note informing him of what had been done, and to desire that he would not molest the property, which had been in his family and for which they held the title upwards of one hundred years.

The title to this ground, which was made over to Government, has been traced to the date April 1720, when the said land was separated from the adjoining estate of Dorian Tongal then known as Crochery Tuallang and Machap.

I fear that this will only be the commencement of this Man's impudent Claims as formerly on my visits to Nanning he complained that Mr. Koek had taken a considerable part of the Nanning lands and that Intye Arom had also taken some, both which titles are similarly well defined as the one now in question, therefore it will be (I presume) necessary to have all at once properly adjusted...¹

Garling sent the letter on to Fullerton, now Chief Commissioner, with a Minute.²

...2. Could this view of the matter be confined to its character in a judicial light, and were the Court of Judicature in local and active operation,³ there would yet be considerable difficulty involved in its adjustment, for the Panghooloo of Nanning does not appear to recognize

the supremacy of the Court's control over Nanning and it is not therefore probable that he would obey its summons.

3. But the present act of the Panghooloo should be considered not so much in the light of a trespass or robbery (granting the complaint of Intye Sourin to be strictly correct) as a public avowal of his determination to consider the lands of Intye Sourin as subject to his immediate control — and I apprehend that it is one of similar claims which this troublesome Chief will, as opportunity admits, assert — the Revenue and the territory of Government are concerned in this question.

4. I should suggest that the Chief be desired to attend at Malacca to answer for himself; but after his repeated objections to come down on a former occasion, I fear the adoption of such a measure would only issue in contempt — for the same reason I do not think that any good would result from the simple sending of a letter.

5. I am of opinion that it would be useful if Mr. Lewis could conveniently proceed to Nanning on the occasion, and should he find it necessary, to station a small guard at the boundaries to point out to the Panghooloo that he will not be permitted to levy on the produce of lands on this side of the post.

6. Since receiving Mr. Lewis's letter a Chinaman has called at his office and lodged an information against certain persons at Calama in the Nanning District, whom he charges with having robbed him in the highway three days ago.....

Fullerton, then at Malacca, replied⁴ next day:

.....Of the relation in which that Country and its Panghooloo stood to the British Government, I have long ceased to entertain a doubt....The documents convinced me that the country was an integral part of the Territories of Malacca, its Panghooloo an officer holding his powers of investiture from the Malacca Government, and subject to the jurisdiction of the Court....This principle I was fully prepared to enforce, but yourself as well as Mr. Anderson having recorded Minutes taking quite another view of the case, considering Nanning as an independent Malay country ruled by its Panghooloo and Four Sookoos, I did not think the object (requiring eventually the use of actual force) of sufficient importance to warrant my taking its further prosecution on my own responsibility under existing circumstances.

I think the petition of the party aggrieved should be sent to the Panghooloo by yourself with a letter requiring him to make compensation unless he can refute the charge, reminding him also that the lands in question as well as the lands of Nanning are the property of the British Government of Malacca and that he himself is their Officer.

The charges adduced by the Chinaman, as being duly sworn to, should also be sent with a summons against the offenders, and the

Panghooloo should be required to aid their apprehension and delivery to the proper officer....

I am not aware that any advantage could result from sending Mr. Lewis to Nanning: such should be resorted⁵ to only in the event of its being determined to take the Government of it into our own hands. There seems however no objection to the posting of a guard on the frontier, should the future conduct of the Panghooloo render such necessary for the protection of the inhabitants.

Garling replied, again next day:⁶

Conformably with your desire I have directed a letter⁷ to be framed to the Panghooloo of Nanning conveying the remarks detailed in your letter, and have also directed the Chinaman's deposition to be sent....

He resented Fullerton's shifting the blame on to himself and Anderson:

I regret that you should have esteemed it necessary to make the remark which your letter conveys with respect to the opinions entertained concerning...the connexion subsisting between Malacca and Nanning. It was a singular feature in the late Straits Government that the members of Council incurred responsibility without power — only one member of Council being present at the Seat of Government, Resolutions of the Board were invariably at the disposal of the Chief Authority, nor did I ever observe that Authority backward in the exercise of his privilege. In extreme cases only did I ever resort to the measure of recording Minutes, and such I esteemed that of Nanning — But considering the lengths to which the local Authority was directed to proceed, I must ever regret that if the Governor remained steadily of the opinion that Nanning was an integral part of the territories of Malacca,...that he did not exercise his prerogative and enforce the principle....

Fullerton won that round:

...I find it quite unnecessary to enter into a discussion regarding the late Straits Government, the constitution of which the third paragraph of your letter most clearly proves you have never understood.⁸

Nanning replied within the week: Lewis sent a translation⁹ of the letter¹⁰ on 13th October.

This letter from the Panghooloo of Nanning and the Four Sookoos, who send their compliments etc. to S. Garling Esq. .

The letter which this gentleman has sent has reached us and the contents are understood by the Dattoo Panghooloo.

With regard to the case of the Dookoos,¹¹ it was never the possession of Intye Sourin —

Malacca - No 11. - March 1829.

Read a letter dated 2. instant from the Resident Councilor reporting that an Envoysman Minister, transferred by General Doss to the Malacca Magazine Establishment, has been provided with a passage in the ship Competitor.

Ordered that the Minister be brought on the said Establishment of Malacca accordingly.

Read a letter dated 3. instant from the Resident Councilor, reporting having authorized the Master attendant to build two small Kijels, similar to the others.

Ordered that the Resident Councilor be called upon to furnish an estimate of the probable cost of the two Kijels aforesaid.

Read a letter dated 3. instant from the Resident Councilor, reporting having paid 300 Straits Dollars, for the passage of Lieutenant Mann, to Prince of Wales Island, and requesting further information regarding the rate of passage money to military officers.

Resolved that the expense incurred for the passage of Lieutenant Mann be sanctioned, but, in future nothing can be allowed in case of the 300 Straits Dollars per day authorized by the Regulations.

Malacca.
9th March 1829
J. Fullerton
J. Garling

Adjourned.
J. Fullerton
J. Garling

An Extract from Minutes of the Council of 'the Governor-in-Council', held in Malacca, dated 9th. March 1829.

Signed by: Fullerton.

Garling.

and Church.

Copied from the India Office Library, London.

Faint, illegible text, possibly bleed-through from the reverse side of the page. The text is arranged in several paragraphs and appears to be a formal document or report.

From time immemorial it has been the property of the Datto Panghooloo for the ground belongs to the English Company and the Panghooloo and Four Sookoos are the persons who have charge of it. The Panghooloo therefore has never taken the Dookoos belonging to Intye Sourin, the ground belonging to the Nanning Districts.

Respecting the Chinaman, the Dattoo Panghooloo has enquired about the case, in the presence of the police peon, and the things that were stolen from him.

The Dattoo Panghooloo asked him if he was certain that he knew the people that had robbed him, and whether there were any witnesses who saw the robbery, and whether he could swear to it, but the Chinaman would not swear and had no witnesses.

The Dattoo Panghooloo begs to inform the Resident that when the Chinese wish to go into the interior, they had better not be allowed to go alone, but go in company with two or three peons, when if any accidents of these kinds happen there will be witnesses of the transaction and none of these troubles will happen.

An equally faithful translation¹² reads:

This letter in reply from the Penghulu to the Raja of Malacca Samuel Garling. This letter from the Penghulu and Four Sukes with greetings (and full compliments)

The (Resident's) letter arrived and was listened to with care by the Dato' Penghulu: concerning the matter of the dukus in no way at all did Inche Surin own them: from age to age it was the Dato' Penghulu who owned them because the land was the property of the English Company who rule the Penghulu and Four Sukes;¹³ the Penghulu definitely did not take dukus of Inche Surin's because the dukus were inside the jurisdiction within the lands of Naning.

Concerning the Chinese, the Penghulu had already examined the matter together with the Mata-mata¹⁴ enquiring about the goods of which that man was robbed: the Penghulu said "If there has been a robbery is there any information (or, further detail) or is there any witness who saw the goods?" or else the Chinese should swear that it was absolutely true:¹⁵ the Chinese did not wish to swear and there was no witness. The Penghulu informs (the Resident) concerning the Chinese, if they wish to come up river, not to allow them one at a time: it would be better if two or three friends came together for if anything evil happened it would be good because it would be clear and would not become a dispute.

The Malay version contains nothing which can be interpreted as meaning that Chinese should go in company with two or three peons. Lewis's translation went to Fullerton, who commented:

The object to be attended to in our communications with the Panghooloo of Nanning must be to maintain the existing state of

relations...and to impress on the mind of that Person the necessity on his part of Strict obedience thereto. He should therefore be informed that it is very true that the lands of Nanning belong to the English Company: and that he as Servant and Officer of the Company has charge of them and that as such he is bound to obey the orders he receives. And as to the garden of Intye Sourin, it is the province of the master and not of the servant to determine whose property they are. The Government after full enquiry have found and determined that the ground is not within the limits of Nanning, but that it belongs to Intye Sourin, who is bound to render the Government one tenth of the produce. If, therefore, the Panghooloo has interfered with them, after this notification he will act in disobedience to the orders of his superior and will be treated accordingly. Your attention is also drawn to the third paragraph of Colonel Taylor's papers, and the Panghooloo be reminded and duly cautioned that unless he strictly attends to the orders conveyed in that document he cannot expect the continuation of the indulgence hitherto shown.

Fullerton's mind ran on from 'maintaining the existing state of affairs' to the possible financial consequences of a change:

As it seems possible from the extraordinary conduct of the Panghooloo that another communication to the Supreme Court may be necessary with reference to ulterior proceedings, it seems advisable to obtain as nearly correctly as possible an estimate of the probable receipts derivable from the tenth of the produce of Nanning, as well as the increase likely to result from the introduction of the Excise regulations into that District.¹⁶

Garling tried, in his letter of 23rd October, to stop this extension of the conflict.

The letter to the Panghooloo of Nanning shall be forwarded. He has complied with the requisition of the third paragraph of Colonel Taylor's engagement, so no notice therefore for the present need be taken of the subject.¹⁷

He followed this up on 28th October:

A translation of the Panghooloo's reply, which is drawn up in the usual evasive style of that Functionary, is enclosed.

In reply to the latter part of your letter I beg to state that the only Excise farms likely to be effective are the Opium and Spirits. But from the poverty and character of the people, and the difficulties against which the Farmer would have to contend, it is not probable that any material increase would be realised.

Mr. Lewis estimates the levy of the tenth of paddy at \$2,500 and supposed the expence of collecting, carriage etc etc might be 20 per cent.

This calculation is made under an assumption of the tenth being peacefully collected. Recent events may suggest the probability of very serious opposition being created at Nanning. Should Government determine upon the measure, and though Government could unquestionably succeed in the determination, the expence at the outset might be very great....¹⁸

The translation itself read:

The Dattoo Panghooloo and Four Sookoos have received the letter and understood the contents.

The lands that Intye Sourin claims are not his. The lands have been a part of Nanning from time immemorial. It is only of late that Intye Sourin has claimed these, for it has always been under the control of Nanning.

No date.¹⁹

A fuller translation of the Malay version²⁰ makes the reply much less discourteous or indeed evasive.

This letter makes clear the sincerity and greetings from the Dato' Penghulu and may with the help of Allah come before Raja Samuel ['Garling' was apparently omitted by the Nanning Malay Writer or by Blagden's copyist] who rules in the State of Malacca.

The Dato' and Four Sukus have understood the letter and its meaning but concerning the land of Inche Surin, that land is Nanning land and has been so for a very long time and as to Inche Surin's statement people are agreed that this is new for that land had from age to age been under the jurisdiction of Nanning.

Fullerton was not disposed to argue, and was about to retire. On 29th October he minuted:

All the former papers on this subject have been sent to the Supreme Government. It now remains only to transmit those that have lately passed, for their final orders. In the meantime the course to be pursued seems perfectly clear. When the season arrives at which any produce is derivable from the lands of Intye Sourin, care must be taken that a guard be sent there for the protection of the lands, to repel by force any attempt at interference, as well as to assist in the apprehension of any persons offering violence. The Panghooloo must be informed of the steps that will be taken and further told that he has committed a robbery on a British subject, and unless a sum of money equal to that value of the articles taken be paid, the Settlement made by Colonel Taylor will be at an end, and other measures resorted to for the management of Nanning; and he may be informed at the same time that no further communication will be made to him on the subject. You will of course exercise your discretion in the detaching of troops for the protection of the frontier or even to the

occupation of Nanning, if the conduct of the Panghooloo, pending reference, should in your opinion render such advisable.²¹

Garling wrote on 4th November:²² he acknowledged the Penghulu's letter and was astonished at its tone. Concerning the boundary land, had he not made it clear that it was Inche Surin who owned it? and this was clearly shown by an official document describing the land for a hundred years past until now, so why was the Penghulu behaving in this manner? It was quite certain that he was taking by force property of someone sheltering under the government of the English Ruler. If the value of the dukus was not paid to Inche Surin, he wrote, the agreement with Colonel Taylor would be severed; and perhaps Government should seek some other way of ruling Nanning. He did not wish to receive any letter whatever on this topic from the Penghulu, except that it had been settled.

This letter, though it followed Fullerton's instructions, was in less harsh a vein than the earlier letter, which had roundly declared that 'It is we alone who can decide what person owns that property, and after examination government has verified (*or* approved) that the land should have gone to Inche Surin',²³ a straight translation of Fullerton's directions. Garling himself seems to have had misgivings, for he instructed the Penghulu of Durian Tunggal to investigate the boundary between Parit Melana (a non-Naning Mukim) and Nanning. This led the Penghulu of Nanning to send another letter,²⁴ despite Garling's last sentence.

After full compliments.

The Dato' Penghulu informs (the Resident Councillor), concerning his order to the Penghulu of Durian Tunggal to examine — as if it were a law suit — the land on the boundary of Nanning and the land of Parit Melana, that the ancient boundary of Nanning, on the right bank going upstream, was from Pengkalan Sumpit and Lidah Tanah and Durian Sabatang (to) Lesong Batu and Bukit Berduri and Dusun Langsat and Bangkok Chandong and Bua' Makan Tanah and Batu Berkurut; and on the left going upstream from Bukit Gereja²⁵ and Titian Akar to Penudak Batang and Bukit Kayu Arang and to Bukit Pembagian and Ulu Ayer Betong and Kuala Ramuan China Besar: this was the boundary.

Moreover, Inche Surin has newly claimed/recently agreed²⁶ it is Nanning land and accordingly the dukus are not in redeemed land.²⁷

On the statement in the earlier letter that was brought...threatening dismissal of the Penghulu from office because of the dispute about the dukus, from time immemorial this has been the boundary between Nanning and the redeemed land, and the Dato' Penghulu has never given the duku land to Inche Surin: that land was within the jurisdiction of the Dato' of Nanning in the times of family inheritance²⁸ previously and in the time of the former English Rulers.²⁹

Lewis, when reporting the incursion of the Penghulu's men to destroy the crop, feared it might be 'only the commencement of this Man's impudent claims'; Garling took it 'as a public avowal of his determination to consider the lands...as subject to his own immediate control; Begbie, writing soon after the event, said that it appeared —

...as if Dool Syed has purposely fixed on this individual (Surin) on account of the transfer having been so recently made that it was perfectly fresh in the memory of his adherents and neighbouring Native powers, whilst its so occurring...in the very year...that he...first openly refused to obey...Government, the seizure was calculated to convey the impression of an open and contemptuous defiance of its authority.³⁰

Braddell, twenty-five years later, wrote³¹ that Dol Said 'threw off the air of reserve and respectful resistance which he had hitherto worn' and 'on the groundless pretext' of Surin's land went into outright opposition; in reply to Garling's letter 'a haughty and insolent reply was sent'.

Surin appears in the list of Landed Proprietors³² who received Garling's initial invitation to a conference as the proprietor of 'Pengkalan Auor', and he was present at the meeting with Lewis which accepted the idea of commutation but required a clause that the lands should be transferred back to the Proprietors if the British handed Malacca over to any other Power.³³ His estate was not described and he was not mentioned in Lewis's report for the Council of 30th January 1827,³⁴ nor in the valuation list in March,³⁵ but he was entered in the statement of lands transferred put before Council that June:³⁶ it was described as 'Pankallan Awor', of 2½ square miles, producing paddy, fruits and wood. Lewis, in reporting on Surin's complaint, described the estate as having been subdivided from the estate of 'Crochery,³⁷ Tuallong and Machap': his report mentioned that estate, of 'Koorbong, Machap, Tuallang and an island' as belong to the Heirs of da Costa. The next estate in the list for June 1827 was 'Sarang Gaja and Pantchor' of two square miles and producing paddy, timber and firewood, and fruit owned by 'Intgi Haroom'.

Surin's surrender was a surrender of his right to collect the tenth from others, and not of actual possession: he was entitled to the produce of the land managed by himself — and liable to pay a tenth. The incursion of the Dato' Naning's men and destruction of the crop was thus *prima facie* trespass and malicious damage against Surin, and loss of the tenth to Government revenue: if it was on Dol Said's orders, he would seem to have behaved as Lewis and Garling suggested, and perhaps with the motives attributed to him.

Though their account has been followed by some later historians,³⁸ the matter is by no means straightforward. On the one hand, there was the visit

by Neubronner and Valberg to check the title deeds on the ground, and they found that the trees were 'considerably within the limits, at least four miles', which must mean from the Naning border. On the other hand, there were Garling's instructions to the Penghulu of Durian Tunggal to report on the boundary, and Dol Said's three letters stating that the trees were in Naning territory, on Company/Government land ruled by the Dato' and Four Sukes.

When Lewis first visited Naning in 1827, Dol Said produced for him a document (which the Chief could not read) setting out the boundaries of Naning, and Lewis noted that there was a dispute with Harun (or Koek). When the Dato' and Chiefs waited on Fullerton in July 1827 they presented a petition referring to boundary disputes in Sungei Petai, Salis and Cheng. In his third letter in Re Surin Dol Said repeated the same boundaries and stated that the duku trees were on Government land ruled by the Dato' and Chiefs and not on resumed land. These statements on the boundary were never controverted by any official, though they were not affirmed in writing. In practice they were accepted: Lewis built a 'bungalow' at Sungei Petai on the border of Naning and Church was met there by Dol Said and his retinue.

If Neubronner and Valberg at any time submitted any reports or plans, they did not reach the Malacca Diary or Bengal. A contemporary map does however survive, in Moor's 'Notices of the Indian Archipelago'.³⁹ This does not say who drew it, but the detail tallies almost completely with a latter map⁴⁰ drawn in 1853 by Valberg — 'a surveyor in Malacca and formerly in the service of the Government' — for Braddell. If Moor's map was not drawn by Valberg, it was based on official records prepared by him. It shows the estates of Harun and Surin as lying on the Naning side of the boundary as stated by Dol Said (which is not shown), and the conclusion is that the map was wrong in this particular as it was in others, it shows Surin's holding as an approximate triangle with a base of one mile and eight and a quarter miles to the apex, as against the two and a half square miles Lewis recorded; it has Krubong on the wrong side of the river; and has Westerhout and Harun estates running north of the acknowledged border at Sungei Petai.

It is possible that Neubronner and Valberg, armed with the right deeds, went to the wrong land and saw the wrong trees;⁴¹ but Valberg was a professional surveyor. It is possible that Dol Said was lying from the outset, and stuck to his story; that does not seem in character, and the categorical statement in his third letter that the duku trees were not on resumed land was one capable of total proof or complete disproof. It is in character that, faced with delay and inaction in settling the disputed

boundary, he should make an irritated — and rather futile — gesture to force the issue. The balance of probabilities is that both Neubronner and Valberg on one side and Dol Said on the other were right: the duku trees were on land purporting to be a Dutch Grant, and that they were within Naning; and that the plans and deeds themselves were wrong. Nor is Valberg to be blamed: a glance at a typical Dutch Grant⁴² as late as 1794 (let alone 1720) will show what difficulties confronted him as a cartographer.

II

The Penghulu's latest letter was forwarded to Ibbetson. Fullerton's successor and now called Resident Councillor, on 26th November 1830.

Unless I hear from you I shall conclude no further measures are to be taken pending the result of the Commissioner's [Fullerton's] reference to the Supreme Government unless any violence shall be offered to the property or persons of any of our inhabitants. In this case I shall, unless you otherwise direct, act upon the instructions of the Commissioner in the letter referred to....⁴³

Ibbetson's covering letter to Bengal⁴⁴ was the turning-point in dealings with the Dato Penghulu of Naning.

Mr. Fullerton's last despatch on the subject of Nanning was addressed to the Right Honourable Governor-General in Council under date 5th November last, since when having been honoured with the sentiments of the Honourable Court of Directors thereon...I propose in continuation to offer some further suggestions for the consideration of the Hon'ble Vice President in Council as a perusal of that document has suggested.

2. The Hon'ble Court directed in their opinion Nanning forms an integral part of the territory of Malacca and that as such we of course possess sovereign authority over it. His Lordship in Council has already expressed concurrence in a similar opinion, as conveyed in his letter of 22nd October 1829 to the late Hon'ble Governor in Council, and the question therefore now is, whether our legitimate rights over that District are forcibly maintained, or compromised.

3. The Hon'ble Court observe in the 13th paragraph of their despatch that "*to secure a voluntary submission to our rule*" they would not disapprove "*of waiving the claim of Government to the tenth during the life of the present Panghooloo, or affecting such a compromise with him as you may find practicable*".⁴⁵ but it is my opinion, supported by those of my Deputy and Assistant, that the Panghooloo has proceeded too far to listen to any compromise that would be satisfactory to us, or

indeed anything short of total surrender of our rights.

4. He has been repeatedly written to as well as verbally directed to make his appearance at Malacca, in order if possible that differences might be amicably adjusted, but he resolutely refuses to obey or make the least advance towards a mutual accommodation, and the sequel of his correspondence, which I have the honour to transmit in continuation of that already forwarded in Mr. Fullerton's despatch above-mentioned, but too obviously evinces anything but a disposition to re-establish a friendly intercourse.

5. The effect of such conduct cannot fail to be extremely injurious, particularly in our collection of Tax from other districts, and in the example it holds out to similar opposition to our orders. In considering the conduct of the Panghooloo throughout, I cannot avoid coming to the conclusion that he has been somewhat encouraged in his proceedings by the impunity of his Transgressions, and that nothing now will reduce him to reasonable terms and check his insolence and encroachments but the evidence of our power to effect both. His seizure of Intye Sourin's property and the style of his correspondence in support of that act, is sufficient evidence for such a conclusion, in my judgement, and although his letter enclosed in one of Mr. Garling dated 13th October last, he admits that Nanning is the territory of the Company, yet he still continues to act and write in a style as if in mockery of such a confession....

The Chief Secretary to Government replied in April 1831:

My despatch of 14th January last will have apprised you of the sanction of the Supreme Government to the measure of stationing a detachment of native infantry in Nanning as a temporary measure, which the Vice-President presumes will afford you the requisite means of coercing, if necessary, the refractory Panghooloo whose territory it has now been decided by the Hon'ble Court of Directors is a dependency of Malacca,

3. With regard to the tenth of the produce which has hitherto not been exacted from Nanning, I am directed to observe that the Vice-President in Council sees no good reason why the people of Nanning should be exempted from the payment of Revenue more than our other Malays and subjects in the Straits, but His Honour-in-Council desires to leave you a discretion to act in the matter as you shall deem most expedient with reference to all the circumstances and considerations stated. You will be pleased to report, with reference to the tenth being the right of the Government, what share of the produce belongs to the Panghooloo and whether his is properly maintained out of the tenth due to the Government or from other sources appertaining of right to himself....⁴⁶

Ibbetson acknowledged this:

I have the honour to acknowledge receipt of your despatch of 23rd

April and to apprise you that your despatch therein alluded to of 14th January has not yet reached me. I shall report again especially on the point submitted in the third paragraph of your letter; as well as generally, on the success of a stationary detachment when I arrive at Malacca, to which settlement I proceed in a few days....⁴⁷

He reported again in a despatch from Malacca dated 19th August 1831.

I arrived at this Settlement on 2nd of July and issued directions for the occupation of Nanning, the Panghooloo of that District still pertinaciously declining any accommodation short of actual independence.

The instructions which I gave, of which a copy is appended, were dictated in the fullest persuasion, not only of myself but of every Inhabitant of the place, and recorded by Mr. Fullerton in his letter to His-Lordship-in-Council dated 5th November last, that the force sent would have been amply sufficient to intimidate the Panghooloo against resistance, and speedily to overcome the few obstacles which so rude an Enemy, assisted only by a jungly Country, would be able to oppose. The Contempt felt indeed for the Enemy proved one of the greatest Misfortunes, as the ease and alacrity with which it moved forward to within two miles of the Panghooloo's residence without any opposition induced the party to leave their rear neglected, which enabled the Enemy, by cutting down the Trees across the Road they had already passed Completely to intercept Supplies of provisions and even Communications with the Depot at Soongye Puttye.

On 31st Ultimo I sailed for Singapore, in the fullest Confidence as already observed that matters would be adjusted without a struggle....⁴⁸

Marx's dictum that history repeats itself first as tragedy and then as farce has rarely been more comprehensively illustrated than by the Dutch and British expeditions to Nanning. Where van Vliet lost Forsenburgh, Menie, and twenty-seven others dead and abandoned his treasure chest, this time (according to Abdullah Munshi, who was in Malacca) Lewis —

...came rushing back...looking as if he had escaped death by inches. All the officers and soldiers withdrew in haste to Malacca, having been surrounded by the up-country people who took them so completely by surprise that they lost their guns, rifles, tents, ammunition and the Company's equipment. All of it had been left behind and every scrap taken by the country people.⁴⁹

Well might he comment 'Allah knows best'.

Begbie, then a subaltern in the Madras Native Infantry, commanded the six-pounders and sappers on both expeditions, and nothing can take the place of his detailed account of the military operations. He himself wrote

that it was 'difficult to relate the facts without verging on ridicule and venturing on sarcasm';⁵⁰ anyone who has ever commanded a platoon on a training exercise will immediately recognise all the ingredients of a major and continuing GMFU,⁵¹ and if he has also walked that countryside he will read it with unalloyed delight.

III

Lewis, with the title of Commissioner, set out at 4 a.m. on 6th August accompanied by a force of one hundred and fifty sepoy rank and file, twenty-four gunners and sappers and four officers, together with convicts and coolies as a carrying party, all under the command of Captain Wyllie. They reached the new bungalow at Sungei Petai, and Lewis sent a letter in his own name to the Dato' Naning. This letter⁵² was in lofty terms 'from us William Lewis' and announced his arrival with an armed force to settle and arrange the affairs of Naning on the same basis as in other parts of Malacca. The actions of the Penghulu in the dispute with Surin had aroused the 'princely wrath'⁵³ of the Company on the Penghulu, who was to be excluded from the government of Naning, and unless he desisted he could govern no longer. With the letter was sent a proclamation by the Ruler of the three countries of Penang, Singapore and Malacca, and the Penghulu could read what was written in it. Lewis's wish was that the Penghulu should immediately come down to Malacca, and if the Penghulu did not come and meet him on the road the next day Lewis would conclude that the Penghulu wished to fight the Company's rule. The Penghulu should come with only the four Sucus and without arms: if there were more than five people, without fail there would be immediate musket-fire on those assembled. If the Penghulu and four Sucus came to Lewis and surrendered, the Penghulu would be safe in life and limb.

Lewis sent the letter by messenger with a flag of truce: the messenger was stopped at Kelemak by Panglima Dato' but went on towards Taboh Naning. Next day at sunrise, before there was any answer, Wyllie ordered the force forward into Naning — no doubt adopting the vigorous and decided measures his predecessor had promised at the time of Church's mission and at Kelemak, according to Begbie, it came under fire. Panglima Dato' 'stood or rather danced...clothed in scarlet broadcloth, brandished a spear in his left hand while his right was armed with a sling...' The leading gun was brought up and fired some rounds of grapeshot: 'the Panglimah stood a couple of rounds: but the third took him in the midst of a *demi-volte*, and his followers instantly dispersed.'⁵⁴ The force pushed on, ignorant that the supply boats had grounded at Cheng and of the panic sweeping

Malacca, burned down the house of Dato'. Embangun⁵⁵ (like the Dutch before them), bought some rations from a Chinese sundry-shopkeeper in Alor Gajah, pushed on again and next day burned down the house of Dato' Melalu,⁵⁶ reaching Melekek before the fourteen-day retreat began. The rearguard reached Malacca on 25th August,⁵⁷ at about the time Dol Said gave a victory feast for which he had slaughtered one of the buffaloes which had been impressed in the absence of bullocks to haul Begbie's lost guns.

The Penghulu and Sukus replied to Lewis⁵⁸ and wrote to Garling.⁵⁹ To Lewis they said that they had not modified in any way the loyalty which they sworn to various rulers down to the time of Farquhar: now Lewis intended to destroy the Chiefs of Naning, but Lewis knew that the Penghulu and Sukus had in no way altered the ancestral rights of the people of former times.⁶⁰ The letter to Garling was translated⁶¹ by Lewis, and was received the day the rearguard reached Malacca.

This letter is from the Dattoo Panghooloo of Nanning and the Dattoos Ampat Sookoos with their compliments and with sincerity by the help of God is addressed to Resident Mr. Garling who governs Malacca.

The Dattoo Panghooloo and the Dattoos Ampat Sookoos present this letter in lieu of the Dattoo Panghooloo meeting the Resident at Malacca.

The Dattoo Panghooloo and the Dattoos Ampat Sookoos state their friendship and faith are unaltered from that of their ancestors.

The Dattoo Panghooloo states first that Mr. Lewis sent a paper to the Inhabitants of the country under the Panghooloo of Nanning stating that the Dattoo Panghooloo and the Dattoos Ampat Sookoos were discharged. After this Mr. Lewis came to Nanning and brought a great many soldiers together with cannons and began to fight and burn the houses of the Dattoo Panghooloo and Dattoo Ampat Sookoo. He also fired and people were killed. This is what is stated to the Resident.

Now the Dattoo Panghooloo and the Dattoos Ampat Sookoos are very much frightened and earnestly request the Resident to remove the gentlemen from the lands of Nanning.

The Dattoo Panghooloo further states that when any enemies were coming from the interior the Dattoo Panghooloo reported this to Malacca and if the enemy came from seaward the Resident gave notice to the Interior. This is what was sworn on the Koran in the office and has never been altered.

Garling's reply⁶² made another attempt to get the Penghulu to come to Malacca, and the latter part of it sounded almost like a personal appeal.

...Mr. Garling takes this opportunity of reminding the Panghooloo

of the disrespect and insubordination evinced by him of late years, in refusing to come down to Malacca when directed to do so conformably with ancient usage, in preventing officers of Government from taking the census of the Country, and refusing them the usual protection while they passed through Nanning lands, and lastly on seeking the fruit and claiming the ground of Intye Sourin, when the Panghooloo was acknowledged in all his letters even the whole territory of Nanning belongs to the Hon'ble Company....

Mr. Lewis was accordingly directed to proceed to Nanning, but the conduct of the Panghooloo having erected the suspicion that Mr. Lewis would not be permitted quietly to carry out the commands of the British Government into effect, it became necessary that a military force should accompany that gentleman, the Hon'ble Company having a right to order a military force to move through any part of their own territories....

Mr. Garling is however disposed to view the Panghooloo's letter in a favourable light. He is willing to believe that the Panghooloo has been labouring under great misapprehension (of) the views of Government. If therefore the Panghooloo will come down to Malacca and offer proper security for his future good behaviour, in continuing to submit himself to the orders and wishes of the Hon'ble Company as heretofore during the administration of Major Farquhar, Mr. Garling will make a representation on the subject to the Higher Authorities, and it may possibly be the means of avoiding the consequences of these measures, which under other circumstances will inevitably be ultimately determined on.

Mr. Garling promises the Panghooloo of Nanning faithfully that the person of the Panghooloo shall be secure, and that whatever may be the result of the conference the Panghooloo shall be permitted to quit Malacca without any personal injury to himself or to any of his followers. It is however necessary for Mr. Garling to state that any one of the Panghooloo's Sookoos will not suffice: Mr. Garling will communicate only with the Panghooloo himself.

The reply was received on 29th August.⁶³

...The Panghooloo and Sookoos send this letter in lieu of meeting the Resident. The Dattoo Panghooloo states that Mr. Lewis first asked for the tenth from the Dattoo Panghooloo. The Dattoo Panghooloo desired him to take it, but it was not the custom as handed down from their ancestors, and that he must ask for it himself.

After this Mr. Lewis gave out to the people of the country proclamations that the Dattoo Panghooloo and the Sookoos were discharged.

Mr. Lewis then came up the country with a number of soldiers and guns. Between Soongye Pattye and Calama the Dattoo Panghooloo sent an Hulu Balang⁶⁴ with his adorned spear and three persons, to receive the persons coming as they were gentlemen of rank.

But they were fired at by musketry and guns, and the Hulu Balang

was killed and the war commenced. He then set fire to the house of the Ampat Sookoos and went up to Mullikey and then again commenced fighting.

The Dattoo Panghooloo has never changed the faith that has always existed as handed down by his ancestors. That is what he has to inform the Resident.

The Resident's letter has been received by the Panghooloo of Nanning and the contents are understood.

On 19th August, in his first report to Bengal on the calamitous expedition, Ibbetson had written:

There are said to be present with the enemy at Soongye Pattye, Raja Alli Chief of Rambow, Ramat and Pekat two of his Panghooloos, Syed Shaaban his son-in-law, the Panghooloo of Nanning, the Panghool of Geminchi, the Dattoo of Klana, the Chiefs of Soongye Ojong and Suri Minanti, the Panghooloo of Linggy, with 4,000 men, only half of them armed.⁶⁵

This seems to be rumour begotton of the fears that paralysed Malacca town: certainly men of Rembau came to help Naning, but while Dol Said was still a man of influence in the Minangkabau States, there is no evidence of a general alliance against Malacca.

In 1830 Raja Labu (who four years earlier had come from Sumatra through Malacca and had been escorted by Dol Said to Rembau where he was installed as Yam Tuan Besar) began hostilities against Raja Ali, a rival claimant. Raja Labu was supported by Johol, Sungei Ujong and Sri Menanti but Raja Ali held out, and Dol Said as mediator induced the three Chiefs to withdraw their support.⁶⁶ Raja Ali counter-attacked Sri Menanti, and Raja Labu arrived in Naning and then went on to Malacca.

According to Begbie, when the Dato' Naning received news of the expedition mounted against him —

...this wily Chief immediately dispatched letters to Rajah Alli of Rumbow, transmitting the forged information that the ulterior object of Government, after the subjugation of Nanning, was the reduction of Rumbow to a British province under his aunt's husband, Rajah Laboo.⁶⁷

Raja Ali wrote to Ibbetson, and was told verbally that the Company had no such intention, but a confirmatory letter went astray. This is corroborated by a letter from Garling, dated 20th August, to Raja Ali:⁶⁸ it mentions a letter sent by the *prau* of a Linggi man which had apparently become lost. Begbie described how Syed Shaaban hid in the jungle and examined every member of the expedition as it passed to determine whether in fact Raja Labu was in fact being brought up for installation in

Rembau — a revealing sidelight, if true, on the flank protection employed in this campaign. But other steps had already been taken to detach Rembau from Nanning: on 19th August the Resident's office received a letter from Syed Shaaban to 'Big Barchie' Westerhout, in which the writer stated his price, \$500. Presumably there had been some previous contact between the two, though the letter⁶⁹ did not say so; if not, the treachery was even more distasteful. The deal was made in eight days: in a letter dated 27th August Ibbetson reported that 'the five hundred dollars bargained for by Syed Sabban has accordingly been paid, through the Agency and in the name of Mr. Westerhout....',⁷⁰

On 19th August (three days after Lewis and Wyllie regained Malacca and while the main body of troops was standing seige at Sungei Petai bungalow) Ibbetson wrote to Garling.

I have no reason to doubt the good faith of the natives of Malacca territory, but the repulse we have already met with induced many from fear to withhold present assistance....I shall refrain for the present to offer anything decided upon this most unexpected attack, further than it now becomes more indispensable than ever for the maintenance even of our present influence in this quarter, that the original object of the expedition should be carried into effect. The Revenue to be gained by it probably will not compensate for the expense, but the temporary encouragement gained by the piratical and plundering hordes⁷¹ around us must be put down, if only avoid insult for the future. I much fear that our former influence and good feeling with the Malays in the Peninsula, strengthened as these were by a comparison of our actions with those of the Dutch authorities then also in the Straits, is now considerably worn, particularly since our reception of the Siamese, to the prejudice of the former. As the Malay States become more and more disjointed and misgoverned, petty independent Chiefs living by plunder proportionably increase, and nothing but the power to punish them with effect will ever deter such characters from insulting our authority, whenever opportunity and the prospect of plunder unite to the attempt. Mr. Lewis will accompany the troops, with directions from yourself, settle the District in the manner pointed out in Mr. Fullerton's Minute of 29th January 1828, viz. by "placing it precisely on the same footing with the other districts of Malacca", reserving however for the present the levy of the tenth until we are better acquainted with the State of the District and the general disposition of the Inhabitants. Enclosed I transmit a Proclamation to this effect, a translation of which into the Malayan language shall immediately be prepared.

As Mr. Lewis will not be able to remain in Nanning absent from his other duties at Malacca for any long continuance, I have arranged with the Commanding Officer of the Troops to leave Lieutenant and Adjutant

Milne in charge of the detachment there, and to act also in a civilian capacity under Mr. Lewis upon a salary of 200 Rupees per month....[Milne would withdraw later]...but it will nevertheless be expedient that Mr. Lewis should be there as much as possible at intervals until the country is finally situated (sic: subjugated?) and even then his occasional visits there, as well as in all the other country districts, will be equally necessary for the purpose of keeping up that intercourse and good understanding so requisite among a people so entirely ignorant of our laws and customs.

Should the Panghooloo escape all efforts to apprehend him, and by retiring beyond our frontiers still endeavour by his traitorous acts hereafter to disturb the peace of our territory, it will be politic to offer \$1,000 for his apprehension sooner than incur the trouble and expense which the pursuit of him would entail. The office of the Panghooloo appears to be hereditary: if therefore upon enquiry on the spot by Mr. Lewis it would appear that any of his family are eligible for those situations and that it would at the same time tend to the quiet of the District to appoint them, I see no particular objection to the measure unless it was likely to keep alive a prejudice in favour of their ousted relative injurious to present interests and of course to be avoided. Strict previous investigation must decide this point.⁷²

The draft Proclamation was in rolling periods with a libertarian ring:

“Whereas the Panghooloo Doll Syed of Nanning by his effrontery and rebellious conduct in the refusing to obey the orders of Government of which he is a servant, having forfeited all claim to future countenance and power, this is to give public notice to the Inhabitants of that District that a force is now entering it solely to effect his apprehension and punishment.

The Inhabitants of Nanning are enjoined, as they value their own happiness and comfort, to remain quiet in the peaceable occupation of their several callings, in which case no evil will befall them. They have as yet committed no harm and greater freedom will be their reward. They will in future be relieved from all vassalage and feudal services and the free employment of their own (labour) will be theirs. In all respects except in the collection of the tenth, they will be placed on the same footing as the rest of the inhabitants of Malacca, but the tenth will not be taken until the country is improved and the Inhabitants better able to afford it. New Panghooloos will in the meantime be appointed and selected from the Inhabitants of Nanning, and the same police laws and freedom will in future be observed.

All the Inhabitants of Nanning must know that Nanning has ever belonged to the Honourable Company.

He also wrote to Bengal⁷³ but in a rather different tone.

The question I presume now to be determined regarding [Naning] is whether to proceed in its entire subjugation...or, by political arrangements, rest contented with only trifling concessions, thereby leaving the Panghooloo much as he has been, nominally dependant yet perfectly free. I do not on my own part hesitate a moment in suggesting the former. The Supreme Government cannot yet be perfectly aware of the weakness of the authority of Government over all the country districts two miles beyond the Town, as except from the reports of Mr. Fullerton, wherein Nanning and Moar alone are mentioned as disaffectedly inclined, little has been brought to notice. But the district of Linggy, and all the country districts bordering upon Nanning, are more or less indifferent to our orders and require, if I may so express myself, a thorough drilling for some months to awaken them to their duty. Until this is done, I despair of improvement in the Revenue. Mr. Fullerton has already built some temporary sheds and bungalows about the country, the object of which was to encourage more general intercourse with the natives, but two of these, at Soongye Pattye and Cheng, are now destroyed by the enemy, and it is evident to me that neither Mr. Lewis nor any of his clerks will venture much beyond the Town to superintend the land department, and how the revenue is ultimately to be collected and assessed remains at present doubtful...

Next he made sure of Rembau. On 13th September he wrote to Raja Ali at some length:⁷⁴

...The Resident of Singapore, Prince of Wales Island and Malacca has lately been taking into consideration the letter and acts of the lang de Pertuan and Dattoo Panghooloo Lela Maharaja together with Four Sookoos of Rambow and now considers it necessary for the future peace and good understanding of both parties to come to the following explanation.

In the first letter of the lang de Pertuan and Four Sookoos a question is asked, whether the English intended to assist the Rajah of Minangkabau, and this question appears to be put forth because that Rajah happened to be residing at Malacca. Our friend must surely be aware that the English never prevent the residence of any individual at any of their Settlements, and my friend should not on such grounds imagine that the English have any disposition to espouse his cause.

I replied however to my friend's letter to Mr. Garling upon this point, and sent it via Lingee; notwithstanding which my friend appears in arms against me, aiding and abetting the rebellion of the Panghooloo of Nanning.

Now my friend must be aware that the territory of Nanning has belonged to the Company from generation to generation, that the Dutch formerly and latterly the English always appointed the Panghooloo and

that until lately he obeyed the orders and instructions of Government. So long as this continued everything was quiet, but a different line of conduct has lately been pursued by him, and the subjects of Malacca even are now oppressed by the Panghooloo of Nanning, who claims authority over ground never hitherto considered within the limits of that district, thereby making himself entirely independent.

Now if my friend and other Rajahs in the neighbourhood of Nanning intend to support the Panghooloo in these acts of disobedience and aggression our friendship and existing engagements must cease, and it would be better at once to confess this intention openly, than to give secret aid in order to prevent the just views and rights of Government and I now call upon my friend thus openly to declare his sentiments and future intentions.

My friend must be aware that the Revenue of Nanning is not to the Company worth the expense of collecting; therefore for anyone to suppose that the attainment of it is now the object of Government, is to suppose what is very wrong. For my friend further to imagine that in the late march of such a handful of troops towards Nanning any evil was contemplated towards his country is also equally surprising for how could 100 men think of attempting a conquest of that kind? Once for all then let me assure my friend on the faith of the British Government, that the possession of an inch of his territory is not even coveted; the English Government have (sic) already made more territory than it wants; and that of Malacca does not half pay for the expense of collecting its revenue and the protection it requires; still it must be protected better than at present, which affords further proof of the inutility of getting more. My friend must also be aware that it is not the Custom of the British Government quietly to submit to insult and oppression, to avenge which means will not be wanting whenever necessary. Let me now then ask my friend in candour and in truth the following question.

What are his intentions should troops again attempt to march into Nanning under the explanations above afforded? What are the countries included under the control of my friend and the Dattoo Panghooloo Lela Maharaja and four Sookoos?

Whether my friend is desirous of entering into any new engagement with the English and if so what is the nature of his stipulations he would wish to make?

The letter was persuasive enough to lead Raja Ali, together with his mother, son-in-law Syed Shaaban, Maharaja Lela and the Sukus of Rembau, with a hundred and fifty men, to meet Ibbetson, Lewis and Westerhout at Linggi and to make an agreement by which Nanning lost its oldest and closest ally.⁷⁵

IV

Dol Said, for his part, prepared for the attack which he knew must inevitably follow: all Malacca talked of it.⁷⁶ He sent emissaries to the areas in the 'interior' adjoining Naning, which according to Begbie were ...incursions into the territory of Malacca proper, as if in retaliation for the damage which his people had suffered. He therefore enforced a tax of twenty reals upon each village, most of which, dreading the consequences of a refusal, complied with the demand.⁷⁷

One group of these envoys, consisting of Panglima Besar of Dol Said's kin, Panglima Arip brother of the Panglima Dato' killed at Kelemak, and five others, went to Parit Melana, where on 24th September they were captured by the Penghulu of Durian Tunggal and his men: they were sent to Malacca. The Panglima Besar stated in a deposition taken there that the Penghulu of Ulu Bertam went to Dol Said and 'agreed to be firm and friendly to his party: the Panghooloos of Soongye and Baroo Gantece (perhaps Sungei Baru) had also been with the same purpose', and that they, the seven, had also been to Cheng, Paya Rumput, Pengkalan Tampoi and Rembia, when Pandika Tamby had been with them carrying a tufted spear.⁷⁸

Apart from this, Dol Said prepared, or improved, stockades on the approach from Malacca, for when eventually Lieutenant-Colonel Herbert, appointed to command the expedition, and his force were ready to move, Ibbetson's instructions to him included the following:

...6. Commencing at about one mile beyond the Depot⁷⁹ towards Taboo thick forests intervene, intersected with Rice fields, and in the former stockades are erected at the following positions —

- 2 in the Soongye Pattye forest about 1 mile from the Depot
- 4 at Ayer Pootee where Lieutenant White was killed
- 1 in the Jungle, behind the bungalow, very large
- 2 at Calama where the first Panglima was killed
- 2 at Alloo Gajah

The above are built of felled timber.

About 3 miles from Preegi Datu towards Taboo there are forty stockades as follows all built of mud with the exception of...⁸⁰

- 3 at Preega to Datu
- 6 at Mullikkee about 200 feet from the road
- 26 at Peeling (a Hill) scattered on each side the road about 300 feet from each other

- 1 on the hill built of wood beyond the Panghooloo's house
- 3 between his mother's grave and Peeling of mud of 4 sides
- 1 at his mother's tomb two sides only.⁸¹

While the expedition was being slowly put together with men and supplies from Penang and stores from Madras, Ibbetson thought about the possibilities of the future settlement: on 20th November he wrote to Bengal:

I at one time considered that an accession of territory was not so much the present object, compared with the maintenance of our own legitimate rights. A compromise might be effected with the Panghooloo of Nanning, by which boundaries for the future might be altered and defined, and breaking off thenceforward all further connection with him as an Officer of Government and considering him in future as an independent friendly neighbour. In such a case I would have suggested a boundary as follows: The river Londoo from its mouth as far as Ayer Eetam to the Malacca River at Klama, a distance of about four miles, then to follow the Malacca River to about Sedannang, and from thence another road of 12 or 15 miles to our Western (sic) boundary the Cassang river....

The decision however was being taken at the highest level, at just about the time Ibbetson wrote: on 20th November the Secretary to the Governor General addressed the Chief Secretary at Calcutta.

...the Governor-General concurs with the Resident in deeming it expedient that Mr. Ibbetson shall be authorised to enter into engagements with any surrounding States or Chieftains for the purpose of assuring them of our having no designs on their territories.

3. With respect to the course of policy to be pursued towards Nanning, or in the general administration of the territory of the Malacca Settlement, the Governor-General considers the Government to be so fully committed to the measures proposed by the Hon'ble Mr. Fullerton and sanctioned by the Hon'ble Board of Directors, that the execution of them must be persevered in. Indeed, while the Panghooloo of Nanning is in open rebellion, setting the forces and military power of the Government at defiance. no good purpose will be answered by any indication of a disposition to reopen the question affecting his rights, or to reconsider the expediency of the system of Revenue administration determined upon. The submission of the country and the Panghooloo's unconditional surrender, or expulsion, must precede any arrangements for the future management of the tract, and at present the efforts of Government and of the Resident must be confined to these objects. As a means of effecting them, I am directed to suggest that it may be expedient to give Mr. Ibbetson authority to entertain and discipline some natives of the

country to act with the Madras troops in future operations....⁸²

This was immediately passed on by the Secretary to government to Ibbetson, now 'Resident at Singapore', with the

...desire that you will be pleased to give effect to the plans suggested by His Lordship to entertaining and disciplining some natives of Malacca to meet with Madras troops, should you be of the opinion that dependence can be placed on their fidelity.⁸³

This despatch did not reach Ibbetson until January, when he expressed his deep gratitude for His Lordship's suggestion and described

...the extreme utility of such measures, not only because the men are better adapted for the duty but also from the confidence that the employment of them cannot fail to give to their fellow countrymen, our guides and coolies, as well as the effect it will also have on the minds of the Rebels by showing that our resources are not limited to our own troops....⁸⁴

While the expeditionary force was being organised in Malacca, Dol Said indulged in one act of bravado, or desperation: when seven convicts escaped from Malacca and were caught in Naning, he had six of them killed over the grave of Panglima Dato', keeping one to read the Koran to him for the time, until he too was killed.⁸⁵ At the time of Ibbetson's agreement with the Chiefs of Rembau, Dol Said apparently wrote to various people in Malacca asking them to intercede for him but their replies, upon instructions, told him that he must surrender unconditionally.⁸⁶

The campaign began on 7th February 1832, when the advance guard marched out of Malacca. Before it left, Ibbetson's proclamation was issued, and Dol Said and five others were proscribed, with rewards offered. The price for Dol Said was \$1,000, in accordance with Ibbetson's instruction to Garling: the others were rated at \$200 each. They were Dato' Andika, Petah Melayu, Pendika Tambi of the tufted spear (son of Dol Said's mother's sister and grandson of Dato' Anjak)⁸⁷ and two men, Ahat and Mahmood, who were not Naning men but had joined Dol Said after they had been stopped from collecting the tenth, allegedly for the 'Rajah of Muar', at Chabau and Rim, south east of Naning. Ibbetson was quite sure that this would be successful, and wrote to Bengal:⁸⁸ 'I am sanguine in the belief that more gangs than one are ready to attempt the prize whenever the advance of our troops shall have somewhat routed those of the enemy'.

Herbert had absorbed the lessons of the first campaign perhaps too

Two Proclamations issued in Malacca in the Jawi Script, with transliteration in Romanised Malay. The longer proclamation, dated 9. February 1832, offers a reward of One Thousand Large Dollars for the capture and delivery of Dol Sa'aid, and the sum of Two Hundred Large Dollars for the arrest of four of his supporters, who are named. The Short Proclamation offers a Reward of Two Thousand Large Dollars for the arrest of Dol Sa'aid. It was issued in Malacca on 24th. July 1832.

PELEKAT

MELACCA
POLICE DEP.

Bahawa bala tentera company hendak kembali naik ka-Naning akan hendak mengalakan kapada yang membuat derhaka di-Naning maka ada-lah di-beritahu kapada segala orang2 yang ada tinggal di-Naning itu atau mereka2 yang ada tinggal di-dalam daerah yang ada dekat2 itu jikalau ada ia tinggal dengan diam-nya atau dengan pekerjaan-nya yang selama ini terdapat tiada melainkan di-peliharakan oleh Officer Government akan rumah tangga dan anak bini harta benda sakalian-nya itu .. jikalau ada demikian itu pada kamudian hari-nya nanti Government boleh membalaskan di-atas-nya itu dengan kebajikan jua ... jikalau tiada demikian itu dan dapat rumah tangga-nya tertinggal naschaya binasa-lah oleh bala tentera itu ... Shahadan barang siapa yang boleh menangkap serta membawa Dol Sa'aid orangyang kepala derhaka yang ada tersebut di-bawah ini terdapat tiada melainkan boleh-lah menerima upah-nya saribu ringgit besar Dan lagi barang siapa yang boleh membawa pula orang2 yang tersebut di-bawah ini maka boleh menerima upah-nya kapada sa-saorang dua ratus ringgit besar

Sa-orang nama-nya Anikka Suku Anak Melaka di-Naning

Dan sa-orang nama-nya Rita Melayu yang ada tinggal
Daerah Gajah Mati

Dan sa-orang nama-nya Pendekar Tanbi yang ada tinggal
di-Melaka Pindah

Dan lagi sa-orang Enche' Muhamad dan Enche' Had
orang Jamnati Tanah Muar

Terkarang pelekat ini kapada sembilan hari bulan Februari
1852 .

فلكة

ممبر يتا هو كند سخال اورغ باو شياني منقلا ف
دول سعيد بنغ لاري در نانغ ايد بوله منلا ف
كرو نيا در كنف ني دوامه بوم فلكة بسلا ف
ملا ك ٤ ٢ ٣ ٤ ٥ ٦ ٧ ٨ ٩ ١٠ ١١ ١٢ ١٣ ١٤ ١٥ ١٦ ١٧ ١٨ ١٩ ٢٠ ٢١ ٢٢ ٢٣ ٢٤ ٢٥ ٢٦ ٢٧ ٢٨ ٢٩ ٣٠ ٣١ ٣٢ ٣٣ ٣٤ ٣٥ ٣٦ ٣٧ ٣٨ ٣٩ ٤٠ ٤١ ٤٢ ٤٣ ٤٤ ٤٥ ٤٦ ٤٧ ٤٨ ٤٩ ٥٠ ٥١ ٥٢ ٥٣ ٥٤ ٥٥ ٥٦ ٥٧ ٥٨ ٥٩ ٦٠ ٦١ ٦٢ ٦٣ ٦٤ ٦٥ ٦٦ ٦٧ ٦٨ ٦٩ ٧٠ ٧١ ٧٢ ٧٣ ٧٤ ٧٥ ٧٦ ٧٧ ٧٨ ٧٩ ٨٠ ٨١ ٨٢ ٨٣ ٨٤ ٨٥ ٨٦ ٨٧ ٨٨ ٨٩ ٩٠ ٩١ ٩٢ ٩٣ ٩٤ ٩٥ ٩٦ ٩٧ ٩٨ ٩٩ ١٠٠

P E L E K A T

Memberitahu kapada segala orang barang
siapa menangkap Dol Sa'aid yang lari dari
Naning itu boleh mendapat kurnia dari Company
dua ribu ringgit besar ada-nya

Melaka 24hb. Julai 1832 .

T. Tangan: ?

well: he did not use the river and risk boats running aground, or propose to leave trees standing for the enemy to fell across his Lines of Communication or for ambushes.⁸⁹ His plan was to clear-fell a track⁹⁰ for use as a military road capable of taking bullock-drawn vehicles, with corduroy matting and filling across swamps and rice fields. The administrative tail was very considerable: after the advance had started Herbert asked through Garling for reinforcements of troops, sixty gun bullocks and one hundred carriage bullocks from Madras, and Garling added their fodder; they also asked for tentage for 1,500 men plus the European artillery, and Herbert justified this by saying that he needed bullocks and carts for the carriage of 'tontage and Baggage of my European officers whose health will be destroyed by exposure to the Sun and Rain',⁹¹ and tent lascars to pitch and strike the tents.⁹²

The force, working through its own territory, reached Rembia — 10 miles as the crow flies, and 10³/₄ by the present road — on 25th February, and established its depot. It reconnoitred Sungei Petai, two miles further on, on 13th March and established Headquarters there on 27th March. While the force was approaching Rembia, Dol Said wrote to Westerhout, offering to meet him at Sungei Petai, to return the captured six-pounders, and to abdicate in favour of his nephew, provided that no further action was taken against him. Westerhout, on instructions, replied that he must surrender unconditionally and come to Malacca.

On receiving this reply, although his life was guaranteed to him, Dool Syed is reported to have exclaimed that his death, banishment or perpetual imprisonment was decreed by Government and rather than perish so ignominiously, he would fall fighting and leave a name example to his posterity.⁹³

By the time the expedition reached Sungei Petai and the boundary with Naning, Ibbetson was no longer hopeful of Dol Said's capture: on 5th April he wrote to Garling:

Whether he will surrender, is in my opinion extremely doubtful: revered for sanctity, his personal wants being so few, I think it more likely that he will fly the country than trust to the clemency of the Government....In either case the comparative advantages of retaining the country under our own management, or of transferring it to one or more of the neighbouring Chiefs or of restoring it back to the Panghooloo after his submission, upon security for the performance of conditions, are points depending so much upon contingencies and invoking questions of tranquility hereafter that it is difficult to decide at present. I am now inclined to encourage the first symptoms of real repentance in the Panghooloo, should it come at once, and in time to prevent all further

expenditure of money and reinforcements; but that is rendered unavoidable by his obstinance. The next best policy will be, in my opinion, to settle the country by military force and improve the Revenue by every possible exertion, which I am fully persuaded may be effected to an extent likely to make some return for the sums which have been expended...Your opinion on these points is very desirable...⁹⁴

The force moved forward slowly, meeting some resistance and destroying stockades as far out on the flanks as Malacca Pindah and Lendu: Herbert, working on flimsy intelligence, proposed an attack on Tebong by Raja Ali:

I beg further to report that two Malays who have occasionally given me information came into camp this morning and stated positively that the most active of the enemy's partisans were from Tebong, and to suggest the propriety of this intelligence being transmitted to Raja Ally immediately with a view to his attacking and plundering that town as the most influential piece of service he can render the British Government at this juncture.⁹⁵

Garling's answer on 14th April betrays some embarrassment at having to point out the unwisdom of this proposal.

I feel much difficulty on the subject of Tebong. I conceive that you may have over-rated both the power of Raja Ally and the extent and sincerity of his attachment to us, and his zeal on our behalf. Raja Ally is apprehensive lest Raja Agam should get ahead, as the latter individual very recently aspired to Raja Ally's honours and met with considerable support in the interior.

His practical control over Rambow is rather honorary than virtual. and he stands in some awe of the Panghooloo and the public feeling of Rambow, and I cannot conceive that the Panghooloo of Rambow would easily consent to or even...tolerate the congregating of a bunch in his district for the avowed purpose of attacking Tebong as there is a strong bond of union between the Panghooloos of Rambow, Johol, Soongye Ojong and Nanning; their ancestors were fellow countrymen and are believed to have emigrated from their native country and to have been invested with authority in our interior about the same period. Raja Ally is not a member of this union, being descended from foreigners and his very office is a novelty. The Rambow authorities are not likely to lend themselves to any measure having for its object rather the security of these persons than the interests or honour of Rambow. To propose an attack upon Tebong could, I apprehend, be worse than unavailing, as the report of the project must get abroad and reaching the inhabitants of Tebong, the principal members of whom we have for months had some reason to believe were friendly disposed towards Government, would

necessarily alienate their minds, and throw them with exasperated feelings into the active and devoted interest of Dhool Syed.⁹⁶

Syed Shaaban and his followers joined the expedition on 27th April, and on 3rd May the Dato' Embangun's stockade at Alor Gajah was destroyed: the new fortification, at first called 'Bell's Stockade', eventually became a 'star fort', Fort Lismore.⁹⁷ The operations of Syed Shaaban's men changed the tempo of the advance and, working on information from Bilal Munji — 'a Nanningite of some importance, who mixed with the natives at night'⁹⁸ — successful attacks were made on various defences towards Taboh Naning, to such effect that first Dato' Melalu and then Dato' Andika surrendered, and Sebang (and according to Begbie, Johol) withdrew their support. It seems that Westerhout wrote to Dol Said, and came up to where the leading troops were on 1st June to negotiate with the Chief. In his reply

Dool Syed briefly stated that his anxiety for the meeting was ten-fold more intense than that of his friend, and appointed the conference to take place at 10 a.m. the following day....The principals advanced to a large tree in the centre of the (paddy) field. Upon meeting, the Malay Chieftain fell at the feet of Mr. Westerhout and burst into tears, and two or three minutes elapsed before he could recover from his agitation. An exchange of upper garments between the two had previously taken place, as a mutual assurance that no treachery was meditated....

Begbie, who was a witness, had some sport with the picture of Dol Said enveloped in the burly Dutchman's coat.⁹⁹ The conference between the two went on through the heat of the day, and Dato' Melalu sent out a green coconut as refreshment: Dol Said would not drink until Westerhout had tried it, for fear of poison.¹⁰⁰ An armistice was arranged, but Dol Said would not surrender and the advance was continued¹⁰¹ until a month later on 2nd July Syed Shaaban's men and the troops captured Dol Said's base at Taboh Naning, finding an unfinished meal on the mat. Herbert reported¹⁰² on the success and recapture of 'the two brass six-pounder guns...the carriages are Bengal built...one is repairable but is deficient of an elevating screw'. There were '4 loose and 1 canister of shot, 1 shell, 38 grapeshot'. Dol Said had

...taken flight to Cherana Puteh, spiking each gun¹⁰³ before it fell into our hands, and mounting a pony formerly the property of Assistant Surgeon Smith lost on the former expedition: he also secured for his retreat the Jacket Sword and Kriss with the sanctity of which he has so long deluded the people of Nanning. The receptacle for the articles was found and will be forwarded to you.

V

It is tempting to conclude that if Dol Said had gone down to Malacca when summoned and had met Fullerton at the June 1828 Council, the war would never have taken place. The indications are that the Governor was casting about for a pretext to withdraw from the imposition of the tenth, and if the Dato' Naning had produced the 1801 Agreement — let alone Cracroft's letter of 1825 — as requested, this would have served to save Fullerton's face; and in the different atmosphere the Surin affair would never have happened. Garling, once his bouts of cholera had cooled, was likely to have been sympathetic and he had some understanding of the Penghulu's true position inside his District: a meeting then might have established a confidence which was absent, for it is also clear that from before Church's mission Dol Said and the Sukus suspected a trap which even Garling's guarantee of a safe and unimpeded return to Naning could not dispel.

In reality the war, or submission to avoid it, was inevitable and the whole sequence of events is a case-history of early imperialism, unusually complete and well-defined because few people were involved and their thought and actions are singularly well documented.

At the time anyone on the British side who wrote about the matter cast Dol Said as the villain of the piece. To Lewis he was a 'Tyrant' with 'impudent Claims', to Garling 'evasive and uncompromising' and 'insolent', to Fullerton a 'troublesome Chief', and Ibbetson said that he 'resolutely refuses to obey or make the least advance towards an accommodation' (on British terms). Begbie found him 'wily' and produced examples of his 'duplicity': even the fact that in correspondence with his fellow Minangkabau Chiefs he used the seal given to his ancestor Juara Megat by the then Sultan of Johore was held against him.¹⁰⁴ On the basis of '*Cet animal est méchant: quand on l'attaque il se défend*' Dol Said could only be in the wrong: Lewis held it as a sign of his contumacy that he was prepared to leave Naning and take his followers with him; Braddell, inheriting the legend but distanced from the facts, blamed his guile for the fact that Wyllie's six-pounder killed the Panglima Dato' at Kelemak.

In the advance Dool Syed tried the patience of the officers and men by not firing first. His object was to be able to say hereafter in his complaints, that he had only acted in self-defence and that he had not commenced the fighting.¹⁰⁵

He had guile, of an innocent sort. He cannot have thought that his complaint that he had sent Panglima Dato's with his tufted spear to welcome Lewis, only to be killed, or his statement to Westerhout (if



British & Indian Troops camped near Alor Gajah, March 1832 during the Second Expedition.

Drawing from British Settlements in the Straits of Malacca by T. J. Newbold. Lieut. 23rd. Regt. Madras Light Infantry.



Attack upon the first Line of TABOO by a Detachment of the 5th. M.N.I. under the command of Capt. Sincock. June 15th. 1832.

Begbie correctly reported him) that he kept the six-pounders lost on the first campaign because he saw the Company's mark on them and thought it his duty to keep them safe, to be taken seriously by anyone; but they would have served as apparent explanations to negate charges on those two counts, if his protests and declarations of loyalty and appeals to outsiders in Malacca for help had led to some sort of compromise, and at the time this was not entirely impossible: Ibbetson's idea of reducing the boundaries of the Company's territory so that Naning lay outside them, of Church's suggestion that Dol Said should be reinstated, were indications of that.

There is no reason to doubt his protestations of loyalty in the terms in which they were made: he repeatedly claimed to be loyal to the suzerain on the terms sanctioned by custom and usage. It was not custom that Naning should pay the tenth, or that the Chiefs should carry out a Census. It was customary that he and the heads of tribes exercised a criminal and civil jurisdiction, but their power in capital offences had been abrogated by Farquhar, and after the Lendu murder he and the Chiefs appeared ready to accept this. If Lewis was correct, Dol Said sent his men to destroy, not to gather, the dukus which Surin claimed and he repeatedly claimed that the trees stood on land of Naning by ancient custom. This was an extreme, even desperate, measure to bring about a decision, for — as seen from Taboh Naning — the Company itself did little. He had produced the 1801 Agreement to Cracroft, yet Fullerton demanded to see it again three years later. He had appealed to the Governor against Johol over Gemenche, and against Koek and Harun in 1827 but three years later nothing had been done. He had produced his evidence of the ancient boundaries of Naning to Lewis, but the Malacca officials worked off subordinates' reports of an inspection based on a Dutch Grant. Instead, the Company decided to levy the tenth and then decided not to do so (and eventually did so), and decided nothing about the jurisdiction of the Court of Judicature.

It is difficult to see Dol Said, prostrate in a coat too big for him at Westerhout's feet, as any sort of William Tell figure: he was the middle-aged illiterate leader of some five thousand people all told, a man of personal piety and simple manner of life. Nevertheless, he had secured the loyalty of his people:

[Begbie]...confessed that disappointment and perplexity prevailed in consequence of the manner in which the troops, who were marching to deliver the people from the oppression of their chiefs, had been met. They had been informed that the villagers would receive them with open arms; whereas they fled at their approach or, hovering on their flanks, poured unseen shots upon them from the jungle;¹⁰⁶

and the reward of \$1,000 remained on offer for two years with no-one turning him in — though it was a very large sum of money, equivalent on the basis of tin values then and now to £60,000 sterling.

His forces were irregular, small and ill-found: it seems from Begbie that the sixty or seventy men 'who ran off without firing when the stockades at Malacca Pindah were burned'¹⁰⁷ formed one of the largest Naning forces in the war; their ammunition, propelled by gunpowder made at Cherana Puteh and 'slow to burn', consisted of bullets of tin and broken china, fired by inaccurate matchlocks on rests;¹⁰⁸ most of the expeditionary force's casualties were caused by sharpened bamboo *ranjau*¹⁰⁹ to which, Ibbetson suggested,¹¹⁰ the answer was nothing more warlike than an issue of sandals. Even Dol Said's offensive measures before the second campaign were defensive: most of the stockades listed by Ibbetson to Herbert were within the Naning boundary, and most of the rest on the immediate approach; his emissaries, the 'Parit Melana Seven', were captured in the *mukim* just the Malacca side of the frontier. Syed Shaaban wrote to Westerhout that Dol Said wanted to attack Malacca, and this may have been a boasting threat (and Syed Shaaban telling the truth as well as accelerating the payment to him) but it was never a feasible enterprise.

In fact there were, apart from Syed Shaaban, no villains, or heroes, in this story. All the Company's officials meant well, according to their own lights: given their individual preconceptions, their attitudes and conclusions were inevitable. Perhaps the unhappiest was Fullerton, faced with a problem of which he had no local knowledge, shaken by Garling and Anderson, uttering opinions he later regretted, construing isolated documents to reach a conclusion in a matter he wanted not to have to decide, and reporting to officials who knew less, two thousands miles away in India, and to others who knew nothing eight thousand miles away in London.

It emerges from the records and the Dato' Naning's letters that neither side understood what the other was talking about: they gave different meanings to the same words. In particular, 'Custom' — concerning which Lewis was contemptuous, Church condescending and Fullerton largely oblivious — was to them an amorphous collection of quasi-rules used as an excuse against a centralising authority; to Dol Said and his Chiefs it was their entire way of life, everything that gave them and their people their distinguishing identity. The Company's Government could not permit it, in the end, and then not for its own sake but — as Ibbetson's despatches show — 'pour encourager les autres', because of marauders like Ahat and the Raja of Muar.

In sum, it was a collision of systems, and the future was on the side of the big battalions. represented in this case by the 29th and 5th Madras

Native Infantry with their Magazine Serjeants, Golondauze, bullocks and tent lascars. The Chief Secretary to Government in Calcutta was to call it 'this protracted and worse than useless war for a worthless object',¹¹¹ without adding that it was in itself as clumsy and inglorious an operation¹¹² as any undertaken by the British anywhere at any time; but it was nevertheless in the mainstream of European expansion in the nineteenth century, in Africa as well as in Malaya and the rest of Asia. If Naning had survived as an independent State in 1832, it would inevitably have sought, with Rembau, British protection sixty years later — and the ultimate major benefits to both are undeniable.

Chapter 8

The Post-War Settlement

I

A junior covenanted officer, another Anderson, had arrived at Malacca from Penang in June 1832, to take over as Superintendent of Naning, but he died on 5th August. Ibbetson was determined not to make premature arrangements: on 17th September he reported to Bengal¹ that he had sent back to Madras reinforcements which had just arrived and had discharged the Malay contingent and armed peons.

I have not fully decided upon the disposal of the Nanning District at present. The Criminal Sessions will engage my attention for the next month, after which it is my intention to visit all parts...of Malacca and to report results in detail....To collect and manage in a proper manner the Tenth...would require the Superintendence of a Covenanted Servant exclusively for that duty, at least for some time, because beyond the Town of Malacca for the last century and a half the Dutch Government never interfered.

On 13th October he wrote again.²

...On my visit to that District...it was evident that nothing in the shape of a land revenue sufficient to pay even a small establishment was to be expected, either then or in the following year, from grain, the Inhabitants generally having removed their families during the warfare and the season for planting it to the neighbouring countries from whence they cannot again retire until the crops there sown for their subsistence are reaped and ready to be carried home. The District in consequence is at the moment a perfect waste; and in such a state of things to restore the confidence of the inhabitants and doing this has obviously become the first point of importance. If these services should have been dispensed from Malacca, Mr. Lewis was not the individual, for reasons I have given elsewhere³ best calculated for this duty, and Mr. Anderson being dead, I had no choice but to leave things entirely to chance, or to arrange with Mr. Westerhout as shown in correspondence. His great influence with the natives, who respect him highly, will I have not a doubt be advantageous in restoring tranquillity and confidence to the people. He will constantly visit for this purpose to different villages throughout the country and by making his remuneration dependant upon his success, I retain the best guarantee for his exertions in introducing the collection

of the Revenue....

Previous to concluding the arrangements now submitted for the approval of Government, I anxiously weighed the probable consequences of transferring the whole or part of Nanning to one or more of the neighbouring States. The better to form an opinion on this point I first visited the Chiefs of Rambow in company with Lieut.-Colonel Wilson, obtaining thereby an opportunity of proceeding far into the interior and witnessing the general state of that country and its Inhabitants. Altho' acknowledge to be the strongest and most populous of the whole, it is nevertheless inhabited but thinly, and those few living very much dispersed, depending for their subsistence on their annual crop of paddy, which never exceeds what is sufficient for the consumption of the season; and to which if any accident occur the greatest distress necessarily follows to a people so utterly devoid of resources and forethought as the Malays. I was not surprised in consequence when sounding the disposition of these Chiefs to take a part of the District of Nanning as a recompense for their aid...to perceive a reluctance to such a mode of payment, conveyed in the following answer "We already possess more land than we can cultivate. The inhabitants of Nanning are not accustomed to our rule, and would not quickly submit. An attempt at force would make them leave the country, and we could make no use of it". This induced me to abandon at once all thoughts of transferring the territory to others, who were incapable either of appreciating the motives or governing the same, if they possessed it, it was plain in fact that the transaction would have been viewed as an admission of our weakness, of which advantage would speedily have been taken by the ex-Panghooloo again to return, and renew with whatever zeal his former opposition and intrigues against our Government. As matters stand nine tenths of the inhabitants of Nanning prefer being subject to our Government and it is necessary at least for a time to protect them from the oppression and misdirection of their former leaders, and force the latter and the Panghooloo to settle in some other country — the late confederacy already broken and dispersed must necessarily quit the place unless by offering to become obedient subjects they learn for the future to appreciate the benefit of our protection. Nothing is required, I am persuaded, to realise these expectations but to give vigilant Superintendence of the Local Authority, in watching for a time the actions and movements of the factions, making proper examples of all those attempting in any way to usurp authority and control over the ignorant and unassuming, or in any way employing themselves in any way incompatible with the duties and usual avocations of well-disposed and useful subjects.

I am far from intending to advocate, by anything I have here advanced, the extension of territory in this quarter; considering the present one only as a necessary evil to be ameliorated by time and a

sufficient establishment to manage and collect...with impartiality and justice the legitimate dues of Government....

He also put on paper⁴ the arrangements he had made in person.

On the eve of my departure to Prince of Wales Island I hasten to intimate to you that I have this day arranged with Mr. Westerhout for a collection of the Tenth in the District of Nanning, he receiving for his trouble the whole of the Revenue under this head to 30th April 1834, together with the payment of his travelling expenses on the scale already sanctioned to Mr. Lewis.

On articles quitting Nanning for Malacca Mr. Westerhout will take his tenth and give the individual a certificate to that effect to exempt him from interference of our Collectors here in Malacca.

For the year 1833 he will gain little or no grain as the war in that District has put a stop this season to its cultivation.

I have briefly explained to Mr. Westerhout that I expect him to make a faithful return of the following:

List of names of the Panghooloos and places under their authority

Number of islands (sic) and their inhabitants

Quantity of grain ground by each inhabitant

Quantity of ground exempted from tax belonging to each Panghooloo

Quantity and nature of the land belong to Doll Syed

I have desired that these last lands be on no account given away except as in my letter of 24th inst.

I have further suggested to him the expediency of sinking wells at a distance of about a mile apart along our boundary with Rambow and Johol to prevent mistakes regarding it in future.

You shall hear further from me about this subject hereafter but your own experience will enable you to suggest whatever may be wanting in the present hasty outline to give effect to the institutions above expressed.

Ibbetson had appointed the fifteen penghulus during that month,⁵ and he took other steps to neutralise any further trouble from Nanning. The 'Parit Melana Seven' were shipped off to Bengal in the *Caledonia*: reporting this, Ibbetson wrote:⁶

They had been confined to take their trial at the approaching Sessions of Oyer and Terminer, but with legal difficulties appearing to exist with respect to the crime etc for which they should be indicted I considered the case purely as a political one and resolved accordingly that such warm adherents of the ex-Panghooloo of Nanning should not be set at liberty from the omission of some technical formality when so much mischief to the tranquillity of the Country and to the peace of the

Individuals who were rewarded for apprehending them, as thereby certainly to be endangered.

He asked that they should not be returned 'to this settlement at least for some years'.⁷

Ibbetson also decided, like the Portuguese and Dutch before him, to control the River Linggi, in his case because of conflict between Syed Shaaban and Katas, Penghulu of Linggi, who levied tolls on the river traffic. 'It is my intention to restore the guard at Qualla Lingee, and I have to request that you will give immediately directions for clearing from Jungle the old Dutch Battery at that place'. The detachment for the guard there was to march from Malacca, though their baggage would go by sea: 'People...witnessing the march of Troops among them does more to keep them obedient than all the instruction they are at present capable of imbibing'.⁸

Garling wrote to Westerhout just after Ibbetson had left.

...I have addressed Mr. Lewis requiring the names of the individuals who have been selected as Panghooloo for the different divisions of the Nanning District. Some of these have not yet been sworn in, and issued only with their chops.⁹ You will be pleased to communicate with Mr. Lewis and in conjunction with him I may receive the list referred to.

2. This matter being effected, Mr. Lewis will not be considered as having further power over Nanning excepting his judicial capacity.

3. You will not fail to impress upon the minds of the Panghooloos that it is their duty to keep the roads clear of jungle and obstacles and to level and fill up all excrescences and hollows and particularly to remove everything in the nature of rantjows.

4. You will recognize the expediency and necessity of your personal intercourse with the Panghooloos, discourage all interference between the Panghooloos, and as far as practicable inculcate the doctrine of their individual and direct responsibility for the due discharge of their respective and undefinable duties, set before them the acknowledgement and confidence of Government, and the manifest credit redounding to themselves which will issue as a consequence of their fidelity to Government and their regard to the wellbeing of the little communities confided to their respective charges....¹⁰

Some of the new officials demonstrated their fidelity within the next month: on 14th December Garling wrote to Ibbetson:¹¹

...communicating the apprehension of Pandeka Tomby one of the five subordinate individuals prescribed in the proclamation...and for the apprehension a reward of \$200 was offered.

The persons principally engaged in the affair are Seng Hong and Nassib who commanded the late Malay contingent and are now em-

ployed by Mr. Westerhout for revenue purposes at Nanning. Nassib wounded Pandeka Tomby while the latter was endeavouring to effect an escape.

Bilal Manji (Panghooloo of Calama) and Omar Menteri, together with the Bilal of Soongye Pattye and the Panghooloo of Padang Sebang, were all more or less engaged. There was a Rambow man, who does not want his name mentioned, very instrumental in drawing Pandeka Tomby to the place where he was originally entrapped, tho' he subsequently effected his escape and while doing so he was wounded.

He proposed to award \$50 each to Seng Hong and Nasib, \$25 to Bilal Manji, \$20 to Bilal Omar of Sungei Petai and 'the Rambow man', and \$15 to the Penghulu of Padang Sebang.

You may not be aware that...Doll Syed's mother was sister of Pandeka Tomby's father, the late Panghooloo...predecessor of Dool Syed, known (as) Panghooloo Bookit Dattaar from the place of his residence. Pandeka Tombi has for many years past proved a most troublesome character, and he has been implicated in many cases of robbery and murder. If his wounds permit of his removal I propose forwarding him to Penang that he may be either secured in Fort Cornwallis or otherwise dealt with as you judge proper....

P.S. If sufficient evidence can meanwhile be procured as to offer a prospect of prosecuting the prisoner to conviction for murder before a judicial tribunal, Pandeka Tombi will be duly committed.

Ibbetson replied:

You have distributed only \$150 instead of \$200, the sum publicly proclaimed for that duty. It is not the way to encourage people to apprehend Doll Syed, to give less than the sum guaranteed.... You are perfectly right if there are grounds and prospect of prosecuting Pandeka Tombi to conviction for murder to commit him: if this is not certain I will send him to Bengal¹²

[and to Bengal he went].¹³

II

Westerhout quickly identified himself with his District, in true District Officer fashion, and on 10th February he put some ideas to Garling.¹⁴

I am sorry to represent that there is much distress now prevailing in Nanning from scarcity of rice. The Inhabitants of this Territory have felt and complained to me of this deficiency for some time past. I have endeavoured to alleviate their difficulties from time to time by small

advances, both of grain and money to an amount altogether of nearly \$300. Latterly their distress has been so urgent that I am compelled reluctantly to solicit the assistance of a generous Government in relieving the present necessity. I would suggest, with deference, as the best and most economical mode of effecting this the timely distribution of about Ten Coyans of rice (to be considered as a loan) amongst the most needy families, about the latter end of April next, when the sowing season commences.

The Hon'ble the Governor...appears fully aware of the scantiness of crops in Nanning....From my own personal observation I can safely aver that the paddy sown in Nanning will barely suffice to sow the ground fully next season, and moreover some timely and acceptable act of generosity on the part of Government will go a great way to restore and increase the former population of this almost deserted District.

He floated a proposal to offset the overall cost of administering Nanning.

With respect to the expence attending the military in Nanning, I beg permission to state my conviction that one Company of Sepoys posted at Alor Gajah and a body of a hundred contingents furnished by Government with one hundred muskets, 400 flints and 2000 ball cartridges at the...total expenses (pay) of \$520 per mensem to Government would be found amply sufficient for the security of the whole of Nanning.

It is the extreme distress arising from non-cultivation of Rice, the difficulty experienced by the Natives in getting employment now that there are no Barracks nor houses to be erected, the diminution of the Bazaars at Alor Gajah and the temptations afforded to Marauding and otherwise evil-disposed individuals (to be found in all States, particularly in territories recently devastated by war) that I mainly attribute the late frequent occurrence of murder and robbery, for the prevention and detention of which the contingent would prove of infinite utility.

The Contingent I would not have stationary, but moving about the Country as occasion requires, collecting intelligence, and at the expiration of six months the Panghooloos, now new to their duties, would be brought into use as a police, and fifty or more of the contingent, according to circumstances, might be disbanded.

With the above establishment I agree to keep the military roads, bridges and communications in Nanning in constant and good repair....

Garling forwarded the letter to Penang without supporting or opposing the proposals, and suggesting nothing other than a limit of five coyangs of rice if the idea were approved.

Ibbetson sent it to Calcutta with his reply to an enquiry as to when the survivors of the 'Parit Melana Seven' could be released and returned to Malacca: that time 'will not arrive until the people in the interior more fully

understand and appreciate our rule'. As to Westerhout's letter, this was proof of

...considerable progress in this respect...not that it is my intention to recommend an immediate adoptions of the measure, as I consider it better to err on the side of safety than run the slightest risk: until, therefore, the people become more settled and again commence the cultivation of their rice fields, the [army] force will remain....

I dislike the expense of issuing rice in the manner suggested by Mr. Westerhout and will not sanction it without the authority of His Honour-in-Council, but I am of opinion infinite good might be effected towards the permanent tranquillity and prosperity of Nanning if assistance of kind is judiciously extended to persons from the Town of Malacca as well as the country disposed to settle and form a large village or town centrally situated in the interior and in a part of the country favourable for cultivation: such a town would form the medium of civilising the surrounding people by becoming a stronghold of well-affected persons from whence (sic) supplies and assistance could always be obtained.¹⁵

His Honour-in-Council liked none of these ideas:

The Governor in Council concurs with you in the opinion you have expressed as to the propriety of abstaining from the measure recommended by Mr. Westerhout. Indeed, His Lordship-in-Council is fully impressed with the necessity of avoiding, as far as possible, all further expense on account of the Nanning territory.¹⁶

The murders and robberies, whether by Pandika Tambi or those mentioned by Westerhout, were not documented at Calcutta, but in December 1833 Garling reported at length to Bonham, as Governor in succession to Ibbetson, on a robbery on the border at Sungei Petai.¹⁷ One Sulong was held up and robbed by four men, of whom he recognised two, one being a Kulop Puteh of Ganun. Sulong laid a complaint and Lewis in his capacity as Magistrate and Superintendent of Police sent the Penghulu of Sebang with some police peons to bring Kulop Puteh to Malacca. They were met with threats, and retired. The Penghulus of Sebang and Rembia were sent back, and arrested Kulop's father and uncle, 'Maulie Panghooloo'. The significance of the incident to Garling was that 'among the relatives of Kulop Puteh residing with him at Ganun' were 'Maulie Panghooloo' and 'Amar Panghooloo', that the family was said to be related to Dol Said, was 'feared by the villagers' and was of local importance, having two hundred buffaloes.

The tremor caused by this was almost immediately assuaged by the surrender of Dol Said to Garling.

...2. As the offer of 2000 Spanish Dollars reward had long been held

out for his apprehension without success, it will not be supposed that the surrender, though unconditional as respects any direct communication from myself to Doll Syed, has been made of necessity, or would now have been made had he not entertained a strong presumption, not only of personal security but of personal liberty.

3. His presence will afford us additional security against serious disturbance in Nanning and therefore possibly prevent much ultimate expense. I conceive the surrender of Doll Syed to be a matter of high importance. In reply to questions put to him Doll Syed declares that he came down freely, and that he cast himself unconditionally on the humane consideration of Government.

4. He expressed a hope that he might be permitted to reside in Nanning. To this I would not consent, and held out no hope of his wish being complied with. He is anxious to reside among views associated with domestic recollections, and being in years, to entertain the prospect of being buried among the remains of his ancestors. Though I am not aware of any ultimate objection against the measure, it appears to me that regard to the apprehensions of some persons in Nanning dictate a little present caution, and his future removal to Nanning might be granted as a reward for his quiet and orderly conduct. As he has nothing of which I am aware for his maintenance, it is my purpose pending the arrival of your order to grant him subsistence allowance at Rs 30 per mensem.

He suggested that this should become a pension, and 'I beg respectfully and strongly to urge your compliance, with that suggestion'. Dol Said signed a bond for good behaviour, with two sureties each for \$500: one was 'Appookias bin Deman, Captain Malay' and the other Neo Bock Kiat, and the bond was explained and witnessed by Westerhout. Dato' Andika surrendered at the same time and Garling allowed him to return to Nanning: his bondsmen were Teoh Sing Ting and Tekap Singh. The racial variety of the guarantors perhaps indicates a degree of sympathy in Malacca for the deposed Chiefs.

Bonham's Despatch to Bengal¹⁸ included Garling's letter and described how the surrender came about:

From Mr. Garling's letter it would appear that it was totally out of our power to apprehend Doll Syed ourselves, or to induce others to do so for even so considerable a remuneration as \$2000, a sum relatively of infinitely more value to the natives of Malacca than the corresponding amount would be in India....It appeared to me expedient on taking temporary charge of these settlements, to get him by other means and thereby put an end to any chance of all further disturbance and its consequent expense.

3. It was within my knowledge that Doll Syed was not far from our territories, and I had indeed heard that he had clandestinely visited

Tabo...and I had every reason to believe that nothing but the fear of punishment prevented his coming to Malacca and giving himself up.

4. Under these circumstances, after consulting Mr. Garling...I told Mr. Westerhout, the Dutch gentleman in charge of the Nanning District, that if the Panghooloo would come in and beg for pardon and mercy for his rebellious conduct, that I had little doubt that it would be granted, but that I did not authorise Mr. Westerhout to make the communication from me, as doing so might in some measure fetter the wishes and orders of the Supreme Government as to his eventual fate. It is therefore fully in the power of His Lordship-in-Council to give me any orders that may be deemed fit respecting this person's final disposal, but as there can be no doubt he surrendered himself in consequence of my communication to Mr. Westerhout, I have, pending this reference, signified to Mr. Garling my approval of his having allowed Doll Syed his personal liberty, in which I trust I shall be borne out by the first paragraph of Mr. Chief Secretary Swinton's letter of 25th November last, where even his restoration to office appears contemplated. Doll Syed is advanced in years and much respected by the natives generally...and I think that after all that has transpired, seeing that our authority in the Nanning District is now undisputed, forgiveness for the past and a small pension of Rs 30 per month for the remainder of his life is more likely to be of service to our interests in this quarter generally than the infliction of any punishment however condign, both as regards the goodwill of all the neighbouring Malay States, who will see that the late operations were entered into solely for the redemption of our own character and assertion of supremacy as well as the future disposal of Nanning itself in the Settlement, in which the service of Doll Syed may hereafter possibly be made available.

The Government of Bengal had little choice, for all Bonham's statement that he had been careful not to tie its hands: on 3rd May 1834 the Vice-President-in-Council 'approved of the proceedings adopted towards that Individual and the Governor is authorised to permit him to remain in Malacca so long as he does not forfeit his claim to the leniency of Government'. The allowance of Rs 30 a month was sanctioned¹⁹ and in December of that year Bengal approved the proposed purchase of land for Dol Said at a thousand rupees.²⁰

Absorption of Nanning into the ordinary administration of Malacca was, at that time, by no means a foregone conclusion. In April 1834 Bonham, forwarding correspondence which began with a Presentment by the Grand Jury for the first Session of Oyer and Terminer (signed 'for self and Jurors, J. B. Westerhout, Foreman') complaining of the inadequate and therefore inefficient police establishment of Malacca, wrote:²¹

...if the District of Nanning and the Interior of Malacca are to

continue as at present subject in all matters to the jurisdiction of His Majesty's Court of Judicature, my opinion of the inefficiency of the present police forces of Malacca is in perfect unison with that expressed by Mr. Garling [— who had supported the Presentment].

Mr. Ibbetson, [Bonham continued] in his letter of 24th October last has strongly urged the necessity of having a civil Servant stationed in Nanning,²² and though by no means as sanguine as that gentleman appears to be as to the financial result of such a measure, I have no hesitation in stating my conviction that if both it and Province Wellesley were rendered independent of the jurisdiction of His Majesty's Courts in the Straits, or at all events as regards the collections of the revenue, it would be a great benefit to the Government without injuring the inhabitants, who are not sufficiently advanced in civilisation to understand the technicalities of a Court of Law....

Bengal made no comment on the latter proposal, and contented itself with sanctioning one additional constable at Rs 50 a month and five peons (of the ten asked for) at Rs 10 each a month.

Church succeeded Bonham as Acting Governor, and immediately wrote to the Governor-General through Calcutta on 28th April 1834:²³ it was long and carefully argued but with an undertone of hoping against hope.

My predecessor in office in his despatch under date 28th February having reported the unconditional surrender of Dhool Syed the Ex Panghooloo of Nanning, it will now become necessary to make some permanent arrangement for the future Government of that District. In presenting my sentiment in this important subject I must crave the indulgence of the Right Honourable the Governor-General of India-in-Council.

2. It is obviously unnecessary at this crisis to enter into an explanation of the causes which gradually led to defection, and finally to open rebellion, on the part of Dool Syed. It is however manifest and now universally acknowledged that the object we were so anxious to accomplish was of little worth.

3. The District of Nanning may be characterised as comparatively poor and unpeopled, and to retain and incorporate it with Malacca proper would, I feel assured, be impolitic and accompanied with lasting expense without any corresponding advantage, even prospective.....

4. It may be conjectured that the revenue to be derived from Nanning might under a judicious system be adequate to defray the charge of maintenance. To me this appears a fallacy, and I beg to submit as confirmative of my opinion whether a population of about five thousand consisting of men women and children scattered over an extensive tract of country can by the most rigid fiscal regulations be made to contribute sufficient to liquidate the necessary charges attend-

ing on Civil, Military and Judicial Authorities, especially in a country where the product of the soil is exclusively grain.

5. Should His Lordship-in-Council deem it proper to place the District of Nanning under our immediate control, I do not think any material increase in its population would follow. The Malays are extremely partial to the place of their nativity, and nothing short of the most grinding oppression will ever induce them to emigrate. I make this assertion with confidence grounded on an intimate knowledge of the Malayan character for upwards of 17 years.

6. The cessation (sic) of Nanning to one of the adjacent States would, I fear, be productive of evil rather than benefit. I do not however conceive that a Chieftain could be found to accept of an offer provided we proposed it, seeing that he would be in constant collision with Dhoal Syed's adherents and the mass of the population opposed to his power, but suppose the cessation of Nanning, I apprehend we would speedily be called upon to support him in his authority against his rebellious subjects.

7. Considering that it is inexpedient to maintain Nanning as a part of Malacca proper or to cede it to a neighbouring State, I am naturally led to advert to the State of affairs at the period antecedent to the rebellion — Dool Syed and his predecessors were for many generations nomi- nally²⁴ subject to the European power possessing Malacca but I am not aware that the acts of the Panghooloo met the interference of the Dutch or the English, except in very extreme cases — in fact he was permitted²⁴ to rule his people without appeal, no expense was incurred at Nanning, and the most perfect understanding existed with the European chief of Malacca.

8. The connection thus established was, in my judgement, of mutual advantage. Nanning formed a barrier against secret or open enemies from the hills. The inhabitants obtained the whole of their supplies such as Salt, Tobacco, Cloth etc, etc from the Merchants residing at Malacca in exchange for Rice, Fruits etc. That this system should be disturbed for so trifling an object, and at such a sacrifice of life and Treasure is most lamentable.

9. The Ex Panghooloo Dool Syed has been stigmatised as Tyrannical and oppressive. I do firmly believe that the charges against him have been much exaggerated. I happened to be at Nanning in 1829, deputed by the late Mr. Fullerton to superintend the taking of the Census, and purposely mixed with the inhabitants. No complaints were then made, all spoke well of their Chiefs, and that he possessed their esteem was to me abundantly evident. Their adherence to him when surrounded by difficulties demonstrates his character and influence. It is quite erroneous in supposing that the Panghooloo ever extorted the tenth. When I was in that District I made particular fact of enquiry and found the charge was totally destitute of foundations. The nature of the Treaty or

agreement made by Colonel Taylor when Resident of Malacca (1802) with the identical Dool Syed appeared generally known and understood, and constituted legitimate grounds to resist the payment of the tenth, should the Panghooloo demand it for the purpose of appropriating the same to his individual use.

10. I humbly conceive that the most prominent point for consideration is as to a line of Policy to be adopted (without compromising our right or dignity) which is most likely to secure lasting tranquillity and preclude the possibility of any misunderstanding arising hereafter. This great object is, I think, attainable by placing Nanning on much the same footing as previous to hostilities.

11. After what has transpired I can scarcely venture to recommend the restoration of Dool Syed to his forfeited rank and honours, but should His Lordship in his wisdom be pleased to grant an Amnesty for the past, such an act of grace and clemency would, I am confident, have a beneficial effect and Dool Syed ever after be found a useful instrument in the hands of Government in case his services should be required.

12. I have endeavoured to record my unbiassed opinion on the subject and in doing so I trust His Lordship-in-Council will believe that I have been solely actuated by a sense of public duty and the interest of the State.

It took two and a half months for the letter to come before the Calcutta Council, on 10th July; and that body was not disposed to support an implicit public confession that the Company had been wrong — though it wrote in an escape clause.

Ordered that the following letter be addressed to the Chief Secretary to the Government of India, transmitting therewith the copy of the foregoing letter from Mr. Church: "I am directed to transmit for his information and orders of His Excellency the Rt. Hon'ble the Governor-General-in-Council copy of the letter of the Acting Governor of Prince of Wales Island Singapore and Malacca...and to remark that however ill-judged the original measures may have been which led to hostilities, the Vice-President-in-Council is not satisfied of the policy of restoring a Chief who set our power at defiance and resisted in arms as long as he possibly could". The only consideration in favour of this course, in the opinion of the Vice-President-in-Council, is that Dool Syed (may) be at large and some day escape from Malacca and invite another rebellion, which might cause the same trouble and expense to put down as in the former instance.²⁵

The Governor-General-in-Council, then at Ootacamund in the Nilgiri Hills, considered the matter on 9th August.

I am desired to observe that the Governor-General-in-Council con-

curs in doubting the propriety of restoring Dhool Syed. It would be a preferable course of policy...to elevate some relative of that Chief to the position which he has forfeited if a competent individual of his family can be found, by which means the tranquillity of the country would probably be maintained by a less objectionable proceeding than that recommended by the Acting Governor.

3. At the same time His Lordship-in-Council is of opinion that a discretion should be allowed to the Local Authorities of restoring Dool Syed should the course above suggested not be practicable and should it, in their judgment, be necessary that Chief should be restored in order to secure the public tranquillity.²⁶

In its reply to Church after its consultation on 4th September, Calcutta temporised and (wilfully or not) made no reference to the discretionary powers suggested by the Governor-General.

...However ill-judged the original measures may have been which led to hostilities, the Vice-President in-Council is not satisfied of the policy of restoring a Chief who set our power at defiance, resisted in arms as long as he possibly could, and surrendered himself to our mercy only when he had no other resource.

3. You are requested to report whether there is any person of Dool Syed's family to whom administration of the Nanning State could be safely entrusted, and if so whether that would be a desirable arrangement and on what terms you would propose to make over the territory. If you deem it indispensable for the tranquillity of Nanning that Dool Syed should be restored, you will be pleased to report to that effect.²⁷

By the time this letter reached Penang Church's term as Acting Governor was coming to a close, and neither he nor the incoming Governor Murchison appears to have reported. It is difficult to see how either could have said that Dol Said's restoration was indispensable, for the annual reports stated otherwise. Any act of grace or clemency — or of justice, as Church obviously considered it — got lost in the files, and not for the first time the future was decided by the fact that no-one took a decision.

III

Westerhout reported to Garling on the first year 1833/34, and Garling embodied the facts in his letter to Church: the Governor's letter of 28th July and its enclosures were considered at that same meeting of the Bengal Council which mis-stated the Governor-General's views. Garling reported²⁸ that on the Census on 30th April 1834 there were 955 houses, 1318 men and 1340 women, 1302 boys and 1119 girls, with a total population

of 5079.

Of these 78 out of every 100...of the male population cultivate paddy fields. Owing to the recent disturbance in Nanning there was scarcely any grain reaped in the year 1832/33....The uncertainty under which many laboured in the year last past, added to the want of rain the river dams being out of order, has prevented the cultivation of grain being carried (out) to the extent which the resources of Nanning promise. The returns of much seed sown did not exceed twelve-fold instead of 50....Bearing in mind these drawbacks the result has proved very satisfactory and highly creditable to the diligent and practical activity of Mr. Westerhout the Superintendent.

The total padi crop was 137,985 gantangs, of which only 57,475 gantangs came from *sawah* cultivation: the average of all plantings was 151 gantangs, or 27 gantangs a head of the population.

With a view to encourage the Inhabitants and promote the agricultural interest of Nanning Mr. Westerhout at some personal expense has caused the repair of the ampangans or embankments across the stream at Malacca Pinda, PangKallang Nanning, Dookoo Berisu and Elang, a measure admirably calculated to secure the sawahs in those parts a good supply of water.

Mr. Westerhout informs me that the people in general are disposed to agree to a pecuniary composition for the Tenth in kind of the sawahs but owing to the uncertainty in the success of their Laddangs they prefer continuing the Tenth in kind from the dry land crops. This measure cannot be satisfactorily settled without the services of individuals expressly engaged in surveying. A very rough ad-measurement must otherwise be taken...

Mr. Westerhout's establishment in Nanning has consisted of 2 Head and 6 ordinary peons. These occupy two day and night stations and two Peons from each post are despatched to two other stations to watch during the day only. These persons are engaged traversing to and fro and it is supposed that very few persons succeed in evading his tolls.

Nevertheless, the net profit for the year was only \$298-42 —

...very poor compensation for the time taken and the attention Mr. Westerhout has devoted to his charges.

Since the affair of Kooloop Poottah...the District of Nanning has enjoyed unbroken tranquillity. This must in some measure be ascribed to the presence of the armed Peons, of whom 15 are employed in the service of Government. At the same time the Activity of the Peons is owing to the vigilance of Mr. Westerhout: much must be set to the Account of the singular Spirit of Conciliation which characterises that gentleman. I am free to acknowledge that he has exceeded my expecta-

tion in respect of his charge. In concluding my report it is but justice to add that shortly since, when the Nanning Panghooloos supposed that the charge of that District was to be taken from him, the period of his engagement with Government having expired, they in a body waited upon me expressing their warm Sense of the tact and attention of Mr. Westerhout and representing their unanimous wish that he might be continued in his charge. Considering the success with which he has brought the District under management...I have no hesitation in stating that whatever may be the determination of Government as to the principle on which Nanning shall be managed in future...(he) is well calculated for the Superintendent of that District and...merits the Confidence and Approbation of Government....

Westerhout's covering letter, sent to Garling with his statistics for the next year 1834/5, was forwarded to Calcutta.²⁹ He commented:

...2. These statements show a favourable increase to those of former years. With regard to the cultivation of paddy, I have to observe that three fourths of the wet lands were plowed during the past year, that of the dry lands was consequently decreased in favour of the wet. Enough seed has been reserved to be sown the whole of the latter next season. The lands at Malacca Pinda...have been brought under cultivation....

3. The rest of the produce of Nanning has increased materially, with the exception of wax and gambier. Jaggery has exceeded last year's produce by tappers. The next principal increase is in Fruits and Timber.

4. The Tin mine at Londi affords a small profit to the workers. The produce of the last year amounted to 30 pikuls cast into tampings each weighing about one cattie.

5. The building of houses is still going on, chiefly between Fort Lismore and Bookit Sebooseh and Fort Lismore and Sabang. The increase of houses amounted to 108 and of population to 250, chiefly settlers from Tampin and Kroo in Rembau and from Sreemenanti and Johol.

6. The occupiers of land are willing to pay a fixed annual sum for the paddy produce of their fields, agreeably to the measurement and average valuation of annual produce now enclosed. I would strongly recommend the adoption of this fixed mode of levying the revenues in preference to the very uncertain and troublesome one in use, and which gives rise to much dispute and speculation.

7. The lands however should be subject to fresh valuations at the end of every five or ten years, in order to ascertain and fix a new increase or decrease in value, a system likely to be equally beneficial to the mass of landholders and the Government.

8. I may here observe that the averaged annual amount as estimated by my people with the landholders themselves amounts to 305,911 gantangs exclusive of the produce of the dry lands, whereas the amount of last year's produce (a very variable crop) including the produce of the

dry lands amounted only to 281,695 gantangs, or the year before 211,499 gantangs....

This improved yield works out at 15³/₄ cwt. per house exclusive of dry land rice, a far cry from Lewis's earlier calculations. Garling's covering letter³⁰ reported:

Mr. Westerhout has had the sawahs measured. His work has been confined to the management of unscientific natives; but as the result presents a higher out-turn than the two past years and yielded in kind, it may be considered a matter of some moment to introduce a system of money payments in lieu of tithes in kind, and the term of years for which the engagement is to be made can be fixed by Government, and be hereafter redeemed. I would now suggest that the substitution of pecuniary revenue grounded upon these measurements be forthwith sanctioned....Mr. Westerhout assures me that the people are willing to enter into an engagement to pay a pecuniary revenue calculated upon this result, and redeem the payment at 10 Java Rupees, upwards of \$3, per 100 gantangs. Should you be pleased to accept of this offer, I request to be furnished with 4000 copies of printed forms³¹ and to receive your instructions as to the period for which the engagement should be made. I...suggest the forms without calculating an outline, because a reference to the Company's Law Agent may secure the form of the document free from all liability to legal exception, should a process by law against any parties ever be necessary. As to the period of engagement it may be well to allow a few years with a view to bring the system into operation. I would therefore suggest seven years. Any new sawahs or any new extension of cultivated lands to be subject to a further levy....

After tabulating revenue — \$1138-54, with expenses of \$519-95 and a net profit of \$618-59 — he concluded:

I am happy to say that Nanning remains tranquil and the population appear to be generally pleased at the revolution in the Government, while the neighbouring State of Rumbow is just now in a very unquiet condition. I have given strict instructions that no person in Nanning shall interfere with the existing disputes, and also that no Native Chiefs or the families of Chiefs shall be allowed to domicile at Nanning. If they wish for protection, Malacca and its immediate suburbs is the more suitable place for residences of such individuals....

Murchison, forwarding the documents, noted that

...they exhibit pleasing evidences of a gradual improvement in the District since it has come under the direct authority and management of Government, a result to be ascribed to Mr. Westerhout's skill and personal activity in superintending the Country and to the confidence re-

posed by the people in the integrity of the East India Company's government.

He was not optimistic:

Nanning is essentially a Malay country, and affords no ground whatever to expect such an improvement in its revenue as will ever cover the expense of maintaining it. Some gradual extension of cultivation may be looked for, but not to an extent that will yield an accumulating revenue, and its retention can only be recommended from political considerations.

He concurred in Garling's recommendation of commutation of the Tenth and promised to send a draft Regulation when he had acquired detailed knowledge of the matter.³²

The Governor-in-Council sanctioned the introduction of money payments on 24th August 1835,³³ and on 3rd March 1836 Murchison wrote to Bengal:

With reference to...the situation of money payments by the Nanning landholders in lieu of the tenth in kind, I now...report that the arrangement has been carried into effect by means of leases for five years, of which I have authorised the Resident Councillor to print 500 copies at the Malacca press to save time. Any particular result will be reported hereafter.³⁴

Bengal apparently considered that Nanning presented few problems, for at the Public Consultation of 12th April 1836 it was 'ordered that correspondence with the Governor of Prince of Wales Island relative to Revenue affairs of Nanning be transferred in originals to the Revenue Department including the letter from the Governor'³⁵ — despite the major change from the tenths in kind to money payments under 'leases'.

Westerhout's report for the year ending 30th April 1836 showed:

...a favourable increase to those of former years...the wet land(s) were all planted during the past year...The tin mines at Londi, Soongye Booloh, Ahbalan China and Ayer Salingsing afford a small profit to the workers. But those at Pondoï I am sorry to say the Chinese miners have abandoned, on account of its affording no profit to them. I have lost Drs 726 being sums advanced with a view to encouraging them; however they are working at present by the Malays.

The output totalled 42 pikuls 10 katties — approximately two and a half tons.

Rebuilding of the houses is still going on in different parts of the country. The increase of buffaloes amounts to about 400, of houses about

fifty, and of population about 550 [Garling reported the total population as '5881 Souls'] chiefly settlers from Rambow and Seree Menantie etc....Adverting to the recently adopted mode of levying the revenue, I think there will be an increase of about Rs 600 that last year, it will give rise to no dispute or peculation, equally beneficial to the Government and to the landholders, and indeed very much in preference to the very uncertain and troublesome one lately used. This I have every reason to believe will in time bring a good addition to the revenue....

Garling's covering letter made no reference to continuing tranquillity, as though that could be taken for granted. The revenue was \$1240-10¹/₂, the expenses \$490-76, and the profit \$749-84. He referred to the new five-year 'leases': 'The blank forms of the new deeds are now filling up....The measure has, I am happy to acquaint you, excited universal satisfaction throughout Nanning, so far as I can discover'. However,

Everything is in a very small way as the population is of no numerical importance, as habits of industry are not common and especially were not cultivated under the management of Dool Syed, and as the facts...most clearly manifest unwearied diligence and practical talent in Mr. Westerhout, it is not less an act of justice towards that gentleman than it is gratifying to myself to bring these matters to your particular notice.³⁶

His letter was more concerned with the continuing struggle for power in Rembau:

...it is probable that the distress entailed upon the inhabitants of that State by the failure of the harvests, and vindictive and predatory habits which they are incurring will one day leave Nanning exposed to hostile incursions.

He thought it would be good policy — 'not to urge the worthiness of the act itself' — to mediate, and added disarmingly 'I once made a fruitless attempt but do not ascribe much importance to my failure on that occasion, as I did not step forward as the agent of the British Government'.³⁷

Murchison was brief and unenthusiastic:

The result exhibited is creditable to Mr. Westerhout's management but, as has often been brought to notice, there is no ground to expect any important financial improvement in so poor and unpeopled a country.³⁸

IV

There are three published contemporary accounts of Nanning in this post-War period, two of them by Newbold. Of these, the shorter was en-

titled 'Some account of the Territory and Inhabitants of Nanning in the Malayan Peninsula', and was published by Fullerton's *bête noire* J. H. Moor and the 'Singapore Chronicle' in 'Notices of the Indian Archipelago'. From internal evidence it was written before the Johol Treaty of 15th June 1833, and it contains nothing that does not appear in his larger work. He was not hopeful about exploitation of Nanning resources: 'A small amount of gold is, I understand, to be, found in Nanning, and tin in considerable quantities, but it wants a more industrious and energetic population to turn these advantages to account.'³⁹ The map described earlier was bound in with what Newbold called 'this memoir'.

Newbold's 'British Settlements in the Straits of Malacca' was finished in 1837,⁴⁰ when time and Westerhout's administration had healed most of the ravages of war.

The principal villages are those of Sabang, Tabu, Cherana Puteh, Mullikey, Battang Malacca, Sungie Siput and Brissue: they present similar features to other Malay villages: the houses are situated near the edges of paddy fields and invisible at a distance from the number of cocoa-nut and other fruit trees, by which as well as a paggah fence they are usually surrounded: they are straggling and one village runs into another....⁴¹

Communications were skeletal: the 'native roads are merely footpaths cut and cleared constantly by parangs'. There were 'vestiges of the road cut by Colonel Farquhar to Sabang in Nanning, which it enters near Malacca Pindah, but from neglect it is little better than the native footpaths'. The military road entered Nanning at Sungei Petai: from Taboh Nanning there was a path in dense jungle to Rembau. From Sungei Petai another road, constructed since the end of the hostilities, ran nearly due west to Sungei Baru, 'a cultivated district'; another road from Fort Lismore ran east to Sebang, 'a military post'; from Sebang there was a bullock road to Tebung, eight miles and 'the most easterly of Nanning outposts'. There was a bandy⁴² road to Taboh from Alor Gajah, and roads from Sebang to Kuala Ina and Pulau.⁴³ As for rivers, boats came up the Rembau river, but the depth could not be relied upon; and Malay canoes (which he also called 'sampans') could reach Sebang from Cheng.⁴⁴ Taboh Nanning was the:

...only decidedly unhealthy post to Europeans: of the officers who remained there any length of time only one escaped fever. A character for unhealthiness was...given to it by the natives themselves....Fever and an obstinate ulcer attacking the legs are the [native troops] most formidable enemies, a slight scratch without attention being difficult to heal. The ulcer attacks Malays also: they call it Tokah;⁴⁵ they also have a species of leprosy called Kusta and a disease called Angin Ta'awan,⁴⁶ or

"Wind of Pestilence"; both of these are deemed incurable at Nanning and the unfortunate sufferer is generally deserted by his friends in his greatest need, or driven into the jungle to perish as an outcast. Ketumbohan, or smallpox, is prevalent.

He noted that inoculation and vaccination⁴⁷ were not known, but that Nanning had its own 'refrigerating medicines'.⁴⁸ Like the officials, he entertained no great hopes of improvement in Nanning: 'the population...like that of other Malayan States in the Peninsula, is in a low state' — and for several reasons: 'First, the natural unproductiveness of the females, few bearing more than six children', and smallpox, opium-smoking, and poverty. However, 'prostitution and its attendant evils are extremely uncommon', and some people survived long: 'I have observed many instances of longevity in the interior: seventy or eighty years is an age by no means uncommon'.⁴⁹

Begbie, writing in more heroic vein of the history of Nanning and the war, had less to say of the district and its people, but commented on it as he saw it when the second expeditionary force moved north from Alor Gajah.

The country on the Taboo side of Bookit Pur-ling bore a marked contrast to that afforded by the route of the troops up to that point — the savage grandeur of the primeval forests...here gave place to extensive paddy fields, and clumps of fruit trees here and there disposed over a light and sandy soil.⁵⁰

Nanning compared favourably but in his patriotic eyes not unexpectedly with its neighbour:

...the traveller needs not to be informed of the moment that he passes across the frontier of the East India Company's territory....After her villages had been destroyed by war, and her fields laid waste and desolate by the concomitant cessation of harvest for two years, she yet exhibited greater signs of prosperity than her neighbour of Rumbow, who, with a denser population, had remained unscathed by the sword uninterrupted in her harvests.⁵¹

Chapter 9

The English East India Company's Administration

I

On 9th February 1837 Lord Auckland, Governor-General of India, signed a Minute¹ which was put before his Council. It was two hundred and ninety-eight pages long, ran to over four hundred paragraphs and was supported by twenty-three appendices.

1. The unsatisfactory state of things in the Straits Settlements has long engaged the attention of the Supreme Government. The deficient revenues, their anomalous and expensive Judicial establishment, their objectionable system of finance which, leaving the rich wholly exempt from contribution falls with the numerous excises administered under the closest forms of monopoly with such weight of vexations or minuteness of interference upon the poorer classes, their backward cultivation and the great uncertainty and confusion of their land tenures, these together with the absence of due authority for nearly all of their existing laws, are circumstances which show how urgent the condition of these Settlements demands the earliest and best consideration of the Council, yet with how much of embarrassment the subject is attended and how important and various are the reforms on which we have to deliberate....

4. I have thought it my duty to enter upon a complete investigation of the subject, but of the full statements of facts and many of the opinions and suggestions which follow (although the whole of course has been circulated and qualified as to meet my own views) I have to ascribe all of merit to the officer, Mr. J. P. Grant, of whose valuable aid I have availed myself on the occasion. Mr. Grant has examined the voluminous documents, to which it has been necessary to refer, with great labour and research and his opinions have been formed with some advantage of local knowledge....²

It was indeed a thorough and well-organised document, and built into a damning indictment of the administration of all three Settlements: critical as it was of the chaos and inefficiency to be found in Malacca, some of the comments on Singapore and particularly Penang were sharper still — though the officials in the latter Settlements were not so adversely mentioned. Of Malacca and Naning it reads:

95. For the inconsiderable business of the place, Rs 1000 seems an ample salary to give that sort of Civil officer now called Resident Coun-

cillor eventually to be styled Magistrate³ and Collector. With such an officer and one Assistant at a salary of Rs 400 a month, the wants of this insignificant Settlement including Nanning would be sufficiently provided for....The proposition in para. 248 relating to Lands, for the abolition of the anomalous office held by Mr. Westerhout in Nanning, who is now paid by what he can get out of that province in the way of net revenue, which was in 1835 Rs 1686, may be looked upon as an equivalent to an immediate reduction, for if the two officers now in Malacca cannot manage Nanning as well as that gentleman alluded to, one of them ought to be superseded, either by that gentleman or by someone else who can....

154. Nanning so far is a better possession than Malacca that in truth it costs us nothing but yields no revenue, the gentleman in charge is allowed all the surplus revenue for his trouble. Under a less anomalous system we may look to some revenue from his province....

156. The land here [Malacca generally] ought, under the protection of our rule, to improve rapidly, and I think it will do so when improvement shall no longer be checked by the mischievous interference of Government, and when the reasonable prospect of reaping the fruits of the expenditure of time, money or labour on the land shall be held out to all. But this anticipation cannot be fully recognized for many years to come, and in the meanwhile there will probably be a deficit on Malacca of about a lac of Rupees a year....

In that section of the Minute dealing with 'Land' it considered first Penang and then Singapore before examining Malacca, and then spent some time on 'the lamentable results of Mr. Fullerton's bargain'. Shakespear, one of the members of Council, had proposed that legal advice should be sought on whether the agreement made by Fullerton with the Dutch Proprietors could be annulled, as fraudulent on the part of the Grantees, but the Governor-General did not agree: '...the agreement being in the nature of a composition, no degree of improvidence in one party (especially he being the stronger one) ought to affect its validity'.

239. The local authorities, Mr. Garling and Mr. Lewis, propose regulations which they expect would do all that can be done for the lands and land revenue of Malacca. One of their proposals is to enact that land left uncultivated for three years shall revert to the State. But it would seem that this is a Custom recognized by the Courts of Law and one that has been always acted upon at Malacca. If so no new Enactment is necessary and the Custom itself will become obsolete when rents shall be taken in money. I observe a provision to the same effect in the Malacca Land Regulations⁴ but the period fixed therein was five years.

241. A much stranger suggestion is to enact that all cultivators shall sow exactly when the Superintendent of Lands may tell them, and at no

other time, under heavy penalties. One draft of a Regulation is before us where a complicated machinery of elders of villages and others is called in to assist the Superintendent in saying when everybody shall sow his land. All schemes of this sort are under of course unworthy of the notice of the Council.

242. Although there is no law on the subject it seems to have been usual for the Superintendent of Lands to publish an order directing all rice cultivators to commence tilling on a certain day, and stating that those who should not sow rice would be made to pay the value of one tenth of the rice they would have got if they had sown. A copy of an order of this sort dated 13th April 1824⁵ is before me. This proceeding ought to be prohibited in future.

243. It must be remarked that although the whole tenth of the produce belongs, as land revenue, to the Government, yet the land revenue properly speaking is levied on nothing but rice ground. The tenths of other produce are taken at Toll houses as they are brought into the town and not otherwise....In fact, therefore, rice ground pays the tithe as a rent tax, but all the rest of what is called "the tenth" or "the land revenue" is nothing more nor less than a town duty. Landholders who grow no rice pay nothing, and the people of the town pay a tax of 10 per cent. on their consumption of all other products of the soil....

245. The first measure of improvement that is required is obviously the universal commutation of the tenth in kind to a money payment. This will of course be followed by the abolition of the Tollhouses, as an immediate consequence. But I recommend their instant abolition at all events, and those cultivators who would not consent to a money rent must submit to any annoyance that the levy of a tithe indiscriminately may render unavoidable. If the fixing of the rent per acre according to the market value of a certain number of gantongs (sic) of rice would facilitate the change, I should have no objection to that method, but the payment must be made in money and upon a fixed principle that shall have no reference to the quantity or quality of the crop of each year. The Resident and Assistant Resident have opposed every endeavour of every succeeding Government to bring this alteration into effect. The difficulties which they make are quite futile; if proof of the practicability of the operation were necessary, the success of Mr. Westerhout at Nanning and the satisfaction of the people at the change would be all-sufficient. I propose that this point be insisted on, and that if the present authorities of Malacca cannot bring about the alteration, they must be replaced by those who can.

246. The deficiency of the subordinate land establishment and the want of native surveyors urged by them can hardly be admitted as an excuse, for if the establishment is sufficient to measure or estimate during the harvest the whole of the rice grown in the whole province, it might surely be sufficient to receive a fixed money rent from the

growers. The rights of the Panghooloos must be more fully explained before they can be admitted to hold their immunities as private property....

247. The land tenures of Nanning are identical with those of Malacca, but here Mr. Westerhout has effected the conversion of the tenth in kind into money rents with universal satisfaction. It is not stated whether the produce of lands paying in money pays also a tenth in kind if it pass through the Malacca Toll-houses, or, if otherwise, how the produce of different fields is discriminated....

248. The present management of Nanning is very anomalous... it was first sanctioned at Mr. Ibbetson's recommendation as a temporary measure, but it seems to have continued without any renewed sanction. To say that the Government officers of Malacca, who can have scarcely anything to do, would not so manage Nanning as that it should give Government some part of the profit that it now gives Mr. Westerhout is simply to say that they are incompetent for their offices. I propose to insist upon having a responsible officer in charge of Nanning and if our present officers cannot manage it as Mr. Westerhout does, he must be put in place of one of them...The only Enactment that appears to me necessary beyond the repeal of the present Regulation and the re-assumption of the property of all waste or forest lands is one that shall facilitate the commutation and give all the powers and impose all the restrictions that may be necessary to enable the Collecting officer to get the money value of the tenth of every description of produce from those who refuse to commute at a fair price.

250. The change will render a registration and a partition law equally necessary here as at the other Settlements. Survey is also indispensable here to facilitate the introduction of the new system and to give it its full value....

The Governor-General (or Grant, advising him) saw no reason for alienating lands in future on the terms of the past.

252. I now come to the new system to be introduced for cultivating the waste land in the Straits. However the tenures now held may vary at each Settlement there is no reason why the plan for reclaiming unoccupied land should not be the same universally.

253. The Hon'ble Court has positively prohibited the creation of private property in the land of these Settlements by giving leases in perpetuity or for terms equivalent to perpetuity, or by granting leases renewable on demand by the Lessee for ever at any fixed rate of rent as a maximum. The local authorities thought that prohibition impolitic under the circumstances of the Straits and recommended a reconsideration of the question, but the Hon'ble Court adhered to their opinion. His Excellency Lord William Bentinck also thought the prohibition impolitic and wrote a Minute urging the reconsideration of the question. Mr.

Ross⁸ at the same time wrote a Minute supporting the contrary opinion. The Hon'ble Court have written within the last few months...informing us that they still adhere to their former views and enjoining us not to depart from their former orders....

Auckland proposed that these, and many other, questions should be examined by a Commissioner, who was to be empowered to act on land and excise matters and was to report to him in Council. Shakespear minuted, *inter alia*.⁹ 'I entirely agree that the separate charge of Nanning ought to be abolished'; Ross wrote (on the draft instructions to the proposed Commissioner which accompanied the Minute) that

There is nothing in them to which I do not assent, except in the direction...for a survey of each of the Settlements and the opinion...to the effect that 20 years should be the limit, in the first instance, of all leases but that they should be renewed for another term of 30 years at a fixed rent....

for land then shown to have been cultivated or occupied: his objection was to the promise of a fixed rent. As to the Survey,

...considering the scantiness of the population of the Settlement and the very small extent of their surface under cultivation,...a survey of each Settlement at the present time would be attended with much greater expense than would be compensated by any advantage derivable from it.

These papers were considered by the Governor-General-in-Council on 10th May 1837, and the Resolution then made stated that:

...many estates in these Settlements have been acquired under circumstances which though they might not be considered by a Court of Law as sufficient to create a right of property, give the holders a strong claim on the justice of the Government and...no advantage which could be obtained by rigidly enforcing the claims of the State against such persons would compensate for the evils which would be the effect of such a course of policy.

An enquiry was to be held

...into claims to which the provisions of the existing Regulations do not extend, for the purpose of giving validity to all which appear well grounded, and at the same time of enforcing the rights of the State in cases only in which they have been wilfully or fraudulently infringed.

The enquiry was to be by a Commissioner placed under the authority of the Government of Bengal, which was to make 'public the instructions

which the Commissioner may receive for his guidance in the determinations of questions affecting the right of the Government or of individuals in land'. Act X of 1837 was passed to empower him for this purpose; and the limitation of the area of publicity left the Commissioner free to report confidentially on all the other matters mentioned in the Governor-General's Minute, such as the establishment in the Straits, the incidence of excise and other duties, the collection of land revenue, and whether the Recorder's Court ought to be abolished 'as unsuitable to local circumstances and uselessly expensive'. Auckland's own view on the last point was brisk:

403. It is necessary carefully to separate two things, altogether distinct from one another, in discussing this subject Viz. the propriety of having English law in these Settlements, and the propriety of having a learned Judge from England especially fixed in them for the administration of justice. For the particular law to be administered, and the particular system by which the law shall be administered, have no necessary connection with each other. It is quite feasible either to introduce an entirely new law, and still to leave the Recorder's Court as it is now, or to leave the law unchanged and to provide for its administration without a Recorder....

415. I come therefore to the conclusion that the business of the Courts must be conducted in the Malayan language, that being the one most generally understood in these places. All the children of Chinese born in the Settlements speak Malay as their mother tongue, and these with the Malays form the bulk of the population. All foreign residents, whether English, natives, Chinese, Chulias, Bengalees or others, find it necessary to acquire this language more or less....It comes down to keeping English law because of the difficulties of finding a substitute and then codifying it....

and on this point he asked for the opinion of Macaulay, draftsman of the great Indian Penal Code.

On 24th May 1837 the Governor-General in Council appointed the Secretary to the Board of Opium Customs and Salt, Mr. W. R. Young, as Commissioner under the new Act at a consolidated allowance of Rs 3000 a month, and resolved that temporary arrangements should be made for the performance of his duties to the Board so that Young could return to that post, if he so wished, when the Commission was completed. He was supplied with a copy of Auckland's Minute and a letter,⁷ itself of fifty-five paragraphs, of instructions; in July he was allowed to recruit a Calcutta surveyor, Hudson, to take with him; he established himself in Penang — where he counted himself fortunate to rent an unfurnished house for \$50

a month⁸ — by the beginning of September; and he remained in the Straits until January 1839.

Prinsep, Secretary to Government, sent instructions which contained three paragraphs particular to Malacca and Nanning:

19. The Governor-General in Council would be glad to obtain further information in regard to the state of the Tenure and the condition of the tenantry in Malacca. He is strongly disposed to the immediate abolition of the Tollhouses and the commutation of the Tithe in kind to a money payment. He would wish however to introduce the latter measure with the consent of the tenantry and if possible without having recourse to a legal enactment for the purpose.

20. It has occurred to Government that Mr. Westerhout, who has been so successful in establishing money rents in Nanning, might be employed with advantage for the same purpose at Malacca. At all events His Lordship in Council desires that you will impress on the local officers of that Settlement the determination of Government in regard to the change and that you will report any opposition or disinclination which any of them may evince in carrying into effect such instructions upon the subject as you may deem proper to communicate to them.

21. His Lordship in Council is of opinion that engagements made with Mr. Westerhout regarding the collections of the land revenue of Nanning should be terminated as soon as practicable, due regard being had to what may be fair to that individual. You are desired to carry the arrangement into effect in communication with the Governor and Resident Councillor, and to employ Mr. Westerhout in introducing the commutation of tithes in Malacca in such manner as you may consider best calculated to ensure that object.

On 11th September Young sent a copy of these paragraphs to Garling with a short covering letter:

You will observe that it is the intention of Government that the present arrangement under which Mr. Westerhout is employed in Nanning is to cease, and that for the future he is to act as the salaried officer of Government having no personal interest in the collections, Nanning and Malacca being united under his management for the purpose of the commutation of the tithes...

Garling passed this on to Westerhout in more general terms.⁹

You will close your accounts with Nanning, which henceforward will be united with Malacca generally. Consequently the arrangement which has hitherto subsisted will now cease. Your future duty will be to introduce the system now partially prevailing at Nanning throughout the entire circuit of lands and therefore to complete in Nanning itself what you have not as yet effected.

Government desire to gain this object with the concurrence of the cultivators and I rely confidently upon your practical management and conciliatory spirit for bringing about this change to the satisfaction of all parties. But that no misconception of the views of Government may tend to obstruct or retard your operations, you will make it generally understood that the Supreme Government have resolved that this object shall be effected, and that if the measure be indispensable, recourse may be had to a legislative enactment.

I have desired Mr. Lewis to make over to you all records and documents and to be especially careful that these are so complete that you may have the means of ascertaining, if not the bona fide, at least the estimated crop of each cultivator for the period during which the Government have resumed the direct control of the lands. Mr. Lewis will also transfer to you of his establishment one clerk,¹⁰ one native writer and two peons. To these you will add what is necessary to complete your establishment to the following strength: one clerk at Rs 100, one native writer at 20, four native surveyors at 15, eight peons at 8, total Rs 244....

You will esteem it your duty to apprise me from time to time of your progress and to give me timely and complete information should your exertions...be retarded or clogged by opposition or disinclination on the part of your establishment or elsewhere. P.S. The establishment heretofore maintained by you at Nanning for the collection of the toll tenths you will continue until these tolls shall be abolished. This will be temporary increase in expense of Rs 61-12 annas per mensem.

After a little correspondence¹¹ on the revenue from the Nanning toll posts, these were abolished on Young's instructions from Penang in his letter No: 23 of 30th November, and Nanning ceased in official eyes to exist as a separate entity, whether fiscal, administrative, juridical or agricultural, or as regarded its Custom, for some fifty years.

Garling sent a copy of Westerhout's commutation agreement to Young early in the correspondence:¹²

I beg to enclose two blank forms such as were used for the Nanning lands. It was considered desirable to have these engagements executed, that something tangible might be on record in the event of the rent falling into arrears. The term of 5 years was selected as being convenient for both parties: the cultivator had a fixed rate to pay for a given term and might feel disposed to bend his energies to the improvement of his land, and the Government officers would have an opportunity of noticing in some degree what proportion rating bore to the actual or average annual out-turn. Will you favour me with your opinion whether similar engagements should be expected with Malacca tenants?

In the absence of professed surveyors the measurements of the lands, which are seldom of rectangular form and are frequently of

irregular boundaries, must be very imperfectly executed. The system to be adopted will be that which obtained in Nanning and was simply measuring the boundary lines and estimating the superficies of each Lot of land. Mr. Westerhout being in possession of the land document will have the means of knowing what each tenant rendered annually to Government. This average, checked by the above measurement of the lands and by personal acquaintance with the ground under culture, will afford data for estimating and fixing the rate of paddy accruing to Government. The ordinary or average rate of paddy, the proximity or distance of the respective lots of land and therefore the estimated expense of bringing down the revenue in kind constituting a deduction from the gross revenue, will regulate that amount of the money commutation.....P.S. I request your early reply on the subject of the blank form, because if approved it will be necessary to apply to Bengal for 10,000 copies.

The form itself read:

This indenture made the day of in the year of
Our Lord One Thousand Eight Hundred and Between the East
India Company of the one part and of in the East
Indies of the other part

Witnesseth

that as well for and in consideration of the payment of the annual rent as of the performance of the several and respective covenants conditions and agreements hereinafter reserved mentioned contained and set forth and which on the part of and on behalf of the said his Executors Representatives Administrators and Assigns are to be paid performed done and kept they the said East India Company have demised leased set and to farm let unto the said his Executors Representatives Administrators and Assigns All that piece or parcel of land situate in the District of Nanning aforesaid bounded on the north by on the south by on the east by and on the west by as described in the annexed plan containing orlongs¹³ jumbas feet Together with all the profits and advantages to the said piece or parcel of ground appertaining To have and to hold unto the said his Executors Representatives Administrators and Assigns from the day of these presents for and during and unto the full end and term of five years from thence next ensuing Yielding and paying yearly for the same on the day of every year during the term of five years unto the said East India Company at the office of the Superintendent of Nanning for the time being without demand the rent of his Company's Rupees

And the said doth for himself his Executors Administrators and Assigns covenant promise and agree to with the said East India Company that he shall and will well and truly pay or cause to be paid to

the said East India Company the said rent of _____ Company Rupees at the several times and the place aforesaid; and that in case default shall be made therein and such rent or any part thereof shall be in arrears or unpaid for the space of one month next after the times hereby appointed for payment thereof then and in every such case it shall and may be lawful to and for the said East India Company in and to and upon the said demised premises or on any part thereof in the name of the whole to enter and to levy such rent so in arrears or unpaid by seizure and public sale of such goods and effects then after a further term of three months to re-occupy and possess the said demised premises without any process or form of law whatever

In witness whereof _____ acting for and on behalf of the said East India Company has subscribed his hand and caused the seal of the East India Company to be affixed to one part of these presents remaining with the said _____

And the said has _____ his hand and seal subscribed and set to one other part thereof remaining with the said _____ for and on behalf of the said East India Company the day and year first above written

Signed sealed and delivered in the presence of _____

Apart from any other comments this document may provoke, it shouts so loudly to a conveyancing lawyer that it is a lease for five years certain with no option on the lessee's part for renewal, and with summary powers of re-entry on default, that he finds it difficult to believe that laymen would not also see this. Garling and Murchison referred to 'leases':

Garling had earlier 'suggested the form without calculating an outline' because a reference to the Company's Law Agent might be desirable, to Murchison in 1835, and the Governor had sent this on to Calcutta, apparently without reply, because his letter mentioned a local printing of forms then being issued. Young commented on the indenture neither to Garling nor to India when he sent the blanks with a long letter,¹⁴ and seems to have considered the point only when he heard from the Secretary to Government. whose letter¹⁵ was forthright:

...This document is in substance not a mutual agreement to commute one mode of payment for another, but a lease as from a proprietor to a stranger for a term of years...It has never been in the contemplating of Government to attempt to induce any holders of land in Malacca to give up any right in their lands which they actually possess. The Government has hitherto been led to understand that the Malacca holders had a property in their land and that the inherent right of Government therein was limited to the taking of a tith of produce...Probably the holders in Nanning are similarly situated. If this understanding be correct an agreement such as that submitted is manifestly inapplicable

to the relative situations of the parties who are to consent to it and the Nanning holders can only have been induced to sign such an agreement by reason of their not understanding their true import, which as the documents are in English it is hardly possible they can have understood. His Honour in Council would not be surprised if he should hear of a great disinclination on the part of the holders of titles in Malacca to exchange, by signing such an agreement as this, the right of property in fee simple burthened with a tithe, for a lease for a short term of years at a rent equal to the value of the tithe. As at present advised, therefore, the Government cannot approve even in substance the form of agreement recommended....

17. ...The President in Council directs that the agreements to be offered for signature shall truly and explicitly convey the meaning and intent of the two parties to it, which is to create no transfer of property whatsoever but simply to stipulate that for twenty years the holder shall be bound to pay to Government a certain sum annually instead of tithe, and that the Government shall be bound to take that payment for the same period....

18. Nor can His Honour in Council approve of these agreements being executed only in English, as would seem to be intended. They should be drawn out generally in the Malayan language, and no other, unless when a holder expressing distinctly a preference for their being drawn out in English, an English agreement may be substituted....

Young replied to this in his Report on Malacca, a long document dated 31st December 1838 sent from Penang shortly before his return to India.

There is no question but that the words used in the indenture...are unsuitable to the real character of the engagements to be entered into, that they in fact convert the instrument to a lease, and seem to affirm the right of the Government to deal with the lands at the end of the period...but this certainly was not intended by Government nor did the local authorities intend to invade any existing rights. The form of the lease originally adopted was that which was most familiar to the people and most likely to be intelligible, but the true nature of the agreement and conditions entered into was always carefully explained to the people before they bound themselves. My reason for adopting the form actually in use, a reason certainly not conclusive in the fact of the defects pointed out, was this, that I found on my arrival in the Strait that the whole of the Nanning cultivators had concluded agreements on the form...and that those instruments had passed from hand to hand without giving rise to any objection or difficulty. The calling in of all these papers in order to substitute for them more regular agreements would have been attended by considerable confusion, and at that time, before any progress had been made in the Malacca commutation, it would not have been free

from the risk of exciting alarm and suspicion in the provinces. Then again if a more suitable instrument had been prepared for issue to the Malacca cultivators, whilst the old and defective indenture was suffered to remain in force among the Nanning tenantry, the difference between the two forms of agreement, both professing to secure the same rights and to impose the same conditions, would assuredly have attracted attention and awakened mistrust....After this explanation, I have only to add that on receipt of the orders of Government communicated in your letter I lost no time in drawing out such an agreement...herewith submitted....

His draft read

This deed made on day of One thousand eight hundred and of the Christian era between the East India Company of the one part and of the district of of the Settlement of Malacca in the East Indies now occupying a piece of land in the said Settlement hereinafter mentioned of the other part witnesseth that inasmuch as the East India Company possesses the right of taking for the use of Government one tenth part of the produce of all lands in the Settlement of Malacca excepting such as have been granted or demised by the paramount Authority under separate and specific conditions the parties to this deed do jointly and severally bind themselves their Representatives Executors Administrators and Assigns to the commutation of all tenths or tithes claimable by the East India Company of the produce of land belonging to and which is particularly described in the Schedule hereunder written into a fixed payment of money on the following terms — does covenant to pay and does herein bind his Representatives Executors Administrators and Assigns to pay to the East India Company an annual sum of Company Rupees annas in satisfaction of all demandes of the East India Company for tithes of the produce of the land designated in the Schedule annexed.

The East India Company covenant to receive and hereby bind their Representative Executors Administrators and Assigns to receive from the annual sum of Company's Rupees annas in satisfaction of all demands of the East India Company for tithes of the produce of the land designated in the Schedule annexed.

And the said does hereby further covenant that the annual payments hereby agreed upon shall be made on the fifteenth day of March in each year beginning on the fifteenth day of March at the office of the Collector of Land Revenue at Malacca or to any person deputed by him to receive the amount.

And both parties do covenant that this agreement shall have effect of twenty years beginning from the date of the first annual payment made according to the terms hereinbefore expressed.

Signed sealed and delivered in the presence of

Specification of Land

District.....

Bounded on the East by land occupied by measuring
on that side feet.

Bounded on the West by land occupied by measuring on
that side feet.

Bounded on the North by land occupied by measuring
on that side feet.

Bounded on the South by land occupied by measuring on
that side feet.

Computed Area : acres square feet.

The period of twenty years instead of five had been Young's idea, put rather diffidently to Garling when he first received the 'indenture' blanks.

If the enjoyment of any increased value which he may be enabled to draw from the lands be not secured to the cultivator for a longer period than five years, it cannot I think be expected that any considerable increase will be communicated to improvement. In the Tenasserim provinces Mr. Maingy had discovered it indispensable for the advancement of agricultural prosperity that the cultivator should be guaranteed against any increase of assessment for fifteen or twenty years, and the Court of Directors have adopted an approved his views on this point....At the same time I am aware of the difficulties which must be experienced in a country like Malacca, owing to the want of well-defined boundaries, the absence of properly qualified surveyors and the deficiency of data...

Garling, about to go on sick leave — 'the ship in which I am to embark being to sail this evening' — replied.¹⁷ for him, briefly:

The term of five years was selected purely for the convenience of Government. The want of professional surveyors lays us under so much disadvantage that I apprehend Government will lose much of what is rightfully theirs...The natives would prefer longer leases...I have no hesitation in proposing to you that the term of the lease be extended to 20 years. Should you determine to adopt that term, the dry lands of Nanning must be held in such period, and it may therefore be advisable to extend the term of the existing leases for paddy lands to a similar period of 20 years...

Young cited Garling's opinion in his letter to Bengal, and the twenty-year term was approved by that letter which disallowed the 'indenture'.

On the instruction that the agreement was to be in 'the Malayan language' Young wrote:

42. I have thought it desirable to cause the new agreements to be expressed in English as well as the Malayan language, the two forms having been very carefully collated with the assistance of the learned Superintendent of the Anglo-Chinese College. However the Malayan version, which has been rendered with regard to simplicity and clearness, will make the intent and condition of the instrument fully intelligible, not indeed to the mass of the parties by whom they are accepted (for out of the ten thousand cultivators who will receive them probably not more than one hundred will be able to read them) but to those unacquainted with the English language to whom they may choose to refer as interpreters. The English version will facilitate business at registration and will render fraudulent practice less easy of accomplishment.

He also demurred to the Chief Secretary's instruction that all the lands of every description belonging to one owner should be included in one agreement and its document, pointing out that

...one of the great advantages anticipated from the commutation plan is that it will facilitate transfers, charges and other dispositions...by putting the owner, now holding by a recognised yet unvouched tenure, in possession of a document which will supply the place of a bodily and tangible title deed and will in short be negotiable....¹⁸

and this would be lost where a cultivator had different types of land, or lands in different districts, or wished to dispose of one out of several Lots.

The Indian Government passed two Acts as a result of Young's recommendations. Act XII was intended to end 'the unjust and discreditable anomaly of the European population contributing nothing to the general purposes of Government except what incidentally fell upon them through the enhanced cost of labour'.¹⁹ Young had announced the abolition of duty on 'Pawn Leaf (Betel Nut or Seree)' and reduction of that on bhang, toddy and opium: and the revenue lost from these was replaced, under an interim Act of 1839, by an assessment on buildings at ten per cent. of their valuation in towns, and five per cent. outside: the proceeds were to fund municipal purposes. Act XII extended the assessment to land as well as buildings, but also introduced an exemption of all properties with a valuation of less than \$10 a year. Naning, with almost no exceptions, fell within the exemption, quite apart from the fact that there was no machinery for valuation or collection, and was therefore not affected.

Act XVI was a land rent Act, though not entitled as such, or at all.²⁰ The draft had been prepared by the Straits Settlements Government and submitted to the Legislative Department of the Government of India, and Prinsep had enclosed a copy with his instructions to Young:²¹ the Commissioner was to examine it in the Settlements against the situation he found

there. In the event it was considerably extended and then passed by the Governor-General in Council on 10th June 1839 to come into effect on 1st January 1840.

The scheme of the Act was simple: it declared that all occupied land in the three Settlements, other than that held under titles which examination showed were rent-free, was subject to assessment and tax; that anyone 'desirous' in future of occupying waste or forest land for agriculture was to apply to the Collector of Land Revenue, who could issue a lease for twenty years renewable for a further thirty; that applications for longer periods or other purposes, such as building, were to be referred to and decided by the Governor of Bengal; that the rents were payable at the Land office; and that changes of ownership were to be registered there. It will be remembered that alienation for agriculture for a total period of fifty years was policy settled by the Court of Directors²² and reiterated by the Government of India to Bonham in 1833. The other provisions of the Act derived from these five principal objects and were administrative, imposing duties and prescribing penalties.

The Act provided powers against squatters in Singapore and Penang and such as there were in Malacca, but for Malacca and Nanning its interest lay in its last section. This had been added shortly before the Governor-General in Council considered the Bill submitted to him, mainly because of a long letter from Grant.²³ He drew a distinction between land held on some form of grant and

...the heritable property of the holder inherited from his predecessor, held allodially and from time immemorial but subject to a perpetual land tax of a tithe of the produce. This is the case with the Malacca cultivators whose lands were cultivated before that Settlement fell under our dominion....They have no grants but their right of property is the best possible...and it was obtained under the law of the country when the first holder reclaimed the waste. At present, as long as they pay their tithe, they cannot be interfered with. It may be right to pass a law forcing them to agree to a fair commutation of the tithe in kind into a money payment of no greater value, but it is clear that this is a very different thing from the "assessment" here spoken of....

On Young's return to India this was put to him, and he considered it 'absolutely necessary'²⁴ to make the distinction. The additional last Section read:

XII. And it is hereby provided, that nothing in this Act contained shall apply to such cultivators and resident tenants of Malacca as hold their lands by prescription, subject only to a payment to Government of

one-tenth part of the produce thereof, whether such payment be made in kind or in the form of a sum of money received by the Government in commutation of the payment in kind.

It cannot be argued that the policy of commutation in Naning and Malacca was misconceived. It had its obvious attractions for Government, of a steady revenue comparatively easily and cheaply collected, ever since Garling had first suggested it in March 1828²⁵ and Westerhout had proposed it for Naning.²⁶ It had always been recognised at all levels from the Supreme Government down that it was the substitution, by agreement, of one mode of payment by another, and Westerhout had pointed out that the Naning cultivators, while willing to enter into commutation agreements as to their *sawah*, were reluctant in the case of hill padi where the crop was much less reliable. There was no intention of driving a hard bargain:

...The object of Government in its desire for commutation is not a direct increase in revenue. You are therefore authorised to adjust the payments to be made in money...at such moderate amount as the tenants may be willing to engage....²⁷

There was no intention of varying the tenure by going over to leases or grants so far as the existing prescriptive occupiers were concerned, or even in the future: in that letter which laid down the new policy on alienation in Singapore and Penang,²⁸ the Court of Directors wrote to the Governor-General:

...29. You will observe that the considerations we have adduced are very imperfectly applicable to the Settlement of Malacca. The inhabitants of that country are mostly growers of rice and there is no probability of an influx of English capital for the cultivation of the more expensive products. The custom of the Malays is that of a permanent tenure subject to the payment of a tenth in kind to the Government which has recently been commuted to a fixed land tax for the next 20 years after which the engagement is subject to revision. Our inclination is in favour of allowing the free occupation of waste lands in Malacca on the same perpetual tenure which the old population enjoys by prescription, and subject to such an annual payment as shall be a reasonable equivalent for the tenth, that engagement also to be revised when at the expiration of the 20 years the commutation on the old lands will have to be readjusted. On that subject however we shall be glad to receive a further communication of your sentiments.

The Bengal Government accepted this, with the suggestion that there should be a minimum initial payment (as a purchase price, not as commutation) of five rupees an acre.²⁹

III

Yet the system met with opposition in Malacca and lack of progress in Nanning. As early as December 1837 Young wrote to Prinsep at Calcutta:³⁰

...3. It is not to be disguised that the obstacles to be encountered in applying the principles of commutation to Malacca are more formidable than those which have been met with, and for the most part surmounted, in Nanning. It is probably that but little difficulty will be found in inducing the paddy cultivators to acquiesce...for the share of the State was collected with tolerable regularity and exactness....The case however is widely different in respect to the holders of lands growing other descriptions of agricultural produce. Although the right of the Sovereign to a tenth of all produce of the land without distinction is unquestionable still practically the demand of the Government has been restricted to a tithe of the paddy crops, and to a similar proportion of the other produce passing into the principal marts, taken in the shape of a Toll at the entrance to the chief towns. The whole of the produce (paddy excepted) consumed beyond the precincts of the towns thus escaping the levy, it is of course not to be expected that the producers will, without great reluctance, submit to a measure the effect of which...will be to commute a levy in kind, fraction of a tithe, into a money payment equivalent to the full tenth. The Nanning cultivators were chiefly producers of paddy, and this circumstance added to the absence of hostile local influences, materially facilitated the introduction....In Malacca proper...the possessors of dry lands, Gardens, Orchards etc are numerous and there is no want of local influence sufficiently powerful which the steps already taken have called to full though not prominent activity...to counter-act or at least impede the successful issue of the experiment.

4. One class of the influences alluded to is that of the late tithe-owners...who...still do exercise a species of feudal superiority over the cultivators and are looked up to by them with a deference which has not ceased with the transfer of power of taxation to other hands....

5. It is right that I should state that no direct or exceptionable interference has to my knowledge as yet originated in the quarter pointed at....

He went on to say that he entertained 'no fears as to the satisfactory completion of the arrangements'.

The opposition grew fast, for Garling reported³¹ that

...at the outset the cultivators were not generally averse to the measure—such was the opinion of Mr. Westerhout, who had well informed himself on the subject. Mr. Lewis, a gentleman thoroughly

acquainted with the condition and feeling of the country, declared to me when he found that Government were prepared to pledge themselves to the passing of an Enactment, that he conceived the measure could be carried. Six months subsequently on my return from Calcutta Mr. Lewis had formed a different opinion and he conceived that nothing short of coercion would succeed. The fact is that during this interval some personally interested in defeating the measure and enjoying considerable influence, partly from old association and partly from a well-acted sympathy with the cultivators, had commenced their Commutation Crusade.

Garling sent Young a 'Translation of a document circulating in the interior amongst the cultivators'. It was headed 'News from Singapore' and was dated 17th May 1838.

When the Dutch transferred Malacca to the English in 1825 Malacca belonged to the English Company but not one acre in Malacca, moreover the land of Malacca pertained to different individuals and from that land there was payment made from formerly during the time of the Dutch Company, a period more or less of 150 years. The practice of the Company with the landowners was that these could not receive more than a tenth as rent upon vegetables, fruit etc. Now in 1828 all this land stated above was farmed by the owners to the English Company. The Company undertook to receive from the landowners, and the Company...the revenue according to the older practice one in ten which could not be increased, whereas now the Company wish to set a fixed rent, if once received and the deeds are signed, empowers the Company on default of payment to seize effects and the garden and plants and sawah and to sell them at auction to whoever will purchase them. But by the former custom the Company could only take one in ten passed from the plantations but with the land nothing could be done. As for the fixed rent, if we follow out what is cleared at the expiration of twenty years, the deeds which have been signed are of no further avail and another custom will be made upon the lands; it is impossible to say how many Rupees will be demanded upon each acre, and whoever refuses, their ground will be sold by auction to any who will purchase. The people of Malacca have been accustomed to pay one in ten from the earliest period of our ancestors to the present time. Wherefore all of us wish to follow old custom and not to follow any other.³²

This clearly related to the drive to get commutation agreements signed, and to the form Westerhout had been using, as did two items of evidence which Young himself came across. One was a letter he wrote to Garling complaining of hostility to commutation and non-cooperation shown by the Penghulus of Merlimau, Sempang and Kandang (all in

Malacca proper) when he visited these places; the other was the 'Substance of a Communication made a few months ago to the assembled Cultivators in one of the districts of Malacca' — the circumstances of which he described as 'notorious'.

This is to certify that I Barchie de Wind give an order to Enchy Mohamat Sah bin Enchy Buttah which is to be used at Soonghy Barroo and he is to go and meet Dat Panghooloo Mayhoon of that place and tell him about the circumstances of our subjects and that they are not to give their signatures to Mr. Barchie Westerhout. If they do, it will be considered that they have sold our lands in Soonghy Barroo and they shall have punishment from us, that is transportation to Bombay. These are the words that Mr. Barchie de Wind told Mohamat Sah and which were mentioned at Soonghy Barroo and I Enchy Kamat heard them.³³

The choice of unknown Bombay rather than Madras or Calcutta is perhaps significant, and compares with the statement, presumably by Logan, in 1856 that

...it was asserted by those inimical to the arrangement and believed by the tenants that if they signed the commutation papers they rendered themselves liable to serve in the Ceylon Rifle Regiment, a punishment not less to a Malay than transportation for life.³⁴

The 'old association and well-acted sympathy' came into the open with a petition dated 16th July 1838, through Young to the Governor-General of India in Council. The occasion was the publication in the *Singapore Free Press* of the Bill of Act XVI (before Section XII was added). The original petition was despatched, interestingly enough, on His Netherlands Majesty's Ship *Triton* by its sponsors, J. B. de Wind and J. H. Velge, to Young at Penang, but that ship had instead 'gone on a cruize to the east coast of Sumatra', so they sent another copy signed by de Wind and Velge 'and 198 native tenants'. It recited that the petitioners had inherited their lands and held them under the system of tithe which had been established upwards of a hundred and fifty years; it begged his Lordship to

...enquire into the state of cultivation at Malacca, when it will be found that the seasons are so very uncertain that the cultivators can never depend upon a good crop, three crops out of four being generally unproductive and scarcely leaving enough to subsist upon, driving the cultivators into the jungle to obtain there whatever nature in its bounty may furnish, in common with the beasts of the forest for the other six months;

it recited the 1828 agreements and declared that they transferred the right

of collecting the tenth and no more. They accordingly objected to the published intention to impose an assessment, and asked for the Act not to apply to lands held in perpetuity on payment of tithe, and —

...considering the fearful losses which your Petitioners must sustain upon the conversion of their perpetual, to leasehold tenures which are now in agitation, and the privileges which they must then forego, your Petitioners respectfully and earnestly entreat that Your Lordship in Council after reconsidering the proposed Act will not permit it to be enforced in Malacca.³⁵

The petition was successful to the extent that Grant made a passing reference to it at the end of his letter which resulted in the addition of Section XII, after he had already deployed his real arguments, but nobody was in any doubt about its suspect origins. Since the petition had been published in the *Singapore Free Press*, Young was able to make enquiries in Malacca before the second copy of the petition reached him, and he reported to India that 'one man affirmed that a sheet of blank paper was placed before him and he was desired to sign it, which he did without at all understanding the object proposed' at de Wind's house with Velge present.

Government will probably be impressed to learn that the titheable property possessed by that gentleman (i.e. de Wind) is not more than 8 acres in extent, the money payment on which, in the event of the commutation taking place, would be about as many Rupees. Mr. Velge...whose activity in opposition to the commutation is second only to that of Mr. de Wind, has land chargeable with tithe to the extent of one acre and a half only.³⁶

With the exceptions of the 'News from Singapore' and the petition, there is no direct evidence that the issue of leases under Regulation IX of 1830 or the issue of *de jure* leases in the 'indenture' excited any alarm or protest at the time. Young made it a point of particular enquiry:

I was of course anxious, bearing in mind the doubts expressed in...your letter of 27th June last, to ascertain whether any portion of the unwillingness to accede to the proposed [commutation] arose from the employment in the indenture of terms which might be considered as assuming the power of Government to divest the landholders of the proprietary right in case of default or on determination of the period during which the arrangement is to subsist. Although I put the question both indirectly and directly to a great many persons I could not discover that any one had the slightest misgivings on this score. They all appeared perfectly satisfied that the object of the indenture was simply to convert

payments in kind into payments in money for a fixed term of years and I have no hesitation in confidently expressing my belief that there were not ten persons in the whole Settlement who really apprehended any interference on the part of Government with their proprietary right or who would have been deterred from entering into the compact as expressed in the paper...by any dread that the terms of the agreement were calculated to weaken their hold on the soil....That no such feeling of apprehension is really entertained by any considerable proportion of the cultivators I can take upon myself to affirm most positively, for if it had existed it would assuredly have been expressed to me by some one of the parties, not less than one hundred in all and most of them prejudiced against the measure, with whom I had personal communication....³⁷

The actual number of leases issued under Regulation IX of 1830 before its repeal appears to have been small: there were five hundred and fifty-three in all, of which four hundred and thirty-one were in Tranquerah and forty-eight in Kubu, while the remainder were all in Bunga Raya, Limbongan and Banda Hilir — all in or near the town.³⁸ There was also occupation under 'Cutting Papers', the forerunners of Temporary Occupation Licences and Approved Applications of Twentieth Century Land Office practice: for example at Bachang eighteen papers were issued in respect of just over fifty-seven acres in all.³⁹ These lands however were not included in the returns of leases.

Young went at length into the reasons for the opposition to commutation. The great majority of objectors had, he thought, been manipulated:

...the result of very minute enquiries which I made, not only at the Station itself but in various parts of the Country...is that those who have been put forward as objectors...not one in ten knew anything about the plan to be introduced further than that it is a change....Another scheme of tactics adopted was...but simply to impress upon the people the evils and shame which would fall upon them if they sanctioned an abandonment of the usages of their forefathers....To all arguments of explanations they have but one answer "What you propose is new. The rules and customs followed by our fathers we wish all to follow". This is the state of feeling in which I found the great majority of those...hostile to the commutation. That this line of opposition has been prescribed to them by others (was evidenced by) the indisposition manifested by most of them to hear any explanations regarding the plan, as if they were afraid of being betrayed into the expression of some opinion inconsistent with the broad objections on which they took their stand. This sort of reserve is quite alien to the character of the Malays, who, although not obtrusive,

are naturally open and communicative when addressed.

The most common objection among the minority which was prepared to discuss the plan was that while it would 'be decidedly advantageous...in productive seasons...still on the occurrence of a decidedly bad season it would be ruinous', for then they would have to pay an assessment more than one tenth of a small or non-existent crop. It was true that this was 'the reasoning of improvidence and idleness' not to be countered by reasoning, which 'would be entirely thrown away upon the careless and ignorant Malays': the answer here was to persuade them that bad seasons were few, to fix the assessment lower than the value of the average harvest and to set as payment date that most convenient for the cultivators. Young was perhaps unlucky in that his enquiries showed that the recent 1837-38 harvest was the worst in living memory, and he concluded from what he was told that 'out of every ten or twelve crops one is positively bad, three or four are very plentiful, and six or seven are middling'. He assured these objectors

...that the Government were in the habit of treating their tenants with consideration when their ability to meet their engagements arose from a visitation of Providence unaggravated by misconduct on the side of the party failing.

'I know that I am saying nothing,' he added 'but what are the sentiments and usages of a powerful and humane Government', but even if the ordinary policy of the Indian rule in matters of revenue had been characterized by inflexibility rather than by liberality he would have given these assurances and committed Government, as a matter of policy.⁴⁰

Lastly, there was sometimes an enquiry — 'from the most intelligent and active of the cultivators, men who are fully sensible of the advantages which the new plan holds out' — as to what would be their position at the end of the twenty years of the agreements. He accepted that the obvious answer, that new agreements would be negotiated and if negotiations failed there would be a return to the tithe of kind, was unsatisfactory since the questioners might well ask how this squared with Government arguments that commutation had its advantages for both sides, and indeed Government hints that it might be statutorily imposed. He discussed the possibility of making the commutation perpetual, which had as an incidental disadvantage the loss of any State share in future increased prosperity from the lands and the greater objection that it

...would be neither acceptable or beneficial to the bulk of the cultivators:...that character and habits of the Malays generally do not inspire any very lively hopes that they will be stimulated to increased exertion...to avail themselves of the full advantage which the

limitation...would place within the reach of industry.

He arrived at a moral dilemma, whether the progressive minority should be considered rather than the 'apathetic section', and made no firm recommendation.⁴¹

The resistance to commutation, in both Naning and Malacca, was not total even if in Malacca proper it was considerable. Garling, in his 1842 Report⁴² on Malacca proper, wrote:

...7. Up to this date 5809 commutation deeds have been issued and 837 persons possessing about 1137 parcels of land still refuse to take commutation deeds, most of whom prefer to pay the tenth in kind at the land office in town, where coconuts vegetables fruit and in short all descriptions of agricultural produce are daily sold by public auction.

8. I have stated these details⁴³ that Government may have an opportunity of considering whether the conditions under which land was originally granted by the State may not leave with Government the power to make and to enforce, should such continue to be their desire, some provisions for carrying out their own wishes in respect of the commutations. If the execution of anything of this nature be determined the late landowners, all of whom occupy lands on their former estates, should be first and the principal objects of the Enactment. Before, however, ultimate and coercive measures are adopted, the Supreme Government will doubtless weigh the probable results. The determination made, and the Enactment being once published, it must needs be carried into execution at whatever consequences...

9. Having placed you in possession of the above information touching the tenure of the lands and furnishing you with data...I may be permitted respectfully to add the expression of my hope that no coercive measures may be adopted for the present. We are making progress, though but slowly. Some few even of the recusants have come in, and of the number of deeds originally refused 94 have since been executed.

Whether steps were taken to resume uncultivated lands or not, a policy of valuing kampong land to estimate its produce in fruit and similar crops was begun by Garling in 1839, attention being given first to the lands of the former Grantees and their supporters. Governor Bonham was not satisfied with progress, or the general situation: as to the latter, when he forwarded his annual report for 1841/42 to Calcutta he suggested that the 1828 agreements should be cancelled by negotiation and the 'Dutch Grantees' reinstated in their tithe-collecting powers — thus ending the annuities and the deficit in the Malacca accounts. This idea had been suggested, apparently by Bonham, to Young, who had come out very strongly against it and had commented on the readiness of some of the

Proprietors to suffer a financial loss in order to recover their influence;⁴⁴ but Bonham returned to the idea in his report, sent on 21st June 1842 to Bengal and on to the Supreme Government, which considered it on 26th April 1843.⁴⁵ The Hon'ble, President in Council 'with the concurrence of the Right Hon'ble the Governor-General' then resolved, under the heading of 'Malacca and Nanning', that:

The President in Council regrets the little progress made in the commutation of the tithes...as shown in the 20th and 21st paras. of Mr. Bonham's report. The local authorities are enjoined to persevere in carrying out this measure with as little delay as possible.

His Honour in Council remarks that the prejudicial influences of the former tithes owners were represented to possess over the cultivators of the soil, the correction of which was the object of Government when it was purchased the right to tithes, will not allow the Government of India to entertain the proposition in...Mr. Bonham's report of effecting a compromise for the restoration of that right to the former owners, although the annuities granted in lieu are stated to involve a loss of upwards of Rs 12000 per annum.

Garling wrote again, at much greater length, on 1st March 1842:⁴⁶ he was by then Resident Councillor Penang and was commenting on the Board's Despatch of 1st September 1841 and new alienation policy. Much of his letter dealt with the position in Penang and Province Wellesley, but he had been asked by Governor Bonham to comment also on the Malacca position.

...21. I shall now endeavour to meet your desire respecting the Malacca lands....

22. These lands divide into Nanning and Malacca proper.

23. The Nanning lands are the Company's exclusively. There is not a square feet of that territory alienated or of which the fee has passed. With the exception of a few lots of ground occupied by the Government works, the hot wells, the officer in command, a missionary establishment, Mr. Westerhout and myself, the whole of which do not in the aggregate cover an area of a square mile, all the occupied land is cultivated or occupied by natives only.

He went on to deal with Malacca as a whole —

...the questions regarding...the future management of the Malacca lands is consequently a complex one, and before I could record an opinion with any degree of confidence I shall wish to know what are the views of Government: that is, whether their jurisdiction shall continue as at present or whether it is to be circumscribed within some narrow boundary....

and dealt with Bonham's idea of reinstating the Dutch Grantees. He continued:

...32. Supposing this point settled, the lands of Nanning come next under consideration. Should the old proprietors receive back their lands, I would propose treating Nanning as proposed for Penang and Province Wellesley, that is apportion it into certain tracts and sell the ownership by auction, giving a long notice...that such cultivators who may desire to purchase their lands out [i.e. in perpetuity free of tithe] may have the option of doing so by the prompt tender of so many years' aggregate of rent....

35. It is probable [nothing in the correspondence shows why, but there may have been conversation] that you may wish me to state an opinion respecting the ex-Panghooloo of Nanning. I would not recommend his restoration: he is contented and comfortable as he is, being permitted at all times to go to Nanning with the previous and necessary ceremony of asking the Resident's permission and fixing a day for his return. The present constitution of Her Majesty's Court is incompatible with the existence of that modified concurrent jurisdiction which the Panghooloo would exercise and of that relative independence which he would desire to maintain. A very neat system may be penned in theory, but I question if within five years the Penghooloo would not be doing something which would render him obnoxious to the Courts. But supposing this difficulty removed by circumscribing the powers or the jurisdiction of the Court, yet I would view his restoration as imprudent. We are under a moral obligation to secure the existing rights and liberties of the people of Nanning: I am apprehensive that there may be several individuals whose early attachment to our Government may have rendered them obnoxious to his anger.

36. There occurs to my mind but one supposable case which would render his restoration politic. It is that of Government withdrawing from the interior. The Panghooloo of Nanning would become a barrier against the incursions of the people of Rumbou, Johol and those parts. To render this barrier more complete, the Panghooloo might, under the above supposition, have a large territory granted towards, and close up to, the very base of Mount Ophir.

He then set out his own recommendations in a long post-script, which began 'It would then tend much to simplify the business if Government would consent to purchase out the annuities and kept the lands....' He then considered the consequential position of Nanning and the 'interior'.

...(reference) Paragraph 36. Should Government purchase out the annuitants, and therefore their engagements to surrender the lands on the change of flag be cancelled, there are two modes by the one or the other of which the Malacca interior might be regulated. Firstly, by the instru-

mentality of Dool Syed as suggested above. The disputed territory, bounded by the Kessang and Chin Chin Ilang rivers on the three sides and the Johore boundary and the base of Mount Ophir on the remaining side, might be added to Nanning. The south west boundary of union might be a direct line drawn from Pondok Compas or the Chin Chin Ilang to the junction of Battang Tabong with the Malacca River.

The other mode is that of assigning the disputed territory as a separate land. There are two plans which claim attention: one is that of assigning the land to Syed Saban the Rumbou Ex-Chief now a pensioner of Government. He is an active intelligent man and appreciates the great advantage of having the British Government for friends, but on the other hand he is of a crafty intriguing spirit, of unquiet habits, fond of power and desirous of having about him a band of hungry admirers prepared for any work. On the whole I do not think it advisable that he should be employed, the more so because this territory borders on the Geminchi Gold pits, which might be the occasion of embroiling him with his neighbours and inconveniencing Government.

The other plan is that of restoring it to the Tamoongong of Moar. The father of the present Tamoongong had violently seized the district; it was recovered in 1827 and has ever since proved a bone of contention and is in every way worthless. But my fear is that the present Tamoongong has not energy sufficient to keep the land anyhow. Should it be made over to the Tamoongong of Moar I would venture to suggest that this be effected so as to make Sultan Ali Iskunder Shah⁴⁷ his feudal lord a party to the transaction.

The disputed land is well defined as above excepting a short line which should unite the source of the Chin Chin Ilang stream with the nearest point of the Johol boundary. It is difficult to name a place. The very few names set down in our maps find no place in the boundary treaty of 1833, so the various names cited in that treaty cannot be traced on the map.

In regard to Dool Syed and Syed Saban generally, whatever may be determined respecting them, whether to remain as they are or to be put in office, I would respectfully yet earnestly recommend that their stipend⁴⁸ should never be stopped. I am persuaded that it is the cheapest mode for Government, and the readiest mode for the local authority of securing their peaceable demeanour.

In the event the decision to buy out the annuitants was not taken until 1861 after the end of Company rule, and the India Office found a different answer, a Frontier Force, for the problems of the Interior. Garling's prevision, though considerable, was not total: In July 1844 Lewis, then Acting Resident Councillor, wrote to Governor Butterworth enclosing a copy of a letter from Westerhout from the Temenggong of Muar. This reported that Syed Shaaban had appeared at 'Jementah' at the foot of

Mount Ophir, had driven out Ungku Busu, had captured goats and buffaloes, and claimed tribute of the local gold for Tengku Jaafar, a son of the late Sultan of Singapore and Johore: the Temenggong asked if Syed Shaaban's attack was on English instructions. Lewis also enclosed a copy of his own letter to Syed Shaaban, calling him to Malacca (to leave which Syed Shaaban had asked permission) to explain 'this apparently unprovoked attack on the subjects of a neighbouring Chief'.⁴⁹

IV

The two paragraphs of Bonham's report for the year 1841/42 which had drawn the strictures of the Supreme Government contained figures:

...20. ...on the commencement of the system by Mr. Commissioner Young it was estimated that it would be necessary to issue 11352 commutation papers. On 10th June 1842 the statement stood as follows, which will show the progress that had been made.

		Number of Leases	Quit Rent	Estimated area
Malacca				
Number of persons who have taken commutation papers	2152	2388	3111	5801
Absent, but will receive them	412	464	908	1589
Recusants who refuse Commutation papers	2564	2842	4019	7390
Doubtful	2379	4058	6717	6904
Nanning				
Taken Commutation Papers	980	1271	2139	3357
Not yet come down	2580	2641	1915	2590
	490	530	331	426
	8973	11342	15121	
20667 ⁵⁰				

21. The 5029 leases that have been executed are estimated to admeasure 8391 acres....

The figures two things quite clearly: that when the local authorities — Garling, Murchison in his day, Bonham and Salmond — referred to 'leases' they did not mean leases in the English legal sense, but used the word interchangeably with 'commutation agreements'; and secondly that

there were more commutation agreements in Nanning (doubtless because of Westerhout's undivided efforts there before his transfer to Malacca) than in the rest of the Settlement. It is also clear from the twenty-third paragraph of Garling's long letter that Nanning was homogenous, with all holdings on the traditional Malay tenure. It also seems a fair deduction from Bonham's figures, and from a comment in Garling's letter about 'several Clearing Papers for land impregnated with tin' at Durian Tunggal and 'several hundred Cutting Papers in various places to be leased for agricultural purposes' that Bonham's quoted figures refer exclusively to land held by 'prescription' in Malacca property.

Bonham had no expectations for Nanning: in that same report he quoted the revenue collected there — Rs 813–12 in 1840, Rs 1915–18 in 1841 — to show the Government

...how little has been done and how little can be expected from the lands of Nanning. The people are very poor, their wants very few, and from the opposition always shown to innovation (however unreasonable it may be) I confess I think it very problematical if they would be induced or indeed if they are able to purchase the commutation of their rents by a capital sum...

27. Land in the Straits Settlements generally is valueless, indeed its entire value in the interior of Malacca consists in the money which has been expended in clearing it from forest. There are miles and miles of uninhabited and unoccupied lands available, not only in our districts but in adjacent countries over which we have no control. In those countries no land tax is demanded and if it be very strictly enforced at Nanning the inhabitants will doubtless retire from our districts, for the protection afforded by the British Government to the inhabitants is certainly comparatively small, but still the means of the place will not allow of more....

28. Under these circumstances...I would venture therefore to suggest that Nanning be permitted with respect to its landed tenure to remain as it is at present, vizt, a resident officer being authorised to make the best arrangements he can with the landowners for a period of twenty years....

Nevertheless, three days later Bonham wrote to the Resident Councilor Malacca directing a harder approach towards those who had not entered into commutation agreements, when the ship carrying his report to Calcutta can hardly have cleared port.

I have the honour to request that Mr. Westerhout may be instructed to value *all* the articles of produce which may be on the grounds of those who decline to enter into a commutation...and that Government dues thereon may be rigidly exacted.

2. Mr. Westerhout must therefore advert to the same means for realising the tenth as were adopted by the original proprietors previously

to their having disposed of their rights to the Government, and with which he must be familiar.⁵¹

Salmond, then Resident Councillor, reported on 8th May 1843, referring to Bonham's letter and enclosing a report by Westerhout

...by which you will observe that 669 commutation deeds have been issued since certain arrangements were effected for valuing the produce of a portion of land held by certain "recusants" which have been particularly noticed by my predecessor....

In reporting that there are about 1300 recusants remaining I request permission to inform you that considering all the obstacles, inconveniences &ca which Government officers have had to surmount and which have been so fully described by Mr. Garling...I am on the whole inclined to consider that the progress made in inducing "recusants" to take commutation deeds as Favourable; in short those issued up to 30th October have exceeded the number I anticipated, especially when all the obstacles alluded to, failures during the past year of fruit and rice crops are added.

3. Of the 1300 "recusants" remaining...about 400 have abandoned the lands formerly occupied by them in consequence of the great losses they sustained in 1840 by murrain among the buffaloes, the only animals employed for agricultural purposes in Malacca.

This was a reference to Malacca proper rather than to Naning, where buffaloes were not used for ploughing and harrowing.⁵² On 12th July 1843 Salmond wrote again: '...since my report of 8th May 59 commutation deed have been issued...up to this date 728'.⁵³

The Supreme Government's Resolution enjoining perseverance in Malacca was passed on through Garling, then Acting Governor after Bonham's departure; this goaded Salmond into a further reply.⁵⁴

...2. With respect to the delay alleged to have taken place in the commutation...I beg in the first place to refer you to my report...dated 8th May last and a postscript...of 12th inst.

3. In this report I have refrained from explaining in detail the nature of the opposition, obstacles &ca which Mr. Westerhout and myself have had to contend with and continue to this day to experience, inasmuch as they have been so frequently and so fully particularised by my predecessor in his numerous land reports since 1837 when Mr. W. R. Young was deputed to the Straits....

4. Mr. Westerhout in the fourth paragraph of his communication has alluded to Mr. Governor Bonham's orders...and to the means adopted by some of the former proprietors on the non-payment of the Tenth, which part of Mr. Bonham's orders I regret cannot be enforced without more specific instructions and in the absence of a country police

and without also an increase to the land establishment now consisting of 11 persons (vide Margin).⁵⁵

I have particularly mentioned specific instructions, because other measures were adopted by the former proprietors than the one noticed by Mr. Westerhout. For instance the Panghooloos of villages on such lands were accustomed, before the transfer of Malacca in 1825, to inflict corporal and illegal punishment upon tenants if they did not pay the tithe, make roads, clear rivers and in short perform gratuitous labours for the former proprietors to whose arbitrary authority and caprice they were also subject....

I have also obtained information from some of the ex-proprietors upon the subject, and have ascertained from them that their former tenants were compelled by them to pay the tenth in various ways Vizt. some inflicted corporal punishment, some confiscated their goods and others summarily ejected them, knowing that the poor cultivators had little or no chance of obtaining justice ... We had to contend with the (sort of) Rajahs, Tuan Tanah (Lord of the Soil) &ca.⁵⁶ Under these circumstances it will be observed that Mr. Westerhout had sufficient grounds to dissuade us from resorting to the means adopted by the original proprietors, especially as any attempt of the kind would involve the Government and their officers in Law Suits⁵⁷ and most probably disturb the Tranquillity of the Settlement.

5. Hitherto the plan adopted by Mr. Westerhout and myself has been that of visiting the various villages and endeavouring in person to dispel the erroneous opinions instilled by interested persons into the minds of the "recusants" whose disinclination to deviate from the customs of their ancestors is sufficiently great without being misled &ca by educated and influential persons. When any tenant refuses to take a commutation deed or pay his tenth in kind, he is duly summoned to appear before the Court of Requests for the estimated value thereof.

He took up Westerhout's comments on coercive measures and went on to give the authorities the alternatives of taking action or accepting the situation as it was:

...the reference to the opinions expressed by Mr. Westerhout in the fifth and sixth paragraphs of his letter respecting coercive measures being used...I respectfully request the attention of Government to the papers noted in the margin⁵⁸ and it is determined that it shall be optional to the Government in the event of the 'recusants' refusing to commute the tithe into fixed money payments to eject them and resume the lands. There will be no difficulty in executing such a measure provided I am furnished with sufficient authority to carry it into effect. Indeed I have no hesitation in adding that I will guarantee that the commutation system will be carried fully into effect within three months after the receipt of such an authority.

Westerhout's letter,⁵⁹ which Salmond enclosed, read:

...Adverting to the commutation of tithes I beg to acquaint you that there are a few daily coming in for the purpose of commuting the tithes into money payments still there are a great many more who following the example set out to them by their quondom (sic) landlords have hitherto persisted, and still persist, in refusing to meet the wishes of Government although a great inconvenience is entailed upon them by having the produce of their gardens valued by the Land Office peons and by being compelled to bring the tithes to the Land Office, where it is disposed of by public auction.

4. You will observe that Mr. Governor Bonham states that Mr. Westerhout must advert to the same means for realising the tenths as were adopted by the original proprietors...with which he must be familiar. The custom to the best of my knowledge and belief and so far as I had been personally concerned, was that if the tenants did not choose to plant they must still pay the tenth, which was termed Chooky Angin,⁶⁰ and on non-payment of which they were expelled the land which they had occupied. But this was not generally practised even before the transfer of Malacca by every landowner, there may be more opinions than one on the subject and it will therefore be a dangerous ground for me to act upon, especially where evidence may hereafter be required in a Court of Justice, in which case I may be involved in the costs of a suit as I have been in the case of *Ponachee v. E.I. Company*.

5. I am however of opinion that the only way of further expediting the measure than I have already done under your directions would be compelling the tenants to pay yearly the tenth that would arise if the land were properly tended and cultivated, and ejecting them the first year they neglected the cultivation and thereby failed in paying the tenth. At present everything is trusted to nature, which supplies them spontaneously without taxing the least exertion. The dusoon or fruit gardens which consist of patches of thick and almost impenetrable jungle are suffered to remain in this condition until the trees are in bearing, when the brushwood is cut down, a little hut or cabin erected and a few individuals sleep in it to prevent monkeys and flying foxes from devouring the fruits. After the fruit season the dusoon is again allowed to resume its primitive jungle until another season comes in rotation.

Were the above compulsory measures adopted, a few examples made of the former landed proprietors and the principal recusants would suffice to put an end to the tithes system.

At present the resistance of some of the remaining recusants is so great that notwithstanding that Mr. Blundell⁶¹ himself spoke to them in a most positive and energetic tone when he visited Allay⁶² on the 17th Inst. the Panghooloo of Ayer Mollay this morning very coolly informed me that the people of his village "are not yet inclined to take deeds".

Under the former proprietors the cutting and selling of timber, provided they paid the tenth thereon, was seldom interdicted, and this practice has obtained up to September 1838, when Mr. Young with a view to encouraging the tenants into commuting...into fixed payments, allowed them the privilege of cutting timbers free of duty.⁶³ The restriction of this privilege to the recusants would materially aid the object of Commutation.

The new Governor, Butterworth, did not agree and in a despatch on the general land policy in the Settlements⁶⁴ commented briefly on Malacca.

Whilst on the subject of commutation I may here allude to Malacca, where I think matters are progressing as favourably as may be expected, and I shall therefore by no means feel disposed to recommend with my legal inexperience the coercive measures suggested...in the Resident Councillor's letter...in opposition to the approved and matured experience of my predecessor as stated in...his letter of 21st June 1842, since which time 780 additional commutation papers have been issued.

13. There are still however 837 persons remaining who resist to meet the views of Government, preferring to pay a tenth in kind at the Land Office in town...I shall enjoin Mr. Salmond not to relax in his endeavour to bring those persons to reason.

V

The problem of the revenue and commutation outlasted Company and India Office administrations. and the question inevitably arises why the Resident Councillor Malacca in, for example, 1861 was expressing the same hopes in more or less the same terms as his predecessors twenty years before.

Blundell gave one well-known explanation: that the peasantry were frightened off by the written agreements.

This document occupies the whole of one side of a sheet of foolscap, while the other is filled with Malayan writing purporting to be a translation ...but...failing entirely to convey to a native reader any idea of its meaning....To secure the payment (often of a few annas only per annum) the...ignorant Malay peasants were sent for in shoals to put their marks to these sheets of foolscap...filled with writing. They naturally got alarmed and evinced the greatest reluctance to affix their signatures.⁶⁴

One takes leave to doubt whether it was the document itself that alarmed them: given that Young's draft smelled somewhat of midnight oil (for it is difficult to see, for example, how the East India Company could

have 'Executors Representatives and Administrators' in the sense used), and given also what is not proved, that the 'careful collation' by the learned Superintendent of the Anglo Chinese College had resulted in what Blundell called 'an utterly unintelligible jumble of words', there still remain the facts that Westerhout explained what the documents intended, that they had occasioned no alarm among the sawah owners of Naning, that thousands of agreements had been made, and that Young estimated that only one hundred in ten thousand could read. As to the 'shoals' being sent for, it has been seen above that between 30th April and 12th July 1843 Salmond reported a shoal of fifty-nine deeds or slightly less than one every working day. If one accepts that Westerhout or the 'native surveyors' and peons did in fact measure boundaries and calculate 'superficies', the cultivators had warning of what was going on, even if they were called to the Land Office in batches to sign and receive the completed documents.

The covert influence of the 'Dutch Grantees' was an important, though not necessarily the major, factor at the beginning of the period; but there were in any case no Dutch grants in Naning, so that the influence, of the impropietors there could not have been direct. This is not to say that rumours did not circulate, or that the reluctance to pay an assessment in money (particularly on orchards or dusoon as described by Westerhout) was not communicated from Malacca proper to Naning.

Bengal and the Supreme Government blamed the local officers — perhaps unfairly, for Young came to their aid.

In closing this communication I have much satisfaction in assuring the Governor-General in Council that whilst in the discharge of the duty committed to me I have received every assistance and zealous co-operation from all the officers of Government at Malacca to whom I have had occasion to resort for information or aid. I feel it the more incumbent on me to make this statement because I am aware that His Lordship in Council entertained unfavourable impressions as to some of the local authorities to advance the commutation measure contemplated. I feel satisfied that no backwardness will be shown in any of the service of Government in promoting to the utmost the success of the arrangement in progress.⁶⁶

Nevertheless a year later he certainly blamed Lewis, at least, and incidentally described the Malacca administration:

...31. But it will no doubt be asked by Government how has it happened that the administrative officers have suffered these erroneous and mischievous impressions to remain in the minds of the people, and to have permitted other persons to usurp and to retain an authority and influence which so far as they are legitimate should belong to the State?

For it would appear scarcely credible that the officers whose duty it was to manage the collection of the tenth after the completion of the agreement of 1828 and to deal with the cultivators in their new relations with the Government had not the power and the opportunity of making the people comprehend the real nature and effect of the new arrangement and of disabusing them of any false notions respecting their continued subordination to the late tithe-owners which interested or designing individuals might endeavour to encourage. Although I am most reluctant to impute blame to public officers filling responsible situations under the Government, it is quite impossible for me to avoid expressing an opinion that in this matter there has been a remissness on the side of the officer who has had the superintendence of this department of the local administration since 1828. I infer this remissness from the notorious fact that a very large proportion of the cultivators do now, after the passage of ten years from the time when the privileges of the former tithe-owners were formally and absolutely transferred to the Government, profess their ignorance of any essential change in their position with respect to those to whom they had heretofore acknowledged as their superiors....

32. I am however bound to observe, in reference to the presumed remissness that the relations subsisting between the administrative officer and the agricultural population of Malacca are of an exceedingly anomalous character and are by no means favourable to a ready intercourse and to the seeking out and affording of explanations on subjects relating to the conditions and interests of the body of the people. No establishments whatever are maintained in the interior of the public tranquillity or whose business it is to repress crime and to bring offenders to punishment. The Panghooloos, or Head men of the villages, are in virtue of their office nominally conservators of the peace in their respective districts, that is, they are expected to report to the Magistrate all offences coming within their cognizance, to assist the police in tracing offenders and to use their endeavours to preserve order. But these duties are not being imposed on them by any formal and clearly defined authority, are discharged under no cogent responsibility. The Panghooloos are not salaried officers of the State; the equivalent they receive for the aid they are supposed to give to the police and to the Collector in estimating the crops consisting, in addition to the dignity of the office, (of) an exemption from the payment of the tenth taken from the other cultivators. They do not however consider themselves, neither are they considered by the people, as the servants of the Government or as an official link between the people and their rulers. It will be perceived that in the system of centralisation such as I have briefly described there are but few points of contact between the rural population and those

exercising authority, and there must consequently be scarcity of opportunities for ascertaining the feelings and opinions of the people and for communicating the wishes and views of the Government.⁶⁷

VI

Nearly all the members of the Malacca administration were demoralised in one way or another. Lewis was the first to leave, sent at short notice to become Assistant Resident Penang because the apparently able Assistant there, Balhetchet, had to be moved and was sent to become Assistant Resident Singapore.⁶⁸ When Lewis had been in Penang three months or so he wrote to the Governor with copies of correspondence asking whether Government would permit him to retain 'a magnificent silver vase', a 'testimony not only from the gentlemen with whom I was on terms of friendship but also from the Native Inhabitants of the territory': an enclosure reported that a 'meeting of subscribers to a Fund...have the pleasure to request your acceptance of the accompanying silver vase', and was signed by three Dutchmen and one Chinese: the first two signatories were J. B. de Wind and J. H. Velge. There was no indication then, or suggestion now, that Lewis breached the confidentiality of Government to them, but it is noticeable that — according to the Court of Directors — 'the real source of the opposition to the tithe commutation remained to be discovered by Mr. Young'.⁶⁹ Lewis with his Malacca Dutch wife, sister of the Neubronners,⁷⁰ had the wrong friends for the Malacca of their day.

Such fire as Garling had had a decade before had gone out of him; he was in bad health, disappointed, perhaps defeated. He went on four months' sick leave in October 1837 before Young visited Malacca, but in November 1838 Bonham wrote to Bengal⁷¹ that 'Mr. Garling's state of health is so pernicious that I think there is every chance of his being compelled to proceed on sick certificate to New South Wales or the Cape'. Garling was aware that he was unlikely to get promotion: to quote the laconic entry in Calcutta's Letters Subjects Index '30 Dec 1833 Reports on having delivered over charge of the Residency to Mr. Bonham....Observes that seniority in office has been a second time disregarded and expresses his serious disappointment on the occasion &ca'.⁷² After he had been transferred to Penang, he took over as Acting Governor on Bonham's departure in January 1843 but was superseded in February by Blundell (eleven years his junior in the service) who was brought down from Tenasserim to act until Lieutenant-Colonel Butterworth was appointed from the Military Service. Garling petitioned the Court of Directors through the Governor, Calcutta and the Supreme Government for a pension of £500 a year and

permission to retire because of Government's 'recently adopting a principle on providing for vacancies which closes out every prospect your Petitioner might otherwise have enjoyed of some local amelioration of his circumstances'; and he reminded them of his earlier memorial that when he was posted to Penang after spending eighteen months advertising his premises in Malacca for sale he 'was fain to accept of £400 for what had cost him nearly £1800 when he entered upon them in 1833'.⁷³ This worry had gnawed at him for some years; before he went on sick leave in 1837 he finished a Minute to Bonham on the extracts from Auckland's Minute forboding a reduction of the Malacca establishment with a personal cry:

For myself I beg respectfully to state that I have now entered my twenty-eighth year of devoted and conscientious servitude and that with an unblemished character (on which I stake my future hopes and service and my claim to the Hon'ble Company's further consideration) and a constitution materially affected by so long and uninterrupted a residence under a foreign and perpendicular sun, I find myself and family possessing barely sufficient to meet my expenses back to my native shores but without the means of subsisting when there...⁷⁴

Garling was transferred to Penang because Salmond was moved from that station as a disciplinary measure. He had been reprimanded for appointing one Dawson as a Commissioner in the Court of Requests at a salary fixed by Salmond himself, and he had then sold hay from his own plantations on Penang Island to the China Expedition then passing through, allegedly for \$15,710. The latter enterprise led to his being instructed to sell his plantations by 31st March 1841 and his transfer to Malacca while the matter was considered by higher authority.⁷⁵ The Supreme Government removed him from the establishment, and Lushington⁷⁶ sailed from Calcutta to take over at Malacca Lewis being sent down to act in the meantime. Salmond, who had memorialised the Court of Directors, was reinstated on terms, and Lushington went back to Calcutta.⁷⁷ In November 1846 Salmond went on sick leave to Ceylon⁷⁸ and Lewis was again sent to act. Governor Butterworth was not happy with this arrangement: '(It) is not so satisfactory as I could desire but it is the only one I could make on emergency without passing over Mr. Lewis, a very old civil servant....'⁷⁹ Salmond asked for, and was given, an extension to April 1847, to die there in March, his death being reported by Garling.⁸⁰

So far as the Company's administration did anything in Naning and Malacca, it was Westerhout who did it. All Governors from Ibbetson to Butterworth, over a quarter-century, spoke of his knowledge of the country and the people; Dol Said had trusted him when there was no-one else to trust; the Naning penghulus looked up to him; Garling, Auckland,

Young and the Court of Directos in turn commended his energy, conciliatory manner, tact and experience. His innovations when he administered Naning, whether the ideas originated from him or were the result of discussions with Garling, formed the model for the rest of Malacca, and in fact Naning probably suffered because Westerhout was removed to Malacca proper to introduce them there.

However, he had his limitations and his position was equivocal, not always from his own making. When Calcutta appointed him Assistant Resident in the room of Lewis (who was, until Garling went sick, to be moved to Singapore)⁸¹ Garling and Bonham entered caveats.

Mr. Westerhout [wrote Garling⁸²] speaks the English language with the utmost fluency, but he cannot at present write it with ordinary correctness....Besides I think it advisable that Mr. Westerhout should have a longer practice and gain more experience as a public officer, that he may acquire more confidence and independence than he may at present enjoy.

For these reasons Garling temporarily appointed the Surgeon, Oxley, to act as Superintendent of Police under himself, and it was not until Oxley was transferred to Singapore in 1842 that Westerhout took over Police duties and drew the full salary of Assistant Resident⁸³. Bonham added:

I may as well at once say that from Mr. Westerhout's connections, born and bred as he has been at Malacca, and from his imperfect education, that he has not that weight with the military and European part of the Society which it is desirable that the chief of any isolated Station should possess, and of this I am so satisfied that...I have directed, in case of an accident to Mr. Garling, the charge of the station to devolve on Dr. Oxley.⁸⁴

Nine years later Governor Butterworth wrote to Bengal:

I am persuaded that so far as practical experience, control over the natives, and influence with the surrounding petty Chiefs are concerned, a better person could not be secured. I admit however that it is problematical how far these powers may be generally advantageous unless under the immediate sway of a firm and independent character ready and competent to control in all matters...Mr. Westerhout is totally incapable of filling a similar situation to that which he now holds either at Penang or Singapore or indeed any office out of Malacca, his only value being...the intimate knowledge that he possesses of the territory and people of that Residency, beyond which he has never travelled nor troubled himself to make the smallest enquiries....⁸⁵

Along among the Malacca Dutch, he, gave active loyalty to the British

and the British Government: in his petition to the Recorder in the case of *Ponachee* he referred to the English Company, 'whose sway in the Settlement it is his warmest wish may last for ever' and stated that he had 'sent his children to be educated in the English language to the exclusion of the Dutch'.⁸⁶ Inevitably the Malacca Dutch, who 'ever looked fondly to a return to their own Government',⁸⁷ considered him a renegade. Garling commented in 1838 that

Mr. Westerhout by the line of proceeding which he has pursued of late years has gradually dis-severed most of those ties which bound him to the principal families of the Society with whom he had been living on terms of the closest intimacy and confidence from his earliest infancy....⁸⁸

and by 1847 Butterworth's conclusion was that 'certain it is that he is viewed with much jealousy and distrust by his own fraternity, the Dutch, and the inhabitants of Malacca'.⁸⁹

His self-confidence was sapped by *Ponachee's* case.⁹⁰ Lewis's list of tithe-owners' estates in 1828 had omitted one or two in the Bachang area, and one of these adjoined the 'estate' of San Jeronimo whose owner Sewa Sandra Chetty had executed a surrender in consideration of an annuity of one hundred rupees a month. The deed, signed and sealed by Garling and Fullerton on behalf of the East India Company, was of course the bond evidencing Sewa Sangra Chetty's right to the annuity, which thenceforth was the only right he had. Judgment was given against him in a civil action for debt in 1829, and the Sheriff sold the Chettiar's right under the deed, in execution of that judgment, in 1829 by public auction: it was bought by a Mr. W. Scott, who sold it to Westerhout on 1st May 1830.

In 1831 Lewis as Superintendent of Lands issued eighteen 'Cutting Papers' covering something over fifty seven acres in all, and the various licensees went into occupation. At the end of 1839 an action was brought in the name of *Ponachee* — stated by Garling to be 'an aged female' — for trespass, damages therefor, and an order of ejectment. The action was brought, not against the occupants, but against the East India Company as the principal of whom the occupants were mere agents. Westerhout was joined as co-defendant, ostensibly on the ground that as he was in 1829 Superintendent of Lands and the person responsible at law for the trespass but really (according to Bonham) to prevent his giving independent evidence.

The case went first to arbitration and Westerhout objected to the award, so it was heard by the Recorder, Sir William Norris, on 2nd January 1841. He found that fourteen of the licensees whose Cutting Papers related to the land San Jeronimo were in fact on land the tithe from which

Ponachee was entitled to collect. In the course of his judgment the learned Recorder said:

That a gentleman of Dutch extraction who has held honourable employment under the Dutch Government would look forward with complacency to the possible return of that Government at no distant period is perfectly natural, and no-one can censure the feeling. But if he has been so far misled by the prospect as to acquire lands which do not belong to him in the hope of being an extensive proprietor under the wishedfor dynasty, he must be content to suffer for his aggression, or rather the aggression he has induced the Company to commit for his own prospective advantage. For it cannot be doubted that the Land department must have been misled by his misrepresentations, seeing that he originally possessed all the title deeds, disposed of the property and must have been constantly appealed to as the person most likely to be fully acquainted with the boundaries. I am quite satisfied with the fact that the trespasses were originally commenced by him and subsequently continued under his advice. The Company will therefore be held liable for the amount of damages \$500, as they alone reaped the immediate advantage of the trespass, and the Defendant Mr. Westerhout is decreed to pay the costs attending the Survey and all expenses incurred in ascertaining the boundaries of the land which he first rendered doubtful. The remaining cash to be paid by the Company.

In the absence of the evidence put before the Court, it is impossible to say what guided the Recorder to this decision: the date of Lewis's issue of 'Cutting Papers' was established only by Bonham asking Garling for it after the case. Bonham in his covering letter to Bengal stated that he was 'aware that the whole question had been got up by a person of low, indeed of bad, character at that time practising in the Court', and the Recorder may have accepted innuendo supported by perjury as fact. The attribution of the so-called motives to Westerhout nevertheless seems gratuitous, as well as damaging. Westerhout certainly found them so and addressed the Resident Councillor on the point as well as asking that Government should pay the costs, which at \$503.90 came to more than the damages. Garling, and Bonham to whom the correspondence was forwarded, both strongly supported Westerhout. The Bengal Government's reply, sent on 17th March 1841, was that Westerhout should memorialise the Recorder, giving dates and references and

...respectfully and becomingly notice to the Recorder that he has not forfeited the confidence and good opinion of his employers, which he would have done if he had been suspected of the political speculations ascribed to him.

Westerhout presented his petition, and the Recorder endorsed his

reply —

I regret that I cannot conscientiously accede to the prayer...I did not expect, certainly, that the costs would be so heavy as they proved to be, and if I could well have reduced them I should have been glad to do so....Nor did I mean to disparage Mr. Westerhout's merits as a zealous servant of the Government....I do not lay claim to infallibility, and if the Governor and Resident Councillor think I was harsh to Mr. Westerhout, doubtless the Supreme Government will not be indisposed to list to their recommendation...

Bonham put this to the Supreme Government, which on April 1842 replied that the matter would be referred to the Court of Directors by the next overland mail. Meanwhile Westerhout remained liable, for two years, in the damages of \$503.80 — Garling's letter of 22nd September had said:

The disbursements of the case and costs seem to have materially inconvenienced him. He has a family of seven children the eldest three of which are youths at school, and his disposable finances are extremely limited...

and the partial withdrawal by the Recorder of some of his imputations did not take place, like the delivery of the judgment itself, in open Court.

There were two other incidents, each more injurious, in 1844-45. The first came to notice from a petition by certain Malacca traders to the Governor, and Butterworth ordered an enquiry to be held by Captain Cuppage, Officer Commanding at Malacca, and Mr. Minjoot, a local Justice. The Governor forwarded their findings, giving an account of the transaction:

The Chieftain of Linghy⁹¹ is the principal trader in tin to this Settlement, and has for many years vended the produce of his mines to Messrs. Neubronner & Co. In February last a new firm, under the title of Westerhout & Co, started in this trade, composed chiefly of Chinese with whom was associated Mr. John Westerhout, the son of the Assistant Resident....This firm endeavoured to induce the Linghy Chief to transfer to them a portion of the trade hitherto given to Messrs. Neubronner & Co and the Assistant Resident so far lent himself to the assistance of the new firm as to introduce the head partner Chee Yam Chuan to the Chieftain of Linghy. This however was quite sufficient to give a new direction to the trade, for no man has greater influence with the natives of our territories as well as the surrounding States than Mr. Westerhout, who is unquestionably a most indefatigable, energetic and useful public servant.

5. The enquiry...confirmed the statement of the petitioners that Mr.

Lewis⁹² the brother-in-law, and Mr. Joseph Neubronner, the brother of the partners of the firm Neubronner & Co. had written to the Chief of Linghy with the view of retaining for the firm in which they were interested the trade which that Chiefat time carried on with them.

6. It further disclosed that Mr. Joseph Neubronner, whose business it was to grant Port clearances to the traders, had so far abused the power he thus possessed as to create a sort of monopoly in favour of his brother's firm, not only obtaining goods for which others had already bargained, at the same rate as but sometimes at a cheaper rate than they had agreed to give.

7. Mr. Lewis, being called on by the Governor for explanation, particularly with reference to the circumstance that his letter to the Chief of Linghy, though not officially signed, set forth his official designation in the preamble and had the Government seal affixed, stated in exculpation that the letter was written in a private capacity and in answer to a further private letter from the Chief which he was unable to produce, having destroyed it.

Butterworth told the Government of India that he did not consider this explanation satisfactory — and received none from Westerhout — but proposed to go not further than to reprimand both the Acting Resident and Assistant Resident in the presence of the petitioners — though this, one would have thought, would have destroyed their standing in the Settlement.

The Government of India was not satisfied, feeling that Captaln Cuppage and Mr. Minjoot had concentrated unduly on Neubronner: it asked for further enquiry to establish how far Lewis and Westerhout deserved the confidence of Government. The Governor replied, without setting up the enquiry, that Lewis was 'an officer in whom Government can repose confidence in the situation he occupies' — which was Assistant Resident at Penang — and added a limited testimonial 'to the character he has maintained in the Straits Settlements for energy and zeal'.

The second incident also involved a member of the Neubronner family, Christian the Clerk in the Land Office. He was suspended from duty pending investigation in the same year 1844, and appeared before Lushington during that official's short tour of duty before Salmond was reinstated. Neubronner made depositions on six different dates in December and Westerhout was examined on these on the 10th, 17th and 18th of that month. Neubronner alleged that Westerhout had, since 1838 or 1839, directed the Clerk to deduct ten to eleven thousand gantangs of padi annually from that received in kind, and that Westerhout had appropriated some of this. Secondly, Neubronner alleged that Westerhout had supplied more padi to the convicts in the year 1844 than was stated in the Annual

Valuation statements made to the Resident Councillor, so that Westerhout could appropriate the surplus. Lastly Neubronner charged that Westerhout, who had purchased some land at Klebang from one Nanda, had procured return of the commutation deeds by eight or nine cultivators and had entered these lands in the statement of commutations, describing them as 'deserted'. Westerhout totally denied the first and second allegations but on the third admitted that he had bought the land and had withdrawn the deeds, but only so that the new leases could be issued by his son before new commutation deeds were made, and that in effect the transaction had not been completed. Lushington's long letter to the Governor⁹³ throws a light on the Land Office organisation over a period of at least ten years:

...9. Sheikh Omar the office Jurutulis⁹⁴ says that the books marked A were prepared by him from the valuation papers of the district jurutullisses, that they exhibit the total demands of Government on account of the tenths in each year and that Mr. Neubronner prepared the annual valuation statements from these books, that Mr. Westerhout never compared these books with the statements prepared by Mr. Neubronner, nor did he ever send for him (Sheikh Omar) to make enquiries as to the amount of padi exhibited in his books, neither is he (Sheikh Omar) aware of the annual valuation statements having in any year accepted a less quantity of paddy that was entered in his books. He states that the value was received into the godown by Mr. Neubronner as well as the money payable on account of paddy sold in the interior, and that Mr. Neubronner kept the accounts, that he (Sheikh Omar) did not keep any books of the deliveries of paddy, or of payments of money, or of paddy issued from the godowns...that when paddy was sold in the interior he (Sheikh Omar) counted the money and made it over to Mr. Neubronner, and he denies having now any money in his possession on account of paddy sold in the interior. He adds that there are debts outstanding at this time, either from cultivators or from parties who have purchased paddy....

10th. Japher [i.e. Ja'afar] says that...he has sold paddy in the interior by order of Mr. Neubronner during the past year notwithstanding that it has been forbidden, and that he also procured 280 gantangs from Mr. Neubronner on the understanding that it was to be paid for though the money has not yet been paid; that several of the cultivators have not yet paid up their arrears for the last and present years, and that he has not received his pay from Mr. Neubronner for the last 25 months, but that he has appropriated part of the amount of the paddy instead....

17th. It is proved, moreover, by the evidence of Sheikh Omar and the admissions of Mr. Neubronner himself that the system in force in late years was the same system as prevailed in the time of the former Assistant Resident, and there is on that account, as well as from the long service of Mr. Neubronner, some reason to suppose that Mr. Westerhout

may have been led to receive statements rendered by Mr. Neubronner without duly weighing the circumstances which ought to have induced suspicion and rendered him cautious of placing implicit trust in his subordinates. There is also cause to suppose that Mr. Westerhout was not concerned in the fraudulent practices, from the bad feeling that has existed between Mr. Neubronner's connection and himself, from which it does not seem likely that he would have placed himself in Mr. Neubronner's power for the slight advantage gained by a share in a surplus which, if all had been collected, would not yield more than 775 gantangs or about Drs 232-74 per annum.... There is some weight to be allowed too to the probability of charges having been brought by Mr. Neubronner in order to screen himself from his own delinquencies which were sure to be brought to notice on his removal from office. It is shown that in other departments the accounts have been most loosely kept, for payments on account of quit rent have not been entered in the cash book, while some have been entered for which receipts have not been granted, and other sums have been received on account of paddy sold during the last two years (though contrary to instructions issued by Mr. Westerhout) which have never been noticed in the accounts at all; that fruit has been sold without any regular books being kept, either of receipts or sales, the results of the sales being kept on little scraps of paper, and that no account was given of them to Mr. Westerhout for six or seven months together. There has, in short, been such, to say the least of it, gross negligence displayed in the management of every department under Mr. Neubronner that an enquiry into the real state of his account was unavoidable as soon as he left the office, and as in the course of the enquiry the fraud committed with respect to the appropriation of paddy was sure to come to light, it is not by any means unlikely that the present charges have been preferred with the view of throwing the onus of these malpractices on the shoulders of Mr. Westerhout.

18. On the whole I do not think that the circumstances of Mr. Westerhout being aware of the falseness of the statement is substantiated, and although there is no excuse sufficient to clear him from the charge of gross remissness in having no checks of any description over the proceedings of his subordinates and in not having instituted any special enquiries, there is still much allowance to be made for him from the circumstances of his never having been in Government employ before and being thereby unacquainted with any better mode of conducting his duties than that which prevailed in the office as well as from his never having had another line of conduct pointed out to him by his superiors.

All these officials lived with the knowledge that the charges against them had gone to Bengal and thence to the Supreme Government, to be forwarded to the Court of Directors, and that the Hon'ble Court's verdict

was the, final judgment. It took a long time to reach the Straits: the Court's Despatch to India on Lewis, Westerhout and Neubronner was not sent until 24th October 1846 and did not reach the Governor of the Straits Settlements until February 1847.⁹⁵ Even then the Court wanted more information:

We must express our surprise that you have not forwarded to us the document on which alone we can found a decisive opinion regarding his conduct — we allude to the letter which forms the only subject of complaint against Mr. Lewis...enclosed with the petition of the Malacca merchants⁹⁶....We cannot feel satisfied that the conduct of Mr. Lewis and Mr. Westerhout has been thoroughly investigated until the course we have mentioned has been adopted. We can scarcely doubt that Mr. Westerhout has acted with as much impropriety in this matter as Mr. Lewis....

But Joseph Neubronner was dismissed from Government service:

We cannot assimilate his case to that of his superiors. They indeed are justly chargeable with great official carelessness but in your opinion they are free from a charge of greater culpability. No such plea can be admitted on the part of the Marine Clerk, whose sole defence is a denial of facts vouched for by witnesses too numerous to admit any doubt of the general veracity of their evidence. There are circumstances also which have not been adverted to by you or by the authorities in the Straits, which in our opinion demand consideration.

20. We observe that Mr. J. Neubronner was until February 1843 head partner of the firm of Neubronner & Co, that at this period he was appointed to the service of Government as Marine Clerk, entering into an agreement of withdrawal from the firm and discontinuance of trading. On the assumption that this engagement was made in good faith by Mr. Neubronner, we are at a loss to understand his motive for accepting a subordinate office, the salary of which was only Rs 60 per mensem, at the expense of his interest as head partner of a firm which appears to have been largely, and there is reason to believe prosperously, engaged in trade. But when we find that the power conferred by this office was such as might, when improperly used, be made subservient to a trading interest and that Mr. Joseph Neubronner did make this improper use of his influence, we are entitled to entertain great suspicions of his motives for accepting the office.

There seems to have been one King Stork in this otherwise slack-twisted administration. Blundell, appointed on 1st May 1848⁹⁷ after Salmond's death, made impression enough on Malacca for there to be a series of petitions when Government announced that he was to be transferred to Penang.⁹⁸ The first was submitted by the Penghulus of 'Tullong

Kara', Kampong Tengah and Limbongan, all in or near Malacca, with two hundred and twenty-three supporters: it was followed by one from the Indian merchants with seventy-eight supporters, another from the Portuguese — in that language — with eighty-two in support, a major Malay petition and, rather belatedly, one from the Chinese with two hundred signatures. All except the Portuguese petition were almost exactly identical, and they mentioned Blundell's zeal for the Company — 'all the revenues have been successfully collected and all arrears have been paid up under his able management' and 'regarding the tithes he himself goes to every village, ascertains and rates accordingly, thereby rendering the people contented and they pay the same with good will and feeling'. He had repaired roads and cleared rivers, and the Kling merchants 'find it easy to proceed into the interior and though being benighted on the way they feel no fear'; under his rule many came from the Malay States to seek a living and forests were converted into villages; crops were abundant 'almost without seasons'; and rich and poor had easy access to him without the least delay. The India merchants added that 'as to the unproductive condition of the paddy lands (he) made way for the ingress and egress of water thus all the lands have been successfully brought to bear in abundance'. Only the Portuguese petitioned in more general terms:

...A small portion of what he has done in so short a time his predecessors did not effect in more than two centuries, and what more can the inhabitants of Malacca, and Government, desire? Mr. Blundell is not a Resident but a father to the orphans, protector to the widows, eyes to the blind, feet to the lame, universal benefactor and promoter of the Government treasure.

The larger Malay petition had signatures or marks of Penghulus and the number of their *anak buah*; and it is clear that for this purpose at least Naning was integral with the rest of Malacca, for the signatories included:

10. Koorah and 80 men of Paddang Subbang
15. Penghulu Kooloop Toopey and 278 men of Bookit Singee
21. Anssah with 90 men of Ramooan China Besar
24. Saleh with 150 men of Kampong Poolow
25. Kadir with 60 men of Malacca Pindah
26. Manjah with 100 men of Kalamah
27. Mohamed with 50 men of Paggo
29. Abdullah with 90 men of Melkek
30. Awalloodin with 60 men of Brisu
31. Kemud with 50 men of Lundoo
32. Abdul Rahman with 60 men of Soongye Patai.

It will be noted that there were no signatories from the Naning heartland north of Melekek and Brisu, or from the north-east and the Batang Melaka area. The Penghulu of Bukit Senggeh signed, and all the rest made their marks. Butterworth's sour comment, when he forwarded the last batch of the series, was:

The petitions submitted...and the address to Mr. Salmond (published in the Singapore Free Press 8th August 1844) on his removal from the Residency as well as the presentation of a piece of plate to Mr. Lewis...will show the propensity that the Malacca people have to framing such documents either by themselves or at the instigation of others.⁹⁹

Notwithstanding all this activity the commutation was not accelerated, and contemporary unofficial accounts do not point to much Government stimulation of development, or indeed of establishing control of the more remote areas. In February 1847 Logan found the road from Sungei Petai to Alor Gajah strewn with laterite, gravel, but beyond that point the road was barricaded with bamboo turnstiles to protect the fields from wandering buffaloes — which to him corroborated the Alor Gajah *mata mata's*¹⁰⁰ statement that there was no horse and carriage in Naning. He came back on his tour by way of Pulau Sebang and Padang Sebang, where

...on climbing to the top of a grassy slope a striking view was obtained of the country in front. On the east and stretching away to the south east a broad and perfectly level plain of rice lay beneath the eye, and through it the Sungei Tampin took its course.

It had 'the precise appearance of the indented shores of a lake or inlet of the sea'.¹⁰¹

Three years later Crookewitt in his report to the Netherlands Government on the tin mines of Malacca found that 'the roads in the interior of Malacca are very bad — they can scarcely be called roads. To Alor Gaja and somewhat further up is a military road...kept in repair and improved by about 80 convicts'. The miners themselves transported the tin they won

...except in the Naning mines, where Malays are employed. Here the distance from the mines to the landing place is about seven miles. The Chinese who carry it from the mines to Alor-gaja receive for two small slabs, each of which weighs about 40 Amsterdam pounds, 20 cents of a dollar, which is equal to about one third of a dollar per pikul. From the landing place at Alorgaja boats take the slabs for a similar price to Malacca. [He was not impressed by what he saw and heard:] The beautiful English "free system" is in full operation here, and it is seen to be very unsuited to a colony....Heads of campongs, called "Panghulu", are

appointed by the Resident, receiving a tax from the inhabitants of the campong, but obedient to no orders. On the journey to Batang Malaka three such heads of different campongs refused to accompany the constable. If they are displaced, as at the above-mentioned place was the case some months previously, then they take the field against the new authority, and murder and rob as much as they can. A few weeks before my arrival, a shot was fired at the house of the constable, which lodged in his bed-chamber directly above the bed. The Ex-Panghulu of Batang Malaka, while I was there, fired at the newly appointed Panghulu and he was further suspected of having murdered two Chinese.... The Chinese who works in the Naning district assured me in the presence of the Resident of Malacca that he lost annually by his mining. He ascribed this not to the ground but to the want of capital: the man appeared to me, however, the last to be believed of all I have ever met with.¹⁰²

Blundell, writing in 1848, also commented on the unknown interior. 'Few, wonderfully few, are the persons who know anything of the interior of Malacca'. He mentioned a visit by sugar planters in 1847: 'Malacca has been twenty years in our possession, but it believed that these gentlemen were the first that ever visited the interior which has throughout remained a "terra incognita"'.¹⁰³ Even these gentlemen did not go in very far, for they were interested in a lease of two thousand acres on the left bank of the Linggi River where a company then being formed proposed to establish 'an Extensive Sugar Plantation, Manufactory &ca'. The land applied for was 'a strip of that formerly belonging to Adrian Koek'. Dol Said had protested at Koek's trespass on Naning land, but it is doubtful whether this area was in Naning, for the applicants — Messrs. D'Almelda and Sons of Singapore, acting for the proposed shareholders, with J. H. Velge as local agent — described it as being 'within two or three miles of the military post'¹⁰⁴ at the very mouth of the estuary.

Chapter 10

The India Office

I

According to Cavenagh, the situation had not changed when he took over from Blundell as Governor in 1859: 'when I first visited Malacca there were districts into which European officials had never penetrated and in which roads were entirely unknown...even our frontier line was undefined....'¹

One of Young's recommendations in 1839 had been that municipal taxes — rates and assessments as well as licence fees — should be imposed to finance municipal purposes, and Indian Act IX of 1848 — all Acts for the Straits in this period were Indian Acts — had set up:

....at each station a committee of five, two being Government officers and three residents of the place. The Committee are empowered to raise funds for the payment of the Police of the Stations and for keeping in repair all roads, bridges and other conservancy works.²

Indian Act XXV of 1859, with its eye on Singapore and to a lesser extent on Georgetown in Penang, provided for the election of members of the Municipal Commissions it set up, but it could not be carried out in Malacca: 'the amount of the Rates and Taxes is so small, and the number of persons qualified to vote is so few, that the necessary elections cannot be carried out in all their completeness'³ The Municipal Commission was responsible for the provision of these services over the entire Settlement,⁴ and in Malacca its exiguous funds were swallowed up by the police force and its buildings. Labour for these works was available: Burn's report as Resident Councillor for the year 1864 said 'The municipal roads are in good repair due almost entirely to the convict labour granted us by Your Honour, for the account will show how little cash was available for repairs'⁵ The tone of the Annual Reports, in the last years of Indian rule, was as though the grasshopper had become a burden and the mourners went about the streets:

....3. None is available for new works: hence my colleagues fully acknowledge the necessity of the construction of the new road from Banda Hilir to Bukit China and of the bridge at Pengkalan Rama⁶ (but we have been reluctantly compelled to postpone these works indefinitely....

5. The increase in the collection on agricultural produce owing to the extended radii of assessment might have been much more than \$290 had it not been for the failure of the paddy crops in most districts. This tax within the extended radii is, I regret to state, still most unpopular, and the people place every imaginable difficulty in the way of collection.

6. The collection on carriages ponies and carts all exhibit a considerable decrease. Several owners of hackney carriages have removed with their property to Singapore to seek a more profitable field. A great many ponies have died during the year and have generally been replaced by weak and worn-out ponies bought up in Singapore. Importation from the Sumatra coast has, I regret to state, almost entirely ceased....

The decrease in collection on carts is unsatisfactory, as it is hoped that the opening up of new roads would tend to an increase of cart traffic, but the general poverty of the people, owing to repeated failures of crops, may in a great measure account for it.

The extended radii reached out no further than to Kesang and its tin mines, and Naning neither contributed to nor profited from such efforts as the moribund Commissioners could make.⁷

Maintenance of the peace was indeed a preoccupation. Blundell reported in 1858⁸ that:

...in crimes of magnitude the Malayan race are the most conspicuous...On the frontier congregate the idle, lazy, opium-smoking, gambling Malays, who make inroads into our villages in search of plunder and against whom an armed, active, zealous and disciplined police is required, whereas the Funds available for providing Police will not admit of that body being...highly-paid active and zealous in suppressing crime.

The gap was filled by Cavenagh:

Consequent on the exposed state of the frontier and the depredations committed with impunity by marauders from the neighbouring States, A Frontier Force consisting of 1 Jemedar, 2 Duffadars and 32 Peons, upon higher rates of pay than allowed to the ordinary Police, has been sanctioned and is now in course of organisation.⁹

New Police Stations were built for this force at Pulau Sebang and Batang Melaka in 1863/64;¹⁰ labour was convict labour under the direction of the Resident Councillor, who in Malacca (unlike Singapore and Penang) was superintendent of Convicts, and had at his disposal over five hundred men throughout the period.¹¹ In 1860/61, a bad year, there were eight murders in the Settlement, including one in Naning: '...A Malay was shot through a hole in the wall in his own house at Brissoo: this case is still

involved in mystery'.¹² This was reported again — unless there had been a second murder there — in 1862: 'a Malay in a house was killed by a shot from below'; and there was another at Cherana Puteh, of a Chinese hawker stabbed to death. The latter was thought to have been committed by Rembau men, but a letter to the 'Rajah' was answered by the statement that the men could not be found. 'The Frontier Police will watch out for them'.¹³ These apart, there were no murders reported from Naning during the period.

Early in his Governorship, Cavenagh was told that (Chinese) Secret Societies were recruiting Malays and that in Malacca even Penghulus were becoming members: several of them were convicted of having joined an illegal assembly.¹⁴ He intervened to remit their sentences in part, ostensibly at the request of the Resident Councillor, since he was satisfied that 'the Malays found that the law was more powerful than the Hooeys';¹⁵ but he was impressed by the fact that Malays rarely saw a European official to whom they could appeal. He therefore ordered that Magistrates should sit in 'District Courts' in the 'interior' and visited various places to select sites.¹⁶ One was Alor Gajah, and the Court first sat there in 1861. At first sight this seemed a success:

....the advantages of the District Courts are fully appreciated by the Chinese residing in the interior, and even among the Malays they are becoming popular, no less than 257 cases have been filed during the twelve months at the District Court at Aloor Gajah.¹⁷

It soon turned out that the Malays preferred their own Custom: 'the increase...has been attributed to the numerous suits instituted by the Farmer of the tenths of produce for the recovery of the payment of his dues'.¹⁸

Cavenagh was an active man, despite his wooden leg,¹⁹ and took the Resident Councillor with him when he went on inspections: but other than his (implied) visit to Alor Gajah he seems not to have visited Naning other than to inspect the Frontier Police and to have 'the pleasure of seeing the country intersected with roads' and to drive 'along the frontiers...which were not only marked by boundary pillars but were protected by a cordon of efficient police':²⁰ he mentioned no Naning place name. The Governor visited Malacca only once a year. Captain Burn, the Resident Councillor, visited the tin mines at Kesang several times²¹ and seems to have gone to Sungei Siput in 1866, for he offered the local cultivators remission of one third of their arrears on condition they paid the other two thirds within forty days. This they did — surprisingly, for there had been three bad harvests — and he was given permission to make the same offer in the rest of

Naning.²² Nevertheless it is hardly possible that the India Office administration could have been much more active than that of the Company, for the establishment was as small:

	Rs per mensem	Land Establishment	
Resident Councillor	1,000		
Sitting Magistrate	400	Clerk	100
Clerk of Accounts and Treasury	150	Second ditto	30
Clerk Record Office	100	Native Writer	20
Shroff	25	Ditto	16
Duftery	12	Three peons	30
		at 10 Rs ²³	
Two peons at 10 Rs each	20		

The recurrent routine, though probably not onerous, tied the officers to Malacca: the Resident Councillor sat with a Justice or two as Quarter Sessions, and the Assistant Resident was Magistrate and sat as Commissioner in the Court of Requests to hear small civil actions. The Resident Councillor deployed the convict labour force and guided the Municipal Commission; his Assistant, Captain Playfair, for example drew the plans for the Pangkalan Rama bridge and the Bukit China road²⁴ — though he was an artilleryman and not an engineer.²⁵ Travel at best was by horse and buggy, or on horseback, so that the radius from Malacca town was limited; and in no annual report is there any mention of a base being set up in the 'interior' for tours of inspection.

There was one new official, the Surveyor. Biundell noted the creation of the post in 1858: 'A Surveyor has specially been nominated to Malacca',²⁶ and Quinton arrived as Surveyor-General in 1860. He was given an adequate staff — the provision for surveys in Malacca in the year 1860-61 was Rs 8842 while Singapore and Penang were given only Rs 6045 each,²⁷ and while he was there they worked fast and well. The 'preparatory map' was expensive, its costs working out at eleven rupees a square mile:

...this may be attributed to the difficulties experienced by the Surveyor in discovering the wells or boundary marks by which the line of the British Frontier is defined. This arduous task has, however, been

satisfactorily accomplished, and for ordinary purposes the map prepared by Mr. Quinton will be found most useful.

Cavenagh commented on the achievement: 'a rapid sketch of a territory 630 square miles in extent surveyed by a single officer. A Revenue Map of the District of Malacca is now in course of construction'.²⁸ This was the first accurate statement of the area of the Settlement, and to compute it, Quinton had made a geographical survey of three hundred and fifty square miles. Nor was this all: there had been field work on boundary surveys of land occupied by squatters in 711 lots covering 13,993 acres, and in office 1,242 plans had been drawn.

The surveys were of lands near Malacca including those under 'Cutting Papers', but in 1861 the Surveyor's powers were greatly extended by Indian Act XXXVI. The first draft of this Act had been prepared in the Straits and submitted by Blundell: he reported in 1858 that it was 'now before the Legislative Council...for enabling the local Government to dispose of waste lands, and to give valid titles for land so disposed of, and also for land now held on what, in many cases, are very doubtful titles'.²⁹

The reasoning was straightforward. The policy of grants in perpetuity on payment of a premium but of only nominal rent, as sanctioned by the Directors' letter of 1st September 1841, had been followed in Singapore and Penang by widespread development: its introduction in Malacca, if possible, would be attended by the same happy results. It was, however, not possible in Malacca proper because the 1828 agreements limited the surrenders then made to so long as the Settlement remained a British possession, which might be less than perpetuity. The Act therefore roundly declared in its first Section that those lands which had been the subject of those agreements vested in Her Majesty the Queen Her Heirs and Successors in fee simple subject only to such rights as cultivators and occupiers might have, and that any 'conveyance' made by Government should be good for all intents and purposes, subject only to these rights. The second Section guaranteed the annuities and made them payable by the Indian Government, and provided for commutation of them by payment of a capital sum as agreed with the annuitants, and there was a saver of the rights of those annuitants who did not commute.

The Act then turned to 'cultivators and resident tenants of those lands... as well as in the District of Nanning who hold their lands by prescription':³⁰ these were declared to hold subject to the payment of the tenth, either in kind or commuted. This Section (III) drew a distinction between this class and 'all other cultivators and under-tenants who now occupy...or shall occupy...any such lands as aforesaid' and declared the latter category to be liable to assessment under Section II of the Act XVI of 1839. The

assessment was to be made by the Resident Councillor under the instructions of the Governor.

The next Section, IV, aimed at a tenure in perpetuity by grant with quit-rent:

...it shall be lawful for the Governor...to commute the payment whether in kind or in money to which any person may be liable under the last...Section for a sum to be fixed at the discretion of the...Governor and for annual quit-rent....

On payment of that premium and quit rent all liability, whether to tithe or to assessment, ended. There was no question of agreement here: whether the cultivator liked it or not, the Governor could convert into grant in perpetuity with payment of premium and quit rent on the Singapore model, with the customary tenure superseded. It will be noted that the new terms were to be fixed by the Governor (who by Section XII was to be guided by instructions from the Governor-General in Council) and not by any mere Resident Councillor: throughout the Act the Governor was to be the mainspring.

The Act circumscribed the area of land held under indigenous custom. Section VI laid it down that 'It shall not be competent to any party to claim, on the ground of prescriptive right or possession, any forest, waste, or other uncultivated land' in Malacca 'or the District of Nanning', unless it 'having been before...occupied, shall have fallen out of...use within three years from the passing of this Act'. This Section thus gave customary land-holders up to 6th September 1864, and no longer, to establish a claim to land temporarily or permanently abandoned. There was one proviso in their favour: a cultivator could 'engage for' waste land within or adjoining his existing boundaries to the extent of one quarter of the land he already held. For the rest, all future occupation was by Section V to be — despite Act XVI of 1839, which was not repealed — by grant in perpetuity or lease for any term of years, on premium and quit rent fixed by the governor.

Sections VII to X marked another departure from existing policy. The government was empowered to cause a survey to be made of 'all the land of the Settlement of the Malacca and the District of Nanning', and the surveyors could summon witnesses and compel production of documents; they could enter on any land, fix boundary marks, and settle boundary disputes between adjoining owners: their awards became conclusive unless there had been an application to Court within two months. The powers of settlement were those given to Young by Act X of 1837 which appointed the Commissioner, and after his return to India Bonham had been formally appointed Commissioner so that there was someone in the Straits

to exercise the powers at need;³¹ the duty was, as Prinsep told Young, 'like a Settlement Officer in Bengal', and well known. The conferment of these powers on the Surveyor was, however, particular to Malacca and 'the District of Nanning' in the Straits, as was Act XXVI itself; and it was a shift from Act XVI/1839's requirement that the applicant should mark the boundaries. The penalty sections of Act XVI were incorporated into the new Act XXVI by its Section XI. The legal apparatus for a revolution in land tenures and land administration was to hand.

Meanwhile, the land revenue had not improved, and had even deteriorated. In 1861

...the arrears as shown by the Returns on 1st May amounted to 19,962 Rupees, they are principally due from the residents in Nanning, efforts have been made to recover as much as possible, but the poverty of the people is a great obstacle to their success. In many cases rents have not been collected for nearly 20 years, and the accumulations have consequently become too heavy to admit of their being cleared off rapidly, but, by avoiding having recourse to harsh measures and practising due forbearance, there is reason to hope that a very large portion will eventually be realised....³²

Next year the position, and the hopes, were the same:

At Malacca, while there has been a slight increase in the realisation on account of the tenth from uncommuted land, there has been a material decrease in the collections made under Commutation Deeds; this decrease has taken place almost entirely in the District of Nanning, and has been in a great measure attributed to the partial failure of the rice crop, which has led to the departure of several of the inhabitants with the view of seeking employment in the neighbouring territories. Notwithstanding this temporary depression the Land Revenue at this Station may certainly be considered as on the increase; already under the operation of Act XXVI of 1861 a considerable number of leases have been issued, and, although naturally at first somewhat opposed to the introduction of the new system and reluctant to abandon the right of paying tenths in kind, the peasantry will, doubtless, learn to appreciate the advantage of holding their lands under a fixed assessment, purposely established at a rate favourable to the cultivator, so as to offer an inducement to its acceptance and thus to relieve the State from the necessity of instituting an annual valuation of all agricultural produce, whilst at the same time the industrious would be allowed to reap the full benefit of any additional labour they may bestow upon the improvement of their Lands, of which in all probability they would, ere long, become proprietors under fee-simple grants.³³

Before he was transferred to Singapore, in 1867 Quinton and his teams surveyed approximately 10,000 lots or about one third of the area. He did not emplace any boundary marks, but encouraged occupiers to plant areca palms or hedges along their boundaries. Large numbers of leases, for various terms, were issued: in 1863-65 there were approximately 240 for five years; In 1863-72 184 for ten years; in 1863 7 for fifteen years; in 1863-72 87 for ninety-nine years. There were also 283 Free Grants made, between 1862 and 1870.³⁴ Most of these, however, were substitutes for fifteen-year leases in Tranquerah and other environs of Malacca Town reported by Westerhout in 1844; and out of all these, there was one Free Grant in Naning, No: 242 issued on 18th June 1867 for a Lot at Kelemak later numbered 12613.

II

In 1867 'Major Burn, late Resident Councillor and Acting Lieutenant-Governor Malacca' went on the Unemployed List, and on 2nd September 'with the arrival of Mr. Cairns, the Officer appointed to the Lieutenant-governorship of Malacca, the services of Major Burn are dispensed with'.³⁵ Indian administration of Malacca and Naning was finished after forty-three years.

The received history and doctrine of that period is best set out by Mills,³⁶ and any later student navigating his way through the vast tracts of correspondence and reports, Resolutions, Orders and Acts, cannot but be struck, on returning to Professor Mills' account, to see that every landmark of a date, every promontory of an Act, every shoal of indecision and every change in the tide of policy has been charted. Different travellers are left however with differing impressions at the end of the same voyage, and those impressions are coloured by the travellers' tales of their predecessors.

Mills' conclusion was that the most serious problem confronting the Malacca and Straits Governments during this period was that of land settlement, and the unwillingness of capitalists to invest in Malacca land because they could not get permanent title as they could in Province Wellesley. The revenue deficit was aggravated by the payments due under the 1828 and 1829 agreements and the land tenures were thrown into disorder and confusion by the 'fundamental mistake' of Regulation IX of 1830. He found that Young's recommendation, that patience and persuasions rather than compulsion should be applied to commutation, to be a mistaken idea:

Young himself appears to have used this method successfully, and it might perhaps have succeeded if he had not retained the idea of compelling the rayats at the same time to receive a title to their land drawn up in English legal terminology.³⁷

He reinforced this by quoting Maxwell:

The idea started in Regulation IX of 1830 that each cultivator was to have a title deed for his holding seems to have taken complete possession of that generation of Land Revenue officials, and the object of every succeeding administration seems similarly to have been to force documents of title upon an unwilling population.

Mills found that the absence of a survey allowed the Malays to spread their cultivations and to claim as 'prescriptive' much land which had only recently been occupied. He commented on the opposition of the Malays to the new system, fomented (he said) by the Revenue Farmers. The ultimate reason, and again he quoted Maxwell, was that

....though the native revenue system cannot be satisfactorily worked, for want of power to exact the tenth the officials have been unable to oblige the people to adopt the English tenure....;³⁸ the Malayan system of land tenure and revenue in Malacca had never been properly ascertained and codified. As a result it had always been...more or less unworkable under English law.

Maxwell in his turn had seen partly through Blundell's eyes. The first quotation above was supported by a quotation from Blundell,³⁹ and echoes part of it:

..To overcome this reluctance and to induce a general signing throughout, seems to have been the great and almost sole object of the Land Department from that time to the present. All the ingenuity of Residents and Assistants has been exerted to this end....

In his next sentence Maxwell went on to describe the 'complete failure' of the commutation plan, with which Blundell was then dealing. It is difficult to avoid the conclusion that there is a confusion of thought here: commutation agreements of their very nature related only to land legitimately (or quasi-legitimately) held other than by title, under custom, and had nothing to do with 'the English tenure'.

The other particular characteristic of Maxwell's paper was that he wrote as a specialist Land Officer on a subject with which he had to familiarise first himself and then the highest officers of government and members of Legislative Council: it was an Information paper to lay the foundations for the changes, the increased establishment and the legisla-

tive programme which he would consider necessary, and to explain why. The paper was published in June 1884, and at that date he had not necessarily foreseen the set of Ordinances he was to introduce in the next two or three years: at the end of 1884 he wrote:

I went very fully, during the year, into the history of the land revenue administration of Malacca and have, I trust, made myself acquainted with the whole position of land tenures in that Settlement. The organisation of the Land office, under a competent officer as Collector of Land Revenue, and the resumption of survey operations in a systematic manner, are matters of the first necessity and I trust that something may be done in these directions in 1885.⁴⁰

The entire position in Malacca was an affront to an efficient administrator, but it is important to recognise that here Maxwell was critical of the land administration of the first sixteen years under the Colonial Office as well as of the Indian administration in which he began, and which in some ways he found superior.⁴¹

Blundell is harder to evaluate. Mills says of him that he 'served many years at Malacca and eventually became Governor of the Straits Settlements'.⁴² This is true, but his much-quoted description of the Malacca land administration⁴³ was published in 1848, and he had arrived as Acting Resident Councillor only in May of that year: his only previous experience had been his acting-gubernatorial visit in July 1843 when he went to Alai with Westerhout and 'spoke in a most energetic tone' on the virtues of commutation. His article is entertaining reading, but it prompts questions. Misgivings about his statement on the form of the commutation agreement and that cultivators were sent for 'in shoals' have already been mentioned; and there are other indications that he had not had time or opportunity to study the matter in depth. It was, for example, not the case that Young brought the idea of commutation to notice: Westerhout, Garling and Murchison had done so years before, and Calcutta had approved. It was not 'enforced': much of the confusion arose directly from the fact that enforcement was not applied. It was not correct to say that it was 'unpalatable': a success rate of approaching six thousand voluntary agreements out of a total estimated eleven thousand cannot be called that or — in Maxwell's phrase — 'a total failure'. The statement that

...in 1843 or 1844 the then Resident Commissioner hit on the notable plan of punishing the recusants...by putting their tenths up to auction and selling them to a Chinaman, the very thing that formed one of the grounds for redeeming the lands from the proprietors!

requires qualification: tenths of fruit, in particular, had always been taken in kind and 'farms' sold; and Salmond and Westerhout were badgered by Bonham to take a harsh line, and refused. The comment that Blundell did nothing either as Resident or as Governor to end this evil — or absurdity — is unavoidable. One thing, however, is clear: Blundell convinced himself, or was convinced, that compulsion and tenure by grant were necessary, and the 1861 Act was the result of this conviction.

The Indian Government's policy on land alienation was at all times consistent in principle: the Regulation approved at the March Council of 1829⁴⁴ and brought into force pending its affirmation as Regulation IX of 1830 was concerned only with future alienations of 'waste and forest lands' and declared the terms and conditions. It was a statement that Government claimed all unoccupied land the right to dispose of it, and it is a necessary implication that land held on customary tenure was outside its scope. The Directors' letter of 17th June 1829 forbade alienations in perpetuity in future disposals of such lands, but otherwise did not alter the position. Act XVI of 1839 repeated the procedure for applications for clearing and occupying 'waste and forest lands' and by its last clause made its provisions inapplicable to land already held by prescriptive, or customary, right. The Court's letter of 1st September 1841, which permitted grants in perpetuity in Singapore and Penang, suggested assimilation of future agricultural alienation in Malacca to the customary tenure though with a commuted tithe, but it did not merge the two; and this was confirmed by the Supreme Government's Resolution in 1843 Act XXVI of 1861 was the first legislation expressly to concern itself with land held by prescription, so that it could compel commutation; but in its turn it drew a distinction between land held by prescription and 'all other cultivators', it provided for future grants or leases of 'waste or forest lands' and it barred claims after 1864 to 'forest waste or uncultivated land' on prescriptive grounds.

The other two problems which so occupied the Government during this period — the status of the Dutch Grantees, and commutation of the tenth — were in the one case a preliminary and in the other a collateral matter. The rights of the Dutch Grantees had to be extinguished before the policy itself could be adopted; and the Government thought it had achieved (and in practice largely did achieve) this object by the agreements of 1828 and 1829 before the March Resolution. The preamble to the 1861 Act — 'Where as doubts have arisen as to the power of Her Majesty to convey in fee simple in the District of Malacca' — seem to have originated in Blundell's mind rather than from any widespread withdrawal by intending developers of their applications, for such a class did not exist; and Messrs.

D'Almeida & Sons did not take the point when they applied for sugar plantation land at Kuala Linggi.

Commutation was a problem relating only to land held by 'prescription' (or quasi-'prescription') and not to land held on title: the latter paid rent. There was, until 1861, a programme, progressively less successful and apparently given little effort after Blundell's time as Resident Councillor — to secure agreement on the part of the peasantry to pay in cash instead of kind, for the manifest advantage of Government, probable advantage of the cultivators and — as Government thought and hoped — to secure agricultural development in the Settlement in the long term. Later generations would have been spared some confusion if officials like Garling, Salmond and Bonham had been more meticulous in their choice of terms in land administration and in particular had been less indiscriminate in their use of the words 'lease' and 'rent', but it is quite clear from their correspondence that they were aware that commutation of assessment and the issues of title were separate and parallel.

Policy is one thing, execution another. Effective working of the policy depended on the Government's knowing what was 'waste and forest' in Malacca proper in 1829, or in the Settlement on 1st January 1840 when Act XVI came into force, or what was 'waste, forest or uncultivated land' in 1861; and by and large Government did not know. There were areas where 'Cutting Papers' had been issued, as next to Ponachee's land at Bachang or where tin was thought to exist, as at Durian Tunggal; and it may be presumed that Westerhout's rough surveys and records of Naning after 1833 contained detailed of land brought into cultivation in the immediately subsequent years, but it did not occur to him that these lands fell under Regulation IX: he never mentioned it. Valberg remained in employment as surveyor, but his time appears to have been occupied with short term leases and their replacements in Tranquerah and other suburban areas; and he was dismissed in 1843, sacrificed by Bonham to obtain surveyors for Singapore and Penang. Rights at the end of the period Quinton surveyed the boundaries of Naning against Rembau and Johol, but nothing else: the rest of his work was around the town and along the coast. The legislation fixed a base date, or rather a series of base dates, but no base line dividing customary from granted lands was ever marked on the ground or drawn on a map.

This was no bad thing for Naning. Its people extended their occupation of land within their areas according to their own Custom — as indeed did many of the peasantry of Malacca proper — and traditional Minangkabau and Malay tenure persisted in spite of, or perhaps because of, the inefficiency of the British administration.

In general, there is little evidence that much impact was made on Naning or the rest of the 'interior'. Naning saw its Dato' deposed and Sukus officially abolished, but there were unofficial replacements. Naning paid the tenth on rice, as it had not done before 1832, and its exports to Malacca of fruit, firewood and other products paid at the toll-houses until they were abolished in 1837. In the latter years of the period they did not always even pay the tenth: the report of twenty years' arrears has been noted. There was an annual visitation by tithe collectors. The *Singapore Chronicle and Commercial Register* (by the hand of Moor)⁴⁵ found that

...the manner in which the tythe is collected is peculiarly oppressive, and has been the cause of most serious complaint amongst the cultivators; it is thus. When the grain is ripening, agents are sent to ascertain the quantity of paddy the harvest is likely to produce....The ryot is then told that he will be required to send in one-tenth of the amount thus calculated or guessed at, and it is vain to remonstrate and say that he must reserve some of the grain....for seed, some for the use of his family, or that ere it is ripe and fit to cut, a storm or a herd of buffaloes or wild hogs destroy his little plantations;⁴⁶

but Newbold, there at that time, has a different account:⁴⁷

When the grain is ripe, a person on the part of the Government visits the rice fields, attended by the owner, the Panghulu or Mata matas of the village and several of the oldest inhabitants, on the spot in order to agree upon and assess the value of the crop. A difference of opinion will sometimes naturally arise between the taxer and the taxed. This is submitted to the arbitration of the Panghulu and the village elders. But should these persons again assess the crop at a lower value than the Collector's agent really thinks it worth; the latter has still the resource of offering to purchase the whole of the crop on the part of Government at a price according to the owner's valuation. This proposal, whenever made, has been, I believe, invariably refused. It is not therefore improbable, all circumstances considered, that not more than 7 or 8 per cent. ever finds its way into the Company's godowns.

Since the commutations, when they started, were by consent it is unlikely that their terms were harsher, apart from Government directives that they should be favourable to the cultivators to encourage acceptance.

There were some other signs of British rule. The military detachments at Brisu and Taboh Naning were soon withdrawn, but the fort remained at Alor Gajah, to no great purpose: 'we have Mr. Bonham's authority for holding the two companies now detached at Naning to be useless there or at Malacca'.⁴⁸ Convicts from Malacca maintained the roads, particularly in the last decades. A Circuit bungalow was built at Alor Gajah in the year

1864–65, and a Malay Vernacular School with twenty-two pupils — the first in the Settlement away from the immediate neighbourhood of Malacca town — was also opened. Also in that year, the Government cut new bridlepaths in the Settlement, as relief works after the third bad harvest, and these included two in Naning, one from Sungei Baru to Brisu and the other from Pondok Kempas to Nyalas.⁴⁹ Otherwise, and until then, there seems to have been little Malacca excursion into Naning.⁵⁰ Westerhout's four years marked a closer control than any exerted later, and this — to judge from the deputation of Penghulus asking that he should continue — was benign. The idea that British rule was oppressive is not supported by the records or demographic facts:⁵¹ the Malacca proper population of 1822 had been 22,000 and in 1842 was 39,147, while the Naning population of 3,458 had risen to 6,649.⁵² The Queen's Peace was imposed, to the degree they chose, by the Penghulus reporting to the Magistrate: Braddell's map of 1853⁵³ shows no police station nearer than the 'Tin Districts' with posts at Machap, Gading, Durian Tunggal and Pondok Kempas, and Naning policed itself until Cavenagh's Frontier Police took up their stations in 1861. It seems true to say that in fact British rule in the days of the Company and the India Office was little more perceptible than that of the Dutch before them and, at the time of India Office administration, no more comprehending. One of Cavenagh's anecdotes marks the chasm, with a frock-coated Victorian superiority taking the place of the empathy of Church and Westerhout: from the circumstances it seems to have been a Naning case, of *balas hidop*.

I had some difficulty even in convincing a Punghooloo that human life was too sacred to be bartered for money. He was of the opinion that, in the event of a murder being committed, instead of being tried and punished, the murderer should simply be compelled to make a suitable payment to the heirs of his victim. Some time after, a Malay was tried on a charge of murder: the prisoner acknowledged his guilt and pleaded accordingly, but the presiding judge would not receive the plea, and he was directed to plead Not guilty. The trial proceeded, and the self-condemned murderer was acquitted. This result was perfectly incomprehensible to the people of his village, to whom his guilt was well known.

The Reports, Minutes and letters throw up Indications of inertia, traces of corruption, chaotic administration and lax supervision, but these were not the main causes of the inept rule of these forty years: there was much on the other side as well, including Garling's knowledge and experience and Westerhout's energy and influence. The blame lies higher, to some extent with the Governors who like Blundell found Malacca 'insignificant' and its trade 'trivial', but more with the Indian and Home

Governments who consistently failed to provide the officials they themselves had stated were necessary. Field Marshal Lord Wavell once wrote that the Staff prepare their appreciations, the Generals make their plans and the Colonels give their orders, but they all depend on the fact that in the end Private Bloggs picks up his rifle and advances to his front. There were good staff officers like Young and Grant, and generals like Auckland and Canning: Bonham and Butterworth, Blundell and Cavenagh and Garling were men of some quality; but there was no Private Bloggs — except perhaps Westerhout, whom they marched out of Naning and then up and down the Settlement of Malacca.

Chapter 11

The Early Years under The Colonial Office

I

For the next twenty years Naning and Malacca proper felt little, if any, impact from the Transfer from India Office to Colonial Office control. The administrative establishment was very much the same: the Lieutenant-Governor had an office staff of two clerks, and interpreter, a duffree and two peons; the Land Office, of which the Lieutenant-Governor had oversight, consisted of a Chief Clerk (at \$75 a month), five clerks, a Malay Writer and two peons. For public works there was an Assistant Engineer and Superintendent of Convicts at \$160 a month, an Assistant Surveyor at \$120 — in addition to Surveyor-General Quinton then in Malacca — with a staff of two Sub-surveyors, four Measurers and a peon. The judicial department was headed by the Magistrate and Commissioner for the Court of Requests, with provision of \$3382.32 for the department for the year, and there was a Commissioner of Police and Coroner at \$1636.44.¹ To a large extent they were officials carried over from the Indian administration: when Cairns went on leave in 1868 Captain Playfair acted until Lieutenant-Commander Shaw RN arrived in March 1869.²

There were some beneficent effort in the country-side: there was continuing provision for 'Roads Streets and Canals not of a Military Nature' to upgrade roads, including putting in bridges and culverts, in country districts including the Batang Melaka division; and clearing was done on rivers and canals including those serving padi areas: in Naning attention was given to the Sungei Baru and Sungei Siput.³ Police posts increased, and births and deaths were registered at nineteen 'Country and Frontier Stations' in the Settlement, among them Alor Gajah, Brisu, Lubok China, Pulau Sebang, Batang Melaka, Nyalas and Machap in or on the border of Naning.

Legislative Council, considering the education policy of Government, sent out questionnaires to all Settlements in 1871, raising in particular the point of what language should be the medium of instruction. The Malacca replies give some idea of the country schools of that day. The Lieutenant-Governor was

...no advocate of a purely vernacular education. A Malay who is taught to read and write in a Government Vernacular School is no wiser

or more civilised when his education is finished than his grandfather was, who was taught to read and write by the Kazi or Imaum. As far as vernacular education goes, the wants of the Malay inhabitants in Malacca are very fairly provided for, some districts perhaps being better off in this respect than others; the great fault of vernacular education is that it does not prepare the way for anything better. The boys know by heart what they profess to read, the Master teaches in the time-honoured fashion in which he himself was taught, and as soon as the Malay youth can read the Koran with the proper intonation and the orthodox swaying of the body, and can write an ordinary letter more or less grammatically, he is taken from school to work in the paddy fields or to be married. My opinion is that the utility of the vernacular schools would be vastly increased if they taught Malay in the roman as well as the arabic character. Mr. Keasberry's Reading Books...are in use in all these schools. Let the Malay word be lithographed in English print and text underneath the corresponding word in the Arabic character...[and he gave an example]...The first step will be achieved towards producing a medium of communication writing for the different races that inhabit the Colony. The spelling should be phonetic. Malay is a lingua franca of these countries so far as speaking is concerned, but the different races who use it as a medium of conversation have no means of communication with each other in writing. Ample time could be given for the study of the Koran and other religious books in the native character only by the Mahommedan boys. The advantage of the plan that (I) suggest is that it will open the present vernacular schools to all nationalities instead of their being as at present confined to one.

The Assistant Surveyor, 'John S. Winbolt M.A.' was more practical and less prophetic:

...I do not consider that due attention has been paid in Malacca to the vernacular education. There appears to be a want of system — insufficient supervision and not properly qualified masters...Schools with which I am acquainted in the town of Malacca are sufficiently inspected. But in the vernacular schools this is not the case. The schools I consider should be inspected at least once a quarter by a properly qualified person.⁴

In 1874 the Lieutenant-Governor was able to report that

...there has been a great improvement in the teaching and an increase in the number of vernacular schools in 1873. Formerly nothing but repeating the Koran was taught; now elementary books in reading, writing and arithmetic have been introduced by Government; and although it is too soon to be of any statistical report, still there is a real hope of great improvement. The number of schools has been, and will be, increased as they become necessary. The Malays are slow to send

their children to schools, still education is gaining ground all through the Settlement.⁵

The Naning record was not then impressive, however: there were only the three lowest standards at both schools.

	Total Pupils	Number Presented	Full Passes Possible	No. of Passes	Passes gained
Pulau Sebang	27	18	5	154	18
Alor Gajah	15	6	Nil	18	8 ⁶

By 1882 matters over all had improved: 'The vernacular schools alone showed a notable increase, having nearly doubled their numbers, which may be attributed chiefly to the Penghulus now having a small pecuniary interest in them' — they were paid a small *per capita* bonus on enrollments — 'although they still need their attention to be directed to the subject, which I have done and continue to do when circumstances call for it'. But education was not generally sought:

A strong prejudice had existed amongst the natives in the interior of the Settlement, which was exemplified by a Penghulu telling me, on my informing him that as he could neither read nor write he must get a Mata mata who could, that he did not want a man so qualified, as such people were generally *jahat*...⁷

The earlier years of this period were also a time of some concern to the Malacca Government because of uncertainty on Naning's northern boundary, with a consequent effect on Malacca trade. In 1872 Syed Shaaban died at the age of seventy, and his son wrote to both Malacca and Singapore asking that the pension should be continued and paid to him, stating that his 'own life, in his position as the Eang de Pertuan Muda will be spent in protecting British interests on the frontier, and his own services will be cheerfully rendered whenever required by Her Majesty's Government'. Shaw, Lieutenant Governor, reported that the Petitioner

...has inherited as the eldest son of the late Syed Shabban about \$1000 and a house in Malacca worth about \$500, his territory consists of "Kroo" and "Tampin", two very small States with a population of about 1,000, the only crops are Padi, and Tengku Abu's income consists of fines and a few gantangs of Padi.

Shaw recommended that the pension should be paid: 'with this help he will be more influence in "Kroo" and "Tampin", a great advantage to

us in case of any dispute with Rambow'.⁸ The dispute with Rembau did not take place, but in that State and further north there were internal troubles:

...those principally affecting Malacca and Sunghy Ujong, Rambow and Salangor....Our Frontier River on the North West...[the Linggi]...having been opened, and the stockades destroyed by the boats of H.M. Ships *Charybdis* and *Avon*, accompanied by His Excellency the Governor in the Colonial Steamer *Pluto*, the trade had since considerably revived. On the day following the opening of the river, tin to the value of \$40,000 came down the river to Malacca.⁹

Throughout the period there was an agricultural development, independent of Government encouragement and escaping Government control, and with far-reaching consequences: the tapioca boom. It was not peculiar to Malacca, and Naning was rather less affected by it than Malacca proper, but it led to fundamental changes there. It was already noticeable in 1870: Irving, then Acting Lieutenant-Governor, reported:¹⁰

Leases for 10 years.

Leases for this period have been granted to persons desirous of cultivating tapioca. Tapioca is a crop of very exhausting character and after three crops without manure the land is exhausted. Hence the planters are desirous of obtaining short Leases. There are two kinds of tapioca, viz. the white and the red. The white takes twelve months, the red two years, to come to maturity. Two crops of the red variety occupying a space of six years may be stated as the outside of the cultivation on unmanured lands in Malacca.

It was then clearly a new crop: Irving described the system of collection of tithes on a wide variety of produce ranging from padi through nutmegs and pepper, sweet toddy and sugar, sugar-cane, gambir and gutta percha to tin and bricks and tiles, but made no mention of tithes on tapioca. When he was again in Malacca in 1881 he wrote¹¹ that 'the bulk of the land now held under ten-year leases...has been granted during the last fifteen or sixteen years for tapioca cultivation....' He went on to describe how it was done:

The Chinese manufacturers supplied the Malays with funds and the Malays began, without authority, to clear the forests in all directions and plant tapioca, which they afterwards sold to the manufacturers on the manufacturers' terms....

Squirrel, in his report as Lieutenant-Governor for 1878, attributed it to the Chinese directly: 'Large tracts of forest land have been cleared by the Chinese and owing to the weakness of the Land office staff, it has been

found impossible to check the encroachments on Crown lands....',¹² but Anson, as Officer Administering the Government in 1880, agreed with Irving's view: '...the attention of Chinese capitalists has, to a considerable extent, been given to the cultivation of tapioca, and other produce....'¹³

The scale may be seen from figures given in the Malacca Reports. In 1873 'Tapioca and paddy cultivation are both increasing, and I have great hopes that the revenue in 1874 will be sufficient to meet expenditure'. The increase, where legitimate, was under the terms of Act XVI of 1839 (which was still operative in those areas where the 1861 Act did not apply) so that 'any person desirous' made an application to the Collector who could issue a permit pending survey, which in practice came sometimes years later. In 1877, Shaw reported,¹⁴ 10,936 acres were surveyed: of these, 4,422 were under permit and 6,514 were encroachments on Crown land by the applicants extending their holdings. He also included a table.

	Area in square acres	(sic)
Land cultivated	145,219	
Land uncultivated	<u>276,541</u>	
		421,760
Land cultivated and surveyed	127,719	
Land cultivated with permission	<u>17,500</u>	
		145,219
Tapioca plantations surveyed	53,347	
Tapioca plantations unsurveyed and encroachments (approx)	5,000	
Other lands uncultivated, forests and reserves	26,337	
Forest lands (approx.)	100,000	
Waste lands (approx.)	<u>150,204</u>	
		276,541

Area of Territory 421,760....

From this table it would appear (since otherwise the figures would not add up) that the land under tapioca amounted to 58,347 acres out of the total cultivated area of 145,219 acres, or forty per cent of the whole.

The efforts of the Land office and Survey department were devoted to this problem: in 1878 5,825 acres, including 1,053 acres encroachments, were surveyed;¹⁵ in 1879 the figures were 32,081 and 3,506 acres;¹⁶ and in

his report for 1881 Irving thought 'the tapioca encroachments have now to a great extent been dealt with....'¹⁷ This compared favourably with the other two Settlements: McNair, Colonial Engineer and in charge of Surveys, reported in 1880 that the areas of illegal occupation in Malacca, including areas as 'Juse' and 'Nialas' in Naning, totalled 10,000 acres as against 30,000 acres at Singapore and no less than 50,000 at Penang.¹⁸ The Survey department had a little time to work on a revised map of Malacca territory, showing tapioca areas, forest reserves, 'property said to be private' and 'kawasans' on a scale of three quarters of an inch to one mile, promised in 1878¹⁹ and published in 1884. It shows a tapioca factory at Pulau Sebang, two in Padang Sebang, one at Machap Umboo, one in Pegoh and two north of the road from Simpang Ampat to Brisu in what are now Taboh Naning and Sungei Buloh mukims, two in Lendu and one in Sungei Baru Ulu; and all are set in or near 'Tapioca Lands'. These include some of the ten-year leases and other lands 'granted and sold during the year 1871':

Gadek 1 grant of 2a. 1 r. 39 p.

Kalamah 55 grant totalling 208 a. 2r. 4p.

Padang Sebang 1 grant of 4 a. 3 r. 04 p.

Paygoh 16 grant totalling 46 a. 3r. 09¹/₂ p.

Pulow 69 grant totalling 128 a. 2r. 01p.

Sungay Patay 2 grant totalling 4 a. 0r. 09p.

Tanjong Rimow 21 grant totalling 23 a. 3r. 02p.²⁰

II

The Government made some effort, both administrative and legislative, to deal with the tapioca boom and the continuing problem of land held under Malay custom. As early as July 1870 Scott, an Unofficial member of Legislative Council, had raised the matter of Malacca lands.

There is one subject in which formerly great interest was raised here [in Singapore] and is especially so at the present moment in Malacca, but no allusion was made to it in Your Excellency's speech opening the session, and no reference has been made to it since. I would therefore beg to move that the Government lay on the table such papers with reference to the Land question at Malacca as will afford the Council an opportunity of forming an opinion on the subject.

The Governor, Sir Harry Orde, was reassuring:

I think I can at once reply to the Hon'ble gentleman, though not in a position to accede to his proposal at present. The Government are giving their best attention to the means of settling this question, the

importance of which can hardly be exaggerated, but it is not yet in the condition to be made public. I may add that communication is also being made to Her Majesty's Government on this subject, so that it is still under consideration both here and at Home.²¹

The question had been brought forward, in part at least, by the judgment of the Chief Justice of Singapore and Malacca, Sir Benson Maxwell, in the Malacca case of *Sahrip v. Mitchell and Endain* that year, in the previous March. The facts as they emerge from the judgement²² were that the Lieutenant-Governor by notice properly served informed Sahrip that his land had been assessed at 97 cents per annum as from 1st January 1870 and called on him to take out title to the land within one month of service of the notice, and warned him that in default he would be ejected if he had not removed. Sahrip did nothing, and when the month had run Mitchell, a clerk in the Land office, with another clerk and supported by Endain, a police duffadar or corporal and three other policemen under a Police Inspector, went to the holding. Mitchell and Endain apparently were Europeans. Sahrip was not in his house, but his wife and family were there: they were turned out and their furniture taken away. The garden and padi land were repossessed and later sold by auction to Mitchell. It seems that the expedition was intended as an object-lesson: the policemen carried swords and one of the Europeans had a double-barrelled shotgun — a surprising show of strength and perhaps fear. Sahrip, the object of the sortie, had been the local Penghulu for fifteen years until he was dismissed in 1868: he was therefore a person of some local standing and possibly (since he had been dismissed) in Government eyes a leader of local malcontents.

Sahrip brought an action in trespass and claimed damages. The Government's defence was that Sahrip was not 'a cultivator or a resident tenant holding by prescription' and that the notice of assessment and all subsequent actions were, in effect, authorised by law. The Chief Justice examined the term 'prescription', which had been commented on by one of the advocates, Davidson; he pointed out that under its technical English legal meaning 'prescription' could not apply to lands held by Malay tenure. The correct term, he concluded, was custom in the sense of customary law which, in the locality in which it was observed, supplanted common or general law. The Solicitor-General had argued that such a custom and customary tenure were unreasonable (presumably as being against the public interest) and therefore invalid. Sir Benson Maxwell found that, on the contrary, the customary tenure was eminently suitable for local circumstances and in any case of long acceptance from Portuguese times down — and mentioned in Acts XVI of 1839 and XXVI of 1861. He found the trespass proved, and awarded damages as claimed.

It is a curious case, pointing to considerable crassness in the Malacca administration. The Chief Justice said that Sahrip had cleared the land in 1829 and had lived on it ever since, and this is stated as unchallenged evidence rather than as a finding: this knowledge must have been available to the Land Office — from Lewis's and Westerhout's records if nowhere else. Sahrip was therefore holding by 'prescription', or claimed to be; yet the Lieutenant-Governor and his staff went through the requirements of Section III and invoked police aid as provided for by Section IV of Act XVI of 1839 seemingly without having read on to the end of the Act and its excepting section. Again, though there was some discussion about whether the Lieutenant-Governor was a 'Collector' within the meaning of that Act, Sir Benson Maxwell left that point undecided; but according to W. E. Maxwell²³ while pre-Transfer Resident Councillors were officially appointed 'Collectors' the post-Transfer Lieutenant-Governors were not. (It is possible that this lacuna drove the Attorney-General to argue on grounds of public policy). Lastly, a complete machinery existed for compelling Sahrip to accept a title and payment of quit rent (not assessment) under Section IX of Act XXVI of 1861, but those powers were exercisable by the Governor, to whom it seems the matter was never put.

The first administrative improvement was the decision of Legislative Council in 1872 that one Passed Cadet should be provided in 1873 for Malacca and another for Penang, to become heads of the Land offices there, and the Estimates Sub-committee authorised retention of the existing Chief Clerk at Malacca at a cost of \$872.76 — making a contra-saving and a ruling in doing so:

The Government propose to insert an extra Punkah-puller at Penang and Malacca for each of the Passed Cadets, but the Sub-committee (the Colonial Secretary and the Colonial Engineer dissenting) think it unnecessary and would surely express their opinion that the use of punkahs, except in exceptional circumstances, be confined to heads of departments.²⁴

Captain A. R. Ord arrived in Malacca in 1874, and sent in a pellucid report on 28th March 1875:²⁵

Sir

I have the honour to forward a Return of Revenue and Expenditure for the last eight years which will show clearly how the department worked during 1874. With regard to the balance which is still due on account of paddy, this is owing to His Excellency the Governor having forbidden me to enforce payment — a custom which has prevailed since

the Transfer, and I believe prior to it; and the large balance due for Fruits may partly be attributed to the Malays being required to pay $\frac{1}{10}$ in money, instead of in kind, the method in vogue prior to 1873, but principally to His Excellency the Governor's forbidding me to enforce payment, the Malays in some districts positively refusing to pay unless His Excellency tells them to do so.

I have, etc.

A. R. Ord Asst. C.L.R.

**Revenue Received and Expenditure Incurred during
the last eight years**

	1867	1868	1869	1870	Remarks
Received	12383.08 ³ / ₄	13542.66 ¹ / ₂	14691.80	14519.51	A sum
Expended	2495.63	3146.57 ¹ / ₂	3433.87	2110.55	of \$4000
Profit	9887.45 ³ / ₄	10396.09	11257.93	12408.96	is due for
	1871	1872	1873	1874	1874
Received	13668.61	19178.83	16950.32	24000	on
Expended	2982.88	4800.00	8000.00	7460	account
Profit	10685.83	14378.83	8950.32	16540	of
					Fruits
					alone,
					and
					\$322.82
					on account
					of Paddy.

On 1st December 1879 the post of Collector of Land Revenue shown in the Estimates was abolished. In 1880 Ord's post was re-designated 'Deputy Collector of Land Revenue' with a provisional staff of a Chief Clerk, three other clerks, a Malay Writer, a shroff or cashier, and a peon: in the 1881 Estimates the salary was increased from \$1200 to \$2000 per annum, and the establishment fixed at a Chief and one other clerk, two Forest Rangers, a bailiff and two notice servers.

The legislative measures were amendments of existing enactments and practice, carrying on the India Office attitude. The first was Ordinance II of 1871,²⁶ with the short title of 'the Registration of Deeds Ordinance'. It was procedural and corrective. The first section provided that registration of all mutations of title, required under Indian Act XVI of 1839, could be made by an officer appointed by the Governor as Registrar of Deeds for the particular Settlement. The second section validated all registrations

signed by the Land Office clerk at Malacca (there had been disregard of Act XVI) up to that date. The third section provided that the Register, or an extract from it, or an endorsement on a deed were all prima facie proof of registration. The last section repealed the requirement in Act XVI that transfers of land should be made in the form to be found in Collectors' offices.

The next Ordinance was Number XI of 1876²⁷, with its intention declared in its preamble —

Whereas inconvenience has arisen from the practice of cultivators of Crown lands in certain districts occupying such lands without any written evidence of title, and it is expedient that no Crown lands in the said Settlement should be held without written grants or leases...or without the cultivators being duly registered as the occupiers...

it amended and extended the 1861 Act. It substituted a new Section 6, terminating any future right to occupy by 'prescriptive right' or possession, and recognised a claim only to land which had been abandoned within the last three years. It went on, in its Section 2, to give such occupiers a right to apply for what it called a 'written lease' in the form in the Act's schedule, and provided that any commutation was to be by endorsement. Next, it empowered the Collector to give notice to such occupiers to register their claims and to sign the Register: refusal or failure was to render them liable to be treated as trespassers under the machinery of Indian Act XVI of 1839. The next (fifth) section provided for action against persons removing crops from land before the tenth had been assessed, and the sixth section empowered the Governor to appoint Commissioners and Deputy Commissioners of Land in all the three Settlements, notwithstanding that the short title was 'The Malacca Lands Ordinance 1876', with the powers of a Collector and Resident Councillor under the earlier legislation. The Schedules read:

**Schedule A
Settlement of Malacca**

Number
District
Survey Number

Land Certificate

This is to certify that the lands described below, now in the occupation of _____ are held of the Crown in perpetuity on condition of payment in kind, of one tenth of the produce thereof, whether Agricultural or Mineral or both; provided always that if the said lands should at any time hereafter main out of cultivation or profitable occupation for more than three years, they will revert to the Crown

Description

District

Extent

Boundaries

North

South

East

West

Map

Commissioner or Deputy
Commissioner

Witness

I hereby certify that, according to the best of my knowledge and belief, I have a lawful claim, and no person has a prior claim to mine, to occupy the lands above described.

Lessee:

Witness:

and

Schedule B

Number

Certificate of Commutation

(To be given in cases where the occupier is desirous of commuting the payment of tenths in kind for annual money payment at such rate as may be offered by the Government)

This is to certify that the tenths in kind on the produce of the lands described on the other side have been commuted for an annual payment of Dollars and Cents to be paid on or before the first day of in each year. This commutation is to remain in force until 31st December 18 .

Commissioner/Deputy Commissioner²⁸

Four points call for notice. The authors of the Ordinance thought of it as being part of the system set up fifteen years earlier: 'This Ordinance...shall be taken and read as part of Indian Act XXVI....' (Section 7), but it moved back to the pre-1861 position where commutation was voluntary (Section 3 and the heading to Schedule B), although Section IV of the 1861 Act (which empowered the Governor to require conversion to a quit-rent to end payment of tithes in kind or money) remained unaffected. Secondly, the preamble spoke in terms of 'written grants or leases' and Section 2 of 'written leases', but the Certificate in Schedule A was a wide departure from the form of grant or lease as generally understood: only the word 'Lessee' for the subscriber of the declaration imported any suggestion of a lease. Thirdly, the onus was on the occupier, who was to come forward when called upon by the Collector and prove an already existing right, then entered in a Register which the claimant signed: if he did not do so he lost his right. This was possibly an embryo Registration of Title or Rights, but it was not and could not be alienation by the Crown, and thus Schedule A was a certificate and not a title deed properly speaking. Lastly, it was very simple, with everything — certificate, declaration and commutation — comprised in three short forms on one sheet of paper.

The form of the Certificate had been drafted by Irving in 1875,²⁸ and he naturally advocated its use to replace short-term leases or the campaign to force grants on to customary tenants:

28. No such short leases for peasant holdings have been issued since January 1878. From that date the titles issued for such holdings have either been in the form of leases in perpetuity or certificates of tenure in perpetuity under Ordinance XI of 1876.

29. Certificates in this form appear to me to be the form of titles best suited to peasant holdings. Among other advantages, they provide for the periodical reassessment of rents (on the basis of the value of the tenth)....If to the form as it stands there can be added a clause to render the titles unmortgageable, and so prevent a margin between the Government rent and the rack-rent being sought by the money-lender, the form of title would, I think, be as well adapted to ensure the continuance of a prosperous peasant class as is likely to be devised. The advisability of some such provision has been suggested by...the Malays themselves in some districts...that if they had written titles they would be sure to raise money on them sooner or later and that their patrimony would thus find its way into the hands of the Chetty....

35.The old question relating to the Malay peasantry has once more come to the front. My own view as to how it should be treated has never varied: I would give to all the existing occupiers (whether holding by written titles or by short-term leases) certificates in perpetuity...; and

I would give fresh land to *bona fide* applicants, to the extent of say four or five acres, on similar terms. I would charge rent at say 40 cents an acre, but charge *nothing* for premium or survey fees. If this system were adopted and a sufficient staff of surveyors appointed to carry out the work, the settlement of country would, I think, be effected without difficulty....²⁹

Hervey, Irving's successor at Malacca,³⁰ supported the idea and took it further:

The certificates of tenure under Ordinance XI of 1876 which were advocated by my predecessor...as being best suited for peasant holdings might be made a compulsory substitute for the prescriptive form of holding without title, if it were decided to do away with the collection of tenth altogether.³¹

The other Act, of general application throughout the three Settlements and drafted with Penang and Singapore more in mind than Malacca, was the Crown Suits Act, No: XV of 1876. This was intended to provide machinery by which the Government could resume lands occupied without permission and to deal with the large numbers of encroachments, whether by illicit expansion or by straightforward squatting, on Crown land. The machinery however was ponderous and proceedings were in the Supreme Court, in conformity with English legal doctrine that matters of title in real property were too serious a business for subordinate courts.

The procedure is as follows: the Attorney-General must file a praecipe in the Supreme Court, this is followed by a summons, appearance, pleadings and a formal trial before the highest judicial tribunal of the Colony [wrote W. E. Maxwell, describing it as] cumbrous and unsuitable [and comparing it unfavourably with the jurisdiction and procedure in Ceylon].³²

Chapter 12

The Winds of Change

I

In 1880 Sir Frederick Weld arrived as Governor. A younger son of a well-connected Dorset family, he had gone to New Zealand when he came of age in 1844, and raised cattle and particularly sheep. He declined appointment to the nominated Legislative Council, and was prominent in the agitation for representative institutions. He was for ten years a member of the New Zealand House of Representatives, and for a short time was Minister for Native Affairs. In 1864 he was invited by the Governor to form a ministry, and he set out his conditions, insisting on ministerial responsibility: these were accepted, and he became Premier and Chief Secretary. He resigned on grounds of ill-health in 1865: in that time 'he gave a completely new turn to events and left a mark upon administration in New Zealand'.¹ He dispensed with Imperial troops in concluding the Maori War, instituted proposals for the representation of Maoris in the House of Representatives, and restored stability to the Colony's finances.

The Colonial Office, much impressed, appointed him Governor of West Australia in 1889: where he obtained the introduction of some elected members of Legislative Council, encouraged the establishment of municipal institutions, and presided over progress in telegraphs, a steam service round the coasts, and the beginning of the first railway. At the end of his term in West Australia in 1875 he was appointed Governor of Tasmania, and in April 1880 Governor of the Straits Settlements, retiring (to Dorset) in 1887. He was 'a man of ability and culture, straightforward and chivalrous both as Minister and Governor, but apparently wanting in tact and discretion'.²

Behind and above Weld was Her Majesty's Secretary of State for the Colonies, the Earl of Kimberley, a man three years younger. He succeeded to his grandfather's barony at the age of twenty, and at the age of twenty-six became Under Secretary of State for Foreign Affairs in Aberdeen's Government. He served in that post again under Palmerston, was Ambassador at St. Petersburg and Lord Lieutenant of Ireland: he 'dealt resolutely' with the Fenian Movement and at that time was created Earl of Kimberley, taking his title from a village in Norfolk. He held Cabinet rank in Gladstone's first Ministry, as Secretary for the Colonies from 1870 to

1874. During his administration East Griqualand was annexed, responsible government was granted to Cape Colony, Rupert's Land was formed into the Province of Manitoba, and British Columbia was brought into the Dominion of Canada. In 1880 when Gladstone, triumphant after his 'Midlothian Campaign', formed his Second Ministry, Kimberley returned to the Colonial Office until 1882, when he went to the India Office.³

This conjunction of personalities therefore brought to the Straits a Governor experienced in and at ease with the details of administration, convinced of the merits of representative government, able to consider problems from a fresh and perhaps unblinkered angle, and supported by a Secretary of State who could contemplate, and carry out, annexation in certain circumstances and the grant of representative government in others. The antipodean pragmatism of the one and the grand Whig attitude of the other were not revolutionary, but they made a leaven which appears to have been too much, after a year or two, for the Unofficial and some Official members of the Straits Legislative Council.

Problems there were, and reports and memoranda discussing them. As early as September 1873 Kimberley had asked whether it was desirable that the Resident system, on the Indian Model,⁴ should be extended to any Malay State, for during this period there were in fact the Larut disturbances in Perak, a civil war in Selangor, and disturbances in Rembau. It was clear that a system under which a British Resident administered in the name of the Ruler raised the question of exactly what local officers should maintain the peace, collect taxes, and organise land administration and development. In the Straits Settlements, Singapore Island and Penang Island could perhaps survive with what organisation they had, but Malacca and Province Wellesley were on the same footing, as regarded local administrative needs, as the Malay States. Perak was perhaps the touchstone: after the murder of Birch there and British intervention, administration was by troops and police, imposing the peace without which nothing else was possible: and the policy in 1876 was that troops should be replaced by a strong police force.⁵ The assistant Resident, F. A. Swettenham, then submitted a memorandum headed 'Proposals for the Government of Perak through its Headmen with a small Auxiliary Police Force'.

...The advantages of governing through Headmen instead of Police are these:-

The Headmen are the really influential body in a State. Datohs and Penghulus have, for the most part, been accustomed, from time immemorial, to hold office from father to son or some near relation. This office has given them rank, consideration, influence and money. A system which throws them out of office will meet with their opposition.

It is not necessary that this opposition be open or even active to render it more than troublesome. The Police will not be Perak men, but foreigners; like other native Police, they will probably not be free from making petty exactions; and lastly, such a sum will be necessary to pay them as probably to necessitate the imposition of one or more new taxes....

With respectable Headmen in charge of districts and villages, with a small Police Force at some point within reach in case of necessity, the old customs of Perak would be unchanged, and instead of setting the Headmen, and through them the people, against the Residential system, we should, in engaging their services, enlist also their sympathies on the side of a Government which supported them and their traditions....

Adopting the scheme of government through Headmen, I would then propose to divide Pêrak and Lârut into districts, and over each district place a Datoh responsible to the Resident (as the Datoh would be a tax-collector, naturally he would come under the resident, who is Collector of all Revenues).

Over each village there should be Penghûlu answerable to the Datoh....⁶

Swettenham was not alone in his view: after the troops were withdrawn from Kinta in the next January, Low began his successful tour in Perak: he 'reduced the cost of the police by giving police duties to native headmen and relieving many villages of their police stations...he took the views of local people before appointing a local chief....'⁷

There were also documents on land administration and policy. The most exhaustive was a memorandum by Braddell, Attorney-General and about to retire, written in response to a request from the Secretary of State.⁸ Braddell had begun as an uncovenanted officer in Penang in the Company's day, and had in fact written a paper⁹ on Malacca in 1858; his experience and knowledge had thereafter been widened by his service under the India Office and after the Transfer. His memorandum¹⁰ consisted of one hundred and nineteen short paragraphs.

He began by distinguishing between English and Eastern land tenures, went on to land alienation policy in new countries like the Australasian colonies where land was granted in fee simple, touched on early policy in the Settlements and particularly uninhabited Penang and Singapore in their early days, and drew a distinction between the general revenue sources in the Australian colonies and in Eastern countries. He came down in favour of a policy of leases rather than grants in perpetuity — a matter in which there had been a shift in Company policy in 1840¹¹ and which was again a matter of debate. He set out three points which, though they were not accepted as put forward, influenced Government officers and Unofficial members of Council then and later:

...18. [after saying that Australian governments dealt with classes of one race] Here it is very different. The governing class is very small and separated in every respect from the people; hence the connection - landlord and tenant — which would be of no use in Australia is here of great use in bringing the people into communication with the governing class; which communication, attended as it is with protection on the one side and obedience on the other, is valuable here, and forms, to my mind, a further reason in favour of Government retaining its position as Landlord, having a revenue from public land, instead of alienating the lands entirely.

19. Having considerable land rents to collect warrants the entertainment of a proper Land establishment — Forest Rangers, Collectors and so on. The business of these officials brings them into constant communication with the cultivators, and, judging from our past experience among the Chinese, who form a large proportion of the number, it is not expedient to leave large numbers of them in distant country districts without some supervision. The Police, though really a protective force, is considered by natives rather in the character of a repressive force. The number of Police Officers in the country districts is but small, and in the absence of any official duty calling them into the country district, the other officers of Government, except the Magistrates for holding courts, do not visit the country districts.

20. Another reason in favour of yearly rents as against a lump sum of purchase money, and it seemed to me a very forcible reason here, is this: that such lump sums, which in reality represent a part of the public capital stock, are invariably put into the current yearly revenue, and are spent as yearly revenue, leaving the capital stock permanently diminished *pro tanto*.

He then discussed fixity of tenure. '23. I take it, however, that there is fixity of tenure, and fixity of payment for the tenure, two separate subjects requiring separate consideration' and went on to 'Eastern tenant right': 'In the East, there is perfect fixity of tenure. The ruling principle has been that, so long as the tenant continues to pay his rent, he cannot be turned out of possession; that is the law as decided at Malacca'¹² and went on to conclude that he could see 'no difficulty in retaining the right to re-assess say every forty or fifty years, and with this reservation the leases might be made renewable for ever. or at once given for 999 years'.

He turned to the effects of the delays between the issue of 'what used to be called Cutting papers' and the issue of documents of title because of the lack of Land office staff.

I think it but right, from my own experience of the Land question at all the Settlements, particularly Singapore and Malacca, to express the

opinion that the first and most important step to be taken is in this direction. It is obvious that no scheme of dealing with the lands can be successful as there is not a sufficient and efficient establishment of record and measurement to work the scheme.

He devoted twenty-nine paragraphs to Malacca, examining Acts XVI of 1839 and XXVI of 1861:

...70. The Cultivators, finding themselves better off under the Penghulus, with whom (when they had no written titles registered in the Land office followed by regular demands for the rent expressed in the title deed) they were able to evade payment of the tenth, still refused to take titles and continued to occupy old lands and to open up other lands with impunity, owing to the weakness of the land department, which was provided with so few, and such inefficient officers, that there was no regular supervision and when any person was found encroaching on Crown lands he was ready with the excuse that the land was prescriptive tenant land.

The fault lay not in the law but in its execution: '74. I think it may properly be said, that the difficulties found in dealing with the lands of Malacca do not arise from want of legislation'.

He dealt with the current position in conveyancing of land — 'No particular form of conveyance is required in the Colony. Any instrument in writing showing an intention to convey...is effectual' — and the consequent uncertainty when there were wills, mortgages, trust and secret dispositions.

...85. The time appears now to have arrived when something should be done for facilitating conveyances of land, and it seems to be generally understood that we cannot do better than introduce the South Australian land system known by Mr. Torrens' name....

92. After the title is on the Register, but little difficulty will be found in working the system with its subsequent steps, but in getting the titles on the Register, it is clear that we must have a sufficient establishment, presided over by a competent Conveyancer.

93. If this is so, I submit it will be well to have this person to draft the Ordinances...it would be impossible for me to carry on my ordinary duties and at the same time undertake such a work as this, and as we must have a competent man, having the qualities, knowledge and experience necessary for working the system when it is introduced, it appears to me that it would be well to engage the services of that person beforehand, and let him assist in preparing the Ordinances and forms.

94. There are, no doubt, many gentlemen engaged in the Land Department in South Australia with the qualifications to commence the

Torrens system here, and I should think that our late Governor, Sir William Jervois,¹³ would assist in selecting a gentleman for the work if asked.

The rest of his paper dealt with technical details, re-stated his preference, for a policy of rents and no premium when Government sold land, and ended with seven paragraphs on the 'Native States', pointing out that any system introduced into the Colony might serve as a model for them:

It is to be remembered...that if we deal with the land of the Native States, either directly or indirectly, we will be bound to protect the occupiers who will settle the country, as it were under the patronage and protection of the British Government.

Given the complexity of the subject and the length at which he had written, it is perhaps cavilling to say that he did not sufficiently distinguish between land held under customary tenure and land held otherwise, whether in fee simple or on lease. His scheme for all future alienations was, in essence, leases in perpetuity with rents revised at long intervals, the titles thereby granted being proved by registration of accurately defined lots. Compared with the tortuous law and inefficient control of that time, this was simplicity and clarity itself, and would have put a brake on *tapioca* encroachers across Malacca; but it was a far cry from *kampong* life in Nanning.

Governor Weld also had before him a letter¹⁴ from the Colonial Engineer to the Colonial Secretary, deploring the Secretary of State's decision that February that trigonometrical survey should be postponed to revenue surveys.

...I should apprise the Government that it will not be possible to turn out really reliable maps of the Settlements until the completion of both operations....

9. Again the agency applied has been very inferior, more desire having evidently been shown to get over a larger area...than to pay the first attention to accuracy in both angular and linear measurements.

10. The Surveyors have found in many of the maps that have been left in the department a show only of accuracy where no accuracy existed, and the work has had, in most cases, to be done over again. In justice, however, my predecessors it is but right to add that the Surveyors have been able to advance with perfect confidence of the personal work of Surveyors-General Thompson, Moniot and Quinton....

24. The Survey work would have to proceed regularly as the Land office settled disputes and settled the boundaries. The Survey department is now so utterly dependent on the officers of the Land department for a fair field to labour in that unless they do this work the Survey is of

necessity delayed. Great delay has hitherto happened in this direction, which with the obliteration of landmarks, has often completely nullified the labour of the Surveyors....

Weld's Minute on this letter ended:

If we continue to starve the Survey department, not only will individual wrongs be perpetuated and the progress of the Settlements retarded, but such confusion must ensue as will be very difficult to rectify. Moreover, there is a possibility that even larger expenditure will be economical, as it will bring in revenue.¹⁵

The Governor dealt with the narrower problem of land administration first, but wider considerations of general administration inevitably entered into his comments. When he had had some nine months to familiarise himself with the matters, he addressed Kimberley in a despatch¹⁶ as long as Braddell's memorandum (which he enclosed, together with a copy of the Colonial Engineer's letter) and more trenchant. In tone it recalls Auckland's Minute of 1837; and it was as important, since it led to reform root and branch in the Colony and influenced later organisation in the Malay States.

My Lord

The "Land Question" has occupied much of my attention since I assumed the Government of this Colony; and I now propose to address Your Lordship on the subject.

2. The question divides itself into two branches, the administrative and the legislative....

3. I will take the administrative question first, because the administration, or rather the want of administration, is at the source of the state of affairs which I think is without parallel. We have, as I shall hereafter show, fairly workable laws, susceptible indeed of improvement chiefly in the direction of securing compulsory registration, but still workable and based on defined principles. What we have wanted is a Land department strong enough to work them. A good deal has been attempted in late years, and something has been effected, but a very great loss to the revenue and an extreme injury to the public has accrued, from the insufficiency of the means placed at the disposal of the Land and Survey departments.

4. These are strong assertions, and Your Lordship will pardon me if I delay awhile to justify them....

5. In Malacca the energy of Major Squirrel, the Acting Lieutenant-Governor, has much mended matters, as he was a man physically able, as well as willing, to use personal exertion in visiting allotments and settling claims on the spot, but still much remains to be done. There are in Malacca about 10,000 acres of Revenue Survey still remaining to be

finished, 14,227 allotments containing nearly 37,475 acres have been surveyed but no leases issued owing to the want of draftsman to plot the surveys. Books which should have been systematically kept have long since been allowed to fall into confusion and, as at Penang, the staff has been so much below the necessary strength that it has been impossible to prevent this as a great loss to the revenue, and inconvenience and confusion have also resulted.

He gave as summary of the 1839 and 1861 Acts, adding:

...12. The Land Office was too weak to carry out the Acts, and matters remained much as they were.

13. Unauthorised squatting becoming prevalent, an Act was passed in 1876 to prevent it and to carry out the effects of the Act of 1861 and facilitate its working. As usual the Land office was too weak to carry out the Act and nothing was done.

14. A second Act was passed the same year 1876 called the "Crown Suits Ordinance", which gives a remedy for intrusion on Crown lands and further facilitates collections of rent; but it has not been made use of.

15. There has been no want of law, but neither men nor funds to administer it, and...the result has been an immense loss to the Revenue, and confusion of which no man can tell the future effects, unless at once dealt with decidedly, which means sufficient expenditure to be quickly effective.

16. I now come to the remedial measures. The first and most obvious is to increase the Surveying staff and push forward surveys. The immediate completion of the Revenue survey is essential...but Your Lordship will see that before a Revenue survey can be carried out, the areas to be surveyed must be fixed....Such matters can only be decided on the spot, and that by officials whose position places them above suspicion, and whose physical powers and health enable them to travel and walk about amongst jungles and in the mud or water of the irrigated *padi* field, but it is not always that the holders of offices which are given this reward for long service in other capacities are physically capable of much exposure and out-of-door in this climate, or if they are, long remain so. Thus we are met by a great practical difficulty, much enhanced by the extreme paucity of European officers not on leave, many departments being extra hardworked at an expenditure of energy which must, in the course of nature, lead to further applications for leave.

17. Under Section 6 of the Act of 1876 the Governor has the power of appointing Commissioners, with the powers of a Collector under Acts XVI of 1839 and XXVI of 1861.

If the gentlemen are appointed to this special purpose a considerable additional expenditure must be incurred, and when I look round at the short-handed condition of the public service, at the want of Cadets fitting themselves for service, and the very few men who possess the ne-

cessary qualifications, I know not where to turn, not only to fill fresh appointments, but to fill vacancies.

A good knowledge of Malay is of great importance in a Land Commissioner, as interpreters may probably, by bribes, be induced to give a colour to one side or the other, but it is even more important that a Commissioner should be a man unconnected with local interests, of high character, possessing good sense, a judicial mind, and physical powers of endurance in jungle work.

After much consideration, I have come to the conclusion that the present Collectors of Land Revenue in Singapore and Penang should undertake the field work, and that during their frequent absences from their offices, their places should be supplied by the appointment of responsible Head Clerks. A Passed Cadet might be appointed to do the field work in Malacca. I see no other means of overcoming the temporary difficulty, unless the Lieutenant-Governor [of Penang] Resident Councillor or Surveyor-General could do it, which the present holders' health will not permit.

He then went on to consider what changes in legislation were necessary.

There can be little doubt in anyone's mind, taking into consideration Malay custom, acceptance of that custom by our Government over a long series of years, Eastern modes of thought, and the peculiarities and circumstances of the country, that we may lay down as a starting point that the Crown is to remain, in ordinary cases at least, as the Landlord, whilst the tenants, so long as they pay rent and cultivate or otherwise beneficially occupy the land, are to have fixity of tenure.

The questions that then arose, were on what conditions and for what term this fixity should be given: he thought in terms of a 999 year lease and, differing from Braddell, on a scale of premia fixed by Executive Council rather than by auction:

...the Government is not a dealer who naturally seeks the highest price for his wares to "make a fortune" (but) only seeks to raise sufficient revenue for certain requirements...in the manner least vexatious for the people....

He then went on to registration of dealings in land.

...28. A complete system of compulsory registration of title on the TORRENS principle seemed to me, from the first moment I looked at the matter, as the obvious remedy for most of our present difficulties....

29. To establish this principle, a 'Lands Titles Registration Commissioner' must be at the head of the new Land registration office; he should, whether appointed from England or elsewhere, have a com-

plete practical knowledge of the working of the TORRENS Act in South Australia or some other Colony where it is in successful operation. He should also be here in time to advise on the drafting of our local Act, and to afford explanations, and very much will depend on his being hard-working and competent. It would also be part of his duties to give advice to the field Commissioners in matters relating to the legal aspect of questions, or to decide on cases or points referred by them to him. He should, at all events, be appointed for three years, at say \$7200 possibly less may suffice, to get the Act launched and in good order....

35. I will, before concluding a despatch necessarily immoderately long, shortly recapitulate.

I I propose at once to push forward surveys indicated in Major McNair's report...The staff and some instruments necessary for this work, Major McNair was fortunate enough to be able personally to select on his recent visit to Ceylon.

The Government of that Colony has consented to assist in the matter and I have asked that Surveyors, draftsmen and instruments may arrive here by the first week in January....

II I propose that Land departments throughout the Colony be kept separate from the Survey Department, an arrangement to amalgamate them having been suggested...with a view to curtail expenditure...a suggestion which, on mature consideration, I cannot now support; I propose that a Collector of Land Revenue on \$2400 per annum be appointed at Malacca, and that the salary of the same officer at Penang be raised to a similar sum....

These officers (who will all be selected from the Cadet class) from their knowledge of the language and the people and the experience they have already gained in the Colony, will be well fitted for this duty....

To enable the Collectors of Land Revenue to pass most of their time in the field, as well as to break up arrears, and to give them an efficient staff for the working of the Land department, it will be necessary to add somewhat to the expenditure....

III I propose compulsory registration and that a "Lands Titles Registration Commissioner" should be appointed to introduce the TORRENS Act, or a modification of it, and to set the new department working....

IV I propose the leases should be for 999 years, subject to payment of premium and quit-rent, that the system should be auction in town and fixed price in the country....

I propose to offer facilities for the offer of new leases on the surrender of old ones. I do not propose to offer any more short tapioea leases, hoping for better cultivation with fixity of tenure and fixity of quit-rent.

36. To effect these objects it will be necessary to embody in one Ordinance the useful provisions of Act XVI of 1839 with those portions of the TORRENS Act which may appear best suited to our requirements.

He ended with an estimate of the additional expenditure: \$23,264, \$21,764 and \$10,932 successively in the three years for surveys, and \$13,716 a year in the Land offices, and thought that revenue would more than match it.

I therefore leave the matter in Your Lordship's hands, merely adding that, I believe, the Unofficial members of Council, who have brought this question to my notice both in and out of Council, would gladly vote any reasonable sum for carrying out a scheme of reform, and further, any general legitimate legislation necessary to bring about the desired result.

The Secretary of State did not reply until 20th January 1882. The delay, so Weld reported to Legislative Council, arose 'from various causes — the necessity for careful consideration, the advisability of reference to India for information, and the pressure of public business'; but he considered the reply to be satisfactory.¹⁷

In fact Kimberley's despatch dealt explicitly with only two points which had been discussed by Braddell and Weld:

...3. I will deal with lands which are, or are intended to be, in agricultural occupation. You justly lay down, as a cardinal principle, fixity of tenure, that the tenants of the State shall remain in undisturbed possession of their holdings as long as they pay rent and cultivate, or otherwise beneficially occupy, their lands; and the practical questions to be determined are whether any fine or premium is to be taken on the letting of lands, and whether the rents, once fixed, may at any time thereafter be changed, and if so on what conditions you propose to grant leases for 999 years.

4. The nominal reduction of a perpetual grant is of no practical importance, and I do not know why there should be even an apparent limitation of the term of years. In India, the State is landlord, but the tenant does not hold for a term of years and would probably be alarmed if he were told that there is any limit, however distant, to his holding. His tenure is in fact a perpetuity, subject to conditions, and it is not likely that the native tenant (at least) in the Straits would be satisfied with less. In legislating, it would be possible to give the State a power of resumption without maintaining the figment of a reversion with the rights of re-entry attached to it.

5. You appear to be in favour of the payment of a premium....The result, however, of requiring the payment of any premium must be that, in the case of some occupiers, it will be impossible for them to comply...without having recourse to borrowing, and...their holdings will be, from the commencement, burdened with debt. I think it therefore more expedient that no premium should be required and...a proportionally higher rent should be imposed....

8. Rents are re-assessed in the greater part of British India at intervals of thirty years. This appears to be a sufficient term, coinciding as it very nearly does with a generation, but I shall not object to its extension, within narrow limits, if in your opinion the particular circumstances of the Straits Settlements make a somewhat longer term desirable. In fixing the new assessment no account should be taken of the improvements effected by the occupier: the increase, if any, must be made dependent on the rise in the value of land which is due to the making of roads and consequent availability of markets, and to the general development of an industrial community, or to other causes....

As for town lands, the Secretary of State mentioned the English system of building leases for sixty or a hundred years, and the Scottish system of feuing:

I should see no objection to the English system being adopted for the Straits Settlements, if it appeared agreeable to the habits and ideas of intending lessees, but I should be equally prepared to sanction a practical analagous to the Scottish system....

On the other proposals in Weld's despatch there was no more than an implied approval:

...I would add that it is, in my opinion, of paramount importance that the Regulations that may be laid down should be, as far as possible, in harmony with the practices, habits and ideas of the inhabitants, and I desire that you will report to me at your early convenience any facts that have a bearing on this aspect of the subject. As far as I understand, the principles which I have proposed are not in conflict with the mental and social habits of the people of the Malay peninsula. Agricultural lands appear to have been held of former Sultans on terms similar to those that prevailed in the greater part of the Indian Peninsula, and the practice of the East India Company, when it governed the Straits Settlements, was actually the same in those Settlements as the practice adopted in the rest of its possessions.

All the papers were printed and discussed by Legislative Council on 4th May 1882. Graham, an Unofficial member, said:

It is hardly possible to refer to this despatch of Your Excellency without calling attention to the melancholy tale which it tells — a tale of incapacity, mismanagement and neglect, highly discreditable to previous Governments of this Colony. There is just a shadow of excuse for them. In their times there were no large cash balances, and the Departments were weak and under-manned. That state of things should no longer continue: the problem of today is how to spend our income with advantage to the Colony. To do that it is evident that the staff of the Land

and Survey Departments, the staff of the Public Works Department and perhaps of some others must be increased largely and promptly: and I need hardly assure Your Excellency that we at this end of the table will heartily support any measure you may propose with that purpose.¹⁸

He was followed by another Unofficial, Currie:

I heartily concur in the concluding remarks of my Hon'ble friend who has just sat down, and trust that the scheme for the reorganisation of the Land Office proposed by Your Excellency may be approved and I shall be only too pleased at seeing it speedily carried out. I trust that we shall see no more of that cheeseparing policy saving a few hundred dollars in salaries....I am quite certain that we at this end of the table will thoroughly support you in all such matters.¹⁹

II

The Secretary of State's despatch arrived when Legislative Council was debating a Landmarks Bill, which had its first reading on 7th March 1882. This Bill originated in a report by the Colonial Engineer and Surveyor-General, the burden of whose complaint was that previous survey work had been wasted because proper boundary marks had usually not been put in, and where they had been employed they had not been maintained. Quinton's areca palms and hedges were superior to most markers in Malacca, let alone Penang and Singapore. The inevitable result was that with the passing of time boundaries of occupied lands had to be re-surveyed to establish how far the boundaries shown in documents of title coincided with them.

The Bill had a long preamble:

Whereas it is enacted by the Indian Act XVI of 1839, amongst other things, that, before any lease of Crown lands shall be issued under that Act, good and solid landmarks shall be set up by the intending lessee, by which landmarks the boundaries of the land...shall be plainly defined; and it is further enacted, that such landmarks shall be set up to the satisfaction of the Collector, to be certified by him on the lease, before the lease shall take effect; and whereas such landmarks have not been set up and certified on the leases, and doubts have arisen as to the validity of such leases; and whereas it is necessary, for the good Government of the Colony and for the prevention of disputes, that the boundaries of lands should be clearly defined....

The Bill proposed to validate all leases notwithstanding that there were no landmarks or certification. and empowered the Collector to issue notices requiring landholders to set up or repair landmarks, of such mate-

rials and sizes as the Governor-in-Council should stipulate, or in cases of dispute or delay to call in a Survey officer to do this work, all at the landholder's expense. There were ancillary provisions, as to the service of notices, contribution by adjoining landholders, and recovery of expenses. The Bill met slight opposition: Graham and Currie objected to the ninth section — 'in all cases the landmarks shall define the boundaries of the land as shown in the Crown grant or lease' — on the ground that adverse possession could be established against the Crown after twelve years under the India Limitation Act of 1859. The Governor disagreed: 'I think this proposal would lead to confusion....Under the new system, registration will be title...';²⁰ and the Bill was passed as Ordinance VII of 1882.

This Ordinance, with its harking back to the eviction procedure of the Acts of 1876, 1861 and 1839, was the last attempt to remedy the existing system, and its passing was the last occasion when the Old Guard did not stand and fight on land legislation introduced in the course of Weld's Governorship.

III

Some three weeks before the debate in which Graham and Currie had promised their support, Weld had written a short memorandum:

I have observed that there is much to be desired in our local country administration. We have mainly and with moderate success occupied ourselves hitherto with collecting revenue, and endeavouring to repress crime. Even in these two matters we have not availed ourselves so much of the assistance of the village chiefs as appears to be both politic and possible; and these two ends are, by no means, all that good government should aim at.

It may be the case that, in districts chiefly inhabited Chinese and very mixed populations, we have nothing to build upon, but in country districts, such as great part of Malacca, inhabited chiefly by Malays, it ought to be possible to utilize the village district institutions, and to organise to a much greater extent and more systematically than we do, to the great advantage both of Government and natives.

To enable me to consider this question, I desire to receive reports from certain officers upon the following heads, accompanied by any remarks or suggestions which they may think useful to offer:-

1. What is the system of local country district administration within your Settlement?
2. If there are Penghulus, how are they appointed? Does their jurisdiction cover the whole country? How are they remunerated? What are

their duties? Do they perform them efficiently? If not, what action is taken? What check is placed over them? What inspection is made over outlying districts? How frequently are they reported on by a superior officer, and what subjects are thus reported on?

3. What local payments and taxes are levied beyond land dues to Government? Are assessments levied, and to what local purposes are they applied? Have those who pay them any special channel through which they may make known their wants or wishes as to the application of such assessments, and, as a matter of fact, are their wishes made known and to whom, if so, with what result?

4. Is the actual state of affairs in these respects in your opinion satisfactory, or not?

5. If not, what remedies would you suggest?

6. Can you make any suggestions which may aid in establishing a better system of local administration and improvement, which is in accord with the habits, customs and traditions of the Native population, and which, founded on their better features, may lead to the development of an improved social and administrative organisation of the country districts, and advance industrial pursuits and the general well-being of the people?²¹

The Colonial Secretary sent copies to the Inspector-General of Police, the Resident Councillor Malacca, the Lieutenant-Governor of Penang, and the Residents of Sungei Ujong, Selangor and Perak within a week, and in October to Hervey, Penney and E.W. Birch by name.

The idea of establishing penghulus as the lowest course in the pyramid of local Government was not new when Swettenham wrote his memorandum in 1876. Logan, 'the great patron and advocate of the penghulu system', according to Lieutenant-Governor Anson,²² had written recommending it in 1867; W. E. Maxwell himself in April 1875, when Assistant Government Agent Penang, had reported on the division of Province Wellesley and the appointment of penghulus, going on to suggest the division of the Province into five large areas each to be superintended by a 'Pengkulu Besar' and each mukim by a 'penghulu mukim'. The system had existed in parts of Negri Sembilan: Paul, Resident Sungei Ujong, answered that:

...although the headmen of the different villages in Sungei Ujong never had the same power as the penghulus in the Colony and in Perak, the system of governing with one headman in each district was formerly carried out, although the custom has somewhat fallen into disuse, there being only one or two districts which still have a penghulu....

(Sungei Ujong, the territory of the Dato' Klana, was Minangkabau and the tribal Chiefs and elders provided a network of authority distinct from any territorial system.)

...I was for upwards of two years in Lower Perak after the institution of the penghulu system, and I thought it answered very well. The Penghulus took to their work, and the people were not afraid of coming forward if they thought themselves aggrieved in any way, and I soon found that under the system I was brought into much more intimate contact with the people....During the time I have mentioned there were only two serious charges against Penghulus, which resulted in the removal of one and the fining of the other. As a rule I found them honest and anxious to do justice.²³

The replies to Weld's questions showed a vast disparity. R. W. Maxwell, W. E.'s brother and Superintendent of Police at Penang, put as his main suggestion that the Mohammedans Ordinance (No: 5 of 1880) should be brought into force and Kathis appointed: his deputy in Province Wellesley, Riccard, was dismissive:

My short experience in the Province has given me the opinion that Penghulus, such as we have at present, are a sad failure and, in cases, an obstruction to justice.

They had appeared in all positions before the Courts, resulting in many cases in the utmost discredit to themselves: they are untrustworthy and prefer playing into the hands of the ryots to being of assistance to the Government.

Many appear to be of an inferior class, if not in certain instances of doubtful origin and there are few who do not either belong to a secret society or are very closely connected with one....Admitting that the Malay penghulu was ever so valuable, he would never have any influence over the Chinese....

He ended, apparently without irony, 'It is allowed that penghulus are allowed hackney carriage hire when attending Court for the police, but they can only make such claim after having first walked ten miles'.

W. E. Maxwell, then still Assistant Resident of Perak, wrote from Larut. He had little to say about penghulus in this memorandum²⁴ but applied himself to more general deficiencies.

There is no difference in the Straits Settlements between town and country administration. The officials live in or near the towns, the revenue is paid there, and the laws...are town laws, in some respects inappropriate to country districts. The local Government is the government of a town, which hardly aims at the superintendence of the adjoining district, and exercises little efficient control there.

To this he attributed, in passing, the spread and influence of secret societies and *loyar burok*, hedge lawyers, unlicensed practitioners — who exploited a cumbrous and inappropriate system of land laws, either by taking technical points or (as in a Naning case he quoted) by forging conveyances. His proposals were that the powers of Municipal Commissioners should be confined to their town limits, that the town Police Courts of Singapore and Penang should be modelled on the Presidency Town Courts of India, and that District Magistrates and Collectors of Land Revenue should be appointed for districts outside the towns: he suggested two each in Singapore, Penang, Province Wellesley and Malacca.

A District Magistrate should live in his district, and a proper staff of Clerks etc should be given to him. Besides his judicial duties (in which civil and criminal jurisdiction should remain much as at present) he should be required:-

1. To take general charge of the district
2. To register all lands and to collect land revenue
3. To collect assessments, and fees for registration of boats, carts and carriages
4. To superintend village headmen and Kazis.

He should report, at short intervals,...(to) his immediate Chief on the health, cultivation, crime and general prospects of the district....

It could probably be advantageously arranged that the District Magistrate should also have a Sub-Treasury....He should also have at his Station a Post Office, Telegraph Office and Stamp Office.

He should also be required to inspect any country Hospitals and Vernacular Schools in his district.

He also recommended legislation to enable District Magistrates to deal with the estates of intestates. 'I am quite aware', he wrote, 'that what I propose is not in accordance with anything now known in the Straits Colony', but the Colonial Government had in the last seven years taken the responsibility of directing the government of most of the Native States on the west coast of Malaya, and

I confess that, for my part, the greatest obstacle which I foresee in eventually bringing them all together under British rule, is the narrow and inelastic character of the system of Departmental Government when applied to country communities.

The introduction of the system he suggested, he thought, would in a few years produce a number of officers capable of taking charge of districts anywhere, and cadets attached to District Magistrates would be better trained in languages 'and will at the same time acquire a knowledge of native characters and sympathy with native thought....'

Malacca was in fact happier than Singapore or Penang. Birch, then Second Assistant Colonial Secretary, replied²³ to the Governor's enquiries:

...13. The state of things in Singapore is deplorable, there is no link between the native population and the Government: nothing is ever done to draw the peasantry nearer to us unless by the personal exertions of the Education and Lands offices...Neither the Education nor the Land officer has power to do or to promise anything outside the narrow limits of his own department, and it is very thankless work to interest yourself with natives when your power of helping them is so small...

15. ...I consider much is done and can be done in Malacca towards local administration. There is not in that Settlement that undesirable confinement of every official to the work of his department and that alone. The Land office there receives advice from the Magistrate, meets the Policeman, reports to the Public Works Officer, brings cases to the notice of the Doctor, confers daily with the Resident Councillor; and in fact works with every other officer of Government, knowing that the interest he takes in his work is appreciated, and that the suggestions he makes are likely to be appreciated. His representations are listened to as those of one who speaks from knowledge acquired on the spot.

16. But, at the same time, the system of village headmen in Malacca has its defects and these defects are, in my opinion, briefly as follows:

There are too many Penghulus, the majority of them are not of sufficiently high a class; their election should be more formal; they are not sufficiently educated for their work, and there are no rules, printed or otherwise, for their guidance.

The system of paying them a commission is baneful and only leads them in to temptation; they should not be allowed to value crops; they should in no case be paid a daily allowance for work done in the field, or for attending Court or office; there are no special provisions of law punishing them for neglect of their special duties; they ought to assist more in the collection of revenue and with better motives; they should be made more use of by the Police....

His view of what administration was desirable chimed so exactly with Maxwell's suggestions that it seems that at each knew what was in the other's mind:

...19. In the first place, I think that the office of Collector of Land Revenue, as at present constituted, should be merged in that of a higher office — that of Government Agent. Four of these Government Agents should be appointed with a salary of not less than \$300 per annum [an obvious misprint] and allowances...for Singapore, Penang, Province Wellesley and Malacca....They should be encouraged, or rather obliged,

to travel about the country as much as possible. They should be Magistrates with limited jurisdiction and only try offences committed outside Town limits...summarily. They should be provided with offices (small buildings will do) in the country at important points, and should be given executive powers to deal with district administration i.e. they should have the entire management of all Government work (except Police, Medical and Educational) outside fixed Town limits.

They should hear all complaints of the natives in their Settlements, and all petitions should, in the first instance, be referred to them. They should take up all the duties now performed by the Collector of Land Revenue, and should frequently hold country collections. All house assessments etc. fees for the registration of boats, carts and carriages, for licences to keep fishing stakes should be paid to them.

20. The staff of the Land Office (the Chief Clerk of which should be a Cadet), and the staff of Collectors and Inspectors requisite for the above work should be under them. They should have entire control over village headmen, who should be carefully chosen men working under strict regulations provided by law, and paid by fixed annual salaries....

Irving, acting as Resident Councillor Malacca while Hervey was on leave, confined himself to factual answers.²⁶

There is a framework of a system of local administration. Each district has its little hierarchy consisting of the "Penghulu", the "Mata Mata", the "Imam", the "Khatib" and the "Bilal". The Penghulus are the recognised Headmen of the districts. They are appointed by the Resident Councillor (as representing the Government), who endeavours, as far as possible, to ascertain that the candidates whom he selects are men of good repute, and men of influence with their people, and also men who are likely to cooperate loyally with the Police and the Land officers. The Mata Matas are the Penghulu's assistants. They also are appointed by the Resident Councillor but, in the selection, weight is given to the recommendation of the Penghulu. The Imam, Khatib and Bilal perform duties connected with the administration of the Mohamedan religion. They are selected by the village communities and only "recognised" by the Resident Councillor on the part of the Government...

The districts in which Penghulus etc are thus appointed are 65 in number. They cover the whole of the Settlement except the Wan Chillay lands²⁷ and the town districts....

The Penghulus and Mata Matas get between them 5 per cent²⁸ on land rents when they bring the lessees to the Land office to pay their rents within three months of their becoming due. They also get commission at 10 per cent. on the amounts collected by them as tenths in kind on padi, fruit, tapioca, gambier and other cultivated produce and also on jungle produce. The Penghulus and Mata Matas also get an allowance of 45 cents a day for attendance, when required, at the Land Office and for

attending on Land Officers when engaged in the field in valuing crops, ascertaining boundaries, etc. The whole of the village officials are allowed an abatement of rent, or of tithes in kind, on lands held by them in the following proportions:-

The Penghulu	10 acres
The Mata Mata	5 acres
The Imam	2 acres
The Khatib	2 acres
The Bilal	2 acres

The following are the duties which the Penghulus (assisted by their Mata Matas) are expected to perform:-

- (1) To give information to the Police in the case of offences being committed, and to assist in the apprehension of offenders.
- (2) To give information to the Land Office in the case of trespasses on Crown lands.
- (3) To assist in the valuation of tenths in kind.
- (4) To assist in the collection of Revenue.

The Penghulus are also expected to use their influence among their people to check quarrels and prevent needless litigation.

On the whole the Penghulus may be said to perform their duties satisfactorily so far as my observation has gone at present.

When complaints are made of misconduct, or failure of duty, on the part of a Penghulu or Mata Mata, the Resident Councillor consults with the Magistrate and Superintendent of Police, and enquires into the case, and, if the charges are substantiated, the official is either cautioned or removed from his office as the circumstances may require.

There is no organised system of check on the Penghulus. They have certain duties to perform, and if any negligence or misconduct on their part is noticed by the Magistrate...or by the Police or Land Officers, the matter is reported to the Resident Councillor, who deals with the matter as reported above....

Irving had no suggestions for alteration:

As far as my experience goes, and from all that I have heard and read, I believe that the Malay inhabitants of Malacca constitute one of the most well-behaved and most happy communities in the world: and this seems to me to argue strongly in favour of the system under which such a state of things has grown up. To guard this happy condition of affairs from deterioration, and gradually to introduce ameliorations, it only appears necessary to me to follow in the old lines — to give the people every facility for extending their gardens and padi fields; to save them from being crowded out of their own country by Chinese-owned tapioca estates; and to promote their wellbeing by ascertaining their wants and wishes by kindly personal intercourse.

Until the introduction of tapioca cultivation into the Settlement, the Malays were allowed, and I think wisely allowed, to make the small clearings they required for their petty cultivation without hindrance. This they did in exercise of the Malay custom inherited from their ancestors. The growth of tapioca and the wholesale destruction of the forest that ensued, (incited by Chinese manufacturers) made it necessary to put a stop to this irregular, but on the whole beneficent, process, and now not a tree or a bush is allowed to be cut without authority. But the Government, having asserted its rights, should now, I consider, act with great liberality and give the people the land they require for *bona fide* peasant holdings, free of all cost, whether in the shape of premium or survey fees....

Hervey, on his return to Malacca, disagreed neither with Maxwell and Birch or Irving, but recommended that in Malacca there should be two country districts each with its Collector of Land Revenue.

The Governor's questionnaire and all the answers were printed and tabled for the information of Legislative Council, and a month later Weld addressed its members.

...Several administrative and other reforms been carried out or inaugurated of late, and with your assistance and the sanction of Her Majesty's Secretary of State I next propose to take steps towards bringing the native races in our country districts into closer contact with the Government by means of local officers acting, where possible, in co-operation with native headmen — Malay or Chinese. At present, and more especially since the cessation of the Indian regime, they have known us, among the mass of the people at least, chiefly as tax collectors and as police. It is my policy to let them also know us as taking an interest in their general welfare, as arbiters in their petty disputes, as their friends and advisers. This has been done, to a considerable extent, in Protected States. In the Settlements we have had no resident district Government agents, and the Penghulu system has been neglected. European officers and money have not been given. The process will be slow and tentative necessarily, but with the races with which we have to deal (very amenable if there are men to deal with them) it can be accomplished, and our, in this respect, over-centralised administration...rendered more local and more congenial to the habits and feelings of the native people.

IV

In the event, no call was made on Sir William Jervois for any of the 'many gentlemen engaged in the Land Department in South Australia': Weld chose a local official, William Edward Maxwell. The choice was

made by September 1882, for in the debate that month on the Supply Bill 1883 Weld drew Council's attention to an item of \$10,000 'for the Lands Titles Registration Commissioner. The vote is put in that general form because...until Mr. Maxwell returns from Australia, having learned the duties of his office, it is impossible to give the Council any details....'³⁰

Maxwell had entered the service on 1st January 1865,³¹ and had been Magistrate and Commissioner, Court of Request, in Penang³² and had moved to that post at Malacca in 1871;³³ in 1874 he was posted to the Krian lands in Perak when their administration was taken over by the Straits Settlements Government. He then acted as Assistant Resident, Perak. In the Courts he had adjudicated on cases of trespass and boundaries, and the District Court system instituted by Cavenagh took him into the countryside. His interests and qualifications were not limited to official experience, however: when he was in Perak he obtained a copy of the Perak Code from a manuscript formerly owned by Sultan Ja'afar and of the Minangkabau Code from a manuscript formerly owned by a Perak Chief, the Raja Mahkota, studied them in Jawi, transliterated them into Rumi and translated them into English. Later he did the same with a copy of the Malacca Code, from a copy owned by Hervey acquired from Westerhout.³⁴ He had qualified at the local Bar in 1867, and was called to the English Bar in 1882. He was 'a man of the highest personal integrity...perhaps the greatest and most under-rated administrator of British Malaya'.³⁵ After his death in 1898 the Attorney-General, joining in Legislative Council's tribute to him, said

In my experience of official life I have never met a man with whom it was so pleasant to work, for two reasons — one, that he had a clear understanding of every matter that was placed before him; and the second one, that he clearly perceived the meaning of those who had communication with him on matters requiring discussion and always took it in with the kindest feeling of sympathy with any effort of doing the work well, and one always came away from him with a feeling of absolute trust in his mastery of the subject before him.³⁶

On Weld's instructions and under arrangements made for him, Maxwell left Singapore in September 1882 for Ceylon, where he spent ten days —

...and took opportunity of visiting the Registrar-General's office at Colombo and of obtaining, at the Colonial Secretary's office, copies of Ordinances bearing upon land registration and land revenue, the duties of Headmen, and district government.

He arrived at Adelaide on 17th October and stayed there nearly a month visiting Government departments, studying legislation, inspecting procedures, and asking questions. Then he went to Melbourne, Sydney and Hobart, 'in each of which cities (he) was enabled, by permission of the Government and the kind assistance of the gentlemen at the head of the departments which (he) visited to compare their procedure with what (he) had already observed in Adelaide'. He was able 'to stay at Brisbane (Queensland) for one day only, but...was able to visit the Lands Titles Office there and to obtain much valuable information'. He left Australia at the end of January, reported back in Singapore on 26th February, and tabled his report before Legislative Council on 9th April 1883.³⁷ Some of the last period was taken up by the actual printing of the report.

It ran to forty pages and two hundred and forty paragraphs. Slightly more than half — one hundred and forty six paragraphs — was devoted to a description of the Torrens system of registration of title, the circumstances in which it was introduced and developed in the particular position of South Australia, the variants in the Legislation in the rest of Australasia, and the minutiae of the forms, procedure and administration. The detail was there, presumably, to educate members of legislative Council and officials and the interested public outside on the Torrens system and its essential requirements, and also to build a framework against which he could set the specific innovations which Straits Settlements and Malay State needs called for. The latter part of the report, 'Adaptation...to the Straits Settlements', in itself consisted of fifteen pages and eighty-four paragraphs, to say nothing of a schedule of twenty-nine recommended forms (twenty-six South Australian, three from New South Wales) and sixty memorials covering such out-of-the-way incidents as the transfer of a moiety by mortgage, the transfer of a right of way, the lease of a ground floor only, and how to note the executor of an executor.

He pointed out that while in Australasia all lands entered in the Register were held in fee simple in possession, in the Straits Settlements the question of existing tenures presented itself.

In Singapore, Penang and Province Wellesley...all titles are...derived from the East India Company or the Crown. In Malacca, all written titles are similarly derived, but in certain districts [including nearly all Naning] lands are held without written evidence of title, on a system of native tenure which is simple and offers few difficulties.³⁸ Secondly, it may be assumed as a matter of course that leaseholders as well as freehold property will be admitted on the Register. But the registration of all such titles will go only a short way towards remedying the evils...which His Excellency summarised...in a despatch to the Secretary

of State....This brings me to the first important question...."Is the Lands Titles Office to be a department entirely distinct from the Land Office, as it is in Australia, or shall both be amalgamated in one?" The latter alternative, if adopted, is a complete departure from the Australian system....³⁹

Nevertheless, he came down in favour of amalgamation, and based his proposed reorganisation on this.

He also recommended that registration should be compulsory, although in Australia it was optional to the landowner (at that date) to bring his land under the Australian Acts or to remain under the old system of Registration of Deeds.

It is quite clear to me that it will be of no advantage to the Government of the Straits Settlements to introduce a system allowing it to be optional....What chance is there in the Straits Settlements of influencing Malay, Chinese and Indian landholders by setting before them the unquestioned advantages of an indefeasible title represented by one document on which all dealings are, from time to time, endorsed? In an Asiatic community such a measure must be made compulsory as is the case with many other laws introduced to advance the well-being of the people.⁴⁰

He noted that there were two ways of bringing land and landholders on to the Register. One was the Australian system, propounded by Sir Robert Torrens himself, of enacting that after a specified date transfers, mortgages and transmissions should have no legal effect unless done by taking out a certificate of title and then following the statutory procedure. This had the disadvantage that a landholder not wishing to deal in his land was not caught, 'say for half a century or more', until there was a transmission on death; and he commented that this had been, and remained, a flaw in Ordinance XVI of 1839. The other method was

...one devised for an Asiatic Colony — Ceylon⁴¹ and ...therefore.. suitable to the wants of the Straits Settlements. The Surveyor-General causes a survey to be made of a division of the Colony, and prepares plans marking allotments and Crown lands. All persons are obliged to give him information and to produce documents when required, under a penalty of £5. This having been completed, the division is proclaimed by the Governor, and the Registrar-General proceeds there and investigates all claims to the lands within it, the allotments having previously been tabulated and notice given to parties to come in and state their claims. Disputes are referred to arbitration or decided by the Registrar-General after an investigation at which counsel may be present. His decision is final, subject to an appeal to the Supreme Court which must

be made within ten days. When the whole of the enquiries have been concluded, the results are tabulated and advertised for six months, during which claims may be made and investigated. At the end of that period registration is proceeded with and certificates issued.⁴²

Either system, or both at once, would (he thought) be acceptable if the Survey Department could cope with the demand; but if it were unable to do so 'the district visitation scheme, on the Ceylon model, is the only alternative. Under the latter the rate of progress will depend wholly on the efficiency of the Surveyor-General's staff'.⁴³ As to fees, he thought none should be charged when documents were in order, but that where dealings had not been registered under the 1839 Act, charges could fairly be imposed before a certificate was issued giving indefeasible title.

He recommended the New Zealand practice of District Registries instead of the centralised Australian system: at this stage he proposed one Registry in each Settlement, but thought that power for the Government to 'set up, alter or abolish registration districts by proclamation, as in New Zealand, might be advantageously inserted in the new Ordinance hereafter to be drafted for the Straits Settlements'.⁴⁴

He contrasted the summary jurisdiction of the District Courts in Ceylon and the law, 'more summary still', in Australia with the cumbersome Straits procedure under the Crown Suits Ordinance No: XV/1876 where there was encroachment on, and illegal occupation of, Crown land, and this led him to conclusions not immediately connected with the Torrens system of registration of title.

...204. Unauthorised encroachment on public land can only be effectually put down by the initiation of a system of District administration, to the entire absence of which it owes its rise and those who have practised it owe their immunity. Except the Police and a very few Forest Rangers, the Government have no paid servants out of the towns; the duties of the Collectors of Land Revenue...keep them almost exclusively at the offices in towns; they have no Headmen through whom to issue orders and receive periodical reports, and the duties and powers of Forest Rangers are not defined by law. The Resident Councillors of Penang and Malacca have, of late years, been appointed Commissioners under Act X of 1837, but they have to work through the Police almost entirely, as the Penghulus...are unpaid and not liable (as the Headmen are in Ceylon) to fine for neglect of particular duties imposed upon them.

205. For the due protection of Crown lands, for the collection of Land revenue, and for carrying out many of the details of the scheme of compulsory registration...there must be, I submit, District Officers selected from the Civil Service of the Colony. I propose that they shall be assisted by a body of paid Headmen, appointed by the Governor, whose

responsibility shall be defined by law. The District Officer may be subject to the Resident Councillors or to the Commissioner of Lands in Singapore, as may be hereafter decided...

207. The difficulty of getting trustworthy native Headmen is well known to me....But it is quite possible to create such a system gradually by the selection of men of influence, by assigning to them sufficient salaries, by rewarding them for faithful service, and by teaching respect for their offices by treating them with marked consideration....

209. With an English officer at the head of each District, and a system of paid Headmen, there will be machinery for dealing efficiently and quickly with any subject connected with land arising in any district, assuming that the necessary legislation is undertaken....

There was one paragraph headed 'Malacca Lands: Collection of Tents': it read:

It is difficult, under the existing law, to enforce the efficient collection of the tenth on grain grown on lands held in Malacca under native tenure. This fact has contributed in no small degree to the failure of successive officers in Malacca to induce the Malays who hold their lands under native tenure to commute their tenths and to take out proper written titles on the Colonial system. I have always been of opinion that the way to extinguish native tenure in Malacca is to make the collection of tenths on grain etc really efficient, and I recommend the scheme founded on the Ceylon Ordinance XII of 1840. [This was prosecution before District Courts with a summary jurisdiction.]

V

Maxwell visited Malacca for eleven days in May 1883 and wrote a short report on the Malacca Land Office: this, with Hervey's comments, was tabled for Legislative Council⁴⁵ in July. Maxwell passed strictures on the penghulus of Malacca; they

...seem to me to work unsatisfactorily. What I saw gave me the impression that they seldom work honestly for Government. They seem to look upon themselves as retained in the interest of the ryot rather than as servants of the Crown....The appointment of Penghulus is informal, their selection is generally entrusted to a Non-commissioned Officer of Police, and they have no written or printed instructions. They know the customary boundaries of their districts, but of these the Government, on the other hand, has no record and they are not shown upon the Government maps. The Penghulus seldom protect the interests of Government in encroachment cases or in prevention of unlicensed timber-cutting.

Hervey, while agreeing in large part, put him right in one particular:

The Penghulus are elected by the people, and the local Officer of Police is directed to report on their character and status before their chop is given to them. This, of course, is not a satisfactory system, placing the Police, as it does, in a position which is alike bad for themselves and the people, but it is not possible...for the Resident Councillor to acquire the intimacy with the people of the District which would enable him to have any personal influence in the election of a Penghulu. The proposed District Collectors would, in time, acquire such knowledge.

One of Maxwell's recommendations was a reduction in the number of penghulus, and this may originally have been Hervey's idea, for he commented that he was 'engaged in sketching out 15 Penghuluships', and he suggested in his Report for 1882 that there should be five penghulus under each Collector — and that they and their mata-mata should be paid salaries.

A month after the tabling of that report, Maxwell laid before Legislative Council his 'Detailed Scheme of District Registration'.⁴⁶ This involved, 'as a preliminary to the investigation of titles and the registering of certificates, a system of what is called in India "land settlement"'. He reviewed the earlier land legislation and administration in all three Settlements: of Act XVI of 1839 he said 'Almost every incident likely to arise in working a system of land administration seems to have been foreseen, and the rules laid down seem to have been well suited to the wants of the Settlements'. He dealt with the reasons for administrative breakdown: 'this degeneration of the Land administration was in progress when the Colonial Government was inaugurated in 1867. It has never stopped, and the legal aspect of affairs is now even worse than it was then'.

He dealt separately with customary tenure in Malacca at large:

Act XXVI of 1861 abolished the native customary law altogether as regards the right to take up waste land in future, but all existing rights were, of course, respected....As regarded Naning it was declared (Section 6) that it should not be competent for any person thenceforth to exercise the old customary right. The only waste or uncultivated land which the Malay peasant in Naning might thenceforward claim was land which...had fallen out of cultivation three years before the passing of the Act....The native customary tenure having thus been abolished, both in Malacca and Naning, the next step towards a regular system of land revenue was to ascertain the existing native rights....For this purpose a regular system of land settlement was laid down...but [Quinton] resigned in 1871 and the work which he left uncompleted at Malacca has never been proceeded with. Survey and land settlement under Act XXVI of 1861 have been abandoned for years....

He began his 'proposed reforms' by invoking Weld:

His Excellency the Governor has now decided to do what the Indian Government hoped to do first in 1840 and again, as regards Malacca, in 1861, namely to endeavour to set existing irregularities right, and to obtain a sound basis for future administration.

...Here as in Ceylon...accurate Survey must be the first step, and after reading the Survey reports of Major McNair and Captain McCullum I have no doubt that much that has been surveyed will have to be surveyed again. I gather from these reports, and from my own personal knowledge, that in any district in the Colony there may be found, amongst other holdings.

I surveyed Lots held under Government titles but with boundaries undemarcated, which cannot now be demarcated without fresh survey.

II allotments held under Government titles, of which the area in occupation is greater than that described in the grant or lease.

III lands in the possession of holders of "permits" not yet surveyed, in some cases out of all proportion to the area stated in the permit.

IV lands in the possession of squatters, the possession of which, in some cases, is of very old date. Besides these, in Malacca there are lands held under customary tenure.

The first step recommended by him was declaration by the Governor of a district as one to be surveyed, with three months' notice to the landholders in it. When that time had run, the next step was a visit by the Settlement Officer with the Surveyor, to fix all boundaries. Landholders were to be bound to attend, when required, to clear boundary lines and set up boundary marks, and to produce their title deeds. The third stage, when the Survey of the specified district was completed, was to be submission to the Commissioner of Lands; the Settlement Officer was to require every claimant to land to produce a written statement of claim, and his documents of title; each statement was to be numbered and the documents enclosed with it. The fourth stage was production of plans and examination of the documents by a qualified Examiner of Titles. The Commissioner then held an enquiry and reached his finding. If there were no appeal against this, a certificate was issued. Maxwell set this out in form, as part of a proposed Real Property Ordinance.

As to the legal effect of the certificates, he stated that he had found in Singapore twelve varieties of grants and leases, in Penang ten and in Malacca eight. Reissue of these would hamper simplification in land administration, and he suggested that the certificates 'should have the effect of a grant in perpetuity'.

He set his sights lower than Weld had done:

The doctrine of "indefeasibility of title", which is an essential part of the Australian system, has been fully considered by me since the date of my first report....I do not think that, having regard to the great irregularities of the past in all that concerns the transfer of land, to the want hitherto of any efficient system of deeds affecting land and, lastly to the character of a mixed and shifting Asiatic population, it would be safe or for the public advantage that Government should undertake to guarantee the indefeasibility of the Certificates issued in lieu of the titles recalled....

Here what the Government contemplates is a kind of "Doomsday Book" survey of all the occupied land of the Colony, and it is not left to the option of any landholder whether or not his land shall be included within it. It seems, therefore, that to give to the proprietor a new title subject in all respects to any incidents which may affect the validity of the old one, will be sufficient....

Nevertheless, he was aware of the importance of his model.

I have only to add...that I believe that the system of survey and land settlement set out...might be usefully modified and introduced in those native States on the peninsula in which Residents are maintained....The native law of tenure which survives in Malacca obtains also, with local variations possibly, in the other States of that Peninsula.

It would be well, therefore, if in the protected States the history of Malacca tenures were taken as a warning and if an early opportunity were taken of ascertaining the rights of native cultivators and landholders, and securing to them their full enjoyment, while laying down any modifications of the native law which may be decided upon as to the future.

Chapter 13

The Reforming Legislation

I

Eight weeks later, on 15th October 1883, Maxwell moved the first reading of 'a Bill to prevent encroachments upon Crown Land.' In his speech he gave notice of what was to follow:

I trust this Bill, if it should be allowed to pass into Ordinance, will be followed later on by an Ordinance for the Registration of Deeds, and afterwards by a general Land Ordinance to take the place of Indian Act XVI of 1839....There will still remain a fourth Ordinance, intended to abolish the present system of conveyancing, and to replace it by a more simple method on the Torrens model....¹

The Bill's provisions were more sweeping than those of the 1861 Act. Information could be sworn by a Commissioner of Lands or 'any Land Revenue or other public officer' of unlawful occupation of any Crown land before a Magistrate, who could then issue a summons compelling appearance of any person so charged and of witnesses. If the respondent was wilfully absent the Magistrate could proceed to hear the case on the information as sworn: on being satisfied, he could issue a warrant to any Police officer ordering eviction of the respondent and resumption of the land (including buildings and crops) to the Crown. There were four safeguards: a claim of *bona fide* title ended the Magistrate's jurisdiction; the warrant for eviction and possession was not to issue until forty-eight hours from the hearing; the right of appeal under the Appeals Ordinance 1879 was expressly stated; and when a summons was dismissed the Magistrate could order costs for the respondent against the Crown. The penalty for trespass, which included cutting timber as well as putting up buildings or cultivation, was a fine not exceeding \$100 for the first offence, and the fine or six months' imprisonment (simple or with hard labour), or both, for subsequent offences.

The Bill provided (Section 7) that 'all waste, unoccupied and uncultivated land' was to be deemed Crown land until the contrary was proved; and that alienated land which had been abandoned for three years or more could be resumed by the Crown. The procedure was laid down, and required the Governor's approval of any intended action, advertisement in the 'Government Gazette' and by notice in English, Malay, Chinese and

Tamil posted on the land of the intention to resume, with a period of six months for any claimant to come forward: thereafter there had to be another Gazette notification declaring the land to be vested in the Crown. Again, there was a safeguard (Section 9): the land had to be appraised and the value recorded in the Land Office, and any person establishing a claim within six years was to be paid the value as recorded.

There was one concession copied from Ceylon: any person who had been in continuous occupation and had 'cultivated planted or otherwise improved' for five years was to be entitled to a grant or lease, even if he had 'no permit or written authority', on payment of a sum not exceeding half the improved value.

Other offences were declared, and penalties for committing them stipulated. Wilful depasturing of horses or cattle without authority on Crown land attracted a maximum fine of \$25 (and in Nanning and country Malacca buffaloes were left free to graze the sawah in the off-season). Unauthorised removal of a variety of products — live and dead timber, any vegetable, product, beeswax, guano, minerals, gravel, stone, coral, sand, loam, or bark from any tree — carried a maximum penalty of \$100: obliteration of boundary marks could lead not only to the penalty prescribed in Section 134 of the Penal Code but also to an order to pay three times the survey and other costs of replacing them; and an encroachment on a public road could be removed on a Magistrate's order, which could include the award of damages as well as costs.

Lastly (sections 15 to 17), there was statutory provision for the appointment of Forest Rangers and Penghulus, and some statement of their powers and duties. They were to be appointed by the Governor, for territorial divisions if he saw fit, and were to prevent encroachment and trespass, to collect rents and licence fees, to recover lands on forfeiture, and to discharge such other functions as the Governor might prescribe by Regulation. It was their statutory duty to inform the Collector of any encroachment of which they had knowledge, and they were liable — another idea from Ceylon — to a fine not exceeding \$100 if they neglected or refused to carry out any of the duties laid upon them. They were empowered '...and are hereby required' to arrest without a warrant anyone found committing the minor offences.

The main opposition came from an unexpected quarter, the Acting Chief Justice Ford. At the Second Reading he moved rejection:

I do it the more earnestly, Sir, because I feel that this Bill has not had all the supervision it might have had. We have lost our late and experienced Attorney-General, and the late Acting Attorney-General, the late Registrar at Penang, has had no hand in this measure. The

Government have therefore been left to the unaided counsel of its framer with that of the new Attorney-General, who has been with us but a few days and is necessarily strange to our circumstances, history and wants. I have no wish for one moment...in any shape to under-rate either the general or the legal abilities of the Hon'ble Member who has introduced this Ordinance...for those abilities I have always felt and still do feel the greatest respect. I have felt the greatest satisfaction, from a public point of view, that this land question has been taken up, and in no feature of what has been done do I feel greater grounds of satisfaction than of seeing the matter placed in the hands of the Hon'ble member. But, at the same time, I cannot but feel that he has not the same practical experience of handling important questions of this kind that men of greater opportunities have had. It is therefore doubly needful to pick our path with care and caution, and it is because this Ordinance contemplates changes of a novel, untried and, as I think, injurious character to landowners in these Settlements that I feel that in its present form it should not have our concurrence....²

He was supported by Currie,³ whose stated grounds were that Maxwell's proposals were a hotchpotch from different places — Australia, Ceylon and India — and that the Bill gave jurisdiction to Magistrates, who were not trained in law and especially conveyancing law.

The Acting Chief Justice and Currie tried a delaying tactic at the Committee stage, moving the addition of a clause that the Ordinance should not come into effect until it had been approved by the Secretary of State, but Maxwell said that there a great many cases held over, awaiting the powers under the Ordinance. Ford withdrew his motion, as the Government 'alleged' urgency, and the Bill was passed as Ordinance X of 1883.

When one reads the debates on this and later Bills, the possibly unworthy suspicion arises that it was the singer to whom Ford and the Unofficials objected, and not his song. To some extent Ford's caution was justified, for the existing law, however cumbrous and inefficiently applied, was certain: to judges this is a great virtue. Yet in the Committee stage there was little debate on individual clauses, and one is left with the feeling that the opposition arose from the fact that the Bill had been drafted unaided⁴ by an officer only thirty-seven years old, who enjoyed the Governor's confidence and deluged the Council with long memoranda containing ideas not rooted in the Straits.

Maxwell then turned to the question of surveys and re-surveys, and sketched his requirements for a new Bill, the actual drafting of which was done by the new Attorney-General, Bonser. This was 'an Ordinance to provide for the demarcation of land and the establishment and mainte-

nance of boundary marks'. It was in fact the legislative apparatus to carry out the re-survey and settlement on the Indian model which he had recommended in his 'Detailed Scheme', but with some changes. The system provided for the Governor to notify areas for demarcation, into which Demarcation Officers moved. These officers had power of entry and to make enquiries; by general notice they notified their intention to demarcate all boundaries of holdings within the area specified; by special notice to occupiers and persons interested they could procure their attendance to point out boundaries, and — again by special notice — they could require boundary lines to be cleared by the felling of trees (except fruit trees) and cutting of crops. The owner or occupier had to provide labour for this, or pay for labour employed. The Demarcation Officer then marked the boundaries, and if there were objections to those he fixed he had to report the objections to the Land Office.

With the Demarcation Officer or soon after him came the Surveyor, who plotted the demarcations and produced maps. These maps were open to inspection at the Land Office; and general notice was to be given of this, together with special notice to any person likely to object to any particular boundary.

When six months from the publication of the notice had run, any objections received were to be considered by the Boundary Officer, unless there were a suit pending in the Supreme Court. The Boundary Officer then made his award, confirming or modifying the demarcation. He too could compel the production of documents and attendance of witnesses. The Boundary Officer had to record all evidence, read it over to the witness, and have it signed — by the witness unless he refused, in which case the Boundary Officer was to annotate it and sign the note. The depositions, decisions and grounds were to be filed in the Land Office, and to be open to interested parties. Once the Boundary Officer had begun his proceedings, all Court action was stayed.

Appeal to the Supreme Court against the Boundary Officer's decision was possible but had to be made within three months, with fourteen days' notice to other parties; otherwise the Boundary Officer's decision was final.

There was a Part III to the Bill, concerning boundary marks. When the order determining a boundary became final, the Land Officer was to ensure that 'sufficient permanent boundary marks of such materials and size as he considered sufficient' were erected at the owner's — or adjoining owners' — expense. The Collector could place any boundary marks in the charge of the landowner, who was then under a statutory duty to preserve them and give notice of any damage or removal. The penalties in the 1882

Act were repealed as Section 33, and the section in the earlier Ordinance was to be repealed.

Part IV gave ancillary powers to Survey officers, imposed penalties for miscellaneous offences, and empowered the Governor in Council to make rules 'consistent with' the Ordinance.

This time the opposition was better organised and more vociferous. At the Second Reading Bond, Unofficial, moved that the Bill be read again that day six months, the formality for postponing, and rejecting, it.

This Bill that we have before us is of a somewhat extraordinary nature....It is a Bill which gives power to the Government — or to the Government's nominees, whoever they may be — to enter into any lands and make inquisition, and to force any landowner to give up his title deeds for inspection — his title deeds, not only of property being surveyed, but of property which he may have in Penang or Province Wellesley or Malacca: there is no restriction whatever. It is a Bill which forces the unhappy owner of land to provide the Government with labour to do what the Government should do themselves....It is a Bill which ousts the jurisdiction of the Supreme Court to a great extent, and provides what we do not want,....a Land Court presided over by we don't know whom — it may be perhaps a Forest Ranger, or the youngest Cadet in the service, or my Hon'ble and learned friend the Commissioner of Lands. Well, Sir, I say that Court is not necessary. I say you have the Supreme Court here, which can adjudicate, and does adjudicate, better than any other Court on titles, for land or anything else. But I regret to see, and I regret to say, that the tendency of Government for some years past has been rather to diminish the importance of the Supreme Court in every way. They have diminished its dignity, they have deprived the Judges of several of their privileges, and now they are going to take away part of its jurisdiction.... It is not my intention, Sir, to go through all the details of this Ordinance, because in almost every section there is something to be objected to. A more crude Ordinance I have never read: a more ill-digested Ordinance I have never come across....Who wants this Ordinance?....Who wants their boundaries demarcated? People are perfectly happy as they are....There is another very great objection to this Bill, and one which ought to weigh very much in the minds of Hon'ble Members....That is that it is an incomplete measure. It is a measure which must lead on to something else. It is a fragmentary part of a whole, and I think that before we pass that fragmentary part we should have the whole before us to see whether it harmonises with the rest of the legislation to be brought in....But we have no information from the Government upon that....⁵

He was followed by Gulland, another Unofficial.

What I want to say is that I am inclined to think both the Government and the public have magnified this land question till it assumed an importance in the minds of both which it does not deserve. I feel sure that there is no need for any such sweeping reforms as are proposed. I have had occasion several times in the course of business to go to the Land Office and have been greatly pleased with the order I found everything in there....What, Sir, we want at the head of the Land Department is not a gentleman to draft Bills and write pamphlets — that, I should think, is more the work of the Attorney-General — but a man who will take off his coat, go into the Land Office and prevent the work there getting into arrears....In his pamphlet the Commissioner of Lands says that the officers in Penang and Malacca would refer, in case of need, to the Resident Councillors, and that is very proper, but these gentlemen will have to apply, in certain cases, for assistance themselves, and I take it that it should be to Your Excellency and not to an officer like the Commissioner of Lands, junior to themselves, that they should have to apply as proposed....⁶

At the resumed debate next day the Acting Chief Justice, Ford, attacked the Bill —

If the object of the Bill is to make a correct map and a general survey, what do we want of permanent maintenance of boundary marks? Are we going to have a correct map made every month, or every six months, or every twelve?

...and objected that the provisions were drawn from India and Burma. He moved that the Bill be referred to a Select Committee: this was seconded by Currie and accepted by Government. The Acting Chief Justice was Chairman, and some meetings were held when Maxwell could — or would — not attend: at another he was examined with some hostility. When the report was taken, Maxwell moved that it be referred back, and was seconded by the Colonial Secretary. The motion was lost and the Bill was reported on 4th November. On 11th November, Ford, Bond and Gulland moved to omit Sections 13 to 34 (the entire procedure after demarcation, and the part referring to boundary marks) and the voting was seven for (the Acting Chief Justice and all Unofficials) and eight (all the Officials) against. At the Third Reading on 14th November the Bill was passed as Ordinance VIII of 1884 by eight votes to seven, members of Council dividing as before.⁷

Maxwell had Rules under the Ordinance ready, and these were approved and published in December. Rule 5 read: 'Where mukims, or parishes, or other local subdivisions of districts exist, the customary boundaries of which are known to the people, these are to be specially demarcated'.

The animus against Maxwell was not confined to the debates on legislation prepared by him. When the Supply Bill 1885 was before Council, Gulland said 'the newspapers teem with instances of the highhanded conduct of the Commissioner of Lands', and went on to suggest that the post might

...with advantage be abolished or at any rate greatly reduced, as soon as fitting employment can be found for my Hon'ble friend...and the services which I hope the Secretary of State will not overlook, but reward by promoting him to a Governorship or Chief Justiceship in some distant Colony.⁸

A year later, in the debate on the Supply Bill 1886 Shelford, another Unofficial, accepted the increases in the permanent staff of Land Offices but turned to Maxwell's post: '...that appointment, it is now generally admitted, should never have been made, and after three years' experience of it, nothing so far as I know has been done to justify its necessity'. He referred to Weld's despatch of 1880:

...at this end of the table my Hon'ble friends must have long since repented of the haste with which they joined in the paeans of praise over this land despatch. Had they foreseen the bickerings and wranglings, the heavy expenditure, the utterly meagre result, they would have been inclined to pursue the course the reverse of that....For my part, had I been able to reckon on some adequate support, as the three years' term of his appointment [as approved by the Secretary of State] expires in February, I should have moved that supplies for six months be stopped....⁹

He was followed by another Unofficial, Graham:

I have wondered why officers, instead of writing such reports from year to year, do not sit down and put things in order. Clearly, Sir, it is administration rather than legislation that the department wants...and the fact appears to be that the officer who was appointed to legislate and to introduce the system of transfer of land by registration, probably does not feel called upon to administer. Why the introduction of the Torrens system is delayed, I know not; but the work which the Hon'ble gentleman is now doing seems to me unworthy of his great abilities....Your Excellency should consider whether the energy and abilities of the Hon'ble gentleman could not be employed in some other department with advantage to the Colony....

Maxwell replied mildly:

I hope we have commenced a system which will eventually give us what we want...and I propose to state what the system I want is....We must commence by the demarcation of the holdings in a Settlement;

proceeding then to survey all the holdings so demarcated; and then to come to a settlement with all the landholders....When we have arrived at the point of having settled the rights of the landholders, things would possibly fall back into their old state unless we have compulsory registration of deeds....The top storey of the edifice would be a system of registration of title on the basis of the Torrens system....One Hon'ble member has alluded to the fact that I have proposed to dispense with indefeasibility of title, but he did not appear to be in possession of my reasons....In England and in Australia, it is the custom when a transfer of land takes place, to require an abstract of title to be furnished...and to make a very careful search into all available records...to guard against incumbrances and other secret dealings....Nothing of this sort happens here, or if it does, it is in very few cases....In a place...where landholders themselves are content to dispose of the preliminary formalities which are supposed to make title secure, it is not for the Governments to go out of their way to guarantee titles....¹¹

II

The year 1886 saw the completion of the legislation Maxwell had promised, and more.

First came the Crown Lands Ordinance, passed as No: II of 1886 in January. It was 'an Ordinance to regulate the alienation and occupation of Crown lands', and came into operation in different districts on such dates as the Governor should notify: on its coming into force Sections V, VI, VII and IX of the 1839 Act, which governed the issue of agricultural permits to occupy, leases for other purposes, and discretionary surrender on partition, were repealed. It was a much tauter enactment. It tidied up the position of those who held under extant 'Cutting Papers' and similar agreements by declaring them entitled to grants in perpetuity at \$3 an acre plus survey and registration fees, themselves set out in a schedule. It empowered the Governor to make rules for alienations or temporary occupation of land, how applications were to be made, on terms and conditions, and on exemption from rent. It provided for rents up to 31st December 1914, and for periodical revision — thereby meeting Kimberley's instruction to Weld with no ingredient in the increase in respect of improvements made by the grantee — as promised by Weld. It contained a standardised and statutory form of grant (Section 5 and Schedule B) and stated the implied covenant and conditions which were to run with the land. No grant could be issued before the land was surveyed, but the Collector could enter into an agreement with an applicant in statutory form (Schedule C) until survey could be completed and the

document of title issued: the agreement was then to be surrendered (Sections 10 and 11). There was to be no future fragmentation: anyone wishing to sell or give part (as distinct from the whole) of his grant had to surrender his title, and new ones were to be issued: the minimum rent of such subdivisions was to be fifty cents. Where villages grew up, with a minimum of twelve houses, the Governor could declare a 'village site' and impose special conditions and rents (Section 13); and the acquisition of rights by long possession or otherwise was barred: Section 14. The Governor was empowered to make rules for licensing the collection of minerals and vegetable and animal products on Crown lands — which Penghulus and Forest Rangers were under a duty to watch, by the Boundaries Ordinance 1884 — and, as a hangover, for the collection of tithes and other dues. Lastly, repeating the Boundaries Ordinance, Section 16 obliged landholders to erect and maintain boundary marks in 'their whole extent'.

In May Maxwell moved the first reading of two more Bills. One was 'to make better provision for the collection of the land revenue of the Crown'; the other, particular to the Settlement of Malacca, was to 'declare and amend the law relating to the customary rights in land in Malacca'.

The Land Revenue Collection Ordinance was intended to replace the powers and procedure in the 1839 Act. The general method and sanctions were the same in both Acts: when a payment was in arrear, the Collector served a notice requiring payment on the defaulter, and if this were not made the Collector could in his discretion seize crops and effects and sell them by public auction. If the arrears remained unsatisfied, the land itself could, after further notice, be auctioned. Sale could be prevented by 'any person interested in the land' by payment of the arrears, interest on them, and fees (in 1839) or costs. Both enactments provided for appeal to the Court, and if there were a payment in of a sum as security for costs, the Collector's proceedings were stayed.

There were significant differences: whereas by Act XVI of 1839 a sum due did not become an arrear until it had been due a full year, under the new Ordinance it became an arrear fifteen days after notice had been served that payment was due. Payment was due to the Collector of Land Revenue for the district and not to the Land office of the Settlement. If land came to auction, the new title was to be free of all incumbrances except those expressly stated by the Collector at the time of sale. Interest chargeable was reduced from 12% in the 1839 Act to 8%. As for appeals, under the new Ordinance when the sum did not exceed \$20 they went to the Court of Requests and only those relating to larger sums went to the Supreme Court. The Governor could make rules, and Legislative Council (before which

they were to be laid) could disallow by Resolution.

The other Bill introduced by Maxwell became the 'Malacca Lands Ordinance', No: IX of 1886. It repealed the four sections¹² of the 1861 Act which dealt with 'prescriptive tenure' of land in Malacca and Naning and the Blundellian attempt at conversion to grant or lease on rent; and it also repealed the whole of the 1876 act with its bar on future 'prescriptive rights' and machinery for registering 'leases' with commuted tenths. Instead, it recognised a class of 'customary landholders' who held by customary tenure on the day the 1876 Act came into force. These had a 'permanent heritable and transferable right of use and occupancy' subject to payment of rent or assessment and to various reservations — of minerals and, for some reason, buried treasure and the rights of Government to enter and instal roads, drains, sewers, electric lines and telegraphs, compensations assessed by the Collector being payable for disturbance. The rights so created were forfeit when the land had been out of cultivation and (not or) the assessment on it was not paid for three successive years: this was more lenient than the forfeiture noted by Recorder Claridge and Garling, and Fullerton: Maxwell quoted that judgment in his paper published in the Straits Branch (Royal Asiatic Society) journal,¹³ so he was aware of it. All claimants to these customary rights had to apply to the Collector, who after enquiry registered them and issued a copy of the Register entry to the claimant. There was provision for appeal to the Supreme Court, within three months, against a Collector's decision, power for Collectors to enforce attendance of witnesses, and — Section 10 — a liability to assessment in lieu of the tenth, such assessment 'not exceeding one tenth of the value of the produce...in an average year'. Boundary marks were to be erected and maintained; and the Governor was empowered to make rules under the Ordinance.

The debates in Legislative Council on both Bills centred on this question of assessment in lieu of the tenth. The Unofficials were no longer able to muster behind the Acting Chief Justice, for Weld had proposed, and had been authorised to carry out, a reorganisation of Legislative Council by which the Chief Justice was no longer an *ex officio* member. The Unofficials had protested at the loss of a 'valued and experienced member of independent judgment', but to no avail; and their leadership seems to have passed to Shelford, whose speeches at that time and later show that he studied and thought over the reports (for example, that of Young) and memoranda laid before Council in Indian as well as Colonial Office periods, and his independent attitude was always based on good but high conservative sense.

During the second reading of the Land Revenue Collection Bill,

Shelford supported the Bill in general but added:

It must be distinctly understood that in assenting to the general principle of the Bill it does not follow that we are committed to approving the assessment in lieu of tithes in Malacca. For my part I will be no party towards assisting the Government in getting their pound of flesh from people indigenous to the soil regardless of their customs and whether they were subjected to it or not in bad seasons and to conditions which it is well known had recently prevailed in agriculture.¹⁴

Maxwell reminded him that the Indian Council had discussed the propriety of assessment before the 1861 Act was passed and that the policy was not new,¹⁵ but Shelford returned to the point in the debate on the Malacca Lands Bill in July — the debate had been twice postponed at his request — and referred to Sir Benson Maxwell's judgment in 1870.

It seems to me that we have no right whatever to interfere with the ancient customary right of the Malay cultivator on paying a tithe — that is to say, on paying one tenth of the produce of the land. The most that we can do is to submit to them as an option the commutation scheme based on fair and equitable terms, but not taking from them more than one tenth. This Bill... does not propose anything of the kind. It contains no option at all....¹⁶

Anderson, another Unofficial, was —

...actuated by the firm belief that if this proposed measure be adopted, it will involve a grave breach of faith on the part of the Government towards the holders of land at Malacca. I think it will be difficult to deny that the substitution of an assessment for the tithe is definitely contrary to the terms on which the holders of land in Malacca acquired their property, and it seems to me that if Government passes this measure their policy in the matter can be termed nothing short of coercion, and coercion in a very marked degree, where there is no call for it....¹⁷

Shelford's comment in the debate of the Land Revenue Collection Bill was reported in the 'Straits Times', and has been regarded as a clarion but unsuccessful call for liberty against a despotic Government.¹⁸ Shelford's stand was, very properly, in part on a point of principle; but it was a principle already eroded. He restated what had been the principle of the Company from the days of Westerhout to the end of its rule, but that principle had been — arbitrarily and unilaterally — abandoned by the Indian Government in 1861 and the Colonial Government in 1876; and it is surprising that no-one referred, during the debate, to the established practice as already described to the Council. For Maxwell, in his tabled

Report on the Malacca Land Office in 1883,¹⁹ described it in detail.

...6. The value of the padi before the assessment of the Government tenths seems to me to be carried on in a perfunctory way....

When the padi in a district is ripe, a Clerk (Eurasian or Malay) is sent there. He visits the rice fields with the Penghulu. A little of the padi is cut and examined, and an estimate is formed of the probable yield. The Clerk makes out a return, which purports to state what area is cultivated by each occupier, what is the probable yield, and what is the assessed tenth.

These Clerks are ignorant and...entirely dependent upon the Penghulu for information as to the names of the occupiers and the extent of the cultivation. These may vary annually, for it is the cultivator (not necessarily the proprietor, but possibly a tenant for the season only) who has to pay the tenth, and only a portion of a given holding may be under cultivation.

When the Clerk has finished his assessment of a district, a copy of his return is made out in Malay and sent to the Penghulu. The latter collects the money and pays it to the Land office, receiving a commission of ten per cent. on the amounts collected.

'The latter collects the money and pays it to the Land office': this is some distance from Lewis's godowns and Westerhout's chits, and shows that commutation into a money payment (however perfunctorily calculated, though with the Penghulu and cultivator present, as Hervey annotated) was the general procedure. Maxwell, or Weld, took Shelford's real point:

I confess that, reading Section five as it stands, it is open to the Hon'ble gentleman...and those who agree with him, to argue that the assessment might be on any scale fixed by the Government. There is no intention on the part of Government — I am instructed by His Excellency to say so — to impose upon the people any rate of assessment exceeding the tithe.²⁰

The Unofficials accepted this, and Section 11 fixing the limit was inserted in the Bill; but the Unofficials voted against the Bill at the third reading: it was carried by seven votes to four.

The method of assessment was set out in the Rules under the Ordinance laid before Legislative Council (where there was no comment) later that year:²¹

...12. The rate to be levied shall be fixed as follows:

(a) The Resident Councillor shall as soon as convenient classify the customary lands of Malacca on which padi is grown into first, second and third class lands, according to advantages of soil and situation.

(b) He shall then submit...for the Governor from time to time a report.... based, where necessary, upon actual experiment.... recommending certain rates of assessment for first, second and third class lands respectively.

(c) Such rates shall be calculated on the value according to the average price of padi of one tenth of the produce which such land may be fairly estimated to yield in an average year.

The average price shall, where practicable, be deduced from the prices which have ruled in the preceding seven years, and the average yield shall, where practicable, be deduced from trustworthy returns of the yield of at least three years. If such records cannot be obtained, then the rates shall be calculated to be one tenth of the value of the average yield of the land in a good year, less one third of such tenth as a set-off against losses in bad years....

14. The rates on gardens, fruit and coconut plantations and miscellaneous cultivation shall be fixed, as a rule, at the highest rate in padi land in the neighbourhood, but if the Governor so directs, a higher rate may be fixed, not exceeding the rate mentioned in Section 11 of the Ordinance.

III

The rest of Maxwell's land legislation did not directly concern Nanning. The 'Malacca Tithes Improvements Bill', passed as Ordinance No: VIII of 1886, provided for the resumption of certain rights which had not been surrendered under the 1861 Act, with compensation by perpetual annuities to be fixed by a Commission and commutation at seventeen years' purchase. The Improvements objected, and a deputation appeared before Legislative Council: it would seem that they enlisted the aid of the Press. Isemonger, Acting Resident Councillor Malacca, referred to this in Council on 10th November 1886:²²

Much has been heard lately about an exodus from Malacca. Exaggerated and unfounded statements have been published in a local paper....To enable you to form an idea of the value of these statements, allow me to quote from the paper²³ in my hand: "Government cannot but be too well aware of the large numbers of the native population that have already left this unfortunate Settlement for the Sultan's territory in Muar and the adjoining native States". To go further: "Government can well imagine the vast amount of dissatisfaction the Tanjong people alone feel at the oppressive Tithes Improvements Bill".

Now, I can inform you that there is no such thing as a Tithes Improvements' estate in Tanjong Kling.... When I heard statements made that districts such as Merlimau were depopulated, that these people were

driven out by oppressive land taxes, I made enquiries personally and through the Penghulus and police, and I cannot find that more than 250 people have left Malacca. Returns I had made show that some of these left two, three and even four years ago. And this is spoken of as an exodus, with a population of a hundred thousand....

...Much has been said of the Tithe Impropriators' estates, but...we may conclude they are not, as has been represented, everything that the Malay desires, for I find that a large relative proportion of the people who have gone to Muar have gone from Mr. Wan Chitek's estate at Semaboo....The only part of our territory which shows anything like desertion is a small portion near Merlimau²⁴ which was formerly worked by various people during the padi season. Well, this desertion took place some years ago and cannot be attributed to the new Land Ordinance....

Maxwell also commented on these stories in his report for 1886,²⁵ when he pointed out that the Malacca Lands Ordinance had not yet been brought into force in any District.

There were, however, 'disturbances' in 1887 at Serkam (near Merlimau) which Isemonger perhaps soft-pedalled in his Annual Report:

...a certain amount of discontent has been aroused by the Land Ordinances, but this was to be expected. Reform of a slack administration, when directed towards the proper collection of taxes which were formally evaded, and the re-assessment of land held at nominal rents, were not likely to be popular.

His report for 1888²⁶ was more cheerful: 'it may be said generally that the assessment is now accepted freely and its advantages are beginning to be appreciated'.

The final Ordinance of 1886, No: XIII, was 'to provide for the registration of Deeds and other instruments', the coping-stone on Maxwell's framework of land legislation. It was to come into operation in the several Settlements on such dates as should be fixed by the Governor in Council. It was never extended to Malacca: instead, the one surviving Section of the 1839 Act was extended at various times to become a 'Mutations of Title Ordinance' (Cap. 126 of the 1935 Straits Settlements Laws) which was repealed only in 1965.²⁷

In his address to Legislative Council in October 1886 Weld said.

Circumstances have prevented, for the present, the complete inauguration of the system of localised Government which I sketched out in a former address to you, but a commencement has been made; District Officers have been appointed at Balik Pulau in Penang and Bukit Mertajam in Province Wellesley, and one has been appointed lately at the

Dindings. It will be their duty not only to act as Magistrates and Collectors, but to avail themselves as far as possible of the cooperation of native Headmen, whether Malay or Chinese, and to learn the wants and obtain the confidence of the native inhabitants of all classes and races. I propose to²⁸

Maxwell's appointment as Commissioner of Lands ended in April 1887, and Weld retired later that year; but the future shape of Naning — as of the Straits Settlements and, to a considerable degree, the Malay States — had been determined: all that remained was execution and performance on the ground. It is an indication of Maxwell's ability that though there were to be extensions of his legislation, only the Land Revenue Collection Ordinance was replaced.²⁹

In his final Report³⁰ Maxwell mentioned

...subjects still to be dealt with....A few comparatively unimportant enactments are still required in order to perfect the new system. They are the following:- Ordinance to amend the Malacca Lands Ordinance 1887 (sic). It is desirable to give to the Resident Councillor power to admit on to the Register as customary landholders all classes of cultivators who are willing to accept the customary tenure of Malacca in preference to taking out Statutory Grants... though they may not really be entitled by length of possession to the status of 'customary landholder' under the Ordinance. There are other points also which require attention in connection with the appeal from the executive authorities to the Supreme Court. Next, an Ordinance to provide for the maintenance of a Register of Holdings — unless measures are taken to keep the new mukim registers abreast of all changes.

He also suggested an Ordinance to regulate rents on sub-divisions, and 'an Ordinance to regulate conveyancing....'

His first requirement shows that he had already moved on from the scheme of his 1886 Malacca Lands Ordinance, which was to close the class of customary landholders and make all future alienations grants or leases under the procedure contained, in a revised form, in the Crown Lands Ordinance. He realised that the work was not completed:

Registration of Title. If I have not included a Land Transfer Ordinance in the foregoing it is because, pending a general survey, the Colony is not ready for any extended application of such a measure. The time will, I hope, come for carrying out this part of Sir Frederick Weld's policy also....Increase of revenue was not the object with which Sir Frederick Weld attacked the Land question....He desired to establish order where chaos was reigning, and to secure the due rights of the Crown without interfering with those of any class of Her Majesty's subjects. I have faithfully attempted to interpret and give effect to his policy, with what success future generations of colonists and colonial officers will say.

Chapter 14

The District Administration

I

Head 19 of the 1888 Estimates included provision for the sites of District Magistrates' houses in Malacca, and in 1889 'the working of a District Office at Alor Gajah was started under Mr. J. R. Innes with the aid of a vote of \$1,000 for clerical assistance'.¹ The District to which he went had received considerable attention during the preceding decade: in 1884 'along the frontier roads the roads from Simpang Ampat Naning, the high road to Rembau, has been widened and formed into a cart road to Jerat Gungei, our boundary post. Of this, two miles is a new trace'.² (This was perhaps also a security measure for, in November 1882

...about twenty Chinese, all of them with their faces blackened, attacked a Rembau man...and four other Malays who were carrying six thousand dollars in silver to Rembau. The Chinese succeeded in carrying away about two thousand of the money. Five Chinese were arrested and committed to take their trial at the December Assizes: three were found guilty and sentenced to ten years' rigorous imprisonment, two discharged.)³

In the next year

...a new road about 9½ miles long (from Sungei Baru to Lubok China) offered the additional advantage over the old road to Lubok China via Naning that it reduces the distance by about five miles and will thus be the high road from Malacca to Sungei Ujong.⁴

In that year there was a further, if intermittent, improvement in communications:

...telephone communication was established as far as the frontier at Lubok China, via Pulau Sebang, a considerable convenience as long as the instruments are in working order, but there is found considerable difficulty in maintaining this desirable condition of things.⁵

The Public Works Department regularly maintained and improved the irrigation works: '...in districts where lands are held under the customary tenure the labour of the *anak buah* has been utilised in carrying out this work, they and their *Penghulu* being given a small present on

completion'.⁶ There were Malay Vernacular Schools for boys at Pulau Sebang, Sungei Petai, Alor Gajah, Pegoh, Sungei Baru, Ayer Pa'abas, Melekek, Naning, Brisu, Sungei Siput, Lubok China, Padang Sebang, Ganun, Melaka Pindah, Kemuning, Bukit Singgeh, Nyalas and Batang Melaka. Most were small, though Pulau Sebang and Sungei Baru Schools had assistant teachers. Some were efficient: the 1887 Education Report⁷ included the following figures on the annual examinations in reading, writing and arithmetic:-

	Enrolment	Average Attendance	Passed
Naning	20	14	95% of those presented
Melekek	36	23	91%
Pegoh	30	20	96%
Pulau Sebang	42	33	93%

The schoolmaster's usual monthly salary was \$7 plus a capitation fee on average attendance. There were also girls' schools at Pulau Sebang and Naning out of five in the Settlement: Haji Norsiah, mistress of the Naning School, received the same salary as her male colleagues.

II

The Colonial Office, approving the 1886 Malacca Lands Ordinance, commented that as it stood, appeal was possible to the Supreme Court from the Collector without a first appeal to the Resident Councillor, and suggested that the Ordinance should be amended. Increasing intimacy between administration and rayat had also uncovered other deficiencies, and a 'Malacca Lands Amendment Bill' was published, with 'Objects and Reasons', for general information in November 1889.⁸

The first matter was the performance of customary duties:

...the Government were insufficiently informed as to the incidents of the Malacca customary tenure...and no mention was made of certain customary services which the landholder is, by immemorial custom, bound to perform for the general benefit of the village community. The principal of these is the duty of joining with his neighbours in clearing the water courses which supply the padi lands, and also the duty of preparing the padi land and of planting his padi land at the same time as his neighbours. The Resident Councillor of Malacca (Mr. Hervey), who

has a long experience of native customs, has made very strong representations to the Government as to the mischief which will be done if the power of enforcing these duties is abolished. Since the passing of the Ordinance in 1886, there has been no means of making unwilling...and lazy occupants perform these customary duties, with the result that an unfair burden is thrown upon the industrious members of the community. He states that all the best of the Penghulus are strongly in favour of this amendment.

It should be observed that this Bill does not propose to legalise forced labour or to do anything of the kind, and the only remedy in the case of non-obedience is that the Collector may employ someone else to perform the defaulter's duty and recover the cost by suit in the Court of Requests.

The second amendment as proposed dealt with inheritance:

Clause 4 (2) is an attempt to bring the law more into harmony with the habits and customs of the Malay cultivators than it is at present. These people do not understand our English system of landed property or the necessity of applying to the Court for letters of administration. It is therefore proposed to place this customary land in a separate category and to exempt it from the operation of English law....In future the land will not be affected by a will, but will descend according to Mohammedan Law as varied by the local custom. For instance, in the district of Nanning it is believed that all property devolves on the females to the exclusion of males. The Collector of Land Revenue is made a sort of friendly arbitrator in cases of dispute, with an appeal to the Resident Councillor and from the Resident Councillor to the Supreme Court.

Next, there was an alteration of procedure, and perhaps jurisdiction. 'Clause 5 enables the orders of the Collector of Land Revenue or Resident Councillor to be enforced by the Sheriff. At present there is no means of enforcing them without an application to the Supreme Court....'

Fourthly, there was to be a provision by requiring all changes in possession of customary land to be notified to the Penghulu or Collector, and by the Penghulu when notified to the Collector — to keep Registers up to date. The machinery was by enquiry similar to that in the main Ordinance.

The last amendment, as gazetted, proposed a radical change in policy. The Bill read:

If a person applies to the Resident Councillor for a grant of any Crown land, either vacant or in the sole occupation of the applicant and not exceeding in extent ten acres, the Resident Councillor if he thinks fit may recognise the applicant as a customary landholder...and cause the

necessary entries to be made in the Register...and such applicant shall become and be a customary landholder...and shall hold the same subject in all respects to...this Ordinance.

The Objects and Reasons put it in simpler language:

Section 7 ...provides for the extension of customary tenure by enabling the Resident Councillor to grant Crown lands to squatters or applicants upon this tenure, with the restriction that no grant is to comprise more than ten acres.

Maxwell had considered the tenure for squatters already in possession: this extension also admitted persons then unborn.

By the time the Bill was debated, in February 1890, there was amendment also to Section 16 of the principal Ordinance, which empowered the Governor in Council to make rules on certain specified subjects. The new amendment added to these by a further sub-clause:

(f) to provide for the establishment of Village Councils which shall have the power of determining what are the liabilities and duties shall be discharged and performed and to regulate the proceedings of such Councils.

In the debate on the Second Reading, Burkinshaw, Unofficial, objected to the diminution of the Supreme Court's jurisdiction and to the removal of powers of distribution by will, though he accepted that in cases of intestacy transmissions should follow Muslim law as varied by custom. Hervey answered him:⁹

...he...objected to the powers given to local officers to settle matters without the intervention of the Courts. The sections...only go in the same direction as those in the principal Ordinance. Our legislation is not for the purpose of restricting the jurisdiction of the Supreme Court, but with the object of getting the business of the natives done as expeditiously and as cheaply as possible, and also with the design of curbing a class of men known as lawyer burok or kledek, who do a great deal of mischief by causing unnecessary and generally unjust suits...

It is found in practice in Malacca that the bulk of the natives arrange the devolution of their landed property according to their customs, and that the vast majority of them do not use wills at all: it is all settled orally before witnesses a few days after the death of the deceased, where he has not settled it, as is commonly the case, before his death, and no disputes ever arise except when some distant relation comes on the field some years afterwards and practically behind the backs of the parties obtains letters of administration from the Supreme Court and ousts the people from the land. You will see a notice put up against a tree in the holding

concerned which the claimant says is the *kwasa*¹⁰ of the Supreme Court, and it is too late to take any steps. Somehow or other it generally seems to be managed that these letters of administration are obtained after an *ex parte* enquiry, and the wretched people are simply robbed of their property of which they have been in undisturbed and rightful possession for years. It is constantly occurring. The Court is thus unwittingly made the engine of oppression. My Hon'ble friend said that the natives of a British colony know what law they are living under, but as a matter of practice they do not do so, and I do not believe that in an agricultural Settlement they will ever do so.... We have to deal with facts and not with theories.

The Attorney-General, Bonser, went further: after remarking that he would not support such legislation for introduction in Singapore, continued:

...But the circumstances in Malacca are different. There we found an ancient civilisation. We found the Malays there on our arrival, they did not come to us.... We ought not to impose upon them the English law of real property with its technicalities, which they do not understand which is unsuited to their condition. Our object should be to follow their customs so far as they are not absurd or opposed to the interests of the Colony....

It has been found that much of our recent legislation as regards Malacca was based upon imperfect knowledge of the Settlement, and when it came into operation in the Settlement then our officers, who have to work the law, and to feel the pulse of the people, find that it is extremely oppressive and injurious to the life of the community. It is to remove the oppression resulting from our having legislated in ignorance that we have introduced these amendments....¹¹

At the Third Reading Shelford, who had been absent at the Second Reading and committee stage, (and who had apparently not absorbed the Objects and Reasons), raised the question of labour for customary works, and simultaneous planting:

What that means I do not know. Whether it is that all the inhabitants of a mukim are to be gathered together and at the beat of a drum to drop their seed into the ground does not appear, but I would point out that such devices as these were done away with at nearly the same time as the forced labour....

He referred to Auckland's Minute and Grant's strictures. 'So it appears that, after some sixty years, we are resorting again to devices which were then condemned, and...I ask...for some information as to the reason why they have been adopted'.¹² He was answered by the Colonial Secretary:

...The system with which this Ordinance deals has nothing whatever to do with forced labour. It merely means that the law recognises what has been the custom throughout the East from time immemorial in regard to the cultivation of large tracts...held in common or in distinct parcels by a large number of cultivators...it recognises those admirable and simple customs which the native inhabitants of these parts have invented for themselves or brought with them from the ancient cradle of their race — that they shall always arrange these matters together and that every man shall do his share....We merely give them the power to say "This field shall be cultivated at such a time and no other"....It is not in any way intended that Government shall give the orders, but to let the people do what they have always done; and I may say that, as the Governor reminds me, this is according to their own wishes, and having seen the papers on the subject I can state that many of the suggestions come from the natives themselves.¹³

Hervy was the proponent of the Village Councils, and explained the intention of the last-minute addition.

The effect of having these Village Councils is to interest the people more directly in their parishes and the work connected with them and to set out distinctly what are the duties which fall upon them under the tenure by which they hold their lands. One of them is the duty of preparing their land for planting in the different villages where the seasons are the same, for, as has already been explained, in the absence of such simultaneous cultivation, many of the more energetic planters suffer by reason of the laziness of others, vermin abounding in uncultivated land damaging the crops in adjoining cultivated lands. At present in Malacca we have some seventy different mukims or parishes, and each of those has a Penghulu or Headman, and amongst themselves they also elect elders, with which Government has nothing to do. They settle matters amongst themselves in consultation with the Penghulu, and it is proposed under these Rules to recognise the position of some of these elders, who are to have a seat upon the Village Council, and all matters regarding the duties in the mukim will be entrusted to the Council, all the work in regard to irrigation and drainage, and fencing their lands, and keeping thoroughfares clear, and so forth — all the works, in short, which concern the mukim properly so-called, but not works which concern the public at large. There is one slight modification of that arrangement proposed in the way of making a sort of confederation or combination of Mukim Councils, a number of the mukims in Malacca being united to form one Council which will also have the effect of giving the people themselves more to look forward to by increasing the performance of their position, as they will thus have opportunities of showing their fitness for the post of Penghulu and of Demang, the latter

post carrying with it a salary of \$15 a month. A number of mukims will thus be gathered together under a man of superior status who is called a Demang, for, as it often happens, when two or three mukims or parishes are interested in one set of works, it is desirable that they should be associated together in one Council.¹⁴

When Adamson, an Unofficial, asked who would enforce these Councils' decisions the Colonial Secretary immediately replied that they would do it themselves, and the Governor added

If they do not carry out their decisions, we shall carry them out by doing the work in default. As to whether it is right or wrong, the people themselves will practically settle. It is merely organising on a more definite footing what is carried out practically now.¹⁵

Rules under the amended Ordinance were published later that year.¹⁶

Mukim Councils

3. (a) There shall be a Council in each Mukim to be called the Mukim Council consisting of the Demang, the Penghulu of the Mukim who shall be ex officio members and such other elders of the Mukim not exceeding five and not less than two in number as may be appointed in writing by the Resident Councillor.

(b) The Land Officer of the district in which the Mukim is situate shall also be an ex officio member of the Council.

(c) The Resident Councillor may by writing remove any appointed member, but unless removed such appointed members shall retain office during their lives.

(d) The Land Officer if present at a meeting and in his absence the Demang and in their absence the Penghulu shall preside.

(e) Meetings of the Mukim Council shall be summoned by the Penghulu.

4. (a) The Resident Councillor may from time to time form one or more but not exceeding six Mukim Councils subject to one Demang into a Council to consider and determine questions which affect two or more of such Mukims.

(b) The Land Officer if present and in his absence the Demang shall preside.

5. The dates and seasons at which simultaneous preparation of the land for planting paddy and simultaneous planting or any other work which customary landholders are liable by reason of their tenure to perform (hereinafter called 'Mukim work') shall be commenced shall be fixed from time to time by the Mukim Council.

6. (a) The customary landholders shall be called out for Mukim work by the Penghulu of the Mukim by notification at every mosque in the Mukim on the three Fridays next preceding the date fixed by the Mukim Council and by written notices in Malay posted up on or near every such mosque giving the same length of notice.

(b) Where a customary landholder is absent from the Mukim sufficient notice shall be deemed to have been given by the notification at the mosque and if he fails to attend and perform the Mukim work required by the notification he shall be considered and treated as being in default.

Hervey had moved on some way since he had annotated Maxwell's criticisms in 1883 with agreement that the Penghulus seldom worked satisfactorily for Government and had stated that he was working on a scheme to reduce their number to fifteen. For one thing, the mukims themselves had been demarcated under Rule 3 under the Boundaries Ordinance and now had a legalised and official existence, and the Penghulus had duties under the Crown Lands Encroachments Ordinance. For another, Maxwell, who had personally settled the survey and registration of Tanjong Kling mukim, the first to be done, had been impressed both by the Penghulu there (recommending 'for His Excellency's consideration the advisability of improving the position of the Penghulu there')¹⁷ and the possibilities of the system. Again, Elcum who opened the first District Office at Merlimau had reported favourably:

The functions of Penghulus are divided into two heads, viz. general administration, and collection of revenue. Under the first comes the control exercised in various forms by them and their Councils in the affairs of the mukims, keep the peace, settle disputes, and act as a court of reference in the everyday affairs of the anak buah, who accept their decisions usually without question. In this capacity the Mukim Council is useful, and many a case which would otherwise find its way to a police court or a Court of Request is brought to an amicable conclusion through their intervention. They form the chief vehicle of communication between the Government and the people, they report births and deaths, and preside at marriages; and in their general capacity may be regarded as an unqualified success.

It is as revenue officers, however, that they fall short. The office of Penghulu being elective, the qualifications that recommend a candidate to the suffrages of the electors are not always those that make a good revenue officer. Many of the penghulus cannot read or write, which is a serious disability, and others from distaste for their duties leave the collection of revenue practically in the hands of their mata-matas. The salary paid to them — \$5 a month is not enough to secure a large amount

of attention on their part. Even when a bonus is earned...the full salary hardly exceeds \$7 per mensem.¹⁸

There are no references in reports or debates to the 'Demangs', but it is a fair deduction that as Government officers learned more of the penghulus their appreciation and respect increased, and with the registration of the mukims and the holdings in them Land Officers realised that — quote Maxwell's report on Tanjong Kling again — 'there is thus, entirely undeveloped [so far as Government was concerned, though not the people] the nucleus of a village hierarchical system of the utmost value'.¹⁹ Hervey at any rate was so persuaded, kept the penghulus, and superimposed his senior officials. The title 'Demang' is a curiosity,²⁰ and was perhaps selected to mark the difference between them and minor chiefs — *datohs* as described by Swettenham — in Malay States. In his Report for 1889, Hervey pressed for implementation:

...it is highly desirable that the system of Demangs and Penghulus shall be completed as soon as possible, and that some remuneration be given to the Penghulus to compensate them for the loss of commission on tenths...(and) the payment of a half-yearly bonus to each mukim penghulu, the amount to be based on the amount of work his mukim creates for him....²¹

The system was devised on the basis of experience in eastern and central Malacca: when Hervey addressed Legislative Council, Innes had been in Alor Gajah only three months, and a Cadet replaced him when he was sent to act in Jasin, the new headquarters replacing Merlimau: experience and knowledge of Naning was limited. The scheme was rapidly applied: in 1890 Isemonger (acting for Hervey, who was on leave) reported that 'the appointment of Demangs is working satisfactorily: there were 14 of them by the end of the year, and they keep the Penghulus under them up to the mark, while the latter feel there is a prize to work for'.²² They were paid from a Block Vote 'allowances to Penghulus' which had been put at \$2,500 in 1886 and 1887, and despite reminders in Annual Reports no other provision was made until the Resident Councillor prepared a scheme and forwarded it to Singapore in 1894.²³ There appears to have been an objection that a Bill providing them with powers as rural police was a prerequisite, and in 1894 a Retrenchment Commission examined the Settlement's expenditure — recommending merging the coastal mukims of Jasin District in Central District, and the island mukims in Alor Gajah²⁴ — and new items were difficult to establish. The Demangs and Penghulus did not attain separate provision until the 1891 Estimates, when there was a Vote for Alor Gajah for one Demang at \$360, four Demangs at \$180 and

twenty-four Penghulus at \$60 a year; the Demangs of the other Districts were rated at \$180. In fact, police powers under the Police Ordinance had been conferred on all Malacca Demangs and Penghulus in September 1891,²⁵ and at the head of the Alor Gajah section was the 'PENGHULU DEMANG of Taboh Naning, Mat Saleh bin Bidin', that Raja Merah they did not recognise but whose allowance from 1898 onwards was twice that of any other Demang and six times that of a Penghulu.

On 1st June 1890 Innes was posted back to Alor Gajah — 'this step has been abundantly justified, not only from the revenue which has resulted from the accelerated registration and assessment of the mukims, but by the evident appreciation with which it has been received by the people'²⁶ — and he remained there a year, after which he went to the Land Office in Malacca. During this time he wrote a memorandum on the Naning Custom, and Hervey decided that further enquiry should be made and recorded, for the instruction of District and Land officers, himself, and if necessary, the Colonial Government: to this end he sent his Malay Writer to Naning. Mohamed Ja'afar's reports, together with Innes' paper, formed the first detailed statements of the Adat in the Government's files,²⁷ and were the first intimation since Church's report sixty years before. The papers on transmission of rights in land and the methods of pledging them as security were particularly valuable, as they were checked and confirmed by the Dato' Naning and his Chiefs; and the principles set out in them formed the basis for future amending legislation and the separate status of landholders in Naning. It was quickly followed by an important memorandum from Blagden, who had been posted to Jasin as District Officer in 1893, on 'Certain Points of Law and Custom relating to Land in Malacca'.²⁸

His premise was that the modifications he was about to suggest were in the direction of policy

...hitherto consistently, if imperfectly, carried out by Government...Viz. of giving greater recognition to Native law and Custom....The legislation of the last few years has endeavoured to reconstruct and strengthen much that was in danger of being destroyed by the levelling influence of a foreign jurisprudence, but something remains to be done to bring the law into harmony with Native ideas.

His first suggestion, that any occupied land not claimed as Crown land should be presumed to be held by customary tenure until the contrary was proved by production of a valid title, was too radical for much consideration, as it flew in the face of all theory and legislation since the days of W. T. Lewis's Draft Regulation.

He went on to the recent amendment concerning succession to land on the death of a Muslim.

On the latter point, I would only say that the expression "according to Mohammedan law as varied by local custom (if any)" utterly misrepresents the rules which actually govern the devolution of land in about half the territory of Malacca....The local custom of Naning is not a variation of Mohammedan law in any sense whatever, but a totally different system based on an entirely different set of ideas and belonging to a different state of society altogether. It is true that the section as actually interpreted in the working recognizes, if somewhat illogically, the Naning Custom: but it is doubtful...whether it does not place the Mohammedan law in a somewhat stronger position than it actually holds....

There are, as a matter of fact, three modes of devolution commonly recognised in Malacca territory at present:-

(1) In the neighbourhood of the town and along the coast, Mohammedan law, almost unvaried, has gained ground, and local customs at variance with it can hardly be expected to exist.

(2) In the villages composing the old State of Naning and in certain border villages adjoining that territory, the Naning Custom prevails so strongly that there is no prospect of its giving way at present.

(3) In the undefined border land between these two...there is a system of devolution which I do not find recognised in the usual authorities, but which seems to be an intermediate stage....Under this custom the land is usually divided equally between the male and female children....

He then turned to the 'transferable right' mentioned in the principal Ordinance.

It may seem surprising, but it is nevertheless the fact, that this definition is entirely inapplicable in about a third of the mukims in Malacca. According to the ideas which govern the Naning land tenure, there is no such person, in ordinary cases, as the "customary landholder" with a "transferable right"....

After distinguishing briefly between the inherited (*Pusaka*) and acquired (*pencharian*) land, he went on:

To say that the female, who for the time being happens to be registered as the occupant...has a transferable right to it and can do what she pleases with it...would seem monstrous to a Naning Malay, to whom his own theory of landed property appears the most natural thing in the world.

He then suggested an addition to Section 4 of the Ordinance, making the right of use and occupancy subject 'to any local custom...whereby

notice is required to be given or consent obtained' from the 'family or clan'. The points was perhaps not understood, and no legislative action was taken: the object was attained, eventually, by office action, and legislative amendment (again imperfectly understood) had to await the post-Independence years.

His next topic was one to which Government and its legal draftsmen had given insufficient thought in the 1890 amending Act. In the debate, on the principal Ordinance, Shelford had referred to Caird's report on Indian land legislation:

...he adds that in making a change from produce rents to fixed money payments we should have clearly recognised the native principle was "that the cultivating tenants have no power to mortgage the land of the State" and Maxwell had cried "Hear! Hear!"²⁹

The 1886 Ordinance made no provision for mortgages, perhaps on the ground that they were impossible: the 1890 Amendment admitted them, on a by-wind, in the section intended to keep the Register up to date by requiring notices of changes of possession 'whether on the death of a customary landholder or as a purchaser or mortgagee or otherwise howsoever'. Blagden wrote 'I think it is a matter for great regret that forms for the mortgage of customary land recently printed by Government embody a power of sale'. This is difficult to understand, since the Ordinance and Rules of 1899 included no such statutory form. It is possible that this was an inadvertent reference to the statutory forms from the Conveyancing and Law of Property Ordinance 1886, since these were widely used by legal firms, observant as they were of statutory forms and the legal maxim that all should be *rite et solemniter*.

Blagden, writing from his 'relatively short experience', found that

...the habit of mortgaging was spreading at an alarming rate. Some time ago one of the two legal firms in Malacca sent in a list of mortgages that had been executed in their offices during the last two or three years, and I confess I was appalled to see how many there were....I have come across a number of cases of roguery and extortion by Chetty mortgagees...all the evils of the absentee landlord and the 48% userer rolled into one.

He pointed out that the checks in India did not exist in the Colony.

All the arguments which tell in favour of mortgaging in Europe tell against it here: the Malay cannot, as a rule, get his money at a rate of interest less than the average agricultural rate of profit: he, therefore, can never hope to repay the principal out of his ordinary profits and he

continually goes from bad to worse. The fact is that in most cases he does not borrow the money in order to put it to a legitimate use as capital to improve his land: he borrows it in order to spend an extravagant sum on the marriage of his son or on a new wife for himself.

The last sentence shows that here he was describing the evil in the rest of Malacca rather than in Naning, but his arguments applied there also: 'Of course all that has been said in regard to the Naning Custom applies as much to mortgage as it does to sale'.

He quoted Bonser, while Attorney-General, as telling him that if a Register of Mortgages was to be of any use,

...it must be accompanied by an enactment exempting customary land from seizure under [a writ of] *fi. fac.*, so that the only way it could be charged would be by a mortgage executed before the District Officer and registered in his office...

Blagden himself did not go quite so far: he thought it would be enough to require the District Officer's endorsement before it could be executed.

To all this it will be objected that the changes here contemplated would be inconsistent with the principle of English law, and with the prerogatives of the Supreme Court. With the greatest possible respect for both, I venture to think that both must defer to a higher principle, namely, the welfare of the people, of whose interests Government is the trustee.

He pointed to other minor defects. Land uncultivated for three years was no longer forfeit if the assessment had been paid. It was impracticable to get people engaged in planting their own land to go off and plant a defaulter's land at the same time. There was an expensive and unnecessary legal fiction of a judgment of the Supreme Court to recover expenses from a defaulter. These points were also put forward by the District Officer Alor Gajah to the Resident Councillor and repeated by Hervey to Singapore.³⁰

Effective action was not taken for five years. In 1898, as a result of a gambir slump,

...in five mukims, the four Sungei Baru mukims and Melekek,³¹ where a great deal of land was mortgaged to the Chettiars, ...many of the holders have abandoned their land....All mortgage bonds are now being noted in the Registers, and penalties are inflicted in accordance with the Malacca Lands Ordinance for failure to register within the proper time. At the same time Chettiars have been warned against advancing money in the district where the Naning Custom prevails, under which a customary landholder is merely a life tenant and cannot alienate his land.³²

A Bill was introduced before Legislative Council on 8th January 1901: it was to be 'an Ordinance to make more effective provision for the transfer of rights in customary land and for the registration of mutations therein': it was largely procedural. It made a statutory distinction between 'transfers' — a passing of interest by any act of parties — and 'transmissions', a passing by operation of law; but there was a departure from English legal doctrine in that 'transfer' did not include a mortgage. All changes in interest were to be effected in the manner laid down, by attendance at the Land Office with the extract from the Mukim Register to identify the land, and the Penghulu or two other witnesses to identify the parties of the transaction, proof to the satisfaction of the Collector, registration and the issue of a new Extract from the Mukim Register.

There was separate provision for mortgages: the Bill declared that every holder could charge his interest in customary land by way of mortgage with repayment of principal with, or without, payment of interest - thus providing both for the usual type of English legal mortgage and also the Malay systems of *gadai* and *chagar* mentioned by Ja'afar, Innes and Blagden. The transactions were to be carried out before the Collector, with the same precautions as to identity, at the Land Office. If a mortgagor defaulted, any order for sale was to be made by the Collector, and became effective only on a further three months' arrears: the sale itself was to take place at the Land Office or some other place appointed by the Collector, carried out by a member of the Land Office staff and in the Collector's presence. No mortgage, or any sale of any interest, was to be valid unless executed in the statutory manner. The Governor in Council was given powers to frame rules governing the form of registers, certificates and forms, and to fix fees.

The first Bill had been drafted by Haughton, Collector of Land Revenue at Malacca, before his untimely death, but there were drastic alterations between readings, and it remained at the committee stage while further amendments were considered for inclusion: the Attorney-General told Council 'I am not certain that I ought not to apologise for the extent to which these foreshadowed changes have come',³³

Napier, an Unofficial lawyer, approved generally of the Bill but made the point that the Ordinances of 1886 and 1890 'intended to introduce a system of registry of title with regard to customary land'. That was the system

...in vogue in the Native States and I think there can be no doubt that it is the better system....But this Bill appears...to introduce a system which is neither one thing [registration of title] nor the other [registration of deeds] of these systems, and which I can only term a mongrel system.³⁴

His protest was effective, and in the Committee stage the section on the effect of registration was altered to make registration 'conclusive evidence that the person named is absolutely and indefeasibly entitled to be registered as holder...or mortgagee thereof', with sub-sections on the effect of fraud and appeal to the Court. As to the then existing procedure on registering mortgages, Section 22 of the Ordinance as passed recited that

...whereas...it was provided that the provisions of the Conveyancing and Law of Property Act 1886 should not apply to customary land...and whereas after the passing of the Malacca Lands Amendment Ordinance 1890 mortgages of customary land were executed in the form required by the...Act...and...sales have been effected under such mortgages...and it is expedient that such mortgages and transfers should be recognised.....

and it empowered the Collectors to register such mortgages within six months, to take effect as though they had been registered under the new Ordinance.

The last section of the Bill, as introduced, was, in the words of the Acting Colonial Secretary, 'to save rights in the Naning district, where they have the peculiar custom of inheriting through the female line, and where the life tenant has only a limited right to dispose of land'. Burkinshaw queried this in Committee, and another — 'a simpler form which will take away all the objections' — was substituted.³⁵ This new section²³ read: 'Nothing in this Ordinance contained shall be deemed to affect the custom called the Naning Custom or any other recognised tenure'.

III

The Mukim surveys of Naning and the rest of Alor Gajah and Jasin were completed in 1893 and work began on revising the Mukim Registers³⁶ held in the District Offices and on the Register of grants held in the Land Office Malacca and covering alienations in the whole Settlement: In that year twenty-nine Alor Gajah mukims had been assessed, and paid \$13,991 on customary land. The administration was at last in control of land: it had plans of what had been alienated on grant in Company, India Office and earlier Colonial Office times, and of the land held on customary tenure. The encroachment problem had been solved, and it remained for the Land Offices to supervise the extension of new occupation, on either tenure, and to keep up to date. One effect was an increased land revenue: the total land revenue of Alor Gajah District rose from \$48,895 in 1894 to \$53,805 in 1895 and \$54,437 in 1896: of this the mukim assessment

figures from customary land were \$14,895, \$15,314 and \$15,960 respectively: in 1899 they reached \$17,009.³⁷

To a considerable extent this improvement in efficiency depended on the Demangs and Penghulus: Kynnersley reported their 'conduct on the whole satisfactory' in 1894 when he put forward his salary scheme, and individual Demangs were named in various years as being 'particularly effective'. Their Mukim Councils were perhaps less successful: Johnston, District Officer Alor Gajah, commented in 1893 that

Mukim Councils were regularly started during the year, and have been productive of considerable good. The Mukim Councillors, however, have not quite grasped the idea that they are not in individual authority over their particular anak buah and are prone to substitute personal influence for the directions of the Mukim Council. As soon as they find that only the latter can be enforced, it is reasonable to expect that the Councils will be very effective.³⁸

Johnston was

...thoroughly acquainted with every part of the District and with the people and their local customs.... The Malays had got into the habit of looking to the Government to do everything for them. [He] has done his utmost to impress upon them the necessity of relying on their own exertions, and the result is encouraging.³⁹

He perhaps gave too little weight to the sources of authority in rural Malay society. The Naning Custom was already showing itself in the Penghulu system: in the previous year the District Officer Jasin had reported that the Penghulu of Jus 'had lost all influence in the mukim...and resigned....His place was filled by the unanimous election of Sulong bin Tapa of the Suku Tiga Nenek, who appears to command the respect of his anak buah',⁴⁰ and if in the Naning mukims the rayat were already thinking in Adat terms with Suku elders forming the Mukim Council, these elders would understandably rely on the authority their positions gave them rather than attributing it to statutes and subsidiary legislation.

A major argument on the manner of land use lasted until the turn of the century. Maxwell had been critical of short-term leases for tapioca cultivation, and Hervey replied in his Administration report for 1885:⁴¹

...it has been sought to have it laid down that it is an industry that must be suppressed, owing to its destructive effects upon the forests of the Settlement, effect which are not sufficiently compensated for by the premium and rent for ten or twelve years during which the land produced any return, when it is remembered that the land must lie fallow, for fifteen to twenty-five years, before it will be worth clearing again for

cultivation, and probably fifty years before it approaches the condition in which it was before being cleared for the first tapioca planting....

As to this I may say first that the Government are bound, and have recognised the obligation, to provide the present manufacturers with such additional land from time to time as may be required to give employment to their machinery, while no land will be given to persons desiring to start fresh enterprises in tapioca.

In due time, of course, the existing machinery will be worn out, and if the rule which is at present considered to be in force (is applied), the tapioca industry will in no long time die out in Malacca, causing a severe loss of revenue i.e. about four fifths of the receipts under the head of "Rents".

In his Report as Commissioner for Lands Titles in 1886 Maxwell described the tapioca cultivation system as 'the shifting cultivation of the East' no different in principle from the clearings of Sakai aborigines; and he foresaw that Malacca might end as 'a sea of lallang'. Hervey replied in 1888:⁴²

To describe tapioca planting as...shifting cultivation...is hardly a fair proceeding, for planting which is properly so termed seldom lasts for more than one year while the tapioca planter takes a lease for ten years, and sometimes holds the land for twelve.... The lalling wastes, unless they are carelessly set fire to, as sometimes doubtless happens, are rapidly absorbed by the newly growing jungle, as may be seen all over Malacca.

I see no reason therefore why the Malacca jungle lands should not continue to be used in rotation for tapioca, so that cultivation may be regulated as a permanent source of revenue....

In 1893 Hervey's successor Kynnersley approached the problem from a different angle.

The question must be considered whether Malacca is to remain a great tapioca producing district or not. Chinese capitalists have sunk large sums of money in factories, machinery etc in the different parts of the Settlement, and if they can get sufficient land to cultivate they are anxious to have it. Considerable tracts of forest remain (apart from the reserves) and thousands of acres of secondary jungle formerly planted remain available. So long, however, as a heavy premium was charged the Chinese preferred to take up land in the neighbouring Native States, where it was offered them on easy terms. The consequence of this was that the Settlement has suffered in many ways. Capital formerly invested here has been withdrawn. Many estates have been closed. Thousands of acres of land have been surrendered. The Chinese populations has de-

creased. The farms have suffered, and the value of town property has fallen so seriously as to affect Municipal revenue....

From a revenue point of view Malacca has no doubt suffered from the opening up of the neighbouring Native States. For a 5,000-acre block of fine forest in Rembau a planter would have to pay 50 c. an acre premium and no rent, but a duty of 25 c. a pikul on the quantity exported.⁴³ In Malacca, he would pay under the old scale \$5 an acre premium and 75 cents an acre rent.... It is not surprising therefore that so many estates in Malacca are abandoned.⁴⁴

The competition did not only come from Rembau: the Annual Report for Negri Sembilan that year stated that 'On the Tampin side, except for some Government reserves, the more accessible land is held by tapioca planters'.⁴⁵

Hervey had made an attempt to get Malays to introduce a more permanent cultivation, by his 'modified agreements' —

...the idea was that Malays should be allowed to take up small patches of jungle in the vicinity of their holdings and plant a crop of tapioca or gambir, paying \$1 an acre without survey or other charges. In these agreements there is a clause stipulating that a certain number of common fruit trees shall be planted among the crop to the satisfaction of the District Officer.

But Kynnersley abandoned these: 'in most cases it is impossible to enforce the condition, and most of the land taken up in this way has reverted to brushwood after a crop has been taken from it'.⁴⁶

There was a temporary drop in the demand for land for tapioca in 1897, when the market weakened, but demand revived in 1899 to drop again in 1900.⁴⁷

Malacca's gambir export trade depended on Naning and Alor Gajah:

...very little is grown in the Central of Jasin Districts, and still less brought to Malacca overland for export....Malays are very eager to get small lots of jungle for this cultivation, while the Chinese are continually applying for large areas.

There are at present in the District 2,587 acres in 166 lots taken up for gambir....The small lots out-number the large ones....

	Under 5 acres	Under 10 a.	Under 20 a.	Under 50 a.
Chinese				
Statutory Gts	1	4	4	12
Leases			4	4
Agreements			1	1
Malays				
Statutory Grants	49	29	19	5
Agreements	13	9	1	-
	<u>63</u>	<u>42</u>	<u>29</u>	<u>22</u>

[continued...]

	Under 100 a.	Over 100 a.	Total
Chinese			
Statutory Gts	4	3	28
Leases	1	1	10
Agreements	1		3
Malays			
Statutory Grants			102
Agreements	-	-	23
	<u>6</u>	<u>4</u>	<u>166</u>

...The land, which comes into bearing a year and a half after planting, produces an average of 6 pikuls according to Chinese planters and 4 pikuls according to Malays, of dried gambir per acre. The Malays sell the undried gambir as soon as it is boiled to Chinamen for about \$4 a pikul, but by drying it themselves they can easily get \$7.50 in Malacca. The Malay gambir is said to be purer than the Chinese, but would probably be better if dried out of the smoke of the cooking sheds....By the methods at present in use, the small producer is not any great disadvantage as compared with the capitalist, and is by no means on a similar footing with the small tapioca producer, who is absolutely at the mercy of the large planter with the capital to establish a factory with improved machinery....⁴⁸

The Resident Councillor reported that in 1897 '...a large number of applications for gambir land remain to be dealt with...and the District Officer reports that fresh applications are continually coming in'.⁴⁹ The District Officer's method of dealing with them led to complaints from the Surveyor-General: the practice of 'putting up lots of varying areas (of 5 to 100 acres) to public auction before surveys were made of the land... necessitated urgent action... and it was necessary to postpone other work'.⁵⁰

Maxwell was proved right: Annual Reports give the following figures on shifting cultivation:

	Alienations	Surrenders
1896	12,897 acres	6,556 acres
1897	7,210 acres	6,321 acres
1901 Grants	10,985 acres	5,430 acres
Customary	2,068 acres	1,011 acres
1903 (Alor Gajah)	3,325 acres	3,589 acres

By 1903 the then Resident Councillor, Bland, was reporting what Maxwell had predicted in almost the same words:

The cultivation of tapioca has led to the denudation of Malacca forests, and large stretches of land on which nothing will grow but useless scrub and lallang grass. In the case of smallholdings, the Land Officers are doing what they can to ensure more permanent cultivation...but in the case of the large holdings very little can be done under existing conditions. Except by Malay padi planters, nothing is done in the way of manuring the soil...⁵¹

In the case of smallholdings, the Land Officers' hands had been strengthened by an amendment, passed in the previous year as Ordinance 24 of 1902, to the Malacca Lands Ordinance. The brief three-section Bill proposed to insert one sub-clause adding to the conditions upon which a customary landholder held his land by adding the obligation to 'conform to the regulations of the Resident Councillor with regard to the planting of tapioca, gambir and other exhausting crops'. In the debates no exception was taken except to the vagueness of 'other exhausting crops', and this was redrafted in Committee to read 'or such other crops as the Governor in Council may from time to time pronounce exhausting to the soil'.⁵² The impetus for this Bill had not come from the application of the principles of good husbandry, but from a need to legalise and extend a ruling originating in revenue considerations: In 1897 two penghulus of Central District

...had been taking advances for themselves and their anak buah from Chinese gambir merchants with which they were to plant gambir and to sell it to the advancer at a certain rate. No premium or survey fees are paid on customary land, and the Chinese found it cheaper to give advances to a number of small-holders and get the gambir grown on their land, than to take out a Statutory Grant. This business was checked by making a rule that, in future, gambir should not be planted on customary land.⁵³

During the Committee stage the Colonial Treasurer, a former Collector at Malacca, reassured Stringer, an Unofficial, that 'this Bill would only affect the small customary holders of land...and would not interfere with the large tapioca plantations of Malacca....'

The first detailed Census of Nanning was taken in 1891: the 1881 Census, though detailed, was made before Districts and Mukims had been officially established, and the figures cannot be broken down. The 1891 Census gave figures mukim by mukim, a practice repeated in the 1901 Census, and a comparison gives the following totals for the Nanning mukims:

	1891	1901	Change
Malays Male	7,256	7,505	+ 249
Female	7,933	7,287	- 646
Total	15,189	14,792	- 397
Chinese Male	2,663	2,514	- 149
Female	89	131	+ 42
Total	2,752	2,645	- 107
Indians Male	156	168	+ 12
Female	42	53	+ 11
Total	198	221	+ 23
Grand Total	18,139	17,718	- 421

The Mukim tables⁵⁴ show that among the Malays there was a perceptible net loss only at Brisu, of 194, and Ramuan Cina Kecil, of 60: at Brisu the loss of men was 152. In general the numbers remain very much the same, though the 1891 overall majority of women and girls became a minority in 1901.

The Chinese figures show much more movement. In 1891 there was only one mukim, Tanjong Rimau, where there was no Chinese at all: Ramuan Cina Besar had two, Jus and Sungei Siput and Tebung each had nine or less. Kynnersley in his Annual Report for 1896⁵⁵ commented on the widespread dispersion:

One peculiarity about Malacca is the way in which Chinese settle down in the country and intermingle with the Malays. They and their children speak Malay. The Chinese find pig-rearing...very profitable. Tapioca refuse is a cheap food and there has, during the last few years, been a great increase in pig-rearing. It is not an unmixed blessing, and

is offensive to the Malays. It has been found necessary to pass a by-law to deal with piggeries beyond municipal limits, with the view to reducing the nuisance to a minimum.

The mention of tapioca refuse is a clue. Those Naning mukims with more than fifty Chinese in 1891 were those where tapioca estates were marked as such in the 1886 Map of Malacca Territory: these were Sungei Baru Ulu, Taboh Naning, Kelemak, Melekek, Machap, Pulau Sebang, Brisu, Pegoh, Ramuan Cina Kecil, Padang Sebang, Melaka Pindah and Kemuning. Most of the men were the labour force for these estates and many were immigrants working in gangs. Only in Kelemak (in which Alor Gajah village was situated) were there more than twenty women and girls, or any indication from the Census figures of established families: by contrast, the thirteen females in Machap found themselves among over seven hundred males. The fluctuation in the numbers between 1891 and 1901 appears to have followed the shifting cultivation of tapioca: five hundred and seventy six males had moved on from Machap — later and perhaps already then a 'sea of lallang'. The number of mukims with more than fifty Chinese males increased in 1901, but in all the mukims mentioned above the numbers had dropped in all but Pulau Sebang: from Melaka Pindah and Ramuan Cina Kecil they had entirely disappeared. Many, of course, had gone to the newer estates opened up in Negri Sembilan and Johore by their Malacca Chinese employers.

Malacca town was the commercial centre and port of loading for the production of these estates, in Naning and beyond. The traffic was enormous and destructive: loads were carried in bullock carts with high iron-tired wheels grinding slowly along laterite roads. Gradients slowed the carts below walking pace, and tropical rains turned ruts into gullies and destroyed the road surface. As early as 1893 there had been a suggestion from Malacca estate owners that a railway should be laid from Tampin to Malacca, and the Chief Survey Officer of the Settlement, Young, had produced a trace showing the line of the proposed railway.⁵⁶ The proposal was disallowed by the Colonial Office in London, and in his Annual Report for 1893 Kynnersley permitted himself a protest: 'So much Malacca capital is now invested in the Negri Sembilan that I do not think the question of the railway will be allowed by the Chinese to drop'.⁵⁷

There had been improvements to the road system before the District administration had been set up, with a programme of detours along the contour: in 1889 Hervey reported, for example, completion of a deviation at the eighteenth mile on the Naning road 'which does away with one of the worst gradients in Malacca',⁵⁸ but the Retrenchment Committee of 1894 had limited funds and in 1896 Kynnersley reported that the roads of the

Settlement 'were reduced to a most deplorable state'. His successor, Merewether, added that

...this state was, if possible, made worse by the heavy rains at the beginning of 1897. Although the exceptionally bad weather had a great deal to do with the bad state of the roads, the Acting Superintendent of Works and Surveys points out that the condition of the roads...was such, owing to the gradual reduction of the maintenance vote since 1892, that they were unable to stand any extra strain....⁵⁹

Extra money was voted in 1897, 1898 and 1899 and the Resident Councillor was able to report that the roads would be, satisfactorily maintained if there were 'adequate and intelligent supervision — no proper supervision existed at the beginning of 1898' — and that they 'compare very favourably with the roads in the States of the Negri Sembilan leading into the Settlement'.⁶⁰

The sum of \$5,000 was provided in 1898 'to enable the Resident Councillor Malacca to collect statistics on cart traffic on which Government will decide whether it will be profitable to connect Malacca with Tampin by railway': and the census was carried out between 29th September 1898 and 31st December 1899. Enumeration points were set up at Pulau Sebang and at Jelutung in Rembia mukim, near the Naning border with Malacca proper.

The figures were:

		Full	Empty
Jelutung	Bullock carts	93,076	41,850
	Gharries	2,594	436
	Jinrickshas	4,862	1,184
	Foot passengers	92,245	
	Passengers carts		
	Passengers	103,458	
	Carts	11,756	

Daily average of:

Full bullock carts	202.34	Empty	.98
Gharries	9.64	"	.5
Jinrickshas	10.57	"	2.57
Foot passengers	200.57		
Passenger carts			
Passengers	224.91		
Carts	25.56		

Pulau Sebang	Bullock carts	88,067	55,993
	Daily average	191.45	121.72
	Gharries	1,238	142
	Daily average	2.69	.31
	Jinrickshas	1,088	208
	Daily average	2.36	.45
	Foot passengers	97,283	
	Daily average	211.48	
Passenger carts/Passengers		58,246	
	Daily average	126.62	
	Passenger carts	13,064	
	Daily average	28.4 ⁶¹	

The paper laid before Legislative Council was concerned with the viability or otherwise of a railway, and comment on the figures was restricted to that subject; but some of the relevant detail is of more general interest. The bullock cart rate was 1½ cents per pikul per mile for loads; passenger carts charged 12 cents per person per mile for any distance under twenty miles, and 10 cents a mile for longer journeys.

It will be observed...that 225 passengers pass through Jelutong daily, and deducting from this the number of Tampin passengers (127) we get 98 passengers who have come...from the vicinity of Alor Gajah and who will use the station of that name....⁶²

These figures did not, and did not try to, include other traffic. The two enumeration posts could not pick up traffic from Rembau through Taboh Naning but not passing Jelutong, nor any traffic from Lubok China or Br-isu through Masjid Tanah, nor yet the internal traffic of Naning, whether people going to shops or Land Office at Alor Gajah or raw tapioca being taken to factories inside the area. In 1892 Mohamed Ja'afar had taken twelve hours on a night journey to cover fourteen miles; travelling by day it took him three hours to cover seven and a half miles, and nine hours for the fourteen miles back to Malacca: the same timings must have applied generally. That accounts for the passenger carts with their average loads of about eight at Jelutong and four at Pulau Sebang, and their slowness for the rickshaws — which must have been largely local, for it can hardly be expected that their pullers trotted from Malacca to Pulau Sebang and back again.

Life in the kampungs at this time seems to have been uneventful, and there was little crime. Civil actions in the Court of Requests increased when the District Office opened, with a Magistrate-Collector resident: the

number of cases, in the entire District and among all races, rose from 86 in 1889 to 179 in 1891⁶³ and thereafter remained fairly constant. Financial provision in 1889 for a permanent hospital at Alor Gajah was applied by Hervey to temporary hospitals there and at Jasin:⁶⁴ at Alor Gajah the number of persons treated rose annually from 238 in 1893 through 831, 1275, 1207 and 1173 until 1898, when it dropped to 638, and 528 in 1899. The reason for the decrease in 1898, according to the Colonial Surgeon, was 'the improved state of health during the year, the effects of which would be felt chiefly in the country districts, where most of the hospital patients are Chinese estate coolies'. The Resident Councillor thought it 'probably more due to the much smaller number of sinkhehs, or newly-arrived unacclimatised Chinese coolies, working on the tapioca estates';⁶⁵ and in 1899 he reported that 'the continued decrease...at Alor Gajah is due to the closing of estates in this District. Few patients are now received from the Negri Sembilan, there being a hospital at Tampin'.⁶⁶

The Retrenchment Committee of 1894

...considered that the Vernacular Schools were too numerous and badly distributed. They consequently recommended closing a number of schools where the attendance was very small and irregular....The recommendations were only partially carried out, and no schools were closed where the attendance in any way justified their being kept up.⁶⁷

In 1898 there were seventeen boys' schools and two girls' schools at Alor Gajah, and Pulau Sebang. The average at the girls schools was 17 out of an enrollment of 24 at Alor Gajah and 18 out of 30 in Pulau Sebang, but only nine Alor Gajah and eight Pulau Sebang girls took the examinations — passing 27 out of 29 subjects at the former and 22 out of 25 at the latter. They studied reading, writing, composition and needlework. The record for the biggest boys' schools was rather more impressive:

	Average Enroll- ment	Average Attend- ance	Number Exam- ined	Passes	Subjects	
Alor Gajah	55	48	35	167	190	88%
Melekek	50	38	30	152	160	92%
Pulau Sebang	67	59	48	253	270	94%
Brisu	49	37	30	133	155	86%

These examinations were in Malay: ⁶⁸ Kynnersley had reported in

1894 that 'the teaching of romanised Malay has now become general'.⁶⁹

The welcome accorded to this syllabus was mixed: in the debate on the Supply Bill 1890 Shelford put a barbed enquiry about the Vote for Agricultural Shows:

...these shows were, he understood, for the purpose of counter-acting the influence of the schools by collecting agricultural produce and fruits, and enabling the inhabitants to learn from them that which the schools were unable to convey.

Hervey look him seriously:

The Hon'ble member is to a certain extent right as to the purpose of starting these shows. There is undoubtedly a feeling among the parents of school children that the schools interfere with their work in the paddy fields and kampongs....The effect of Vernacular education has been, in some cases, to make the youths look down on agriculture, and many parents object to this. I think these exhibitions will show them that their interest is in educating their children and that education is not intended to interfere with, but to improve, agriculture.⁷⁰

Alor Gajah's first Show in 1900 may not have achieved this object, but it was 'successful...and was visited by His Excellency the Officer Administering the Government and other visitors from Singapore and Malacca'.⁷¹

Assessment on customary landholders remained unchanged. Notwithstanding the detailed instructions in the 1886 Act and Rules of that year, the rates were in fact fixed on the basis of Maxwell's calculations in his settlement of Tanjong Kling⁷² in early 1887.

...The harvest was already in progress when settlement work commenced, so that it was not possible to carry out systematic crop cutting under Rule 18...Having been unable to obtain the statistical information...I have been obliged to calculate in the manner there laid down as "one tenth of the value of the yield in a good year, less one third of such tenth as a set-off"....

He arrived at figures which 'though they may err on the side of moderation, may be safely submitted for His Excellency's sanction'. They were \$1, 75 cents and 50 cents an acre for first, second and third class padi land. After considering crop weights and prices, he suggested \$1.50, \$1 and 50 cents an acre for the three classes of land used for coconut, fruit and miscellaneous cultivation. These rates were adopted for the Settlement.

In 1893 Blagden, when Acting Collector in Malacca, made some experiments which led him to the conclusion that —

...many of the better class of padi lands and perhaps a third of the coconut kebuns are under-assessed, while...the minimum rate of 50 cents per acre is quite as much as can be safely imposed on the lowest class of lands without driving them out of cultivation.⁷³

Kynnersley was harsher:

As to padi and fruit land, I am of opinion that the present assessment is, generally speaking, far too low....With regard to fruit and coconut plantations, especially the latter, the assessment is...far too low....If some of the peasantry up-country complain of bad harvests, it is they who in most cases are to blame. They do not know what work is, and leave everything to chance, looking to the Government to do everything for them.⁷⁴

No action was taken until 1899, when new Rules⁷⁵ were approved and published, continuing the procedure for estimating yields (including the set-off by a third for bad harvests) but empowering the Resident Councillor to re-classify land, with the proviso that not less than ten years should elapse between assessments. This was followed by a notification⁷⁶ providing for five categories of padi land, with 25 cent steps from 50 cents to \$1.50 an acre, and for eight categories of land for 'coconuts, fruit trees and miscellaneous cultivation' with similar steps from 50 cents at the lowest to \$2.50 an acre for first class land. These rates were to become effective from 1st January 1900 for ten years.

There were natural calamities: in 1894 and 1901 there were outbreaks of cattle disease, and in 1897 there was a failure of the padi crop serious enough for Government to remit assessments. Kynnersley in 1894 quoted the District Officer Alor Gajah as reporting that

...disease carried off large numbers of buffaloes in all parts of the District. Many people lost their herds entirely, while few escaped entirely. It might have been expected that large tracts of land would have been left uncultivated in consequence, but, with the exception of Melaka Pindah (where the Malays are a particularly helpless lot) [it is not clear whether this acerbity originated with the District Officer or was the Resident Councillor's own contribution] a surprisingly small amount of land was not planted. The absence of buffaloes was doubly felt, as the long grass which is usually eaten down by them, had all to be cleared away and the fields which are usually ploughed or in some cases trampled soft by buffaloes, had to be prepared by manual labour.⁷⁷

The 1901 Report was bald and devoid of comment: '1,111 buffaloes and 214 bullocks perished from rinder-pest'.⁷⁸ Nevertheless, Kynnersley commented in 1896:

...the Malays of Malacca cannot be described as poor. Compared with the miserable attap sheds to be seen in Province Wellesley where the land is far more fertile, the houses of the Malacca Malays are infinitely superior while their sleek and well-fed bullocks and well-built carts testify to the fact that their owners are by no means badly off.⁷⁹

The Annual Report for 1899 contained an item marking the end of an era:

...32. The Demang of Taboh Naning, Mohd. Saleh, died in September. He was the representative of the old Dato' Penghulus of Naning. This title has never been recognised by the Government since the Naning War, but the Demang or chief native headman has hitherto been chosen from the family of old Dato's, and is always looked upon by the people as their Chief. He was replaced by his nephew, Hassan bin Sulong, as Demang and Kati. Hassan had been appointed by Mohd. Saleh during his sickness to perform the duties of Demang and had been chosen by him as the person he wished appointed by Government after his death.⁸⁰

The Reports of 1898 and 1899 also contained, a short paragraph in each, an unrecognised portent of the changes to come:

...280. The most notable event in agricultural matters in 1898 is perhaps the formation of a powerful Chinese syndicate to cultivate Para rubber (*Hevea Braziliensis*) and *getah rambong* (*ficus elastica*) on a large scale. They propose to plant four thousand acres. The subsequent rent depends in great measure on the success of the enterprise, and is to be 2½% of the value of the annual produce.⁸¹

...The Chinese syndicate referred to in last year's Report are rapidly planting up their land at Bukit Asehan with Para rubber: their operations being only limited by the supply of seed obtainable from the Government gardens in Singapore. *Getah rambong* is also being planted in large quantities; it thrives in laterite soil and the Chinese seem to think it will be more profitable than *Hevea Braziliensis*.⁸²

Chapter 15

'Prosperity and Peace in this Fertile Corner'

I

In 1900 the Resident Councillor Malacca reported that 'the demand (for land) in Malacca depends almost entirely on the price of tapioca. When the price is high, tapioca planters are eager to buy land, and are willing to pay a high price for it'.¹ His successor wrote in 1913 that 'the decreased cultivation of tapioca in recent years is curiously illustrated by the pig-rearing industry. The refuse of tapioca is the staple food for pigs. In 1909 21,564 animals were exported; in 1910 13,925 and in 1913 only 106'.²

The change did not, at first, seem inevitable. The syndicate of 1899 was formed

...into a limited company named "The Malacca Tapioca and Gutta Company Ltd", the principal director being Mr. Tan Chay Yan. Of the three thousand acres promised to the company, 1312 have been taken up, 1200 acres have been cleared and 1000 acres fully planted with tapioca. Of this 1000 acres, 575 have also been planted with Para rubber and 425 with getah rambong. Of the former 112,000 trees have been planted, of the latter 27,000....³

By 1902 two thousand trees were being tapped, and others were experimenting: 'In a few cases Para rubber is being planted with the tapioca and is doing well'. There were other ventures: 'the tea estate at Durian Tunggal is stated to have yielded 35,000 lbs. of tea. This finds a sale on the London market at 8d per pound'.⁴ By 1905 the Bukit Asehan example was attracting more interest.

...other planters are beginning to see the commercial value of rubber and seem eager to avail themselves of the special terms granted by Government to rubber planters....Gambir, hill padi and patchouli have been tried by other planters with the young trees. Many Chinese have started planting rubber....A large number of seeds and seedling rubber plants from the Government nurseries were sold to Malay cultivators of smallholdings.⁵

The rate at which rubber cultivation spread across the Settlement can be seen from figures collated from Annual Reports:

	Planted acres	Exports in pikuls	Average price per pikul	Total value \$
1904	6,000			
1905	12,000 approx	22½		
1906	34,200	139		
1907	48,465	273	\$156.50	42,474
1908	61,781	568½	289.00	163,296
1900	not stated	2,500	323.00	807,500
1910	"	6,700	403.00	2,700,000
1911	80,000	16,948	258.00	4,371,644
1912	not stated	-	-	-
1913	"	74,139	150.00	11,128,960
1914	"			
1915	"	202,901	121.00	24,506,929

The lack of figures for the acreage planted from 1909 does not mean that the area remained constant: 'In the second half of the year there was an unprecedented demand for land due to the high price of rubber'.⁷ In 1910 at an auction at Alor Gajah twenty acres of *belukar* — scrub or secondary jungle — fetched \$200 an acre, and at another auction the average price paid was \$102 an acre, and the Resident Councillor found it 'very regrettable that in native holdings fruit trees have in many instances been felled to make room for rubber'.⁸ Until 1911 the terms for 'lalang land' had been preferential:⁹ no premium was charged and rent was remitted until the trees came into tapping; as early as 1906 four thousand acres at Cherana Puteh (and a similar area at Merlimau south east of Malacca) were granted on those terms.

Attitudes of the official mind had altered, and in that year the Resident Councillor reported that 'no land is now alienated for tapioca cultivation alone'.¹⁰ The demand for land dropped in 1913 and 1914 — 'the boom days are over, and all the applications are from people who intend to hold the land and cultivate it, and not from speculators'¹¹ — but demand rose again with the First World War and in 1917 the Alor Gajah Land Office was so overwhelmed by applications that the books were closed¹² until the slump of 1921 eased the pressure.

In his Report for 1904, Bland, then Resident Councillor, commented a little acidly

It may be observed that such industry and enterprise as exist in Malacca are almost entirely native. There are no European firms and, with

one or two exceptions, no European planters. Agriculture, generally, is of a low grade. The tapioca estates have in the past brought in large profits in a short time to their Chinese owners and others, including the Government, but they are just as much "shifting cultivation" as the hill clearings of the Jakuns.¹³

In 1905

...two large blocks of land were bought by English companies from Chinese owners during the year, one (the Malacca Rubber Plantations Ltd.) has nearly 4,000 acres planted up, and the other (the Diamond Jubilee Estate) is to be converted from a tapioca estate into a rubber estate by the Asiatic Rubber Company.¹⁴

The position altered suddenly:

At the beginning of 1909 there were only five registered companies in Malacca, holding about 17,000 acres. The attention of planters, however, was attracted to the large areas of rubber planted by local Chinese and during the year almost all these plantations were disposed of under options. Five new sterling companies were registered in London and three dollar companies in Singapore; in addition to this, three more London companies were arranged, and two dollar companies; but the conveyances of the lands they comprise have not yet been completed....The Malacca Rubber Plantations bought up, during 1909, estates totalling an area of between 13,000 and 14,000 acres, issuing a further sum of £500,000 debentures....¹⁵

In 1910 'the formation of companies continued with unabated activity and there are now 35 companies at work in Malacca with a capital over \$15,000,000'.¹⁶

The acquisitiveness of speculators led to amendment of the Malacca Lands Ordinance in these twenty years. The first, the amending Ordinance of 1905, substituted for Section 15A of the 1890 Ordinance (which empowered the Collector to have customary works carried out with expenses recoverable from a defaulting customary landholder) a section imposing a fine of ten dollars plus five dollars a day in cases of default and continuing default. The inefficiency of the earlier provision had been pointed out by Johnston in Alor Gajah in 1893¹⁷ but now attracted attention because — to quote the Objects and Reasons¹⁸ — 'the law as it stands has not sufficient terrors for the idle planter or merely speculative landholder'.

The 1906 amendment was more fundamental. Innes, by then Attorney-general, introduced it with the remark that 'the intention...is to prevent the unrestricted sale of Malacca customary lands'. The method at first proposed was to bar any transfer of rights without the approval in writing

of the Resident Councillor, and Innes anticipated the objections of members of Legislative Council that this was 'a considerable interference with the freedom of contract in respect of Malacca lands' by pointing out that the amending Ordinance of 1890 and also the Lands Transfer Ordinance of 1901 had been interference —

...the Legislature has gone out of its way for the protection of that section of the community which it has thought is in need of that special protection. There is no doubt that the policy of the Government in that respect has resulted in the enhanced prosperity of the Malacca peasantry. I believe it is generally admitted that throughout the whole of the Malay peninsula there is no agricultural community in which such a high measure of prosperity and such a high standard of comfort has been attained as in the case of the Malacca agriculturalists....But...these idyllic conditions (are) about to be interrupted by what is known as the "rubber boom"....This rubber boom has fallen upon Malacca with considerable force, and...a considerable number of the Malacca peasantry have been induced to part with their ancestral holdings for tempting offers of ready money — the ready money of people desirous of acquiring land for rubber planting...There is plenty of available land in Malacca other than customary land under cultivation...¹⁹

Fort, Unofficial, called for papers, and these were tabled by the Government. They showed, in particular, that a Singapore European company was buying large areas of customary land in Ayer Molek and Bukit Lintang, near Malacca Town. Fort was not convinced: a lawyer, he thought that actual occupation was not legally necessary, and that 'since Chinese, Europeans and anyone else may hold such land' the Bill 'encroached on the rights of land'. The Bill was, he went on, 'more seriously encroaching' on another class which had been completely overlooked, that of mortgagees, whose market on sale would be greatly diminished. His last objection was that the Bill, as moved, contained nothing to effect one of the stated objects, that 'in cases where transfers to persons who are not prepared to work the land as customary landholders are sanctioned, the title to the land will become a Statutory Grant....'²⁰

Napier, another Unofficial and also a lawyer, disagreed with Fort.

...Anybody reading through the Ordinances must come to the conclusion that customary land was intended to be used by a cultivating peasant....I look on this Bill as not in any way departing from the principles already laid down: I say it is only carrying those principles into logical effect.

He commented on the drafting of the Bill:

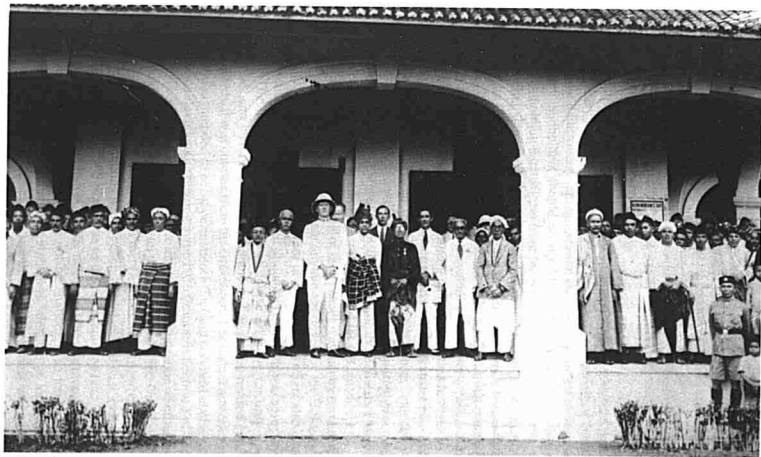


Photo taken in front of the District Office, Alor Gajah on 31st. October 1935, immediately after the presentation of the Imperial Service Medal by the Resident Councillor Malacca (Mr. J.S.W. Arthur M.C.S.) to the retiring Demang, Sungei Petai, who had served the Government for forty three years.

Dato Othman bin Kering, the Dato Naning, who took part in the ceremony, stands in the centre. The Demang, with his medal pinned to his tunic, stands on the Dato Naning's left. The District Officer, Alor Gajah (Mr. M. Sheppard) stands between the Dato Naning and the Demang, in the back row. All the Penghulus in the District were also present.

The following text is extremely faint and largely illegible. It appears to be a list or index of items, possibly related to a collection or inventory. The text is organized into several columns and rows, with some entries appearing to be numbered or categorized. Due to the low resolution and blurriness of the image, the specific content of the text cannot be accurately transcribed or described beyond its general structure as a list or index.

I do not know that it is the way I should draft it myself. I should not myself have taken away the absolute right to transfer the property to the class of persons for whom the tenure was originally designed. I would give every Mohammedan the right to purchase such land without going to the Resident Councillor or anyone else. I would also say that the proprietor might sell to any person having a certificate from the Resident Councillor, to the effect that he was a person able to perform the duties incident to the tenure....²¹

In Committee, Innes moved an amendment by which no transfer of customary land should be valid unless made to an individual qualified to become a customary landholder, and that those qualified to become customary landholders should be any Malay domiciled in Malacca or any person holding a certificate from the Resident Councillor that he was so qualified. This largely met Napier's comments: the Colonial Secretary told the Council that the reason for the change from 'Mohammedan' to 'Malay domiciled in the settlement of Malacca' was that otherwise the intention of the Bill might be defeated — 'suppose a rich Indian or a Mohammedan from another country came and settled in Malacca'. Fort objected: he wanted the Ordinance to prevent any transfer by a Malay or a Mohammedan of land on which he resided except with the written approval of the Resident Councillor. Shelford supported him, and went further: 'The real object of the Bill is to coddle these Malacca Malays...' ²² Fort and Shelford voted against: eight voted for the amendment.

Fort's objection on behalf of mortgagees was met by another amending section, which provided for anyone aggrieved by the Bill to petition, within six months, to the Governor in Council, who might allow sale free of restrictions and conversion to Statutory Grant: this was agreed by all.²³

The latter amendment was of course effective for only a limited period, and when the Straits Settlements Laws were revised from 1921 onwards, it was omitted from the Ordinance. The former amendment was, and was intended to be, of permanent effect and survived unaltered in the Statute Revisions, appearing in the 1936 Edition as Section 3 of Cap. 125.

The debates at the time were directed to the question whether the main amendment was a departure from the spirit of the 1886 Ordinance or not, and - to a lesser extent - whether that Ordinance enshrined or created a new tenure. Official thinking was in general based on Maxwell's views, that the customary law of the Malays as to the occupation of land 'differed little from that of other Indo-Chinese nations — the Burmese, Siamese, and others'; that occupancy could not be challenged so long as there was continuous cultivation and the right was 'absolute as long...as the land bears signs of appropriation'; and that 'a new element was added to the

primitive structure' when 'monarchical government was introduced by Hindu rulers from India'.²⁴ None of this in theory limited the land or the customary tenure to Muslims, and indeed the vestiges of matrilineal succession in Malacca and the peninsula generally outside the Minangkabau areas, and much more the matrilineal tribal rules in Naning and Negri Sembilan, pointed to a non-Mohammedan system.²⁵

In practice, and in days before a land 'boom', the problem would have solved itself. Any incoming settler-agriculturalist would for his own protection adopt the local habits, acknowledge the local hierarchy and Head of State — as the Dutch had implicitly recognised by Clause 17 of the 1641 Agreement — and within a generation or two be absorbed. As will be seen later, Naning and the Minangkabaus of Negri Sembilan developed their own procedure for accepting such immigrants. Nor was 'Malay' an exact ethnological term: as late as 1948 a Malay was 'any person born in the Federation who habitually speaks the Malay language, professes the Muslim religion and conforms to Malay custom'.²⁶ In 1905 the differences of approach seem to have originated from the fact that it was in everyday life impossible to conform wholly to Malay custom without becoming a Muslim (and there were many examples at all periods of Chinese and Indian conversions to Islam) and the specific provision in the 1890 amendment terminating the English legal system of administration of the estates of Muslim intestates.

The Government was not setting out, in 1905, to create a new category of land, but to freeze the position: the Colonial Secretary, speaking after Shelford, said:

I think no-one in this Colony wishes for grandfatherly legislation. The Hon'ble member spoke of this Bill as a "coddling" Bill, but at times it is necessary to bring in legislation to preserve people against themselves.²⁷

and the Chinese Unofficial, Tan Jiak Kim, said 'I can say from my own experience that...the whole of the residents of Malacca can congratulate the Government that they have come forward with this Bill to protect the customary landholders from the grasp of these rubber brokers', whom he described as 'so many robbers'. He also said that 'scarcely five per cent of the customary landholders in Malacca are Chinese'.²⁸

It is, in passing, interesting to compare this pragmatic approach by limiting transfers of land already held under customary tenure with the more formalised, and legislatively copious, policy of the Federated Malay States who seven years later passed the Malay Reservations Enactment, the doctrine of which persisted into the Federation of Malaysia.²⁹

The third amendment was in 1913, when rubber production had reached its peak before a partial slump, and paid work on estates had attracted Malays from their kampongs. The Objects and Reasons stated merely that the Bill 'restores the law to what it was under Ordinance II of 1876 which was repealed by the principal Ordinance' and that 'The reason for this amendment is that at the present time a considerable quantity of the...lands held under customary tenure is not cultivated by the holders'.³⁰ The Bill itself proposed to substitute the word 'or' for 'and' in the Section of the 1886 Ordinance which read: 'If any customary land has been out of cultivation for three successive years...and the assessment thereon in arrear for three consecutive years the right...in respect of such land shall be deemed to have been forfeited', and added that the Collector could enter formally in the name of the Crown. Again, the defect had been pointed out by Johnston at Alor Gajah and Blagden at Jasin twenty years before but action, when it came to be taken, was for pragmatic reasons rather than to restore the purity of customary tenure.

II

The boom brought long-term capital to the Settlement: rubber though somewhat speculative was not a short-term exhausting crop. It attracted London as well as Singapore share capital, and management as well as labour underwent a basic change. The European companies employed European managers and assistants on their estates: the change is succinctly shown by the Jurors' Lists for 1904³¹ and 1917:³² in the earlier years there were five persons qualified to serve on a jury in Alor Gajah District, three Eurasians, one Indian and one Chinese and all of these Government servants; there was also five in Jasin District, and seventy-three in the entire Settlement: of these only seven were not Government servants or teachers in Government-funded schools. In 1917 there were seventy-one in Alor Gajah District, sixty-two from estates (51 European, 3 Eurasian, 3 Chinese and 5 Indian) and nine (6 Eurasian, 2 Chinese and 1 Indian) from Government departments. There was no mercantile or private person qualified for jury service, nor any Malay. The total for the Settlement had risen to four hundred and twenty-eight.

To a large extent this management took over the labour force of the tapioca and young rubber estates bought by the companies, together with their roads and coolie-lines. In the earlier days this labour was predominantly Chinese, and there was constant reinforcement by Chinese immigrants. In 1898 (a low year) there were 625, of whom only 27 were funded by relatives rather than by employers or contractors; in 1898 the number

was 1,288, of whom 1,102 were on contract.³³ The Chinese labourers' class was large enough to lead Government to appoint a Protector of Chinese, with powers and duties set out in legislation,³⁴ and in 1900 the Malacca District Officers were appointed Assistant Protectors for their respective Districts.³⁵

By 1910 European estate managers were thinking along a new line.

...Labourers were able to obtain very good wages. In the spring and early summer 75 c. or \$1 a day were being paid to Chinese weeders and tappers. Towards the close of the year the efforts of planters to obtain more Tamil labour and a stream of Chinese sinkhehs reduced wages to a more normal level. Malay boys of 12 years of age are able to earn 40 c. a day as tappers, and work is over by 10.30 or 11 a.m.³⁶

In 1911 the rubber price 'remained very remunerative, but the cost of labour has not so far been very reduced, many of the Tamil labourers imported to replace the more expensive Chinese workmen proving very unsatisfactory. ...' Malays were working on the estates:

...the padi crop was very poor, due to several causes. A severe outbreak of rinderpest killed off many buffaloes, and in addition the large area cleared for rubber may have tended to some diminution of water supplies. Further, very good wages could be earned on the rubber estates for work far easier and lighter than ploughing in a burning sun or clearing the reeds and grass in the "sawah" with a "tajak".³⁷

The next year saw the first concerted action by the management:

...the price...fell from 4/3¹/₄ January to 2/3d in December, a veritable débacle [Wolferstan, then Resident Councillor, was apt with leaden clichés]. The most important event for planters was a general reduction of wages agreed upon by the Malacca Planters' Association. From the 1st October Malays and Tamils were paid 40 cents and Chinese 60 cents. Prior to this Chinese were earning as much as 70 cents in places, and Tamils 50 to 60 cents. Full notice and ample time was given to the labour forces, and very little disorganisation took place. Side by side with reduction in wages the tapping task was raised to 400 trees...Many Malays, however, were annoyed at the differential rates between their race and Chinese, and would not accept the argument that the Chinese, being foreigners, were living better and required a better wage. Their places were soon filled by displaced Chinese labourers. By the end of the year quite a number of Malays had returned to tapping again. If the result has been to influence the Malay to return to cultivation of sawah and kampong nothing but good can result.³⁸

Desertion from work in the rice fields was serious enough to call for administrative, and surprising, action: In 1912:

For the first time the Rules made under the Malacca Lands Ordinance [those published in 1890] for fixing the dates of clearing and planting the sawah were put in force. It is the duty of the Mukim Councils...to fix these dates and proclaim them. A number of rayats were summoned and fined for disobedience, but the Penghulus, as a rule, showed great disinclination to take proceedings....The laziness indigentous to the inhabitants and counter-attractions in rubber plantations were certainly responsible for much good sawah being left uncultivated...³⁹

Not all blamed the rubber estates: in the debate on the Second Reading of the Supply Bill 1913, the Unofficial from Malacca with a name illustrious in the rubber industry, Darby, pointed out that

...padi planting is principally undertaken by the older members of the family whilst estate work is done by the younger members, and estate work, principally tapping, is a short day's work and leaves time afterwards for padi planting. It is to be hoped that while realising the importance of padi planting the Government will also realise that the rising generation of Malays will provide an efficient labour force for tapping on the estates, and is it not to the benefit of the country that well-paid work should be provided for the Malays?⁴⁰

The 1913 Amendment was intended to achieve a return to the *sawahs*: the Attorney-General in moving the first reading explained that 'a great deal of land held on customary tenure...is uncultivated, and if this Bill becomes law it will compel the owner...either to cultivate it or to sell it to someone who will cultivate it'.⁴¹

Recruitment of labour from China and India was suspended on the outbreak of war in 1914 until the end of 1915, and a large number of Chinese was repatriated from the Peninsula. In addition, the demands of war economies pushed up the price of tin and some Chinese labour moved north to the mining areas. The Malacca Planters' Association brought in afternoon work, but the shortage of labour continued, so that Indian labour was again recruited: 2,394 Tamils came in 1915.⁴² For the remainder of the period up to 1921 the large company estates relied on South Indian labour, and the figures for the Settlement as a whole, were:

1917	12,064
1918	11,255
1919	14,186
1920	20,734
1921	9,931 ⁴³

The Chinese-owned estates, which included most of those of intermediate size, relied generally on Chinese labour, employed through contractors. The position broadly speaking was therefore that when the slump of 1921 came to the rubber industry the large company estates had their South Indian labourers living self-contained on their estates, the middling estates relied on a Chinese labour force living nearby or in *kongsis* houses on them, and the smallholdings were Malay or Chinese. In Naning the large company estates were on the high land removed from valleys and kampongs, situated largely where the tapioca growers had cleared jungle in mukims like Lendu, Gadek, Melekek, Taboh Naning, Machap, Kemuning, Tebung and Batang Melaka.

The War itself had little effect on Malacca and less on Naning. There was a momentary financial crisis in August 1914 when the banks 'naturally pursued a policy of caution' and refused advances against export shipments, but the Government made available \$50,000 with the promise of another \$100,000 in September, for loans 'on clean titles': only \$7,000 was paid out. The Settlement Government also bought 3,750 bags of rice ready for distribution:

...the moral effect of the knowledge that Government would assist planters, which I announced in different languages to a mass meeting on the Esplanade at which were present almost all the planters, kanganis, head coolies and many others, was incalculable.⁴⁴

There was some fear of a raid by the German cruiser *Emden*,⁴⁵ and more than thirty estate assistants went off to 'the War'. In 1915 Wolferstan ended his report with a general comment: 'The prosperity and peace of this fertile corner of the world contrasts so sharply with the awful carnage and prodigal waste of life in the West (that it) must make the lightest-hearted reflect...' but he went on immediately to say that:

... 'the results of the rubber industry for the Malays have been amazing. They have rushed, and Chinese too, to re-invest their profits in land, causing a veritable boom in the price of land. Smallholdings have changed hands at a little under a \$1,000 an acre, and rayats who only a little while ago earned \$13 or \$14 a month now make their tens of dollars from rubber cultivation. Never in the history of Malacca have there been such crowded and joyous gatherings at the annual Mandi Safar⁴⁶ as there were in...January 1916.⁴⁷

The rubber boom was both accelerated by, and created a demand for, better communications. The proposed Malacca-Tampin railway trace was varied because the F.M.S. railway, planning a connexion of its system with Johore, altered its proposed alignment to follow easier country by a loop





Dato Othman bin Kering, Dato Naning, in 1941, wearing the uniform of a 2/Lt. in the Malacca Battalion of the Straits Settlements Volunteer Force.

Dato Othman accompanied his Company to Singapore in December 1941 and was taken prisoner by the Japanese Army on February 16, 1942 and confined in a temporary camp in Farrer Park, together with four Malay Officers of the 1st. Bn. Malay Regiment, Capt. Raja Aman Shah, of the F.M.S.V., Lt. Abbas bin Syed and Lt. Abu Bakar of the Malacca Bn. S.S.V.F.

These officers were ordered by the Japanese military to remove their British uniforms and to join the Japanese Armed Forces. But they refused to do so.

On the evening of 22nd February 1942 these gallant Malay officers were marched to a place where a Military Lorry was standing and were ordered to remove their badges of rank and to get into the Lorry. They were then driven to Bedok, along the coast, where an anti-air craftgun stood, with slit trenches all round it.

The Officers were then ordered to walk up the slope, and step down into the Slit Trenches, surrounding the gun, and to stand close together. Several bursts of machine Gun fire were directed along the trench and all the officers were killed. Their bodies were left in the trench and they were never given any burial.

The fate of Lt. Dato Othman and his companions was not known in Naning until after the Japanese surrender in 1945.

THE
LIFE OF
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BY
JAMES BOSWELL
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THE SECOND VOLUME
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JAMES BOSWELL
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JAMES KILGOUR
EDITED BY
ALAN BRUCE
AND
JAMES KILGOUR
LONDON: PRINTED BY RICHARD CLAY AND COMPANY, LTD.
BUNGAY, SUFFOLK
1951

through Taboh Naning and through the mukims of Pulau Sebang, Kemuning, Tebung and Batang Melaka: a junction with the Malacca railway at a point south of Pulau Sebang village shortened the Malacca line by two or three miles. The Governor, with the unanimous support of Executive Council, thought that the line should be constructed immediately, and the Secretary of State approved on 17th July 1903.⁴⁸ It was to have been financed from loan funds, but was taken over by F.M.S. Railways before it opened for traffic on 1st December 1905.⁴⁹

In 1908 the Resident Councillor began travelling by motor car: Bland reported that he had

...done all my country work in a small three-seated motor car, which I have found very convenient, being able to get through inspections in a day...which with ponies would require two or three days. A motor car mail service to Jasin...will start early in 1907. The Malacca Rubber Plantations Ltd. are the contractors.⁵⁰

In 1908 the Rural Board was constituted, and in 1909 collected

...an assessment on houses and lands and taxes on carts, carriages, horses, dogs etc. in the districts...to disburse the same on the upkeep of roads and other necessary works. The assessment on land was fixed at 5% of the annual value, and on houses 10%.⁵¹

The establishment of this Board was barely in time: In 1910 Wolferstan — no longer Resident Councillor but an officer of Class II entitled 'Resident, Collector and Officer in charge of the Treasury', with no longer a Collector of Land Revenue but a junior officer styled 'Assistant to the Resident', following a revision of the Establishment,⁵² reported that:

...the advent of the rubber industry bringing in its train numbers of European planters, and the import of motors by successful rubber planters, native and European, has focussed attention on the poor state of the Malacca roads. To recommend a remedy a Committee of the Rural Board drew up a report for the consideration of Government. A sum of \$205,000 spread over four years is to be spent in metalling 41 miles of road in granite.

(Wolferstan himself was not so lucky: 'much inconvenience was felt for four months of the year while the Government motor car was under repair in Singapore'.)⁵³ Work proceeded: in 1913 'metalling on the Alor Gajah road towards Tampin was continued and should be completed in 1914, linking up our roads in granite to the FMS system at Tampin'.⁵⁴ It would seem, however, that the criticisms made by Kynnersley in 1898 and the Rural Board in 1910 had not convinced the Straits Settlements

Government, for in the debate on the 1913 Supply Bill Darby addressed the problem:

...it is the general opinion of Malacca that vast improvement has been made in the condition of the roads during the last two years...but...would it not be more economical if...all the non-granite roads of the Settlement have foundations laid before this expensive granite is put on? What we think is required is further European supervision, an Assistant Engineer at Alor Gajah for instance....⁵⁵

Those estimates provided for the purchase of three six-ton road rollers, for \$13,000.⁵⁶

One great change in Naning and the rest of rural Malacca was brought about by Ordinance No: 1 of 1902, which made it compulsory for boys living within one and a half miles of a school to attend it. The statutory requirement was that 'any male child between such ages not less than seven and not more than fourteen as shall be fixed from time to time' should attend school for instruction in his own language; every person lawfully responsible for the attendance of such children was liable to a fine of \$5 or simple imprisonment for not more than fourteen days (in default) if it were proved that the child had not attended for at least 50% of the school days in the preceding six months. It was drafted as a comprehensive requirement: the only reasonable excuses were that there was no school within one and a half miles, measured along the nearest path or road, of the child's residence: that the child was attending an English-language school: that he had passed the highest standard at the school, or that he was sick. In 1902 there were 228 prosecutions of defaulting parents or guardians,⁵⁷ but the number dropped rapidly and the position was generally accepted.

The efficiency of the system of course depended on provision of local vernacular schools and on enforcement: one indirect result, since there were no Government-maintained Tamil or Chinese schools at that stage in Naning, primary education was more widespread among Malays than in the other communities. Education of girls was not compulsory: in 1904 Bland reported that:

...the attempt to educate Malay girls makes little progress. The idea of female education is not looked upon with favour by Malays, and the few girls who are allowed to go to school are taken away before they have learned much....Government is justified in persevering with the attempt, and...efforts should be continued to combine schooling with needle-work, sarong-weaving or basket-making.⁵⁸

The programme of local works was continued, and extended. River and irrigation channel clearing, a recurrent maintenance task, was pro-

vided every year: in 1905 work was done in no less than seven Naning mukims — Sungei Baru Ulu, Padang Sebang, Taboh Naning, Brisu, Sungei Siput, Kelemak and Sungei Petai,⁵⁹ with bridges of iron and masonry the next year at Sungei Siput and Brisu; completion of the dam at Pulau Sebang in 1921 brought nearly one hundred acres into rice cultivation.⁶⁰

As for public health, the hospital and dispensary at Alor Gajah continued to serve the area, but the clientele and its diseases were changing: the reports from 1913 mention that the patients were chiefly Malays, suffering from malaria, ulcers (presumably yaws), and diarrhoea. The annual average of outpatients was in the region of three hundred and fifty.⁶¹ The hospital staff had been most used in 1911:

...the year was a record one for unhealthiness and epidemics. Severe outbreaks of malarial fever occurred all over the Settlement....Special instructions were issued to Sanitary Inspectors to ensure the destruction of empty tins and other receptacles which would furnish breeding places for anopheles mosquitoes. Free quinine was distributed, and vernacular schools and police stations received supplies for distribution. 558 cases of smallpox occurred, and 173 deaths, giving a mortality percentage of 31. The majority of cases were in Alor Gajah District. Severe outbreaks occurred at Sungei Baru, Taboh Naning and Kuala Linggi. To assist vaccination school-teachers were taught how to vaccinate, and provided with lancets and lymph. 5,552 vaccinations were performed by them. The total vaccinations were 43,082, or more than one third of the population.

The Penghulus of Sungei Baru Ulu and Kelemak were mentioned as being 'of great assistance to the District Officer during the outbreak'.⁶²

That unhealthy year 1911 was also bad for law and order:

...in the autumn, owing to numerous gang robberies occurring in Alor Gajah and Jasin districts, authority was given to send out a special expedition under Inspector Hunter to search for bad characters and arms. The expedition was at work for six months. A number of Chinese were in consequence arrested, some were sentenced to imprisonment and many banished. The Districts were further proclaimed under the Prevention of Crimes Ordinance.

Two men escaped from the lock-up at Alor Gajah, '...too small, very dark, and in addition unsafe'⁶³ and, in 1914 new lock-ups were provided at Alor Gajah and Jasin: 'they dwarf the adjoining stations in size and elegance of appearance'.⁶⁴ The total police strength in Alor Gajah was under sixty NCOs and constables,⁶⁵ and they were perhaps raw, for in 1910 from the Settlement contingent '41 Malays resigned, the primary cause

undoubtedly being the high wages offered by rubber planters for work much more congenial to a Malay than police work'.⁶⁶ The usual, indeed monotonous, entry in the Reports is that there was little, or no serious crime and in 1914 the District Officer Alor Gajah supplied some figures.

	Civil cases	Criminal cases
1913	641	772
1914	802	1,250

He felt impelled to explain that:

...there was very little serious crime in the District. The increase in criminal work was not due to an increase in crime, but to the following:- (a) an increase in prosecutions for obstruction, which was badly needed; (b) prosecutions to stimulate padi planting (none in 1913); (c) sanitary prosecutions (none in 1913); (d) an increased number of labour cases; (e) arrests under the Crime Ordinance as a measure of prevention and precaution.

There was however a murder at Lendu, and a survey team went out to draw a plan of the scene of the crime.⁶⁷

The increased prosperity of the Settlement is shown by figures quoted by the Resident in 1915:⁶⁸

Between 1910 and 1915 the Malacca Treasury has drawn nothing from Singapore and has remitted the following sums:-

1910	\$1,050,000
1911	700,000
1912	750,000
1913	1,150,000
1914	1,000,000
1915	1,550,000

Two years earlier he had painted it in words:

Nearly all parts of the Settlement can be reached by car, 50 or 60 cars ply daily for hire, and a journey to Asehan, Muar in Johore, Tampin or Port Dickson in Negri Sembilan is a simple matter. A telephone service has been established, two banks assist transaction of business, and we have the amenities of cold storage, electric light, a good club and a suitable playground. A large area of country, formerly jungle or lalang wastes, has been planted with a permanent agricultural product. Many millions of productive capital have been sunk in its cultivation, causing the employment of a large labour force on good wages, and an improved

standard of comfort. In the near future people look for the construction of a hotel suitable to the requirements of the Settlement at a position on the main line of the FMS Railways.

He concluded, characteristically, 'The years have been strenuous ones, full of interest and hard work, the old yielding and changing place to new'.⁶⁹

Garling's 1818 vision of Malacca and Naning as 'one unvaried field of industry...possessed by individuals whose...refined sense of character was staked upon their exertions' seemed to be fulfilled. And there were rewards: in 1911 'the Penghulu of Brisu received a small pension after 42 years' service'.⁷⁰

The succession to Dato' Mohammed Salleh⁷¹ in 1899 had not been by any means as straightforward as the Resident Councillor in his Annual Report had suggested. Hassan, the candidate recommended by the old man, was son of his eldest sister Anum and thus by adat the rightful successor; but a faction supported the son, Ranting, of another sister, Jaiyah. Ranting himself wanted to disclaim and pointed out his ignorance and lack of skill, but some of the preliminaries of installation were completed. The eldest sister, however, refuse to pay obeisance, and Ranting withdrew after a short time. Hassan was ceremonially installed and recognised⁷² not only by Naning but the Government, for he was appointed Justice of the Peace (the highest honour in the gift of the Straits Government) by 1908,⁷³ like Dato' Mohammed Salleh before him the only Malay in the Settlement to hold that distinction at that time.

Dato' Hassan died in 1917, and Omar, son of Dato' Hassan's sister Inchom and her husband, another Hassan, was the successor according to the Custom. Again there was a challenge, and for the time being Omar was recognised by Government only as Penghulu of Taboh Naning, with effect from 1st January 1918. The challenger was Yunus, son of Ranting's eldest sister Iyam: his claim had colour if, and only if, the elevation of Dato' Ranting had been legitimate, and it was not so by the precedents of the previous century. Government recognition of Dato' Omar was not given until 1921, and in July he in his turn was appointed Justice of the Peace. On 3rd September Dato' Omar was — to quote the Colonial Secretary's Report for 1921:⁷⁴

...invested with the title of Orang Kaya Seri Rajah Merah Dato' Penghulu Naning and restored to the former position held...before the Naning Wars of 1832-3....The restoration to the present Dato' of the ancient dignities of his position was a fitting reward for a century of loyalty to British rule.

The Resident Councillor (for the title had been restored in 1920 at the request of the Governor and with the approval of the Secretary of State: the Collector of Land Revenue's post was also revived)⁷⁵ was less imperial in his report:

An event of notable significance was the decision to restore the Dato' Naning to his former status and position....The ceremony was carried out at Alor Gajah District Office by the Resident Councillor with much eclat amid a very large concourse of Malays from all parts of the Naning District.⁷⁶

A fuller account of the circumstances was given much later by the district Officers at Alor Gajah at that time: the reasons were a mixture of the purely legalistic and of equity. On the one hand, the Pretender Yunus had made off with some of the regalia including the *kris* and seals which Dol Said had taken with him when he escaped in 1833 leaving their container behind him: and the Attorney-General advised that if Dato' Omar were recognised and publicly acclaimed he would then have standing to sue in the Supreme Court for the return of the sacrosanct articles.⁷⁷ On the other hand, — 'there was always an unofficial Dato' Naning, looked upon as the rightful successor and to whom matters of Naning custom were referred as and if necessary...(and) he was of course now officially the final appeal on Naning affairs'.⁷⁸ The restoration was largely at the instance of the then District Officer, Bond, and The Resident Councillor:⁷⁹ the Straits Settlements Government gave its approval and through the Attorney-General its advice, but because the Dato's stipend as Demang Penghulu was less than \$100 a month there was no need to obtain approval from the Colonial Office. The Settlement Estimates after the Second World War contained a Head 'Rulers and Chiefs' and the page was entirely blank, though the Dato' Naning was now undeniably the only Chief in the Settlement: he appeared under the Head 'Land Offices' as 'Demang (Dato' Naning)'. It may be (and this is speculation) that this mode was adopted to avoid attracting attention in high places: facts had been accepted and a wrong righted, and there was no point in starting hares.

Chapter 16

Depression, Restriction, War, Emergency and Independence

I

In 1922 the District of Alor Gajah had a total population¹ of 42,686, as against 36,994 in 1911. The number of Malays at 28,749 had increased by 2,318; the Chinese at 8,024 had dropped by 294; and the Indians at 5,913 had more than doubled with an increase of 3,678. The estate population consisted of 161 Malays, 999 Chinese and 4,588 Indians. Naning, like the rest of rural Malacca, was socially and administratively fissured by the accidents of *ad hoc* and well-meaning policies in the past.

Nearly all Malays lived on their families' land in kampongs along the valleys; they grew most of their food, and supplemented their peasant subsistence economy from their cash crops, now predominantly rubber and to a lesser extent from wages for casual labour. They looked to their Penghulus, Demangs and the Dato' Naning, and their contacts with the general administration and Government were through the Land Office with District Officers who normally spoke, read and wrote Malay.

Most of the Indians originated from the Madras Presidency. As has been noted, they were imported as labour to substitute the more expensive Chinese on the large mainly European-owned estates and Government Departments such as Public Works recruited them as unskilled labour. Most lived in 'coolie lines' on estates and at PWD depots; they looked to their *mandors* and the estate managers. Estate labour was as subject as any other segment of the population to the general law of the Colony, but it was also within the ambit of the Labour Ordinance, drafted originally to protect and control all labour but which, with the increasing proportion of South Indians, came to be a comprehensive set of minimum standards for, and obligations on, estate management on behalf of an unsophisticated class little able to protect itself. In 1913 a Deputy Controller of Labour was appointed for Negri Sembilan and Malacca was stationed at Seremban, the administrative capital of Negri Sembilan. He made fifty-two visits to Malacca estates within eight months, and in that same year the Medical Officer Malacca visited various estates and issued orders requiring the construction of brick wells, latrines and better coolie lines.² The success of this policy and its acceptance by European estate managers, who were usually actively paternalistic, led by 1922 to the establishment of the

Malacca Agricultural Medical Board, a corporation independent of Government, funded by a cess on estate land. In 1922 that Board had 'an energetic and capable staff of six doctors'³ visiting twenty-three estate hospitals and 'sick lines' on twelve other estates.⁴ The Government official responsible for dealing with estate labour matters was the Deputy or Assistant Controller of Labour, of the same approximate standard and as the District Officers with a larger area and not infrequently with a specialist knowledge of Tamil or Telegu and not Malay.

The Chinese population of Naning was more dispersed and diverse. The owners of 'medium estates', officially classified as between twenty-five and one hundred acres, not infrequently lived on them, unlike the large estate owners who had villas in Malacca suburbs or ancestral homes in Heeren Street, (now Jalan Tan Cheng Lock). Dry goods shops, market stalls, coffee houses and small artisans' businesses were all predominantly Chinese-owned, and any small village had a Chinese shop or two. Communication was in Malay of a sort: Chinese picked it up as they traded, while few Malays or Indians learned much Chinese.

Chinese labourers and estate owners were protected or oppressed, according to viewpoint, by the Labour Ordinance: but there was a further administrative control: the Chinese Protectorate. This originated in the Report in 1877 of a Commission on Chinese immigration, 'which disclosed a scandalous state of affairs...and every conceivable extortion and oppression being freely practised'⁵ against *sinkheh*⁶ immigrants. These were recruited in China by headmen entrepreneurs who arranged passage and, if the immigrant could not pay his fare, employment after arrival — usually for a year, for keep and rarely more than \$12 at the end of it. The Protector in Singapore and Assistant Protector in Penang were, intended to investigate the contracts of such immigrant indentured labour, and victimisation of any sort (for the supply of food, gambling facilities and opium offered opportunities for ingenious fraud and complex deceit) and, equally, any failure (as by absconding) of the *sinkhehs* to honour the contracts on their side. The District Officers of Malacca were gazetted Assistant Protectors in January 1900,⁷ but actual investigation seems to have been undertaken until 1911 by the Chief Police Officer — perhaps because there was always concern about the rivalries and influences of Triad societies. The reticence of the Chinese to resort to non-Chinese remedies was commented on by the District Officer Alor Gajah and the Magistrate at Malacca:⁸ neither had come across actions brought by a *sinkheh* against an employer, or by an employer against an immigrant. In 1911 an Assistant Protector of Chinese was appointed to Malacca: officers of this Department were necessarily literate in Chinese and at home, with one dialect at least.

Even legislative insistence on education had a separatist effect: the result of the 1902 Ordinance has been noted, and the Labour Code's requirement of schools on estates made education

...a divisive force in Malacca. English education bound together a small minority of all races and offered opportunities for secondary education or employment in government or commerce, but vernacular education was elementary, keeping the Malay peasant in the field, the Tamil labourer on the estates, and the Chinese in manual work or in the Chinese sector of business.⁹

None of this was intentional: there is no indication whatever that the Governors or the Colonial Office were cynical enough, or indeed astute enough, to formulate a policy of 'Divide et Impera', but the divisions were there and inhibited political ferment of the social tranquility so remarkable in pre-War Malaya.¹⁰

For the next thirty-five years Naning and Malacca lived in what the Chinese curse calls 'interesting times'.

II

In his last annual report, for 1921, Wolferstan stated that rubber

...remained at a very low price throughout the year, the price varying between 28 c. and 36 c. a pound. Business of all kinds became entirely demoralised, debtors were unable to pay their creditors, and the community generally suffered severe losses. 1921 will be remembered in future years as the most disastrous year in the history of the industry.¹¹

In 1922 his successor wrote

...the slump continued unabated, and the price of rubber fell even lower....In October, however, the announcement of the Secretary of State's intention to enforce the Restriction Scheme caused the price to rise rapidly. In November the restriction was brought into operation and at the end of the year the price was about 62 c. a pound.¹²

The Scheme, usually known as the 'Stevenson Scheme' after its architect, depended on restriction of exports from British-controlled territories — principally Malaya and Ceylon — but not to the Netherlands East Indies. It succeeded in forcing up the world price of rubber, but at a cost. The return on alienated rubber land was automatically limited, and there was an immediate demand for reductions in rents and assessments due to Government, which appointed a Commission. This recommended concessions 'which, though falling short of what was asked for,

were much appreciated'.¹³ Estates reduced their overheads, both by dispensing with casual labour and reducing their estate labour force: Government policy to temper the effects of this was to encourage Indian Settlement on the land. In 1923 the Settlement Government sent in a return showing in Alor Gajah District 381 Indian holdings under twenty-five acres with a total area of 3,003 acres.¹⁴ (These turned out, in the next year, to be almost entirely owned by Chettiar moneylenders).¹⁵ New planting was made difficult by an administrative policy of refusing new land for planting rubber from 1921, and this was maintained¹⁶ until the end of the Scheme in 1928. This bore hardest on Malay smallholders,¹⁷ for unlike some estates they had little reserve land for planting up and their stands of trees were usually of seedling stock already twenty years old. Prices rose in 1926 with the 'rubber famine' which antagonised American consumers against Malayan producers:¹⁸ the Resident Councillor reported that 'while all classes are well off, the community of Straits-born Chinese are extraordinarily wealthy and hardly know what to do with their surplus incomes';¹⁹ but the price dropped again in 1927 to 46 cents and further to less than 30 cents when in April 1928 it was announced that the Scheme was to end in the November.²⁰

The Government encouraged alienation of land for foodstuffs and cultivations other than rubber, but Alor Gajah District had been hit by a 'sharp outbreak' of rinderpest in 1921, with an initial mortality rate among buffaloes of 90% dropping to 70%,²¹ and there was another 'severe outbreak' in 1922.²² The Government set up a fund to provide loans for buying buffaloes, and \$18,411 was outstanding at the beginning of 1922, of which \$10,765 was repaid by the rayat during the year.²³ There were two hundred applications for land, most to be held under customary tenure, but the straitened circumstances of many smallholders was shown by the number of sales and mortgages, increasing by 36% and 20% respectively in the year 1922.²⁴ At the end of the Scheme and after the short-lived boom of 1926, the mortgage rate increased. The Annual Report contained the following:

Alor Gajah		Transfer	Mortgages
Customary Land	1927	852	658
	1928	524	787

The increase in the number of mortgages and decrease in the number of transfers is a direct reflection of the slump in trade.²⁵

The prices maintained artificially by the Stevenson Scheme encouraged planting in territories outside its scope and particularly by the peas-

ant cultivators of the Netherlands East Indies: when the world recession came in 1930 — 1931 all producers were hit, but the effect was greatest on those with the oldest and lowest-yielding trees. The average price in Singapore of First Grade Smoked Sheet (a standard most Nanning smallholders did not reach) fell quarter by quarter in 1931 from 25 c. to 22¹/₄ c., then to 15¹/₄ and 13¹/₄ cents.²⁶ In June 1932 it had sunk to 4.95 cents, or less than a penny and a half a pound, the nadir; by the last quarter of that year it was steady at about 7¹/₂ cents.²⁷ In 1933 it dropped again below 6 cents in March but had risen to 14 cents in December, with an average over the twelve months of 10.21 cents.

The Colonial Secretary's Report for 1930 stated that

...the question of some form of restriction of output or export was discussed by the Governors of the Netherlands East Indies and Straits Settlements'. It was announced that no official steps to restrict the export of rubber were contemplated.²⁸

Nevertheless, in May 1934 the Governments of the Netherlands and Great Britain signed a treaty which introduced the International Rubber Regulation Agreement into Malaya. The system operated by fixing a total permissible export tonnage quota for each of the various territories included in the Agreement, separately for estates and smallholders, with a percentage of that quota becoming available for each quarter of the year. The allocations to individual estates were based on their recorded production, so the large estates managed by Agency Houses were in a position to press for maxima; such records were not kept by smallholders and in their case an estimated production figure was fixed by inspection and the smallholders were given 'coupons' which were to be handed over to rubber dealers with the raw rubber to validate its production and export. At the outset there was no specialist or full-time staff available, and inspections and estimates were made by the District Officer²⁹ assisted by officers of the Survey Department:

...in Malacca...the work...was principally in writing up smallholders' cards, preparing plans and lithographs, and inspecting and reporting on holdings of which insufficient information was on record for the provisional assessment of productivity. From the middle of August the Survey Department became responsible for the supervision of the inspection of all small (under 25 acres) and certain medium (under 100 acres) holdings and their final assessment....³⁰

This assessment of smallholdings was necessarily approximate, and to some extent subjective, for it became clear that cleanweeding led to a higher assessment.³¹ The situation was complicated by the fact that the

coupons were transferable and soon acquired a market value of their own: 'for considerable periods Malayan smallholders could enjoy higher incomes selling coupons than they could have done by tapping their trees in the absence of restriction'.³²

As under the Stevenson Scheme, Rubber Regulation pushed up prices — the average price for 1934 was 20.63 cents (over double that of 1933), 27.04 cents in 1936 and 32.09 in 1937³³ — but not incomes, and the world recession and restricted output had their effect. The Colonial Secretary reported in 1933 on recent commodity values and the cost-of-living index:

Commodity values:

1929	100
1930	64
1931	41
1932	37
1933	45

General Cost of Living Index

	Asiatic	Eurasian	European
1914	100	100	100
1932	108.6	113.1	129.2
1933	99.3	105.7	123 ³⁴

Malacca food prices fell by 11% and house rents by 10%. The effect was most marked on estates.

...between early 1930 and mid-1932 daily wages of Indian estate labour fell by about 50-60 per cent. and the fall in Chinese wages was even steeper....Estate labour was approximately halved....In many districts work (at wages 50% below the 1929 levels) was available only on four or five days a week, while workers' dependants became unemployed.³⁵

Smallholders, like those of Naning, were also hit by the drop in demand for their other produce and the limited income from their rubber, and by new indirect taxation on the necessities of their lives, sugar, edible oils, tinned milk, coffee, tea, kerosene and textiles.³⁶ The Colonial Secretary reported in somewhat Panglossian terms in 1933 that

...although the price of padi at 5 to 8 cents per gantang has remained exceptionally low throughout the year, padi growers have realised the benefit of possession of their own supply of this staple food in difficult times, while the money derived from the sale of even a small surplus is welcome addition to the family resources.³⁷

The International Scheme was sufficiently successful within its own objectives to be extended by the participating countries in 1938 for a further five years from 1st January 1939, and was modified by providing for new planting on an area equal to one twentieth of the existing acreage, and unconditional replanting of that acreage.³⁸ These relaxations did not much help the Nanning smallholders, since they could not afford the loss of six years' income until the replanting came into tapping, nor to a lesser extent the cost of actual replanting with budded stock. The Malacca customary landholders were further constrained by legislation in 1931 amending what was now the Malacca Lands (Customary Rights) Ordinance by the addition of a Section — Section 8 in the 1936 Revision — empowering the Resident Councillor to impose directions prohibiting or regulating the planting of rubber on any land alienated after 1st July 1931.

This economic and social climate was changed, abruptly and for the worse, by the Japanese invasions of Indo-China, Malaya and Indonesia in early 1942.

III

In these twenty years up to the Japanese invasion the Government became more *dirigiste*. No wind of constitutional change blew in that period, but there was the occasional catspaw of a breeze towards more representative Government or greater devolution. At the very outset there was a limited reform of Legislative Council itself. This body had consisted of eighteen members: six were official members *ex-officio*, four were officials appointed by name, and eight were Unofficials all nominated by Government, though in practice Government accepted the recommendations of the Singapore and Penang Chambers of Commerce in respect of two of them. The remaining six were chosen three from Singapore, one from Penang, one from Malacca, and one from the Chinese community at large.

The new Council, as announced in 1922 by the then Governor Guille-mard, was to contain twenty-seven members in all, thirteen officials, thirteen Unofficials and the Governor. The official element was to include the Resident Councillor Malacca (who was thus restored to his pre-1910 dignity), the Director of Education, the Secretary for Chinese Affairs, the Principal Civil Medical Officer, the Commissioner of Lands (Singapore) and two others appointed by name. Among the Unofficials there was to be the same number of Europeans, seven, as before, but the Singapore, and Penang Chambers of Commerce were to have the absolute right to nominate, (as distinct from recommend) their representatives, subject to

the qualification that they had to be British subjects. There were to be three Chinese members, one from Singapore, one from Penang, and the third from Singapore or Malacca. The Malays, Eurasians and 'British Indians' resident in the Colony were to have one (nominated) member each, for the first time. There were also to be two Unofficial members of Executive council. The Governor commented that 'these modifications do not go as far as some people wish. But they undoubtedly represent an advance in the constitutional development of the Colony'.³⁶

In 1922 also the Rural Board Malacca was extended, both in membership and in administrative powers. It was to consist of the Resident Councillor, Collector and two District Officers, *ex-officio*, and three Unofficials: one European, one Chinese (Mr. and later Tun Sir Tan Cheng Lock) and the Malacca Unofficial member of Legislative Council. The appropriate health, hygiene and building controls under the Municipal Ordinance were applied to six villages in Naning — Alor Gajah, Pulau Sebang, Gadek, Masjid Tanah and Batang Melaka — to areas within one hundred yards at Alor Gajah, Masjid Tanah and Batang Melaka, five hundred feet at Gadek and five hundred yards at Pulau Sebang from their respective roads.⁴⁰

The Rural Board was in full operation by 1931: It had its own income and staff, and could call on Government departments. The Thirties were its heyday, and the range of its unromantic but important work is perhaps best illustrated by quoting from its 1932 report:⁴¹

Building control is exercised over the erection of all buildings in all gazetted village areas....Plans are demanded which are scrutinised by the Senior Executive Engineer and the Health Officer before approval by the Board, under the existing by-laws. Type plans of Malay houses and Chinese "squatter" houses are kept: copies are issued to applicants at 20 cents each....

Sanitary supervision is exercised by the Health Officer assisted by the Deputy Health Officer and six Sanitary Inspectors from the Health Department and one Sanitary Overseer. The Assistant Medical and Health Officers at Jasin and Alor Gajah carry out both medical and Health work in their Districts. One hundred and thirty-one lectures on health matters, and hookworm in particular, were delivered...in Malay Vernacular Schools. The Rural Health Department carried out the scavenging of the village areas, control of night soil disposal, inspection of houses, maintenance of permanent and temporary anti-malarial works, and the supervision of general health measures in accordance with the Rural Board by-laws. Regular inspection of coffee-shops; eating-houses, slaughter-houses, pig styes, dairies and cattlesheds was carried out, and action taken to enforce public health requirements....

Refuse collection and incineration was carried out in the twenty-eight gazetted villages. The surface drainage of four villages was improved by the construction of 1,345 linear feet of open concrete surface drains.

Anti-malarial works: 4,147 subsoil pipes were laid and 310 concrete slabs were made and fixed at the side of drains. Three thousand eight hundred and sixty gallons of anti-malarial mixture were sprayed on mosquito breeding places. Where necessary, notices were issued under Ordinance 174 (Destruction of Mosquitoes). Owners of land were made to undertake, or pay in part for, such anti-malarial work as was necessary....

Child Welfare Centres: A Health Sister was stationed in Malacca, under whom locally trained Health Sisters worked. They worked in a special clinic [one at Alor Gajah and one at Masjid Tanah] close squat and went house-to-house visiting in villages and kampongs instructing mothers in the care and feeding of infants and young children.

This was not mere verbiage: the Annual Reports give statistics of drains laid, gallons sprayed, incinerators installed, work completed. New lay-outs of metalled car parks were made at Alor Gajah and Masjid Tanah; Simpang Ampat and Pulau Sebang drains were extended in concrete; the Alor Gajah water supply was chlorinated; plans were drawn for a reservoir and new reticulation at Batang Melaka — all largely at the time of the recession. The Board's municipal enterprise was summed up by the fact that while in 1921 'incinerators of the small army pattern made of kerosene tins filled with mud were put up by the District Officer at Alor Gajah and Pulau Sebang and proved extremely useful',⁴² in 1936 'new Horsfall incinerators with large concrete sorting platforms partially covered with asbestos roofing were installed during the year'.⁴³

These controls and services were centres in the gazetted villages in Naning and the rest of Malacca, and it was their villagers who enjoyed the benefits and obeyed the restraints imposed by the by-laws; and a greater proportion of Chinese and even Indian Muslim population lived in these villages than came from the Malay population. Nevertheless, the later theory put forward after the post-Merdeka elections of 1959 that there were 'political and communal undertones of Malay resentment on past neglect and exploitation' — because during British rule wealth had been invested in schools, roads, water supplies, hospitals and the like in the towns because they paid more taxes and were cheaper to instal⁴⁴ — does not seem to have been canvassed at the time; places like Alor Gajah, Batang Melaka and even Pulau Sebang were part of kampong life as larger towns like Malacca and Seremban could not be. The development of the rural Board was short-lived: it lost some of its sphere to the new Drainage

and Irrigation Department in 1932, and more on the merger of the Medical services of the, Straits Settlements and F.M.S. in 1936. The Japanese abolished it, and it was revived after civil government was restored in 1946 only in a maimed form.

The slump in 1930–31 led Government to greater intervention, in an effort to palliate economic hardship. The Governments of the Colony and the Federated States engaged for the first time in a major stimulus of rice cultivation: a Rice Cultivation Committee set up in 1931 made its recommendations in the following year. One of the consequences was the creation a new specialist department, 'all matters pertaining to drainage and irrigation being divorced from the functions of the P.W.D. proper'⁴⁵ and other authorities such as the Rural Board. The new Department came into existence on 1st January 1932 under a Director (formerly Adviser, Drainage and Irrigation in the F.M.S.) of a pan-Malayan Department with its headquarters in Kuala Lumpur. This followed the model of the Survey Department, among others, which had become a pan-Malayan service, in 1920. The new Department had to assess existing works and collect data before embarking on new works, and some years were to elapse before there were any constructions completed in Naning. In 1931 the only existing irrigation schemes were at Malaka Pindah, with works built by P.W.D. in 1915 irrigating 307 acres, and at Gadek, built for the Rural Board in 1930, irrigating 163 acres. The Department's first report listed the areas of padi land in Alor Gajah District: the Naning mukims totalled 6300 acres, with three — Kelemak, Taboh Naning and Sungei Baru Ulu — having an area of five hundred acres or more and two (Machap and Tebung) with less than two hundred.⁴⁶

There was also a plan, limited in scope at its outset, to improve the standard and production of existing rubber smallholdings. In 1934:

...the Rubber Research Institute commenced to build up a staff of Asiatic Rubber Instructors for work on smallholdings throughout Malaya. The Instructors are employed by the Institute, from which they receive instruction and advice, but for purposes of supervision are placed under the control of Agricultural Officers in the field branch of the Department of Agriculture in the various States and Settlements. The Instructors give lectures and demonstrations in all aspects of rubber production but pay special attention to tapping, control of diseases of the renewing bark, and preparation of sheet of good quality. This last matter is of special importance to smallholders under the Regulation Scheme, since for the purpose of export rights all rubber is considered to be dry, so that a high moisture content in his sheet represents loss to the smallholder of a portion of his export rights.⁴⁷

There were two such Instructors in Malacca to cover the Settlement in 1937, and 'smallholders, both Malay and Chinese, responded well to advice'.⁴⁸

Another enterprise was the establishment of a Farm School at the Agricultural Experimental Station at Pulau Gadong near Malacca in 1935. An analysis in 1937⁴⁹ showed that two thirds of the pupils had left their districts in search of employment, but the remaining third:

...had returned to their kampongs and had there effected improvements in cultivation and stock, with financial benefit to themselves and their families. These boys were also exerting a good influence as was evidenced by improvements made in neighbouring holdings. All these successful pupils, in contrast to the remainder, came from rural areas far distant from Malacca Town.

The problem, that the parents of such boys were those least able to pay the fees of the course, was met by restricting entry to rural parts of Alor Gajah and Jasin Districts, paying a subsistence allowance to some of the pupils, building small Malay-type houses for each pair of pupils instead of a hostel, and allotting a small plot to each house for food cultivation.

The time-lag between the inception of rural extension work and general acceptance of the ideas put forward [particularly when they were not clearly related to local custom] was shown in the progress in developing co-operative societies.

Co-operation in Malaya, as in most Eastern countries, is not a spontaneous growth from the people themselves as it is in the West; it was introduced as a matter of policy by Government in 1923 and its function became the function of a new department.⁵⁰

By 1931⁵¹ Rural Credit Cooperative Societies had been established at Tanjong Rimau, Gadek, Padang Sebang, Sungei Petai, Ramuan China Kechil and Nyalas in Naning. There were also a few Better Living Societies by 1935: five in the F.M.S. with a total membership of two hundred and eight persons, and three in the Straits Settlements with eight hundred and twenty-one. Of the latter, the Alor Gajah Society accounted for five hundred and fifty-two. The Director was not altogether optimistic:

It was relatively easy for these Societies to get their members to accept the principle of modest expenditure on the occasion of ceremonies so long as there were little or no cash to spend and credit was hard to obtain: it remains to be seen whether the lessons preached in the days of adversity will be remembered in times of prosperity.

The Alor Gajah Society was the great success: it 'has not only been able to check extravagant expenditure on ceremonies, but has also been able to improve the complicated local *adat*'.⁵² In more specific fields success was qualified:

...efforts to persuade the smallholders to combine to sell their rubber have been nullified by the general tendency among smallholders to sell coupons and not rubber. In one area the members of a Rural Credit Society deposited their coupons with their society for joint sale. The proceeds were used by the members to repay loans to the Societies (sic) or were left with the Societies as specific deposits for the purpose of paying quit rents. Non-members took part in this form of joint sale, and used the proceeds to meet the entrance fee and share instalment payable to enable them to become members.⁵³ [— an affirmation, at least of the advantages of co-operative action.]

Both Malacca Municipality and the Rural Board were concerned with raising income from the assessment of land and buildings, and this was one factor in attracting attention to land where buildings had been erected. The Settlement Government was also interested, for its revenue from rents and, in the case of customary land, from assessments. Declaration by gazetting of 'villages' by the Board had no effect on tenures or rents and assessments; moreover, customary land was implicitly excepted⁵⁴ from those provisions of the Crown Lands Ordinance which provided for the notification of 'village sites'.⁵⁵ An amending Bill, designed to bridge the gap and bring title into conformity with the position on the actual parcel of land was brought before Legislative Council in 1922. It provided that if the Resident Councillor were satisfied that any piece of land was not used mainly and substantially for cultivation but was used mainly for building, he was to report to the Governor-in-Council, who made a provisional declaratory order which remained in force for three months. During that time 'any person affected' — which included mortgagees and presumably in Nanning the person next entitled — could appeal to a Judge, whose decision was not appealable. His decision was on fact rather than law. In the absence of any successful appeal, the provision order was confirmed, and if within one month the customary landholder applied to the Collector he was to receive a Statutory grant on terms then fixed.

In moving the Bill the Attorney-General amended it, saying that 'some form of title' would issue, because he understood that ninety-nine year leases were now intended. There were no debates, but in Committee the Bill was amended to require the provisional order to be registered in the Mukim Register, with copies to the customary landholder and to any mortgagee and to be posted on the land, as well as being advertised three

times in the Government Gazette. A further amendment made the land comprised in the confirmed order forfeit to the Crown — without which it could of course not be alienated by the Crown; and, lastly the superseded customary landholder was to be given three months, instead of one, to apply for his new title.⁵⁶ The legislation was aimed at areas of Malacca Town, where land had been filled and foundations sunk for houses and, indeed macadamised roads served them, but it was also relevant to villages such as Pulau Sebang, Alor Gajah and Batang Melaka, and was applied to smaller villages such as Lendu and Lubok China. A point which seems never to have been examined was whether the existence of a Malay-type house on a plot brought the land within the section, for while it was clear that while a brick shophouse stood on what was 'substantially building land', it had been held judicially (though not without criticism) that a Malay house, on pillars, was not 'land' but a chattel.⁵⁷ The possibility of a quick profit on a conversion from customary to leasehold tenure was an ingredient in the leading cases of *Munah v. Isam*, *Dato' Kamat v. Sapian* and *Sapian v. Tiamat* discussed later.

It would appear that there was little activity to carry out conversion of title, but administrative action was overtaken by Rubber Regulation and the Revisionary Survey in the Twenties and Thirties, and by the administrative confusion of the Japanese Occupation and Rehabilitation after it.⁵⁸

The Malacca Resurvey was part of the latest attempt to make land administration in the Straits Settlements accurate and efficient: there was parallel action, not less necessary, in Singapore and Penang. The Surveyor-General's Report of 1933 commented, in terms of echoing those of McNair in 1880, that 'the re-survey was required as the result either of the inferior technical quality of earlier surveys or the movements of boundaries, or both'.⁵⁹ The situation in Malacca was brought to the attention of Legislative Council by the Unofficial member for Malacca, Campbell, in the unlikely context of a debate on an amendment to the Malacca Agricultural Medical Board Ordinance.

There are other difficulties in which this amending Ordinance will not help us. One is the tracing of grants. The Land Office in most cases gives very little help, because the registration of titles is not compulsory. You go to the Land Office and enquire about the holder of a title, and you get a name. When the present holder is traced, we have in one case found that the land changed hands no less than five times, although the original holder was still registered as the holder in the Land Office. I would therefore ask that compulsory registration of deeds be brought in...I understand that there is a difficulty about it at present on account of the unsatisfactory state of surveys in Malacca, but I would ask that this

survey work be expedited and that compulsory registration of deeds be brought in at the earliest possible moment.⁶⁰

The Survey records were described by a later Director:⁶¹

After the passing of the Boundaries Ordinance in 1884 the holdings in 24 mukims were re-surveyed between 1904–1908 although there had been some piecemeal work between 1898 and 1903....

In carrying out this re-survey occupation does not appear to have been followed in all cases and boundaries followed titles where these could be located. Consequently the reports of the following years mention the necessity for further surveys owing to subdivisions, boundaries in dispute and further discrepancies.

During all this time various sets of compilation sheets appear to have been started and abandoned until the records reached a chaotic state....

Although the hopelessly unsatisfactory state of the records had been evident and attention drawn to it in reports in 1914–1916 no change was made in procedure until the Department was taken over by the Survey Department F.M.S. in May 1920...

It soon became evident that nothing short of a complete re-survey of the whole Malacca territory could hope to set land matters on a satisfactory footing and approval was eventually given to commence a resurvey under Ordinance 31 in January 1923.

A team of one Assistant Superintendent and six Assistant Surveyors was transferred from the F.M.S. to carry out the work.⁶²

The Re-survey itself proceeded smoothly: two mukim maps were plotted by the end of 1924 and map production stage had been reached for most mukims in 1926; all fieldwork for Alor Gajah mukims was completed by 1930.⁶³ The work of settlement and the preparation and issue of corrected plans and titles was more complicated and took longer. In 1925 a Rubber Restriction Officer was appointed as a temporary Settlement Officer: he and the Land Bailiffs under the 1884 Ordinance had the task of pointing out the boundaries as newly surveyed to the owners, or adjoining owners, and obtaining their agreement or noting their objections and enquiring into the title under which they held. In 1927 survey was ahead of settlement and two more Settlement Officers were appointed,⁶⁴ and by the end of 1936 the work was completed in the Districts of Alor Gajah and Jasin, and in most of Central District except for the difficult areas in Malacca Town.⁶⁵

Legal problems soon appeared. The Boundaries Ordinance made the decision of the Boundary Officer (or the court, in cases of appeal) final: the surveys of 1904–10 were thus, at law, definitive. On the ground there were

alterations, by informal divisions, trespass successfully maintained for the twelve years necessary to establish adverse possession, and by changes as, for example, where estate paths had become public roads or road reserves had been disused and were planted up. It was necessary to substitute the new survey maps and invalidate the old, and this was done by the Malacca Resurveys Ordinance No: 3 of 1927.

By 1935 the problem was beginning to repeat itself. The period of twelve years necessary to set up rights of adverse possession against the title holder was beginning to run out, especially if it were to start at the date of resurvey. The Attorney-General gave it as his opinion that the twelve years ran from the date of publication of the new maps,⁶⁶ but the point never needed testing in the Courts because there was further legislation at the end of 1936. This consisted of Ordinances 38 (amending the Malacca Lands Ordinance) and No: 40, amending the 1923 Resurveys Ordinance: both provided that the boundaries of all holdings surveyed during or subsequent to the Revisionary Survey were removed from the operation of the Statute of Limitations and its bar on actions for recovery of land after twelve years. The effect was that 'all modern survey work has a permanent value instead of a life of only twelve years'.⁶⁷

There were two other pieces of legislation of importance in Naning during this period. The first was of general application and was contained in the Mohammedans (Amendment) Ordinance: this provided — and not before time, since Hervey had made the point in the debates on the 1890 Malacca Lands Bill⁶⁸ — that 'in the case of any Mohammedan dying intestate after 1st January 1924 the estate and effects shall be administered according to Mohammedan law' (instead of English law) 'except in so far as such law is opposed to any local custom which prior to 1st January 1924 had the force of law'.⁶⁹ It is unnecessary to underline how sweeping a save the final clause proved of the Naning Custom.

The other alteration was made incidentally, if not accidentally. Ordinance No: 25 of 1925 appointed the Chief Justice, Murison, Commissioner for the purpose of preparing a revised edition of the laws of the Colony in force on 31st December 1925, with powers *inter alia* to omit repealing Enactments and all amending Reenactments where the amendments have been embodied by the commissioner in other enactments, to alter the order of sections in any enactment, and their short titles and — the final sweeping-up clause — 'to do all other things relating to form and method which may be necessary for the perfecting of the revised edition'. Ordinance 39 of the Revised Edition was headed 'An Ordinance to consolidate the law relating to customary rights in land in Malacca', and in particular embodied in one piece of legislation both the Malacca Lands Ordinance

1886 with its many amendments and the Malacca Customary Lands Transfer Ordinance of 1901. The latter Ordinance, as has been noted, was largely procedural but was designed to require registration of mortgages, and had as its last section the late addition of a clause — amended to a wider form in Committee — aimed at restricting the power of anyone holding under the Naning Custom to charge the land. The 1926 consolidation repeated the provision, but as Section 5, so that the save of the Naning Custom applied to the entire consolidated law. It may be supposed that the Malacca administration was invited to comment on the draft and the effect of redrafting, but there was no debate in Legislative Council. It can be argued that the change was outside the powers given to the Commissioner, even in the last general clause; but once the new Ordinance had been ratified by Legislative Council and not disallowed by the Colonial Office it was law and the Custom prevailed over the statute.

The 1926 Ordinance had as its short title. 'The Malacca Lands (Customary Rights) Ordinance': the 1935 version left the Ordinance, and the section on the Naning Custom, unchanged but deleted the brackets in the title.

Dato' Omar died at Taboh Naning on 19th September 1922, little more than a year after his recognition as Orang Kaya Sri Raja Merah. His sister's eldest son the heir apparent under *Adat*, was a school boy. This was not a fatal objection,⁷⁰ but there were rival claimants, and 'by the end of the year no decision had been arrived at. The District Officer had held frequent meetings with the prominent Naning Malays to try and solve the problem'.⁷¹ The appropriate Chiefs, the Tiang Balai,⁷² also recognised the boy's claim and they and the Tribal Chiefs agreed on his succession but with a Regent (*Pemangku*) until he was old enough to take over: they chose Arshad, the son of a younger sister of Dato' Mohammed Salleh and two generations senior to Osman bin Kring, the Dato' designate. In 1935 Osman came of age by British legal reckoning and was installed:⁷³ Dato' Arshad withdrew. Dato' Osman had been better formally educated than his predecessors; he was young and active, and his influence was courted. He was a Vice-President of the (respectable and establishment-minded) Kesatuan Melayu Melaka,⁷⁴ an offshoot of the Singapore Association founded in 1937 to improve the economic position of the Malays. He joined the Malacca Battalion of the Straits Settlement Volunteer Force as a Private, but was later commissioned. After the retreat to Singapore and the surrender on 15th. Febuary 1942 Dato Osman was confined with Malay Officers from the Malay Regiment, seperated from the British Prisoners of War. After two weeks he and the other Malay officers were taken to Bedok, along the coast, and shot in old blood.⁷⁵ He was the only

Volunteer Officer to be executed. His fate was not known until the end of the war. His popularity and influence in Naning and the risk of non-cooperation if he was allowed to return home, may have influenced the Japanese to murder him.

IV

'Malaysians are unanimous that the Japanese period was one of anguish and privation, and that the Japanese failed to win the hearts of the inhabitants because of their insensibility, brutality and ignorance'.⁷⁶ Malacca and Naning were caught in a total conflict, the ideas and politics of which were generated far above their heads, and they were a few hundred square miles in a hemisphere at war. *Gajah sama gajah berjuang pelandok mati di-tengah tengah.*⁷⁷

The administration, especially in the early stages, was military and used such apparatus as it could trust: its main objective was to further the effort for a successful war. It aimed at establishing as self-contained an economy as possible for the field armies, then to organise that economy to withstand a war of attrition, and — once that was won — to weld the economies of the region into the 'Greater Eastern Asia Co-Prosperity Sphere'.⁷⁸ Given the premise of the Japanese equivalents of the European doctrines of *Herrenvolk* and *Lebensraum*, these objectives followed logically.

The military administration had two branches, in the usual pattern of armies of occupation: routine administration and the security service. The administration at large was obedient to directions from higher authorities, but with some influence on their form and more on the manner in which they were applied; the attitudes and efficiency of individual administrators had an effect. The first Governor of Malacca, Tsurumi, was a career administrator who had been Consul-General in Singapore and spoke fluent English;⁷⁹ he was succeeded by Colonel Watanabe Waturu, whose harsher policy was

...to re-educate the indigenous peoples to endure hardship to secure the Greater East Asia Co-Prosperity Sphere. He stressed particularly the need for re-education of Malays so as to rid them of their easy-going way of life and be ready to share with the Japanese the austerity and burden of the war.⁸⁰

Other officials included one who had been a photographer in Malacca Town,⁸¹ and the head of the Public Works Department (into which were

merged the Municipal and Rural Board engineers' departments), — 'had previously been a hawker in Jasin'.⁸²

All security services are constitutionally suspicious, working on the principle, that he who is not with us is against us: in the Japanese administration, the security service was the Kempetai, notorious for its brutality. Its officers suspected the Chinese in particular, and with reason: Overseas Chinese had supported the Kuomintang in its war against the Japanese since 1935, and the Communists had recruited among Chinese labour groups since before the war. The Kempetai purged the Chinese of Malacca in March 1942,⁸³ and other communities also suffered: the stories threw a pall of fear over the Settlement until the Japanese surrender in 1945.

The loss of European and American markets immediately affected the rubber producers: the output at 100,000 tons from Malaya in 1942 was 19% of the exports in 1940. The price was low: No: 1 Rubber Smoked Sheet fetched twenty cents. There was an increased quota in 1943, at 6,570 tons for smallholders and 3,380 tons from estates, in Malaya as a whole.⁸⁴ Malay rubber tappers earned forty cents a day, and females thirty-five cents: if they did not have family land for growing food they spent from 70% to 90% of their income on food.⁸⁵ The staple, rice, was rationed because supplies no longer came from Burma and the Malayan rice-bowl of Kedah and Perlis had been ceded to Siam. The official ration was four gantangs a month for men, three for women and two for children, but the full ration was not always available.⁸⁶ The Japanese administration adopted a policy of not issuing rice in the rural areas of Malacca.⁸⁷ The result was increasing reliance on tapioca as a substitute, grown by people (often the unemployed) rounded up and sent to open up new areas, or by others who left the towns of their own volition to disappear into the countryside — and these included Communist sympathisers and members of what came to call itself 'the Malayan People's Anti-Japanese Army'. The centre for these in Nanning was Machap mukim, and especially the area known as Machap Umboo, on the eastern boundary of the Bukit Panchor Forest Reserve — which was largely felled. By 1944 the Japanese had drawn a red circle round this area on their maps, signifying that it should not be entered by Japanese troops at less than company strength.⁸⁸

The Japanese administration used existing subordinate staff and applied existing Straits Settlements law — with a difference.

A Malay District Officer was responsible for administering each District and was answerable to the director of the Police department. In each District there were sub-districts (mukim) each with a mukim head (penghulu). The lowest administrative unit was the village with its

headman, who served as the co-ordinator between the villagers and the administrative body. One of his duties was to transmit directions from higher authorities to village folk. Such mediation was also provided for between the village headman and the penghulu and between the penghulu and the district officer. The penghulu was also to assist the district officer in overseeing his own mukim.⁸⁹

This system, except for the Police direction of the District Officer, was approximately the hierarchy familiar to all, but there was a new feature, the Jikeidan. This

...was seen as a means of maintaining peace and order with the assistance of volunteer vigilantes. The HQ was established in the Police division....Jikeidan were also established in every kampong, mukim and township within the district of each police station....The primary duties of the Jikeidan were concerned with the maintenance of security and the prevention of crimes and espionage activities, rendering assistance to the defence forces, and channelling communications between the authorities and the people, in both directions. Every night ablebodied males, carrying night-sticks, whistles and gongs and wearing armbands, patrolled neighbourhoods at fourhourly intervals....Furthermore, Jikeidan members cooperated with officials in door-to-door investigation of citizens' occupations and the distribution of daily necessities....⁹⁰

In the early days there was money to be made:

...during the first year of the Japanese Occupation (1942) the daily slaughter of cattle rose to twenty head on an average. The figures for swine and goats slaughtered were more than those of 1941. This uncontrolled slaughter was due to Jap-sponsored food supply agencies, who were contractors to the military. Under the pretext of "military supplies" most of the meat was exported to Singapore markets. This proved to be an insupportable drain on local supplies....⁹¹

Within three years the economy had run down. The administration suspended the purchase of low-grade rubber,⁹² and this closed the market for Malay and Chinese smallholders — even though for lack of asphalt roads were patched (unsatisfactorily) with heated rubber latex.⁹³ The smallholders, like the unemployed in the town, made shift as best they could; and because of galloping inflation with 'banana money' — a currency issue of \$280 m. in 1942 rose to \$624 m. in late 1943 and over \$7,000 m. in 1945 when \$1,000 notes were printed⁹⁴ — the black market became a recognised and indispensable institution. Rice, 8 cents in 1941, was officially 10 cents in May 1944 but \$6.80 on the black market. Matches, one cent in 1941 were two cents officially but \$1.10 on the black

market in the same months. A cup of sweetened coffee, seven cents in 1940, cost \$10 in 1944.⁹⁵

It is difficult to say whether the Japanese administration foresaw consequences but did not care; or was oblivious of them; or that it was so beleaguered that it had no options; or merely that it was inefficient: it seems that there was a mixture of all these elements. The introduction of gambling farms to soak up superfluous paper money and a ready acceptance of 'squeeze' in public services suggest the first: a Municipal Report of 1946 commented on Conservancy and Scavenging

...owing to the lack of fuel etc. this work was carried out with very little transport. Conservancy labourers were encouraged to obtain payment from house-holders in respect of nightsoil removal, instead of being given increases in wages as the cost of living grew: and this practice is hard to stamp out.⁹⁶

Water supply installations and electricity power stations were kept intact, but bridges blown by the retreating British forces were not rebuilt and anti-malarial drains and works were neglected,⁹⁷ presumably because the Japanese forces needed one but not the other. Certainly towards the end the economy was under great strain:

...in 1944 the Japanese ordered the de-hiding of pigs. All the hides were bought over by them for military use. The mucous membranes of the oesophagus of cattle were also collected. These were treated and used for sealing leaking petrol tanks of aircraft.⁹⁸

They were certainly not efficient:

The Municipality and Rural Board were combined into the Central Gun Yakusyo or District Office. It was staffed by employees from Government and Municipal offices and worked under the Municipal Ordinance and by-laws in force at the time of cessation of hostilities but subject to the whims and ignorance of the administration, which resulted in an accelerated decline of the efficiency of the department. This decline in efficiency was in many cases coupled with indifference to public health, obstruction and in some cases wilful damage....

The main legacies of this period of occupation may be briefly summarised as follows:

(i) poverty of the mass of the population with consequent malnutrition and the increase of such diseases as tuberculosis, beri-beri, malaria and dysentery

(ii) the almost complete absence of medical facilities in the Rural Area for the treatment of the common diseases

(iii) the loss of a public health conscience for the period of three and

a half years: the population has accustomed itself to dirt and diseases, and it will take a long time and much hard work to re-educate the people to a sense of cleanliness and sanitary discipline

(iv) ...the Japanese policy of not issuing any rice to the dwellers in the Rural area, coupled with the increasing opportunities for black market activities in the towns, naturally encouraged a continuous movement of population towards the urban area

(v) Labour unrest. It is not within the scope of this report to consider the political legacy of the Occupation. It may be mentioned in passing that three and a half years of corruption and indifference to regular work has resulted in indolence and a lack of interest making itself felt in this Department....⁹⁹

The Health Officer was reporting on his own Department, but the description applied in general.

The Japanese Occupation accentuated communal divisions and suspicion, though less in Naning than in other areas of Malacca and the West Coast States of Malaya: it cannot be said to have created them.

The first stirrings among the Malays can be traced to religious differences between what may be considered orthodox and fundamentalist Muslims — Kaum Tua and Kaum Muda. The latter were reformers, invoking the Koran and Hadith (the canon of the sayings and acts of the Prophet) as the sole rules, and in the Thirties they founded religious schools, including one at Kampong Bahru, Alor Gajah. The Kaum Muda drew much of its inspiration from Minangkabau territory in Sumatra, but of the sixteen schools set up in Malacca this Alor Gajah school was the only one in Naning. Some adherents of the two movements came to blows at Kampong Bahru in 1931, and supporters of Kaum Tua attacked Kaum Muda members at Jasin. The Dato' Naning (Osman bin Kering) called for *muzakarah* (deliberations for reconciliation) but Kaum Tua failed to respond and took a conservative line in their publication *Suara Benar* 'overtly in favour of maintaining the status quo so far as social values were concerned'. Their opposition to change included a rejection of any suggestion of *jus soli*, the right to citizenship by virtue of birth in a State. The division spilled over into secular matters, when Kesatuan Melayu Melaka was founded in 1937, its aim was to safeguard and promote Malay interests - and Malay excluded those of Indian and Arabian descent. It inclined, therefore, to Kaum Tua: when in 1941 Kesatuan Melayu Muda Melaka (Malacca Malay Youth Union) was founded as a breakaway movement, it was frowned on by Kaum Tua.¹⁰⁰

In December 1943 the Governor appointed a Consultative Council — the Sanji Kai — as a measure for 'winning the people's hearts': it con-

sisted of one Eurasian, two Indian, five Chinese and seven Malay nominees, including Sudin bin Abdul Rahman from Alor Gajah District. Members of Kesatuan Melayu Melaka were not appointed: the movement was considered nationalist and therefore.¹⁰¹

The Japanese also recruited Heiho, auxiliary soldiers, and in May 1943 six hundred and ten Malays aged between eighteen and thirty volunteered for two hundred places, for 'free food, free lodging, free uniforms and good salary and allowance'.¹⁰² There was also preference for Malays when the Japanese administration reorganised education to fit the young for their future in the Co-Prosperity Sphere: Malay pupils were exempted from paying tuition fees and Malay teachers were given priority when teachers were re-appointed.¹⁰³

By the time of the Japanese Surrender, therefore, the Malay community contained the establishment figures of Kaum Tua and the somewhat nationalist partly fundamentalist Kaum Muda and the KMMM, with their ideological links with Sumatra: these saw the others as collaborators and reactionaries while Kaum Tua supporters found the minority deviants impelled by alien creeds. The extent of this division should not be exaggerated, and it seems not to have been very noticeable, to other communities: they noticed the preferential treatment of Malays, the preponderance of Malays in the Sanji Kai, the recruits to the Heiho with the shadow of the Kempetai behind them, and feared, despite many individual actions to the contrary, that the Malays could become collaborators.

The village Chinese — shopkeepers, small estate owners and the like — who had assimilated to Malay kampong life in general kept their heads down and succeeded in being little worse off than their Malay neighbours. A few of greater eminence who had prided themselves on being 'the King's Chinese' were at greater risk: King and Chinese were both enemies to the Japanese. The third group, increasingly large, was the class of 'squatters', cultivating for themselves and the market. They were in general either immigrants before the War or the first-generation Malacca-born children of these immigrants: they lived — and when they settled in the countryside, moved to — areas oldily Chinese like Machap Umboo in Naning and Kuala Sungei Baru outside it. Their settlements were Chinese, and anathema to the Malays because of the pigs whose manure was vital to vegetable growing; their organisation was Chinese and independent of the ordinary rural hierarchy; their marketing chain was Chinese, through small middlemen or direct to the market stalls and shops at Alor Gajah, Masjid Tanah, Pulau Sebang and especially Malacca Town. Among themselves they lived in dialect groups, Hokkiens with Hokkiens, Kwongsais with Kwongsais, Teochiew with Teochiew, and if they were riven by

secret society or other rivalries they kept it to themselves. They were uncommunicative and so they were not known, and because they were not known they were suspected — with some justification when they had been evangelised by Communists inspired to work for the establishment of a Leninist-Stalinist People's Democracy in Malaya. The Malays had occasional grounds to mistrust these Chinese, to about the same degree as these Chinese had grounds to mistrust the Malays, under an arbitrary and erratic Japanese control.

The interesting feature is not how greatly Naning was demoralised by the Japanese Occupation, but how little. The hardship, less than in Malacca Town, was widespread but evenly spread: no rich profiteers made their way up under Japanese protection. Despite the Jikeidan, there were no kampong Quislings, and the elders who found themselves at the intermediate levels relied on their traditional authority rather than Japanese force;¹⁰⁴ and this covered the village and kampong Chinese and Indians. The Japanese administration did not concern itself with the administration of the Custom, and the Malay District Officers accepted it as a matter of course: despite the absence of Dato' Osman¹⁰⁵ the social system of the Adat continued, applied by the Demangs and Penghulus.

V

The remainder of this period was devoted to rehabilitation after the Japanese Occupation and to implementing the political and economic changes which the events of the last four years seemed to make desirable and possibly necessary. These were conceived on a larger scale: policies were no longer based on the Settlements of Singapore and Penang with Malacca as an agricultural satellite, but on a peninsular basis in a region where all Western Colonial Powers had shown themselves to be anything but invincible.

Rehabilitation began with the British Military Administration in August 1945 until it gave way to civil government on 1st April 1946. The administration's efforts were devoted to imposing and maintaining the peace and to feeding the population and restoring services of every description. Naning escaped the most violent incidents of the interregnum:¹⁰⁶ the nearest event was the murders by MPAJA members at Jasin before they were (partially at least) disarmed and disbanded: there was no equivalent at Machap. Food was still short and rice rationing continued, as did the black market: the Military Administration and its successor government had to initiate an Emergency Food Production Programme administered by the Department of Agriculture. Medical, educational and

municipal services had to be restored, roads and other communications repaired, at a time when materials (largely from Britain) were in short supply in an economy not yet converted from a concentration on military needs. Not until 1949 could the Resident Commissioner report that this year.

...will probably be regarded in the future as the first year in which the effects of the Japanese Occupation had passed. In 1948 the last vestiges of that unhappy occupation period were being swept away, and only the diversion of time and money to the Emergency prevented the complete fulfilment of rehabilitation.¹⁰⁷

In Naning a new Dato' Penghulu was installed in 1946, and here, there was a break from the custom of the last two centuries by which succession went through the Dato' Naning's eldest sister. Dato' Osman's eldest sister had no son; a younger sister had a son who was a boy, and Dato' Osman's own fate was not a good augury. The claim of Yunus had weakened consensus, though it had not been given much weight. Dato' Arshad, who had acted during Osman's minority, had come from a cadet branch. There were possible candidates from whom the Tiang Balai and Isi Balai could choose, and they resorted to a Naning proverb — *Sesat hujung jalan balek ka pangkal jalan*¹⁰⁸ — and the widespread custom of *giliran*,¹⁰⁹ and went back to Hitam, sister of Dato' Idas who took over from Dol Said. Hitam had three daughters; Anum, Jaiyah and Anor: Dato's Hassan, Omar and Osman were all in the line of descent from Anum. It was now decided that the succession should rotate in the three descents, first to that from Jaiyah, then to that from Anor, and then back to that from Anum.¹¹⁰ The candidate from the *perut* of Jaiyah, Che Lah bin Matsap, was recognised and installed.

One example of the difficulties facing routine administration was the loss of records. The Mukim Registers prepared under the Resurveys Ordinance for Alor Gajah District were all lost, as were other Registers and Land and District Office records and files. The Resurvey Registers were reconstituted and written up again from assessment rolls and Survey Department records; as for the Mukim Registers with their legal evidence of customary rights, there had to be legislation — The Mukim Registers Replacement Ordinance No: 3 of 1947 — to provide for exhibition of provisional registers mukim by mukim, objections and validation. Added to this was a chaotic situation outside the surveyed areas. From the slump days of the early Thirties areas were given out for vegetable cultivation under Temporary Occupation Licences valid for one year only though renewable if the Collectors of Land Revenue, so decided and at rates as low as \$1 a year: like Lewis's 'Cutting Papers' they were intended as prelimi-

naries to approved applications for some form of title to land. For one reason or another they were not followed up;¹¹¹ and during the Occupation such TOLs were given in Alor Gajah District to Malays, Chinese and others for tapioca and other food crops, by the hundred. Neither the Malays or Chinese and Indians were versed in the niceties of the Crown Lands Ordinance: they had a piece of paper entitling them to occupation of land, as they thought; and the rent was low enough to discourage any wish to convert to any other form of tenure. These plots were bought and sold, inherited on death, and in general transferred and transmitted, often in good faith: in effect, the cultivators were repeating what their pre-decessors had done before the 1861 Land Act. By 1948 the increased rice ration and easier supplies of other food led to some thousands of these TOL plots being abandoned, or taken over by neighbours: tidying up the Land Office, records was too large a task when so much else was pressing. It should be emphasised that now as in the Company's day the deficiency in registering holdings put the Government at a disadvantage, and not the cultivators: the Land Offices and administration had no fairly accurate picture of land occupation (quite apart from lower revenues) on which to base its plans, and these areas were the 'squatter areas' which were to demand much effort and expenditure in the next few years in all the western States of the Peninsula.

Notwithstanding the Japanese Occupation the population of Alor Gajah District rose from 54,917 in 1931¹¹² to 67,310 in 1947 when a delayed census was taken. The 1947 population of Nanning, including three Jasin mukims, contained 26,783 Malays (including exactly 300 Javanese and Sumatrans), 14,804 Chinese and 5,756 Indians: 6,000 of the Chinese lived in three mukims (Machap, Kelemak and Batang Melaka) and of these 3,821 lived in Machap. The three greatest concentrations of Indians were in Kelemak, Pulau Sebang and Batang Melaka with 596, 578 and 479 respectively — all areas with Government labour lines: elsewhere they were most numerous in mukims containing European-owned estates. Except in Machap, Kelemak and Batang Melaka Malays outnumbered all other races put together in every mukim.¹¹³

The year 1948 saw publication and consideration of the 'Bauer Report'.¹¹⁴ Quotation of two paragraphs from its Summary and Recommendations will serve to show its cogency:¹¹⁵

...13. On economic as well as on broad social grounds there is an overwhelming case for an immediate withdrawal of the ban on new planting and on the alienation of land. For some years at least, rubber planting should be permitted to all comers, estates and smallholders alike, who are prepared to pay the standard quit rent and a premium for

the alienation of land, which should be kept modest. High-yielding material should be distributed widely to smallholders for this new planting. It would be best if, subject to the satisfactory conclusion of experimental trials, the authorities were to fell and clear by mechanical means large areas, were to plant these with high-yielding materials, were to divide the land into small plantations of say five acres, and make these available to small cultivators. Only by the encouragement of the efficient low-cost producers is it possible to restore the competitive position of the Malayan economy.

14. The rubber growing smallholder has been the stepchild of the Malayan administrations for the last 20 or 30 years: his efficiency and importance is generally overlooked.

Neither the Department of Agriculture nor the Rubber Research Institute, Malaya, accept the responsibility for looking after the interests of the rubber-growing smallholder and each maintains that the responsibility belongs to the other organisation.

The impact of this Report, with its reasoning and recommendations, on Land Officers was great,¹¹⁶ and its acceptance by the Colonial Office and the Federation Government marked not only a reversal of the policy of Rubber Restriction (still officially in existence when the author wrote) but introduced — or at any rate categorically set out — the idea that small-holders growing a cash crop could if brought to accept certain minimum standards, become a major and effective competitor on world markets. The Government's response was to introduce the Smallholders' Replanting Scheme, with minimum standards for the new stock, oversight of planting and replanting by the Department of Agriculture and the Rubber Research Institute working together, and financial help to smallholders for the period before the new stand came into tapping. Without this Report and that Scheme, later extensions — the Kelantan Land Development Scheme, RIDA Schemes and, after Independence, FELDA and FELCRA schemes — are unlikely to have gone ahead on such a large, scale or with popular demand and support. The Pantheon of modern Malaysia should include, amongst its other figures pre-eminent in their various ways, the unexpected figure of Lord Bauer, near and slightly to the rear of Ridley, 'Father of the Rubber Industry'.

In Alor Gajah, and particularly in Naning, replanting was the matter of interest, for the trees on small-holdings were old and land was scarce. The Report and Scheme were canvassed by Land Office and Agricultural Department staff among penghulus and sidangs, and by many of them among their *anak buah*: in 1949 the Resident Commissioner reported that 'some smallholders have shown considerable interest in "hedge planting" of rubber, with the intention of planting budded rambutans, durians and cacao in the avenues',¹¹⁷

VI

In the pattern of this time, the 'Emergency' — which began in mid-1948 with the murder of three rubber planters in Perak in the North — was part of the rehabilitation, a necessary campaign to re-establish and maintain the rule of law, although the challenge came from a new quarter and on an unprecedented scale.

For some years before the War the Malayan Communist Party had been linked with the Communist Party of China: in the Settlements the MCP was an unregistered and therefore illegal organisation. In 1937 the Chinese Party agreed with the Kuo Min Tang to co-operate in the 'War of National Salvation' against Japan.¹¹⁸ The Malayan Party followed the Chinese Party's line and thereby gained some acceptance among patriotic Chinese in the Straits. Its military wing became the MPAJA, already mentioned, and was the effective Chinese 'jungle army', armed largely by British Special Operations during the War: its long-term aim was to establish a 'People's Republic' after defeating whatever Power, Japanese or British, that stood in its way. After the Japanese Surrender 1945 the MPAJA emerged from its bases and was disarmed and disbanded, but it retained some arms in secret caches and it maintained its organisation: when on the outbreak of the 'Emergency' Special Branch and the police went to Machap to collect known 'ex' MPAJA there, they found that these birds had already flown.

The 'Malayan People's Liberation Army', as it called itself, pursued a policy of attack for over two years: its objective was to cripple the 'colonialist-capitalist' economy as a prerequisite to establishing its own system. Attacks on rubber estates and tin mines and in particular on their managers and their houses was an early manifestation of this policy: European-managed concerns were *ipso facto* colonialist and capitalist, and unlikely to acquiesce, let alone co-operate. Ambushes were laid and raids carried out, with a steady toll of lives across the Peninsula in 1948 and 1949. Locally-owned estates, large and small, posed a less pressing problem to the MPLA and Communist Central Committee: capitalist they might be but they were hardly imperialist, and they might be expected, if circumstances so dictated, to acquiesce. The medium Chinese estate system, of labour gangs provided and supervised by contractors with no resident management, had its advantages for the MPLA; the labour gangs could be allowed to continue tapping so long as they paid a cess in either food or money. The contractors passed this on by requiring higher rates, and the estate owners either accepted (without enquiring too closely) or closed the tapping down. The MPLA demands on the rubber tappers were

self-regulating: when they became too heavy the labourers (of whom a proportion were young women) abandoned the tapping areas.

This self-regulation did not, however apply to the squatter areas where many of the tappers lived: when armed men knocked up a tapper or a cultivator in his plank and attap hut in the middle of the night and demanded a regular supply of food — and perhaps specific items from the local town, for which they handed over the money — there was no possibility of resisting. It was useless to suppose that the householder would next day, in daylight, make a report to the Malay sergeant or constables, and await the arrival of a police squad which went away at the end of its operation: that was the way to be branded as a 'running dog' to the MPLA by its squatter area supporters, the Min Yuen, and to be shot outside one's hut some later dark night.

The Settlement of Malacca was unpropitious territory for the MPLA. Areas of Forest Reserve and jungle were few and scattered by the standards of the Malay States, and 'squatter areas' small in comparison with the tracts of land taken over in Johore or Perak. Communications, especially roads, were developed and police reaction could be swift by peninsular standards; and the influence of Malacca Chinese reaches as far as Pulau Sebang. Mr. Tan Cheng Lock (as he then was) was the best-known Chinese political figure in Malaya, and his proposals were (to put them at their least influential) anti-Communist; he was accorded great respect by the Malacca Chinese Chamber of Commerce, whose members naturally were capitalist and supporters of law and order; and there was a minority of active Kuo Min Tang sympathisers with their connexions in the 'squatter areas'. The KMT was at that time a losing but not yet discredited party, and its influence, was visible in school committees and indeed school books and maps in squatter-area and other Chinese schools — which had no Government funding and no official inspection. The squatter areas were by no means homogeneous MPLA fellow-travellers and it was not difficult, once people brought themselves to talk, to compile a list of probable Min Yuen members. In these circumstances the MPLA detachments, who lived on the country, were in Malacca small: a concentration of twelve armed men was unusual.

The effect in Malacca Settlement of this phase of what the Communist Party called 'the Armed Struggle' was therefore limited: the Resident Commissioner reported that in 1948 'the Emergency conditions...did not effect Malacca as seriously as they did the other States in respect of rubber production, although one estate of 2000 acres ceased tapping altogether'. In 1949

...there was an estimated acreage of 64,500 under mature rubber during the year, of which 52,230 a. or 82% were in tapping. Bandit

attacks were made on some estates, but the production was for the most part little affected by the disturbed conditions in the estate and kampong areas.¹¹⁹

Malays in general were unresponsive to the claims of Marxist ide-ology: it was hostile to Islam and religious teachings, subversive, of accepted authorities established by custom, and disturbing to a conservative society. There were, however, some Malay adherents of the Communist Party, necessary to it as evidence of a supra-nationalist movement.¹²⁰ There were two Naning men in a MPLA unit which operated across the border in Negri Sembilan. Baba bin Buyong and Abu Noh.¹²¹ This detachment penetrated Taboh Naning in June 1949 and kidnapped the Dato' Naning. Their motives are not clear: certainly Dato' Che Lah was an establishment figure, an embodiment of a system that the 'People's Democracy' was bent on destroying; the abduction was perhaps intended to show the Malays that the safety of any particular person could not be guaranteed. A further motive, may have been some form of private revenge, for Baba bin Buyong was said to be a dissident from the Dato's own *suku* of Sri Melenggang. For some time, as in the case of Dato' Osman, there was no knowledge of Dato' Lah's whereabouts, and there were rumours that he was alive in captivity: the then District Officer and the Demangs and Penghulus organised a search with police support, and about a thousand Home Guard beat the countryside up to the Negri Sembilan frontier. The Dato's fate remained unknown for about a year, when a Jungle Squad operating in Negri Sembilan came upon remains of bodies, one of whom was identified as his.

The reaction to the terrorist campaign was at first defensive: Special Constabulary were recruited, trained and posted as guard detachments at vulnerable points, especially estates. This was followed by measures of general control: Registration Areas were defined and published, and all inhabitants aged twelve or more were required, by Emergency Regulations published under an enabling Ordinance, to register: they were issued with Identity Cards bearing the holder's photograph.¹²² Ration cards were linked to them, and production could be, and was, demanded at Police Station barriers and road blocks. Plans were made for taking the offensive: additional battalions of the Malay Regiment were formed and trained, and meanwhile Commonwealth forces¹²³ arrived in Malaya and deployed by the Director of Operations, GOC Malaya.

To clear a 'No Man's Land' for their operations and to restrict movement of food towards it, curfews were imposed: the first Order for Naning and Alor Gajah District was dated 29th September 1949¹²⁴ and forbade movement out-of-doors between 6.30 p.m. and 5.30 the next morning.

The most important move, in the long term, was 'Resettlement' under the 'Briggs Plan': this involved moving squatters from their areas to 'new villages' behind barbed wire perimeter fences, with their own armed police in their sandbagged stations. The programme was synchronised with military operations in the locality, and the military intention was to break the supply line to the MPLA in the area: the barbed wire was to keep Min Yuen in as well as keeping MPLA out. It is doubtful whether at first these new villages were intended to last longer than the 'Emergency';¹²⁵ the cash payments to the displaced families were small and it was politically impossible to make larger payments to a class which most people thought had brought these troubles on the countryside; the huts which they put up were rudimentary; the plots were small, to get in as many as possible; and the lay-outs were unprepossessing. So far as South Malaya was concerned, the 'Briggs Plan' was first put into operation in Johore, to roll north as areas were cleared and resettled, and a model plan of that time showed a new village laid out like a wheel with the police post at the hub and the roads radiating like spokes, commanded by rifle or machine-gun fire in a manner which would have commended itself to Baron Haussmann himself as he laid out the boulevards of Paris to forestall insurrectionary mobs. As time wore on, however, it became clear that so much effort was going into these villages that they had to be planned as viable and permanent, and that the problem was one of land administration, tidying up the wide inefficiencies of the Temporary Occupation Licence system.

Military effort and Resettlement did not roll north into Malacca until 1950, and began in Jasin District at On Lock in Batang Melaka mukim, to be followed shortly in the other two Districts. The concept of the 'New Village' was varied in Malacca characteristics peculiar to the Settlement, and examples of generosity by the Chinese community. One feature was the existence of the Rural Board with its building by-laws, and houses in the new villages conformed to the minimum requirements; the other was the chance that the Settlement Government at just that time had decided on a new formula — 'the Malacca Formula' for rents on leases for thirty years at the minimum and ninety-nine years for the maximum.¹²⁶ It was implicit therefore that the new villages should be of the same minimum standards¹²⁷ as in other parts of the Board's area, and have a life of thirty years at least. The Government grant of \$250 per family was supplemented by a grant of \$150 from the Malayan Chinese Association. Arrangements were made by Government officers for bulk supplies, and issues were made to individuals against credits held from the grants. An incidental effect was variety in the sizes and to some extent the designs of houses, and a greater concern in the settlers themselves in their new villages.

Each District had a Resettlement Supervisor working under the District Officer, and an Assistant Resettlement Officer, usually but not always a Chinese, responsible for one village. The 'new villagers' saw their A.R.O. daily, even if they had no business with him, and the District Officer or Assistant District Officer perhaps two or three times a week; they were called to meetings to hear of regulations imposed on them, or of plans for their areas, or to offer opinion, for they themselves could not decide, on matters of local development. In effect, they had been brought together where the administration could reach them, and the administration on went a regular basis to meet them. 'The Chinese squatter was for the first time integrated into the Malayan political and social system which demanded his loyalty'.¹²⁸

The loyalty was not immediately given: Resettlement caused inconvenience if not hardship. Apart from the rebuilding of homes, transport to and from the vegetable areas, and especially of manure (normally in two kerosene tins slung from a yoke) was laborious and time-consuming. Food Control Regulations forbidding the taking of food, though not drink, through the perimeter fence gates meant a cut in the working day; nor did it immediately end the smuggling of food by Min Yuen or those working under threat from the MPLA: searches were instituted, with women searchers taken on to operate in booths, for intelligence reports spoke of small bags of rice and tins of condensed milk and other items hidden in brassieres and between the legs of baggy Chinese trousers. The measures nevertheless made it harder for the MPLA to get supplies and easier for tappers and vegetable growers, when approached for them, to say that it was difficult or impossible. By 1952 the MPLA Central Committee changed tactics and withdrew to the jungle, where they could survive as in the Japanese Occupation but without energy to maintain a continued offensive. The concentration of estate labour into the equivalent of defended new villages in 1951¹²⁹ and prohibition of movement of food outside them rounded off the Food Denial programme. The curfew remained: in 1951 it applied to all Alor Gajah District.¹³⁰

By the second half of 1953 the 'Emergency' in Naning was over. There were Home Guards, nearly all Malays, in most mukims, volunteers with a small supply of shotguns and ammunition kept in a local armoury, patrolling when necessary and called out occasionally as long-stops in Police operations, but chiefly responsible for the protection (not tested) of their areas. The 'Resettlement Areas' at Machap Umboo and Machap Bahru with a smaller one at Taboh Naning were turning into villages within the ambit of the District organisation; even the grouped labour estates had been brought nearer the ordinary administration. The apparatus

of control remained, with curfews, restrictions on the movement of food, registration and identity cards and police checks; and the restrictions remained in force in Naning and Alor Gajah when they were removed in Malacca Central with the declaration of the first 'White Area' in September 1953. As late as May 1954 it was thought necessary to require the owners of rubber land in the mukim of Machap to clear undergrowth and keep it less than one foot high.¹³¹

Naning and Malacca were peripheral to the main campaigns, by both sides, in the 'Emergency', and this in Malaya was only part of the regional conflict. The ambitions of the Malayan Communist Party made it inevitable that the Party should make its bid for control sooner or later and the disorganisation of, and after, the Japanese Occupation made a favourable time, with the tracts of unrecorded Chinese peasants a favourable base. Had there been no Occupation there may well have been no Communist insurrection, but it was hard to avoid the conclusion that the seeds were sown earlier and the nursery-beds developed because land policy and administration had not, since the days of food production in the early Thirties, absorbed, or perhaps even realised, that any Government that arrogates to itself the right to an over-riding direction of economic development and of maintaining law and order must know where its subjects are and maintain a long-term relationship with them. Malacca, of all the States and Settlements in the Peninsula, should have learned this lesson two or three times in the past century; and the acceptance of temporary occupation, and by licence instead of by right, was indefensible. The outcome of the 'Emergency' was a notable accomplishment and one of only two outright victories (the other being the Berlin Airlift) in a decade which saw at least partial failure, in Korea, Vietnam and Cambodia and even Hungary and Czechoslovakia. It was at a high price, not only in lives, money and time but in increased communal separatism. Malays at large were, entitled to ask why this expenditure of funds and energy should go to thousands of people who had not demonstrated allegiance while so little went to themselves, loyal and constant to their rulers as they had been; and the Chinese, and especially leaders at a distance from the New Villages who had supported the Government at possibly some risk to themselves, were entitled to claim the rights of people settled within the confines of the State and obedient to it.

VII

Parallel with all these measures of rehabilitation ran the political changes thought to be necessary as a result of the Japanese Invasion and Occupation. The speed and completeness of the collapse of the Pax

Britannica in Malaya led to heart-searchings and inquests, particularly in the Colonial Office: as after any war, victory was to bring a braver new world, a land fit for heroes. The questions as to what went wrong and what was required could be put to many people, officials and unofficials who had been on leave or who had escaped when Singapore fell, for their comments. Tan Cheng Lock was in India; he submitted his comments. The one group that could not be approached was that of those still living in the Peninsula: information and opinion evading Japanese control was almost non-existent. The blue prints had to be drawn and ready against the day of Japanese surrender, without benefit of measurements on the ground.

The principle was to set up a homogeneous Malaya in which all people who demonstrated their allegiance to it should have rights of citizenship. This, however praiseworthy in the abstract, raised concrete problems: it implied the end of the Straits Settlements as a Colony, an alteration of the position of the Federated Malay States (which had already fought off centralising plans in the days of Sir Cecil Clementi), and the incorporation of the Unfederated State of Johore with its notably independent-minded Sultan, the northern States of Kedah and Perlis and the East Coast States of Kelantan and Trengganu — which last four had been under Thai administration during the Occupation. It also implied a right of *jus soli* for all the first generation children born of Chinese immigrants living (at that time) and perhaps an extension of rights to the immigrants themselves: this could only be by dilution of the influence of the indigenous inhabitants. The proposed method was — and if it were to succeed in a short time, had to be — drastic. The Straits Settlements were to be decapitated, with Singapore becoming a separate Crown Colony; the Rulers of the Federated and Unfederated States were to cede sovereignty to the British Crown; and all were to become the Malayan Union. The subjects of the Malayan Rulers and the Crown were to become Malayan citizens, and major legislation was to be Union legislation, with all administration and the judiciary centred at Kuala Lumpur.

There was nothing in the proposals to attract Malacca or Naning. Its citizens were British citizens, and it was not difficult for immigrants who had settled and established themselves to acquire that citizenship by naturalisation: many of those who bent their minds to the subject concluded that they might be worse, not better, off. Estate owners, rubber dealers and other merchants dealing with Singapore were dubious about severance of that outlet. The Chinese peasantry, as yet not resettled, were oblivious. The Malays were neither advanced nor threatened: there was no strong feeling that as in the Malay States the Malays were the sons of the soil and in a special and favoured position, and not all the Chinese with

whom they dealt were alien, for the 'Babas' spoke Malay in their homes and had adopted some Malay customs. There had been a long century of British rule, and the Union offered nothing else in the immediate future: the panoply of supreme power was His Excellency in his white uniform and plumed helmet and it did not much matter that he should visit from Kuala Lumpur and not Singapore. Malacca Malays had no Sultan, and not even a Pretender; they had no territorial magnates of the Four and the Eight and the Sixteen; and Naning's Chief, like the Undangs across the border, was a commoner and not royal. There was no Malay Reservations Enactment, which in the FMS provided for the demarcation of areas within which no other race could hold land: in one sense the ancient customary tenure (which could be applied to country land anywhere) was its antithesis.

Malacca's response to the proposals, when they were put forward, was thus different from that of the Malay States, and less vigorous; but the reactions of the States and Settlements were unfavourable. 'All these factors put together could not have supported even the initial years of the union; it was doomed from the start'.¹³²

The factors were compounded by the manner in which the new State was propounded to the Rulers: a Colonial Service officer of distinction but no experience of Malaya was sent as an emissary to produce the 'Treaties' (by which the Rulers were to surrender their powers and cede sovereignty) to the Sultans separately, and to require their signatures. They were discouraged from communicating with each other: the tone was peremptory and the discourtesy great. The news of course got out, and associations of Malays rallied to their Sultans in the States, and towards them in the Settlements. From this, and a meeting attended by representatives from such associations in all States, a pan-Malayan organisation was formed under Dato' Onn of Johore, and became UMNO, the United Malay National Organisation. In the Naning kampungs it was to most people a movement to preserve the established order, and — led as it was by very senior figures in State administrations — it was something like a gesture of subversion not to join: penghulus and sidangs of course did so, *ex officio*.

The British Government's retreat, by beginning constitutional discussions which terminated in the Federation of Malaya Agreement 1948 and the revocation of the Order in Council which had set up the Union, did not mean that the centralising and unifying theme of the Malayan Union was repudiated. The constitutional apparatus was certainly greatly altered: whereas permanent provisions¹³³ (never brought into force) of the Malayan Union had a State Council, including elected members, under a resident Councillor to exercise only local and delegated powers, there was

not to be a Menteri Besar (or in the Settlements a Chief Minister) and a State Secretary on the model of the former Unfederated Malay States¹³⁴ and State Executive and Legislative Councils. Nevertheless, all the important powers, financial, economic, political, police and legislative, remained at the centre. There was one important extension of policy: all the contracting parties expressed a desire in the preamble for progress towards eventual self-government.

The Federation of Malaya Agreement brought Malacca an Executive ('Nominated') Council which with the High Commissioner, or the Resident Councillor as his Deputy, was the supreme administrative authority in the Settlement. It had six members, with the Resident Councillor, State Legal Adviser and State Financial Officer (both shared with Negri Sembilan) *ex officio* and three Unofficial — a Straits Chinese, a senior European planter, and a Malay, again Inche Sudin bin Abdul Rahman from a Naning mukim. There was also the Settlement Council, with the Resident Councillor as President, the Legal and Financial Officers *ex-officio* and seven nominated officials — the Collector of Land Revenue, Chief Police Officer, Settlement Engineer, Senior Inspector of Schools, Assistant Controller of Labour, Settlement Agricultural Officer and Chief Medical Officer. The Unofficials were all nominated: they included Inche Sudin and another Malay, Inche Mohammed Ali bin Salleh, two Eurasians, two Europeans and three Chinese. At its first meeting on 2nd February 1948 this Council was given a message from the High Commissioner:

His Majesty's Order in Council contains provisions in due course for the election of members to the Settlement Council, and this Council is destined to move forward to a position of increasing responsibility for the affairs of the Settlement within the Federal Constitution....¹³⁵

The Council met on five more occasions that year. The two Malay members, like the other Unofficials, were nominated by Government and not by race-based associations but they were, to say the least, acceptable to UMNO: they were both of some eminence among the Malays and, as it happened, had some connexion with Naning, but neither was a member of the Naning hierarchy, and they did not rely on it: their constituency was more the activists of UMNO, and these at District Levels were such men as *che' gus*, teachers in the local vernacular schools.¹³⁶ Fortuitously this set up a ladder of influence and, later, power separate from the indifferent to the rungs of Naning.

This became apparent in 1950. At the August meeting of Settlement Council a draft Scheme for Penghulus was tabled as Paper No: 7; the Settlement Secretary explained why.

At the present moment Schemes of Service for all classes of the Government service are being worked out and submitted to the authorities for approval....There is a Scheme for everybody. Where these Schemes are common to all States and Settlements, or even to two, they are prepared in the Federal Secretariat. State and Settlement Governments have been asked to prepared Schemes for those officers who have local application only, and it is for that reason that we have prepared this Scheme for Penghulus....Their set-up is entirely that of Malacca and not (found) in any other State or Settlement....We have the Naning Custom to consider, and that has been provided for....

Paper No: 10 of 1950, tabled for that same meeting, was an interim report on electoral procedure and recommended the appointment of a Franchise Committee: Inche Ali bin Salleh linked this to his comments on the proposed Penghulus' Scheme.

(The Penghulu's) office still remains and he is useful to the kampong. He acts as liaison officer between the kampong people and the District Officer or C.L.R., but the point is whether he should be a Government servant because he is paid from public funds, or whether he should be merely a representative of the people of his mukim. This I leave to the Committee to be appointed....The chief man in the kampong and the Chairman of the Mukim Council is the Penghulu, who holds office for ever. There is no provision that he should retire....His election...is very crudely done and the voters are restricted to male Malay members of his mukim....The election of a Penghulu to serve for life is not conducive to the progress of the mukim in the light of present-day progress, for the reason that a mukim may have an election once in twenty or thirty years, so the people are given no chance to practice the art of election....A Mukim Council is an advisory body under the chairmanship of the Penghulu, but at the present time that body exists only in name....I would ask that those Councils be given certain and definite duties....I would ask the Committee that is to be appointed to consider whether to pay all the members of the Council or only the head....There exists in the Settlement one curious institution — the Naning Custom found — mostly in the Alor Gajah District. Under that Custom the main feature is that lineage is traced through females. The Penghulus in these places are chosen from certain tribes called Sukus, whilst other tribes are excluded from nominating candidates. We have heard the saying that "customs die hard" and nowhere is this more true than in the case of the Naning Custom, but preservation of this custom as I see it will not benefit those concerned, and it is my hope that this Custom will soon be abolished....

His motion, to extend the terms of reference of the Franchise Commit-

tee to include consideration of election to Mukim Councils was seconded by Inche Sudin:

There is a Mukim Council in the kampong, but its activities are seldom heard...because such a Council has its meetings very seldom, probably because it is held by the Penghulu with the Sidangs...and it is very rare that the anak buah are invited to the meetings and give their voices....¹³⁷

The Resident Commissioner intervened.

There is one important point that has been overlooked, and that is that in the Federal Agreement there is a special clause which says that there shall be no interference with customs or religions. That is a clause capable of wide interpretation but I think it germane to the present discussion; and in any future speech on this particular motion the speaker should have that in the background. It seems to me that this Council, without consulting the people concerned, wish to make a decision affecting the Naning law. They may want to voice their opinion on suggestions that are made affecting that law. It appears to me unwise that we should do this when the people directly concerned have no say in the debate whatsoever.¹³⁸

That ended the discussion, and the Penghulus' Scheme with its Paragraph 15 — 'In areas whether the Naning Custom prevails the election of a Penghulu and/or the appointment of a Demang shall be conducted so as to conform with that Custom' — was approved.

The Scheme, which came into effect on 1st January 1951, stipulated a minimum age and educational qualification for candidates, and introduced a retiring age of 55 with extension to a maximum of 60 on the 'special recommendation' of the District Officer to the Resident Commissioner. In usual Governmental style the Scheme provided for a probationary period and an efficiency bar in the scale: the scale itself ascended from \$30 a month by annual increments of \$2 to \$40, and then a certificate of efficiency took the allowance by similar increments up to a maximum of \$52. Demangs received \$55 a month on promotion, rising by \$3 monthly to \$70, and then on certification to \$85. The Scheme stated their position: '1. Demangs and Penghulus shall not be regarded as Government servants and the emoluments they receive shall be granted as honoraria' and '9. Penghulus and Demangs shall not be liable to transfer'. Provision was made for allowances to retiring Penghulus and Demangs, calculated on Government's pension norms, for fourteen days' leave a year, and paid leave for the Pilgrimage. The Scheme in fact treated them increasingly like Government servants while saying they were not.

Political change in the next six years was stimulated by the centre and not in the provinces. The 'Member System', by which Unofficials on

Legislative Council were given portfolios and became officials and members of Executive Council,¹³⁹ was introduced in April 1951;¹⁴⁰ and Dato' Onn, Member for Home Affairs and the most influential of the 'Members', founded the Independence of Malaya Party. The independence at which it aimed included rights for the other communities and particularly the Chinese who had to be drawn to support it if it were to be effective. For reasons such as clash of personalities and doubts about personal ambitions (for Dato' Onn's career in Johore had been somewhat erratic) as well as suspicion of any tendency to accept *jus soli*, UMNO dissociated itself and indeed elected a new leader, Tunku Abdul Rahman of the royal house of Kedah at the opposite end of the Peninsula.

The first test came in the Municipalities, where steps preparatory to elections were taken in 1951: the focus of attention was the Federal Capital Kuala Lumpur, the staff and organisation of which had an autonomy and sphere of influence equal to that of some Government departments. Nevertheless it could not be treated in isolation: Penang Municipality was always prepared to claim equality, and if Penang were to follow Kuala Lumpur into a new age, Malacca Municipality — as old-established if not so influential — had to be considered. There were therefore to be elections for all Municipalities, and in 1951 the Municipal Elections (Malacca) Regulations were published.¹⁴¹

The Municipal elections in Kuala Lumpur in 1952 provided the first arena into which the contestants came, and the IMP was faced by UMNO and the local Malayan Chinese Association,¹⁴² which under the leadership of H. S. Lee was antipathetic to the more rarefied ideas of Tan Cheng Lock and his supporters, who had initially supported Dato' Onn. Thus the 'Alliance' of UMNO and MCA was born, and it was successful then and in the 1955 elections of the elective element of Legislative Council — 52 members out of a total of 98. By the time these elections took place Dato' Onn had reshaped his party and changed its name to 'Parti Negara',¹⁴³ which 'professed to be non-communal but whose main appeal was to Malays';¹⁴⁴ in the elections it put up thirty candidates against the fifty-two from 'Alliance'. The new Council had fifty-one, 'Alliance' members, and the sole dissident came from the Pan-Malayan Islamic Party.¹⁴⁵ Parti Negara was obliterated, and although Dato' Onn himself won a seat (in a Trengganu constituency) in a post-Merdeka election in 1959, it was a spent force.

The new Dato' Naning, Dato' Mohammed Shah, was a more notable public figure than his murdered predecessor, and known beyond the borders of Naning. He was nominated to Settlement Executive Council, and when the Settlement Development Board was created in 1951 he was



Group photo of Naning Customary Officials seated near the Tomb of Dato Dol Sa'aid, at Taboh Naning, after the Tomb had been extensively restored, and in front of a Memorial Board erected by the Malaysian Historical Society . Seated left to Right: En Salleh bin Hassan, En. Jaafar bin Abdullah (Menteri Penghulu), En. Abdullah bin Hj. Abu (Syahbandar), En. Yaakub bin Hj. Musa (Maulana Garang), En. Mat Taha bin Ripin (Angkai Kecil), En. Döl bin Lasi (Angkai Besar), En. Ibrahim bin Keling (Dato' Nankaya) and En. Samah bin Ali (Dato' Gempa). Standing from the Left: En. Ali bin Husin, En. Isa bin Kurus, En. Abdul Aziz bin Yunop, En. Ithnin bin Ghalih, En. Mahadia bin Mat, En. Osman bin Yusoh and En. Katas bin Yusop. Pennants held by those in the back row are those of Suku Semelenggang Naning, Suku Mungkar, Suku Tiga Batu and Suku Semelenggang Bunga Tanjong. The flag of the Dato Naning was not included as the Dato was not in the group photo. Photo taken on 18th. April 1966.



Encik Ghafar Baba, the Chief Minister of Malacca, unveils the Memorial Board at Taboh Nanong on 18th. April 1966. Dato Mohd. Shah, the Dato Naning, stands beside him.

one of its members: in 1954 he was appointed Vice-Chairman. The Development Boards were the State and Settlement agencies of the Rural and Industrial Development Authority, RIDA, begotton of the deliberations of the Communities Liaison Committee set up in 1948. It was generally accepted that by Chinese and even Indian entrepreneurial standards Malays were underdeveloped financially and economically, and that until they could compete on reasonably level terms in the Peninsula they could not be expected to renounce any of the preferential treatment they claimed as the indigenous race. From 1950 to 1953 RIDA was a Government department: on 1st January 1954 it became a statutory authority¹⁴⁶ with considerable finances.¹⁴⁷ RIDA was both an extension of, and a departure from, the Cooperative Development Department of earlier years, which continued its own efforts. (In 1949 the Resident Commissioner reported that

...in many societies women in increasing numbers took an active part in the running of their societies, and in...Padang Sebang...the undesirable system of "kootoo"¹⁴⁸ was entirely eradicated by the few women members of the local Cooperative Society, who conducted a vigorous propaganda against it).

RIDA 'stressed the principle of self-help', and decided in 1954 that 'priority should be given to applications from groups including Cooperatives', but its objects were very widely drawn — 'To stimulate, facilitate and undertake economic and social development in the Federation and more particularly in the rural areas thereof'¹⁴⁹ — and it found itself a jack of all trades. Amongst other things, it ran a tractor-drivers' training school and lent tractors to States and Settlements for padi-growing schemes, mechanised fishing boats, ran incubators, set up a smallholders' rubber factory, organised light industries and a dockyard, sank wells and offered seventeen different courses on a variety of subjects from dress-making to Rubber estate management, from First Aid to helmsmanship.¹⁵⁰ All these efforts were directed to the areas thought to be least developed, so that the Settlement attracted little assistance and Naning little more than loans at a low rate of interest to some individuals.

The onset of elections in 1955 alerted the Authority to the risk that it might be manipulated and

...it was considered essential that it should be completely impartial as regards politics and that no one amongst the members, officers and staff of the Authority should be in a position either to assist or to be affected by any political party in the course of their duty. Accordingly steps were taken to bring about this state of affairs by a directive....¹⁵¹

The directive might more appropriately have been issued to the political parties, as the Authority's objectives were also the declared aspirations of both UMNO and Parti Negara. Since RIDA was commonly thought (not without assistance from its own journal *Maju*) to be the engine for Malay economic advance, it was inevitable that the lower echelons of both parties saw it as a machine, ready to hand, to carry out their, and its, programme; and it was only a short step from this to suppose that RIDA should follow up a politician's recommendation.

Whether Dato' Onn made an overt attempt to recruit the Dato' Naning is not clear¹⁵²; Onn was in dire need of Malays of standing and may well have done so without invoking the RIDA connexion — for the Authority was in his portfolio in 1954.¹⁵³ Even without any such approach, a decision on the Dato' Naning's part¹⁵⁴ not to support UMNO actively was likely to become, once UMNO was triumphant, 'disloyalty' to the Malay tradition.¹⁵⁵

The period also saw the beginning of another attempt to reform the land law of Malacca and Naning. The Settlement Council appointed a Committee to examine and report on the introduction of compulsory registration of title into the Settlement, and this Committee submitted an interim report as Paper No: 6 of 1952, tabled in January 1953. It recommended that with the conclusion of the Resurvey (and there were still two Town Areas uncompleted) compulsory registration of title was both feasible and desirable, but that further research should be made, if possible, into the exact status of 'Dutch titles' (which did not affect Naning) and into the alternative forms of registers and memorials to be used. As for customary land, a new Bill was drafted by the Land and Survey Officers and revised by the State Legal Advisor: the changes which it proposed to introduce were intended as remedies for faults and omissions in the existing Ordinance as noted and discussed by many officers in the past quarter-century. Among other points it drew a distinction between *chagar*¹⁵⁶ and mortgage; it limited the value of the personal interest of the mortgagor as a customary tenant to one-third of the open market value of the land, and limited the term of any mortgage to six years with no new mortgage within one year; and it prohibited with a penalty of \$50 any mortgagee from taking possession of the Extract from the Mukim Register. The Bill roundly declared all boundaries under the Resurveys Ordinance to be final, and registrations in the Register to give indefeasible title. It also repeated Section 5 in a more limited form: 'Nothing in this Ordinance shall be deemed to affect the Custom called the Naning Custom', without more. It protected Naning *waris* particularly by two sections, one¹⁵⁷ requiring notice to 'heirs presumptive up to and including

the second generation' when any customary tenant proposed to surrender his rights in consideration of a lease and the other providing for the entry of a caveat, enquired into by the Collector and effective for one year, to prevent a transfer. The Settlement Government was advised that an enabling Federal Ordinance was necessary before the Settlement Council could enact the new Bill, and this — the 'Customary Tenure of Land (Settlement of Malacca) Ordinance' — was passed as No: 10 of 1952. Not for the first time in Malacca's legislative history, the officials who had acquired the specialist knowledge to prepare and execute these matters were transferred away, and the Committee and Bill disappeared from sight. The enabling Ordinance was however invoked in December 1956 for the passage by the Settlement Council Enactment No: 5 of 1956, 'An Enactment to provide for validation of the acts done by the District Officers of Alor Gajah and Jasin...purporting to recognise applicants as customary landholders', to remedy the defect that recognition and registration had been given by them instead of having been forwarded to the Resident Commissioner.

VIII

After their success in the 1955 Legislative Council elections, Tunku Abdul Rahman and the Alliance leaders went to London to demand independence and, to their surprise, were offered it at the end of a mere eighteen months.¹⁵⁸ Among the many and varied matters of which the Reid Constitutional Commission was to take evidence and on which it was to make recommendations was the question of the constitutional shape of the Settlements of Penang and Malacca, for while the independent Federation of Malaya was to be a development of the existing Federation so far as the Malay States were concerned, the two Settlements had to be changed into something different from their constitutional form of the last century and a half. The choices were limited: both Penang and Malacca were constituent territories of the existing Federation and were to remain such in the independent Federation: the discussion was on how they would be converted into the equivalent of Malay States but without Rulers. While the Commission deliberated, administrative policy was shaped by the probable form of the Independent Federation. Nanning was affected by this in two particulars.

The first was a change in the position of penghulus, and the alteration was canvassed by the Settlement Government before Independence. The penghulus themselves were well aware that their emoluments, on the 1951 scheme, were notably less than those of the penghulus in Negri Sembilan

and other States; and in a climate where importance was reflected in salary scales this seemed to demean them. Their duties had increased with the spread of Government agencies such as the Replanting Programme and RIDA, and the most able and active were most involved. It is natural that these thought themselves undervalued, for they were; and the movement for an increase in the scales was supported and indeed inspired by the more outstanding men, such as the Penghulus of Melekek and Sungei Buloh in Naning.

The Treasury reaction was predictable: reorganisation could be tolerated if expenditure were not increased. The Establishment Office thought in terms of schemes as homogenous as might be for the Peninsula: to it the idea of sixty-four penghulu in the Settlement of Malacca was an aberration. It is doubtful whether any officials in the Federal Capital addressing themselves to the matter knew that they were dealing with an indigenous hierarchy which the Malacca Malays had developed mukim by mukim before ever any British Resident had set foot in a Malay State or a District Officer opened an office in any District in the Settlements: if by chance they knew, it did not alter the result. The solution was a new Scheme of Service, with Government Penghulus as Government officers taking over the areas formerly known as Demangships and the rest ceasing to hold the old positions. By one of the many ironies of Malacca's history, the solution in the name of progress and uniformity was that advocated by Hervey and Maxwell two generations earlier before they had learned better by experience of the system they had condemned.

The other pre-independence change was the promulgation, twenty-two days before Merdeka Day, by the High Commissioner in Settlement Nominated Council of the constitution of Alor Gajah District Council (and of similar Councils of Malacca Tengah and Jasin) under the Local Authorities Elections Ordinance of 1950. These were to be elected, and were to carry out with extended powers the duties performed by the Rural Board before the Japanese Occupation: the elections however were not provided for until after Independence.¹⁵⁹

Whether they were prompted by the atmosphere of change or not, the *Pembesar Waris Undang* — the four Naning chiefs of Sri Melenggang who are the authority on the lineage and, since 1949 on the *giliran* — drew up, certified and lodged at the District Office Alor Gajah a family tree¹⁶⁰ setting out the various *perut* among whom the succession rotates. The value of this was that it was drawn up at a time when Dato' Mohammed Shah had been fairly recently installed and the question of the succession might be expected not to arise for years (as events have proved) and the pedigree and rotation could be set out objectively, without disagreements

from possible claimants or suspicion that it was framed to support one candidate against another.

The imminent end of British rule stirred ancient memories. As to Malacca proper, the Heirs of J. B. de Wind instructed Singapore lawyers to put forward a claim to all the areas on which rights had been surrendered in 1828;¹⁶¹ as regards Naning the question arose as to its position when the Power victorious in 1832 gave up its sovereignty. One senior official wrote that perhaps the solution was for Naning to be transferred from Malacca to Negri Sembilan, to become the *Luak* Naning ranking with the other *Luak* of Rembau, Sungei Ujong, Johol and Jelebu. Historically and culturally this was logical, but too much time had gone by: to quote Macaulay, 'whether injustice had or had not been committed was immaterial — just or unjust, (it) had taken place so long ago that to reverse it would be to unfix the foundations of society'. Naning, with its *lembaga* in every mukim, was no longer like the *sukus* of Rembau or Johol, and it was unlikely that the Dato' Naning would be welcomed by the other Undangs as their equal to share their power, or that the rayat of Naning would wish to assimilate to the organisation of the other *Luak* — quite apart from the fact that any accession of Naning would make it necessary to rewrite the Constitution of Negri Sembilan.

An independent and impartial observer wrote at the time¹⁶² after an interview with the Resident Commissioner that

...certain unexpected complications have already arisen, as for example, the claims of the Dato' Naning, the traditional head of the small Naning sector of the Settlement, that regional sovereignty over Naning should actually be transferred to him.¹⁶³

The visitor went up to Naning and called at the

...official bungalow — a two-storey concrete building built at a cost of M\$50,000 by the Malacca Government as a joint Naning Council Hall and Dato's Residency.

The Dato' told us that he and the Naning elders have made a series of representations to the British Crown and to the various commissions established to make recommendations regarding the future of Malaya. They have asked, in essence, that the traditional rights of the Naning community be given special consideration.

Whether this consideration would involve restoration of sovereign rights to the Dato' Naning as the traditional head of the community — making him, then, the equivalent of the Sultans and rajahs, or at least of the *adat* chieftains of Negri Sembilan — the Dato' Naning did not say.

The visitor referred to outside opinions:

The general impression in Malacca, however, is that what the Dato' actually seeks is recognition as ruler of the Naning community. That, and continuation of his M\$600 per month stipend and the various perquisites — such as bodyguards and a mileage allowance — afforded him in the past by the Malacca British authorities....

Malacca opinion was perhaps extravagant: while it was natural that the Dato' Naning (like Chiefs in Malay States) was concerned that his allowances and other perquisites should survive, it was not likely that he should expect somehow to vault into the ranks of rajas and Sultans, even of a mini-Perlis, with the coming of Independence. On the contrary, he seems to have aimed at recognition as the Undang and peer with those of Rembau and the other *luak*, which his early predecessors had been and which he saw himself in Naning terms. '...On these matters the Dato' did not comment; but he did express surprise that until the present time he had had no satisfaction whatever from Malacca, Federation or British authorities'.¹⁶⁴

The Dato' s complaint seems to have been justified. Lord Reid submitted the Report of his Commission¹⁶⁵ in 1957. It listed those who submitted memoranda and asterisked those who gave oral evidence in support: the Dato' Naning did both.¹⁶⁶ It devoted its Chapter XI to the particular problems of Penang and Malacca, and this made no mention of Naning. It appended a draft constitution for the State of Malacca,¹⁶⁷ and this too was silent. The Dato' protested to the Resident Commissioner,¹⁶⁸ who forwarded the protest: certainly a later draft constitution¹⁶⁹ repaired the omission:

Part IV

Naning Custom

34. (1) The governor shall appoint a person to the office of Dato' Penghulu of Naning in accordance with the Naning Custom, and the person so appointed shall hold office in accordance with that Custom

(2) Subject to the provisions of the Federal Constitution, the Dato' Penghulu of Naning shall be entitled to precedence after the Governor within the areas specified in the Second Schedule¹⁷⁰

(3) The Governor may consult the Dato' Penghulu of Naning, and the Dato' Penghulu of Naning shall be entitled to submit his advice direct to the Governor, on any matter which in the opinion of the Governor or of the Dato' Penghulu of Naning, as the case may be, is one relating to the Naning Custom within the areas specified in the Second Schedule

(4) Subject to the Federal Constitution and this Constitution, the Legislature may by law confer on the Dato' Penghulu of Naning other functions relating to the Naning Custom.

This eleventh-hour insertion was further amended before the Constitution and came into effect, and the Article finally read:

34. (1) The Governor shall appoint a person to the office of Dato' Penghulu of Naning in accordance with the Adat Perpatih Naning and the person so appointed shall hold office in accordance with the Adat Perpatih as followed by the people in the areas specified in the Second Schedule and which are referred to for the purpose of this Article as the Wilayah of Adat Perpatih Naning

(2) Subject to the provisions of the Federal Constitution the Dato' Penghulu of Naning shall be entitled to precedence after the Governor within the Wilayah of Adat Perpatih Naning

(3) The Governor may consult the Dato' Penghulu of Naning, and the Dato' Penghulu shall be entitled to submit his advice direct to the Governor, on any matter which in the opinion of the Governor or of the Dato' Penghulu of Naning, as the case may be, is one relating to the Adat Perpatih Naning within the Wilayah of Adat Perpatih Naning

(4) Subject to the Federal Constitution and this Constitution, the Legislature may by law confer on the Dato' Penghulu of Naning other functions relating to the Adat Perpatih Naning

(5) In this Article 'Adat Perpatih Naning' means the Adat as practised and accepted by the people of the Wilayah of Adat Perpatih Naning (which is a custom having no connexion with law)

The Second Schedule remained the same.

The changes were more than a matter of alternative wording. The use of the phrase 'Wilayah of Adat Perpatih Naning' four times emphasises the entity of the area, co-terminous with the Custom — and recognised in the supreme law of the new State. Whatever were the arguments put forward for the change in drafting, comparison between the two versions shows a shift, whether intentional or not, from establishing the position of the Dato' Naning to enshrining that of the Adat itself in the Constitution. 'Wilayah' is an imprecise term, imported from Arabic,¹⁷¹ but it is well understood to mean an area with its own distinguishing characteristics, neither an administrative District nor a territorial unit. The obvious Malay word was '*Luak*', but this was presumably not used because of its connotations in Negri Sembilan, where they are distinct territorial divisions under Undangs, who with the Yang di-Pertuan and the Tengku Besar of Tampin collectively are the formal Ruler under the State constitution. The phrase 'Adat Perpatih Naning', used seven times, also has

wider overtones than 'Naning Custom', and links it to the Minangkabau-derived systems of Negri Sembilan and distinguishes it from them.

In the matter of succession as Dato' Penghulu, Section (1) seems to reserve power to the Governor, but the appointment has to be in accordance with the Adat Perpatih Naning. That Adat requires election by the Tiang Balai and Isi Balai, with *kebulatan* or unanimity: it would seem then that the Governor ordinarily has power only to recognise, unless the Chiefs cannot agree and support rival candidates; an appointment like that of Dato' Anjak by the Dutch would be *ultra vires* the Governor. This blurring of the difference between appointment and recognition goes back to 1801, when Naning Chiefs chose Dol Said and Farquhar appointed him 'Kapitan'; and while a refusal to 'appoint' would act as a temporary veto and produce no-one to approach or advise the Governor or carry out the duties under section (4) or draw the emoluments, such a refusal to make the appointment would not mean that the Rajah Merah would cease to be the Dato' Naning: that has already been amply proved. The Governor, in making the appointment, must act on the advice of his Executive Council: he has none of the discretionary powers of a Ruler in 'the appointment of persons to Malay customary ranks, titles, honours and dignities'.¹⁷²

The Dato' Penghulu of Naning holds 'in accordance with the Adat Perpatih as followed by the people', and so long as he conforms to the Adat his appointment cannot be revoked. In theory a *kebulatan* would depose him¹⁷³ and revocation of the appointment would automatically follow, but the Dato' Naning is not a Government officer and does not hold office at the Governor's pleasure. No doubt if there were a dispute there would be found lawyers to argue that the power to appoint includes the power to revoke the appointment, but if so explicit an Article had intended this it would have said so.

The provision in section (3) allowing the Dato' Naning to approach the Governor as of right on any matter he thinks related to the Adat puts him in a position unique in the State. Presumably the Governor refers such communications to the State Secretary or to Executive Council, as may be appropriate, but so far as Adat matters are concerned there is a line of communication outside the administrative and political networks.

BOOK TWO

THE CUSTOM

'Hidop di-kandongi adat, mati di-kandongi bumi'

'Living, we are swathed in the Custom;
dead, we are swathed in earth.'

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CHICAGO JOURNAL

Volume 1, Number 1

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Chapter 1

The Literary Approach

The description in the Malacca State Constitution¹ is more specific than the earlier statutory description,² but in day-to-day matters it makes little difference: in the mukims the reference is usually to adat without further description, but the terms *adat Perpateh* and *adat Naning* are used interchangeably.³ The full name is used only formally.

The *Adat Perpateh* has a long English literature, going back to Begbie⁴ — who dealt with the tribal Chiefs and their jurisdiction, and the succession of the Dato' Naning — and Newbold,⁵ who wrote of the same matters in greater detail. Both appear to have had access to official documents and both were on the spot: Begbie was in Malacca when Church returned from Naning and made his report, and Newbold was stationed in camp at Brisu in October 1832 when he accompanied Ibbetson to Rembau.⁶ The Company and the India Office were as incurious about the Custom as they were about other matters, but interest revived with Colonial Office rule and increasing British influence. Hervey when Resident Councillor Malacca wrote a note on Rembau, mainly on its myth and history,⁷ and perhaps a longer work,⁸ for Lister said that 'the origin of Rembau was thoroughly explained by Mr. Dudley Hervey in his valuable pamphlet on that State'.⁹ Martin Lister himself wrote on the 'Origins of the Negri Sembilan and their constitution'.¹⁰ and followed that with a description of 'Malay Law in Negri Sembilan'.¹¹

Lister isolated and emphasised the distinguishing characteristics of the *Adat Perpateh*.

The main law is the following

1. Orang semenda kapada tempat semenda
2. Anak Buah kapada Ibu Bapa
3. Ibu Bapa kapada Lembaga
4. Lembaga kapada Undang
5. Undang kapada Ka'adilan

1. The married man shall look to his wife's male relations for assistance in any question regarding his wife or her property
2. The people of the tribe shall look to the heads of families (elders) in each tribe for assistance in all difficulties
3. The heads of families (elders) shall look to the Lembaga
4. The Lembaga shall look to the Undang (Penghulu)
5. The Undang shall look to the Ka'adilan (Sultan)

He then took these sayings one by one, and made the point that all property went in the female line. He dealt with the extent of the wife's liability for her husband's debts, his inability to deal with her property, the necessity for formal declaration of the man's separate property brought to the marriage, and distribution on the death of the wife. He stated the responsibilities of Ibu Bapak and Lembaga and their relationship to each other, and of the Lembaga to the Undang, with the powers of each. He briefly described the electoral system, and set out the Chiefs and their hierarchy; and he mentioned how serious a crime it was to marry within the tribe.

His second paper approached the subject from an angle different from that of the first — 'which was sketchy and in many points inaccurate, and...not written for publication in a Journal'¹² — and dealt with disputes and decisions, and the importance of following the rules of the Custom; and he commented on a subject which has concerned many later writers and is alive today:

It must be borne in mind though, in connexion with all these customs and laws, that Muhammedan Law is always present and is enforced in many cases, but it requires careful handling. Nothing is more distasteful to the people than that Muhammedan Law should be applied where custom provides the remedy....¹³

Lister's translation of his 'main law' points 1 and 2 is too limited, and 'to look for assistance' perhaps gives a wrong impression; and there are signs of a Victorian condescension — 'a quaint custom is that of gelaran...the workings of a curious constitution' — but his main theme was the importance of understanding,¹⁴ observing and maintaining the Custom.

Nothing can be more dangerous in these States than for anyone to practise what we call patronage....To say "I want this man as Chief. He is intelligent and can read and write and I won't have this ignorant dirty-looking individual"...throws the whole system into chaos...and the intelligent writing and reading man imagines that he has more power than he really has because he has been selected above all others regardless of custom, and before long the whole tribe is up in arms, generally justly, at his doings and he has to be dismissed.¹⁵

Bland, *en poste* at Kuala Pilah in 1895, wrote on 'Atoran Sungei Ujong'¹⁶ His account has Sultan Abdul Jalil of Johore transferring suzerainty of Sungei Ujong, Johol, Naning and Jelebu (but without mentioning Rembau) to Minangkabau, and the four Penghulus eager for the laws of Minangkabau — which Rajah Kasah, Rajah Adil and Rajah Khatib all

failed to introduce, so that Rajah Melewar came. The four Penghulus told him that they desired the laws of To' Perpatch, and the edict was brief:¹⁷

Thus was the law laid down by Raja Melewa. In the first place, it was ordained, that a man who marries should refer as to his wife's property to his wife's relations (*tempat semunda*). Secondly, in case of divorce, the property must be divided: the wife's property to be returned (to her family), what remains to be divided between the two. Thirdly, he who wounds shall be wounded, he who kills shall give a life in compensation (*mati Berdendang*). Fourthly, inheritance shall not be through the children (but through the brother's children) and the waris on the female side shall succeed in turn (*bergelar*). Fifthly, compensation shall not be sought from a man's children but from his blood relations on the wife's side.

Thereafter, Raja Melewar conferred titles on the four Penghulus, the Chief of Naning being called Orang Kaya Maharaja Murah. Bland obtained his information from Dato' Maharaja Haji Bakar, Lembaga of the Waris di-Ayer, at Labu; and whether through difficulties of comprehension or translation, the fourth and fifth points, at least, raise queries. Inheritance through the brother's children is wrong, even by the rest of the sentence, with an apparent confusion of *giliran* and *gelaran*; and it is difficult to see how a man can have blood relations on his wife's side. Historically speaking' Abdul Jalil ruled in Johore from 1699 to 1719,¹⁸ Raja Melewar arrived *circa* 1776,¹⁹ and the Raja Merah had already appeared bare-headed in Malacca in October 1646.²⁰

Lister's papers were followed in 1899 by Hale, then District Officer Tampin and in charge of Rembau and Gemencheh. His contribution²¹ was to set out eighteen *bilangan*, or sayings, with a free translation and a commentary on each.

He began with the theoretical ownership of land by the Sakai, the areas settled by the (Minangkabau) Malays and their alleged payment for them, and the evidence necessary to prove occupation; then followed the recitation of allegiances, to Johore, Siak and Minangkabau, and the jurisdiction of elder, Lembaga and Undang. Next, he dealt briefly with the division of property on divorce, the wife's relations' liability for debts, the general position of a man under the Custom, and sanctions on crimes. There was some overlap with Lister's work, and a variant of his 'main law', but Hale extended what Lister had said and the value of his work was to accept and consider Malay statements. He did not find any custom 'quaint' or constitution 'curious' but he was a foreigner looking in: he found the Custom archaic and perhaps misunderstood it in part.

...Rembow customs have greatly changed, and in the laws of inheritance follow the code of Islam, so that a man's children may inherit his property instead of his wife's relations. In spite of these decided advances made by the clever Rembow people they are still behind in some matters: for instance, the law of marriage is still the law of exogamy in force amongst savages....²²

The contrast between these various papers and the work of Wilkinson²³ and of Parr and Mackray²⁴ a decade later is remarkable. It is perhaps significant that the Government of the Federated Malay States authorised — and provided money for — 'Papers on Malay Subjects' published by its own Government Printer; and it was fortunate in having Wilkinson to write many of the earlier issues. He wore his erudition lightly and wrote lucid English gracefully; while he was aware of the individual trees he could stand back and see the wood whole, and in his section on the Adat Perpatih²⁵ he takes the reader from the lecture room or Magistrate's Court into the kampongs and sawahs.

He defined Adat:

Adat is right procedure. In all matters there is a right way of doings and a wrong way of doing things: *adat* is the right way....*Adat* includes the laws of nature, the conventions of society, the rules of etiquette and even the doctrines of common sense. *Adat* is right action in matters of everyday life as well as in obedience to the laws of the land. The English word "law", as defined by a great jurist like Austin, is *adat* in a very limited sense indeed....Law lies at the very heart of *adat* but is not co-extensive with it.²⁶

The Adat Perpatih is all this, in the manner practised by the descendants of the settlers from Minangkabau, and the Adat Perpatih Naning is all that as applied in Naning, developing differently there from its forms in Negri Sembilan because of the effects of historical events. The similarities, at least in ordinary domestic matters, are greater than the differences; the characteristics of humanity and simplicity which Wilkinson emphasised²⁷ are of course general. The spirit and pervasiveness of the Adat Perpatih had not been set down in English earlier, and nothing since has improved on it.

Parr and Mackray's long and detailed paper²⁸ appeared two or three years later, and its form, tone and limitations were largely dictated by its origin. The British Adviser had asked them to prepare a summary of Rembau custom relating to land tenure, marriage and divorce, and inheritance; the writers decided to add a short sketch of history and constitution. They consulted Humphreys, then District Officer at Alor Gajah, on

particular customs in Naning. Their paper was thus an official memorandum on specific points of importance to the administrative machine, with glosses on related topics; like Lister's first paper, it was a statement of basic fact (once the historical prelude was out of the way) and principle for the instruction of Government officers from His Excellency down to the newly-arrived cadet.

The kernel of the work is its Appendix I,²⁹ a collection of forty eight *perbilangan* with translations, references to the text derived from them, and notes. From these sayings and the detailed list of Chiefs (Appendix III) and tribes and sub-tribes (Appendix IV) they worked out their account of the tribes, the rights of tribal members, the effects of the rule that men married into another tribe, and the concentration on matrilineally-held rather than family-held property. This led to a consideration of the hierarchy of tribal, sub-tribal and matrilineal-group elders, with their jurisdictions, the limits on them, and sanctions on exceeding these limits and also for failing to exert their respective authorities. Their examination of the rights of property and inheritance followed the method and led them, for example, to the principle of *balasan* — restitution — following a homicide whether wilful or accidental, and the reasons why the female *waris* were liable for an unmarried man's debts. In considering marriage and divorce, they proceeded from the fact that the ordinary marriage was a contract between two tribes (as well as persons) to considering irregular marriages when tribal approval was not forthcoming. Most of their 'sayings' are known throughout the Perpatih area; and many, including Lister's 'main law', could be heard on the lips of Naning elders. Some are allusions to a forgotten history, much as the nursery rhymes 'Little Jack Horner' and 'Ring-o-Ring o' Roses' derive from the Dissolution of the English monasteries or the Great Plague; a few, notably those referring to the Biduanda and *tanah tebus*, have no relevance to Naning.

Parr and Mackray's paper was the basis, and the model, for most of the later work in English on Adat Perpatih and Negri Sembilan:³⁰ it is inductive, with an implicit assumption that the matters of tribal hierarchy, tenure of land and moveable property, and distribution on death or divorce are what make up the Adat: there is flesh on these bones but the breathing body is less apparent. However, a minority of later writers was content to do what Parr and Mackray had done as their first step in erecting their constitutional apparatus, and let the Malay words speak for themselves through translation and explanatory comment.

Humphreys' 'Collection of Malay Proverbs',³¹ published in 1914, consists of one hundred and forty-nine proverbs or *bilang*, of which fifty-seven³² were 'collected' by him as District Officer Alor Gajah in 1907

and 1908. Of these, eighteen deal with marriage and family topics and thirty-nine with the administration of the Adat.

He followed this in 1916 with a Malay speech set down in romanised Malay, and translated. In his foreword he stated that he first heard the speech in 1908 at a wedding and heard it again in 1914 when the same man repeated it to him, unaltered, in Singapore, when he took it down. It consists of sixteen stanzas totalling one hundred and thirty lines. The first eight stanzas, mainly in terse two-word lines antithetically balanced in a insistent rhythm, state the spheres of the law of God, the law of the Prophet and the law of tradition, and the working of the Custom. The remaining stanzas, in lines of a more rolling metre, describe the acceptance under the Custom of a bridegroom into a family, and the provision for him, 'set aside for him with sincerity and general agreement', as best the family can manage. Next follow the duties towards children, and their education as they grow, until they are marriageable. Finally come the negotiations for a bride, or from the bridegroom's family, the formalities of the offer and acceptance, and ceremonial tender to the elders of the wife's family.³³

Humphreys provided a fuller *Teromba*, also recited at a wedding and from the same elder, in 1921,³⁴ but before that Caldecott — who had already produced an historical-analytical account of Jelebu, Sri Menanti and Jempol³⁵ — wrote down and translated a *Teromba*³⁶ and *Perbilangan Adat* from Jelebu. These were published in 1918,³⁷ with a preface and some notes by Winstedt, who genuflected to the earlier writers, mentioning Lister's 'careful articles', Parr and Mackray's 'exhaustive *Rembau*', Wilkinson's 'extraordinarily illuminating introduction', Humphreys' 'Proverbs and excellent Malay Speech' and, more tepidly, to Caldecott's own 'adequate history', though he later described this *Teromba* and *Perbilangan* as 'a particularly good set of sayings from Jelebu and a particularly good translation'.³⁸

Caldecott's *Teromba* consists of two hundred and one lines, in three parts. The first eighty-three lines describe the legendary history from the days before Allah was known to man, when Adat established itself as adat Temenggong along the coasts and adat Perpatih inland and in the hills, in Pagar Ruyong and Siak. Its sketch of the first settlements is cinematic: '... — a strip of root severed, a clod of earth turned back on itself, a tree felled: the tree for a barrier, the clod for an embankment, the root for tying together; the land flat, the embankment straight, people many and rice flourishing....' and ends with the Raja in his kingdom, the penghulu in his province, the tribes in their areas, the elders with their followers and the people in their (twelve) tribes, living all together.

The second section, of sixty-five lines, echoes passages in the first section and extends them to describe allocations of land by the proto-Malay Batins and Biduanda, redemption of the land by the Undang, and boundary-fixing by the tribal Chiefs. It ends with a fuller picture of the settled community as a unity, living close together, making requests of each other, keeping an eye on the sick and the faint, with one privy over the stream for all to go to, one well as the bathing-place, one open space for games and amusements, with level land and limpid water, and an agreement that was entire.³⁹

The last fifty-three lines are a recapitulation of the themes of the first two sections, and end with an invocation to the glories of Minangkabau and the kingdoms which acknowledged the supremacy of Pagar Ruyong.

The *Perbilangan Adat* is a sophisticated work. The disconnected saws and adages quoted by Parr and Mackray and by Humphreys barely appear.⁴⁰ It consists of three hundred and sixty-four lines in sixty-five stanzas, some mere couplets but one as long as twenty-five lines; and it is a conspectus of the Adat, beginning in the mountains of Sumatra and ending with the fines incurred on breach of promise. It covers the spheres of various gradations of authority and the proper way to invoke them, the distinct positions of all individuals in the society in which they find themselves, the responsibilities of the authorities and their prerogatives, the duty of obedience, the importance of unanimity, and the foundation of the Custom upon agreement. Custom is applicable in day-to-day life, and disregard of it brings its penalties. It comprehends natural law, the law of God and the law of man; each requires a different sort of evidence, and it details twelve events which are circumstantial evidence of other crimes. It deals with the sufficiency of evidence and the duty to consider it all, for justice but not revenge; it states the correct levels at which cases of varying complexity should be heard, and the limits on sanctions which can be imposed at these different ranks. It details the twelve capital offences against the Custom, and the sanctions in homicide; and it passes to offences against sexual morality. It goes in detail into the rights of property vested in different sections and grades of the community (with a considerable saving for the Biduanda), and the restrictions on its disposal once it has been inherited. It mentions the requirements for the election of Chiefs and elders. It states the conditions for betrothal, the position of the married man in his wife's family and how they treat him and are responsible for him, and then — because of the five types of husband, two are unsatisfactory — moves to division of property on divorce. It considers the education of children until they are marriageable and, when they are, the marriage contract and liabilities for the marriage, and penalties if either side should break that contract.

Humphreys' 1921 *Teromba* — 'A Naning Recital',⁴¹ came from a Malay text which was apparently a written version, perhaps recently made, of a traditional speech. It begins with six *pantun* (quatrains with alternate rhyme) as an introductory obeisance; then follow stanzas each in the form of a question or statement and the response to it. Four recite the ancient Custom; sixteen recall its ancient history and how it spread to Pagar Ruyong, with the legendary division into Adat Temenggong and Adat Perpatch; four describe the diffusion of Adat Perpatch from Pagar Ruyong, and life under it; and the last seven stanzas return to the origin of the Custom and embody *bilangan*. Mood and metre then alter: six *pantun* and two short stanzas pay compliments to the beauty of the bride, and allege the unworthiness of the bridegroom, and a final section of two stanzas recites the marriage custom and the formal requirements of a marriage contract and declares readiness to fulfil them.

In 1928 Hyde provided another *Teromba* from Naning.⁴² This is a prose work, a chronicle against the epics of Caldecott and Humphreys; it goes further back, to Alexander the Great, and brings the story down no nearer than the foundation of a capital and palace in Sumatra and the appointment of Temenggong and Perpatch and the consequent establishment of the differing adat. It leaps in two lines to the links not only with Minangkabau and Johore but also with Jelebu, and ends with a declaration that the ancestral Custom of Rembau and Naning cannot be altered, and that anyone who tries to change it will undoubtedly be destroyed.

These *Teromba* and their associated *Perbilangan* all obviously derive from the same origin, with internal variations to suit the occasion and place of their repetition. Humphreys paints the scene when they were disclaimed: they were 'originally intended for singing or recitative, with a beat of the drum (*rebana*) on each accented word'.⁴⁴ In a valuable 'Note on the Pantun and prosody of the *Teromba*' he compares the 'Naning Recital' (and therefore the others) with *Beowulf* or *Piers Plowman*:⁴⁵ another analogy is to the *Iliad*, with bard after bard crystallising a spoken version, adding phrases which successors incorporated if they were felicitous and abandoned if they were lame or inappropriate to the audience. The words were learned by heart: Humphrey's informant Ungkai Lisut repeated the wedding speech three times, twice in 1908 and once in 1914, and all versions were virtually identical;⁴⁶ when he went through the 'Recital' to Humphreys his memory elucidated the faulty text of a 'tattered manuscripts'.⁴⁷ The speeches were a formal part of a ritual: the 'Wedding Recital' was delivered at an important wedding at Alor Gajah when Ungkai Lisut was called in by another clan to act as rhapsodist-opponent against the orator of the other side, imported from Brisu.

The content is inseparable from the form: incantatory history and proverbial law are mixed in a revelation nearer in spirit to Chapters 19 and 20 of the Book of Exodus than to anything like the Indian Penal Code. Internal evidence suggests a late date for the versions as they appear, placing them in the last quarter of the eighteenth century and (in some versions) even later, but there are references which carry over from an earlier period. The 'Naning Recital',⁴⁸ and Parr and Mackray⁴⁹ both have the *Minangkabaus beraja ka-Johor bertali ka-Siak* — subject to Johore, allied to Siak — at a time before 1756 ceded the suzerainty of Naning and Rembau, at least, to the Dutch.⁵⁰ Hyde's 'Naning Teromba' refers explicitly to Johor Lama and also to the alliance with Siak: Parr and Mackray relate the connexion with Siak to A.D. 1672 and the journey of delegates thither to obtain a Raja from Minangkabau, but it seems as likely that it was a proud reference to the glories of the Minangkabau empire⁵² of Raja Kecil between 1718 and 1746, in which those established in Naning and Rembau could claim a share. All the *Teromba* celebrate the Minangkabau ascendancy and circulated across *Luak* boundaries:⁵³ the Naning 'Recital' and *Teromba* refer to the *balai* in Rembau, Jelebu and Johol and fail to describe one in Naning; the 'Recital' names of Chiefs of the other States but not of Naning; all refer to the trees with iron steps for collecting honey, the materials of the first palace at Pagar Ruyong., and the (un-Malay) execution of the craftsmen who built it. Hyde's *Teromba* speaks of the customary proverbs of Rembau and Naning⁵⁴ which cannot be altered, and it and the 'Recital' claim Naning as the ancestral origin of the other States, notably Jelebu: *bermak ka-Naning berulur-jumbal ka-tanah Jelebu*.⁵⁵

The major later works on the Adat Perpatch, particularly in Rembau, derive from the conclusions which Parr and Mackray drew to postulate the law of property and of marriage and divorce. Taylor's 'Customary Law of Rembau'⁵⁶ was prompted by administrative considerations, like the papers of Lister and Parr and Mackray: the Commissioner of Lands told the British Resident of Negri Sembilan that he was 'somewhat shocked' to find that Land Office decisions on land in that State affected by the Custom were not recorded and used as precedents, and the Resident ordered that such records should be kept. Taylor, then A.D.O. Rembau, began work on a full account 'so far as it could be determined with a reasonable degree of certainty' to answer the question 'What really is the Adat now?'⁵⁷ and for this he examined all recorded Land cases and categorised them. All cases were collected and reduced to a common form before any part of the treatise was written, and — with ample justification — 'it is claimed that this work contains an authoritative statement of the Custom of Rembau so far as it has been judicially ascertained'. Its form, following that of Innes on Land Registration,

...was considered the best adapted to the purpose of furnishing judicial officers with a systematic account of the *adat*, to which they might readily refer in the course of their daily work, and on which they might rely with confidence.

'Judicial officers' in this context included administrative officers in their capacity as Collectors of Land Revenue dealing with transfers and transmissions of land, and small estates below a certain value.

Taylor himself emphasised the limits of his work: 'differing in some respects from the cognate customs...in Kuala Pilah and Naning...so far as it has been judicially ascertained. ...customary law does not lend itself to codification, and there can never be any finality'⁵⁸ — but the clarity of its statement and the comprehensiveness of the cases it quoted have made it⁵⁹ the reference book which judges, Collectors and academics consulted in moments of difficulty if they knew the Custom, and to dispel their ignorance if they did not. It has led outsiders, despite Taylor's own warnings, to regard it as a statement of the complete Custom, concerned mainly with the acquisition and devolution of property, and the related matters of marriage, divorce and adoption.⁶⁰ Taylor's work, properly speaking, deals with the Adat Perpatih Rembau as judicially ascertained: that is, the Adat Perpatih as it is (or was) in Rembau. With this qualification, so far as any non-Rembau reader is concerned, the exposition of the 'matriarchal law'⁶¹ can hardly be bettered.

Before Taylor's further studies there were other contributors. Blagden wrote 'Notes on the Minangkabau Custom in Malacca',⁶² de Moubray produced his 'Matriarchy in the Malay Peninsula',⁶³ and Winstedt gave a separate chapter to the 'Minangkabau Polity' in his history of Negri Sembilan.⁶⁴ Blagden's paper cannot be considered a weighty authority:⁶⁵ it reads as though he came across notes for and on his Memorandum of 1893 and boiled them down without refreshing his memory from Parr and Mackray or Taylor. His information was derived from one man, Demang Japar of Bukit Senggeh, before 1900; and Japar was likely then to have been middle-aged at least, since he was a Demang.⁶⁶ The first statement deals with succession to land, and the rules of inheritance by next-of-kin varying as they were male or female or both; with restrictions on transfers to strangers; with the limited rights of sons; with incidental matters such as the descent of *kebesaran* and with exogamy. The second statement, 'probably also' by Demang Japar, laid down rules for the division of property other than land, and dealt briefly with property brought to a marriage and property acquired during it, and division at the end of a marriage whether by death or divorce. Blagden himself commented that one rule did not apply in the Naning area of Alor Gajah

District, and doubted whether another alleged rule existed. As a statement of the general Custom the paper is not helpful, but is of interest as showing variations in the Naning mukims of Jasin District at that time, particularly when read with a later statement by another Demang⁶⁷ given to de Moubray in 1926.

'Matriarchy in the Malay Peninsula' stands on its own: it is not an extension of a Government report or memorandum, nor did it derive its ideas directly from an historical account, although the author quoted extensively from Parr and Mackray. He had been Assistant District Officer in Rembau and then District Officer in Tampin, and he ruminated on and off for seven years on the Custom with which he dealt in his daily work: fourteen of his appendices relate to Land Cases heard by him. He recorded statements by six Chiefs and four locally-born Land Officers from Rembau as well as from a Chief and two elders in Naning, three Chiefs in Johol and three in Jelebu. He asked himself questions, and their answers raised further questions and linked in his mind with memories of Malabar and readings on Sumatra. The present writer is not competent to follow him to the *negari negari* of the Padang Highlands or to Canara and Malabar in India, or along the ramifications of the Joint Family in the latter areas; but de Moubray's description of the political and social structure in the matrilineal areas in and adjoining Negri Sembilan complements Wilkinson and Taylor, and Part III of his book (on detail of the Custom in those *luak*) with his appendices range over particularities, comparisons and queries for which Taylor's synoptic paper had no room. Winstedt described it⁶⁸ as 'a somewhat diffuse but thoughtful work, one of the best by an Englishman on the Malay matriarchy' (though regretably ignoring the Khassi of Assam); and he used it for his own 'Minangkabau Polity' in 1934.

This forms part of his 'History of Negri Sembilan' because without some knowledge of what he called 'mother-right', and the tribes with their laws of property and hierarchy, the later history itself would seem to be inconsequential and unintelligible. Little will be new to those who have read the works already mentioned, but his historian's sceptical eye picked out points they had not seen.⁶⁹

'Inheritance in Negri Sembilan'⁷⁰ in a technical paper, most fully appreciated by English-trained lawyers with a fairly intimate knowledge of the Adat Perpatih and of Enactments in force in, and sometimes peculiar to, Negri Sembilan — a limited group. The author, by then a Judge of the Supreme Court, was invited to advise on the administrative and legal consequences of the judgment in *Re Haji Mansur deceased*,⁷¹ which considered and did not follow a previous decision⁷² although this had been

followed in other cases⁷³ and adopted by Land Offices. *Haji Mansur's* case went before the Court not on appeal but on a reference by the then Collector of Land Revenue Tampin. He submitted, 'with respect', that in effect three separate Judges had misdirected themselves as to the effect of a Section, 25, of the *Negri Sembilan Customary Tenure Enactment 1926* as amended; and so the Judge found. The Enactment provided for protection by endorsement in the Register as 'customary land', of ancestral land held by members of tribes in the Districts of Tampin, Kuala Pilah and Jelebu. The discarded judgments, and several Land Officers before and after them, had unwarrantably deduced from Section 25⁷⁴ that if there were no endorsement the *Hukum Syariah* Muslim laws of inheritance must apply. The Probate and Administration Enactment referred to 'the rules of Mohammedan law as varied by local custom',⁷⁵ a phrase which would come trippingly off the pen of a Western legal draftsman but which, Taylor pointed out, should in the interests of accuracy have read 'according to ancient Malay custom as varied by Mohammedan law where the latter has been adopted'.⁷⁶ The decision in *Mansur* found, to quote the headnote, that 'the absence of the words "Customary Land" does not prove that the land is not occupied subject to the Custom...As regards land occupied subject to the Custom...the customary law of succession still applies...'⁷⁷

In his commentary on the cases cited, Taylor made other points which may float over the head of the general reader but which are cardinal to the practitioner, whether judge, advocate or administrator. He distinguished between tenure and inheritance⁷⁸ and showed that all land is held on a statutory tenure: restrictions whether on sale or inheritance attach to the person and not to the land: the very title 'Customary Tenure Enactment' was a misnomer for 'Tribal Caveat Enactment'. The Customary Tenure Enactments of 1909 and 1926 and the 'Small Estates' Chapter of the Probate and Administration Enactment were procedural, not administrative law.⁷⁹ The distinction to be made, in considering what personal law applies, is that between Adat Perpatih and Adat Temenggong (or Adat Melayu) and not between Adat and *Hukum Syariah*.⁸⁰ It should be noted that in Naning matters this work of Taylor's is persuasive and not authoritative because of the different laws which obtained in what were then the Straits Settlements; but his draft Rules of Descent⁸¹ in his Recommendations would, with one reservation, be acceptable in land distribution cases in Naning.

Hooker's work on the Adat Naning⁸² follows Taylor's on Rembau, with a backward glance at Parr and Mackray. A comparative lawyer and a distinguished academic, he set himself to study the interaction of the (somewhat modified) English legal system, adat, and religious law; and to

consider a legal system — expressed through judicial decisions, statutes, and State constitutions — as the framework within which adat can be seen operating. He set himself distinct terms of reference and limits, for anyone dealing with Adat Perpatch becomes aware that it is as intricate as a cobweb: if one strand is touched, others quiver, and if one filament is removed an adjoining segment changes shape. His self-limitation, in the main, to documentary sources led him for the purposes of these works to concentrate on the tribes and sub-tribes, the hierarchy within Naning, a hesitant acceptance of Blagden's fading memory of disputable statements, and such judicial decisions as exist relating to a community where compromise and satisfaction were the habit of mind rather than contest.⁸³ He wrote after the constitutional changes of 1957, and his examination of their effects takes the reader into a new field. The 'Personal Laws of Malaya' was written 'in the hope that it will be of use to the Malaysian practitioner' and in general recasts from that standpoint the statutes and decisions examined in the earlier book. It follows from his premises and framework that he was concerned mainly with political organisation and matters of what he called 'land tenure', and indeed he rejected Minattur's⁸⁴ view that 'one does not learn the rules of Naning games in London's Lincoln's Inn Fields'.⁸⁵

Chapter 2

Village Authority: the Family and Clan and Their Possessions and Inheritance

What then were the 'rules of Naning games' in *circa* 1955, just before the advent of the independent nation-state with its own forms of change?

In the Naning mukims a Malay child was born into the mother's tribe and sub-tribe, and usually in the mother's house, unless both parents were recognisably interlopers who held themselves dissociated from the Custom. These non-Naning families were comparatively few and in theory transient; they included such persons as Government servants and their wives, posted to the area and liable to transfer out. The Custom of the wife was the touchstone: men coming to Naning and marrying its women accepted the Adat, whether formally by being adopted into a tribe or tacitly by acquiescing in the wife's family's predominance in the incidents of family life.

The small child's world was matrilineally¹ shaped. Father and mother had authority — *perintah* — over the child, and both concerned themselves with its upbringing and behaviour: it would be a mistake to suppose from such sayings as *Orang semenda pergi kerana suroh berhenti kerana tegah*² that husbands were Gibeonites condemned to be hewers of wood and drawers of water. To some extent the father's authority was derived from Muslim law and his position as *wali*, but this seems to have been a rationalisation and *perintah* sprang naturally from the ordinary behaviour of parents towards their children. The significant characteristic of family life under the Adat Perpatih was that the mother took it for granted — because of her upbringing, and her possession of property — that she had authority, and the husband accepted it. The relatives who came in and out of the house, and who lived near by, were the wife's family, her mother and sisters: the dominant male figure in the group was the *kadim-kedas* (or in local speech the *kodim-kodek*) — the elder, an uncle or great-uncle.³ The child lived among its maternal relations and saw them defer to a maternal relation: the bond was membership of that family group.

That group was matrilineally defined by four generations: the child itself; the mother — *emak* — and her brothers and sisters, who included half-brothers and half-sisters by different fathers; the grandmother, *puan* — and her brothers and sisters; the great grandmother — *nenek* — and hers; and the great-great-grandmother, *moyang*, together with their

issue the cousinage, near or remote. It assembled, to a greater or lesser degree, at the various *kenduri* in the normal pattern of family life — at circumcision of youths (when two goats were killed), and the girl's incision (when there was one goat), betrothal, death, the seventh month of pregnancy, or the first cutting of hair; it met again for the *kenduri* when a house was to be built (again with goats slaughtered to provide the meal) and the religious occasions of *maulud*, *mitrat*, *nafsu* and the breaking of fast on the twenty-sixth night of Ramadan.⁴

Usually the child learned only incidentally of the sub-tribe (*perut*) and tribe to which the family group belonged⁵ and perhaps did not fully understand the ramifications until his or her own proposed marriage made the matter relevant: then it might turn out that the *perut* was not part of the four *suku* of Naning, but sheltered under the aegis of one of them. The *perut* and indeed the *suku* remained small in its organisation because the territorial subdivisions imposed by the Mukim organisation made administrative fragmentation into small groups unnecessary: the further subdivisions of *ruang* and *rumpun* found in Rembau⁶ were not known in Naning, though the terms were used to denote an imprecise family group.

Children grew up in a settled community. All the accessible land had long since been occupied and most of the smallholdings were already *pe-saka*, in the sense that they had been inherited. The hinterland had been developed as divisions of rubber estates already being planted for the second stands of trees, and the largest areas of jungle were the gazetted Forest Reserves at Ramuan Cina and Brisu in Alor Gajah District and Bukit Sedanan. Batang Melaka and Bukit Senggeh in Jasin District: these were protected as catchment areas of the rivers which flowed through Malacca territory rather than for timber extraction. The Malacca State Government reported in 1957 that there were two areas available for Land Development Schemes, one in Brisu, Lendu and Masjid Tanah and the other in Kemuning and Tebung, each with an aggregate of something over two thousand acres, and that was all.⁷

It was not a society of bucolic yokels. Each mukim had its Malay Vernacular School, built with Government funds and staffed by Government-trained and Government-paid teachers; education was compulsory for all Malay boys and girls living within two miles of a school. Government emphasis on educating girls as well (in both senses) as boys was a post-Second World War development, but most young and many middle-aged women were as literate as their menfolk, and it was unusual to come across a Malay man in his forties who could not read and write in the arabic and romanised scripts. The local coffee-shops usually took a copy of a Malay newspaper, which men — not women, who did not frequent these

shops — would read, even if cursorily. The 'Emergency' had stimulated the Government into issuing its own propaganda, or 'Information', disseminated by broadsheets, film shows from mobile cinemas, and radios in coffee-shops; and while Naning was 'White',⁸ the tide of information continued to flow. There was a degree of political organisation: the United Malay National Organisation had adherents in most kampongs and clubs or meeting-rooms in Alor Gajah, Pulau Sebang, Masjid Tanah and Lubok Cina. A regular bus service to and from Malacca ran along each of the main roads through Naning; some licensed taxis and 'hire cars' and probably as many 'pirate taxis' connected the kampongs with the main villages and crossed the areas between the main traffic routes. The electricity grid supply had reached Malacca Town, passing through Naning. Any idea that the Naning villager was *katak di-bawah tempurung*⁹ is wrong: he was subjected to the same sorts of selective and incomplete views and the same kinds of persuasion and manipulation, whether benevolent or exploitive, as a villager in Norfolk or Nebraska: he could swallow or disgorge or leave alone as he thought fit. Only in one way did the Naning villager fall behind his Western counterparts: he had no television to bring world actualities and fashions of behaviour, or packaged treatments of political and social questions, into his life.

In its susceptibility to outside influences and in its settled nature, Naning differed little from the rest of the Settlement of Malacca: in that same Paper which offered two areas in Naning for Land Development, the Malacca administration could offer only one more, near Kemendor in Jasin District. The kampongs lived under their Adat — Taylor's suggested 'Malay Custom as varied by Mohammedan law where the latter has been adopted' — whether in Naning or outside. In both the rites for circumcision, negotiations for marriage, and observances after a death were broadly the same; in both, the duties of all in preparing the sawah for sowing, and doing the work together, were generally accepted and carried out. In both there were three sources (sometimes with local additions) of moral authority: the Penghulu and his 'Sidangs', the Imam and his mosque officials, and the Headmaster and his senior assistants. The non-Naning Malay regarded the Naning Malays as different but not strange, and there was no sharp cultural boundary: in the adjoining non-Naning mukims there was a vestigial overlap. It has been noticed in Krubong,¹⁰ and Blagden recorded that half a century earlier the mukims of Bukit Senggeh, Selandar and Chabau used the Minangkabau dialect and observed female succession to land, while the mukims of Kesang, Ayer Panas, Rim, Jasin, Cincin and Cohong accepted devolution to females and males by agreement.¹¹

The difference between the Naning mukims and those south of them was shown by a tighter web of authority and a greater sense of communal responsibility. The southern mukims had their penghulus and 'sidangs': the penghulus were elected by the Muslim congregations at the mosques, and the 'Sidangs' were chosen, or nominated, by the (Malay) inhabitants of their *solok*;¹² in Naning the penghulu was elected but with the choice restricted to the *suku* next in rotation, whereas there was no rotation among the *solok* in the rest of Malacca. The Naning penghulu was usually the *tua* of the tribe next in the rotation, and was a 'Sidang' in the Mukim Council sense: ordinarily, he had already served as *buapa* before becoming the *tua*, chosen in both offices by his *anak buah*: there was no equivalent in the rest of Malacca for the Naning *buapa*.

The kampung families in the rest of Malacca were not 'nuclear families' in the western sense, for they largely lived and worked on contiguous plots of land and deferred to whichever senior male — grandfather or uncle or great-uncle — who best combined in himself the qualities of common-sense, experience and force of personality; but the cohesion was less. This seems to have been the consequence of four characteristics: the sources of example were more diffuse, being patrilineal as well as matrilineal and the boys at least copied their agnates; sanctions for breach or nonconformity were harder to impose and, as less clearly the expression of local opinion, were less effective; the mukim elders had a less personal influence over their *anak buah* because their link was territorial and not tribal; and there was a greater transferability of land because there was no equivalent of the tribe's right of pre-emption of inherited land.

The difference could be seen in the sawah in the padi-planting season. It has already been noticed that the Malacca Lands Customary Rights Ordinance declared¹³ that the customary landholder held his land subject 'to the duty of preparing the "sawah" for planting simultaneously with the other customary land and empowered¹⁴ the Governor-in-Council to make rules 'to determine the duties...and when and in what manner such...duties shall be...performed', and the appropriate rule was made in 1890. The dates were canvassed (and usually remained the same) at a Penghulu's Conference each year, and Gazette Notifications punctiliously published thereafter; and the District Officer, Penghulu and Sidangs, Land Office Clerk and sometimes the Malay Agricultural Assistant walked precariously along the *batas* to see that they had been repaired, or waded knee-deep in the swamps to check that minor irrigation channels had been cleared. The District Officer could bring proceedings under Section 7 where there was default or continuing default. Prosecutions were instituted in Alor Gajah District in 1947, and in Central District in 1951 and

1952, but for different reasons. The 1947 prosecutions, in the mukim of Sungei Buloh, were basically political: the local leader of API¹⁵ and his lieutenant ostentatiously left their wives' plots uncultivated, as a challenge to the authority of the penghulu and sidangs, and of the Colonial Government: the charges and convictions were an affirmation of that authority. The Central District prosecutions were admonitory, to encourage others, when after a warning the customary landholders failed to do the work and prejudiced the efforts of those who had done their part. In both Districts 'mukim inspections' came upon work which was insufficient or late: in Naning the Penghulu was apologetic to the District Officer and severe on the *tua/sidang*, who undertook that the work would be done, while in Malacca Central the Penghulu and Sidang of the *solok*, admitting the failure,¹⁶ pointed out the difficulties — absentee owners, fractional interests in a fragmented title, or that the errant landholders were wage-earners fully employed all week. Return visits in Central District almost always showed that the required work had been done: in Naning (except for the cases mentioned above) it always was.

The 1948 padi-planting season brought another example of communal action. Two or three men in the mukim of Lendu suggested to their neighbours that they should plant a strain of early-maturing padi, to allow of two crops a year. Such a strain had been developed in Kedah and had succeeded, at least under trial plot conditions, in the climate of that State. They persuaded enough of the *anak buah* and the elders for a meeting to be called: they invited the District Officer and Malay Agricultural Assistant. The M.A.A. gave the technical details of the Kedah experiment and results, with the caution that these were not necessarily valid for Southern Malaya; the District Officer warned that if the experiment failed the year's crop would be lost, at least in part. The Penghulu himself was against the plan: he was dubious about an unknown strain of padi and the different season in which it would be sown, and he appeared to resent a proposal originating from men of no position in the hierarchy. However, the various *tua* and *buapak* concurred with the majority of their *anak buah*, and the Lendu dates for the various works were duly gazetted¹⁷ as one month earlier than in the adjoining mukims, though not without some grumbling to the District Officer by a few of the older landholders.¹⁸

Children of course absorbed the adat from what they saw and heard or overheard on kampung life. Their mother and their aunts, her sisters, kept an eye on each other's children and on their own mother: if the grandmother were elderly or a widow or divorced, the youngest daughter or a grand-daughter might well live with her and look after her. This would include arranging, when necessary, for the cultivation of her rice land and

tapping any rubber trees she might have. Ploughing was usually done by the daughters' husbands, unless there were a son who had returned to his mother's house. Children saw and heard comparatively little about their father's brothers or the affairs of their paternal grandfather. Enquiries and disputes within the family group were settled by the '*kodim-kodek*' and within the sub-tribe by the *buapak*. Matters emanating from Government and notified to the Penghulu were passed on by him to the *tua* for the tribe's action, and the *buapak* of each sub-tribe was instructed by the *tua*. Organisation of the sub-tribe to do its share of communal works — *turun ke-sawah*, or clearing paths, or in such matters as building a *surau*¹⁹ — was the duty of the *buapak*, and within the *perut* or sub-tribe he acted on his own authority: his duty was to 'repair what was rotten and to straighten out tangled skeins'²⁰, in effect, to establish what the position should have been and to order such disposition as would put the parties as nearly as possible to it. The decisions were not 'delivered' or 'handed down' in the western sense: to the extent that the incidents had become items of kampong gossip, the decisions were discussed by the *anak buah*, with relevant though perhaps contradictory *bilang* quoted by the *buapak* and the commentators. There was little scope for perverse or autocratic behaviour: *yang dilantek boleh di-pechat*.²¹

Everyday happenings in kampong life also showed wide relationships, particularly between the *perut* or sub-tribe and the *suku* of which it was part. Children inevitably heard of the relationship of their *buapak* towards the *tua*: when the *tua* resigned or died they would see that his successor was *buapak* of one of the *perut* and might be their own elder, if that was how the rotation fell. This *giliran* was an implied statement of the equality of the various *perut* inside the tribe, and because a person belonged to one he or she was a member of the other. If there were arrangements to be made or disputes to be settled between two *perut* of the same *suku*, they were a matter for the *tua*, and the *buapak* were expert witnesses as to fact and advocates for their own *perut* but not more, although they might propose a solution on which they were already agreed for ratification by the *tua*. If an offer to marry one of the daughters of the family was received, the *tua* was their plenipotentiary dealing with the *tua* of another *suku*. If the bride's mother made an informal²² allocation of land to their sister for a house-site, the *tua*'s approval was necessary for tribal recognition, though he no longer came and knocked in boundary pegs. If a marriage ended in divorce, the *tua* of each side supervised, if necessary, the division of property; if the marriage was ended by the mother's death, the father might be invited back to his own tribe. In mukim life the other *suku* were neighbours and co-operators, but they were also contracting

parties in many kinds of agreement and this implied the exclusiveness of one's own *suku* and cohesion within it.

The individual thus took his or her place in the *perut* and *suku*, and usually in a circle of kin on the mother's side. Even when the individual was removed from the family group the link with *perut* and *suku* continued: a schoolmaster member of Mungkar, for example, transferred from one end of Naning to the other would introduce himself to the Mungkar *tua* or *perut buapak* of his new mukim and was accepted as *anak buah* on the same basis as Mungkar men born in the mukim, and his wife by the *tua* and *buapak* of her *suku* and *perut*. Individual members of the group were responsible to it, and it was responsible for them. They bore one another's burdens: *yang berat sama di-pikul yang rengang sama di-jinjang*.²³ This status was permanent until death: *suku ta' boleh di-aleh*;²⁴ and it gave equal rights: *dudok sama rendah berdiri sama tinggi*.²⁵

This attitude of mind led to two further ideas. Firstly it followed that acquisitions by a member of a family and *suku* enured for the benefit of that family and *suku*, at least when they had manifestly become permanent; and they became permanent when they had been retained through life and passed on to a second generation. This became the basic division of all property, whether moveable or immoveable, into acquisitions — *pencharian* — on the one hand, and hereditaments, *pesaka*, on the other, passed to a second or later generation, represented by the women who were the lineage of the family.

Secondly, the notion of an assured position of the family within the sub-tribe, and of the sub-tribe within the *suku*, implied that the tribes themselves in Naning, and later in the mukims of that District, must have the same assurance of rights and duties; and this impelled them to seek for concord and satisfaction rather than for retribution or deterrence in judgments on breaches of the Custom; to the institution of judge-arbiters above, and therefore disinterested in, the groups in dispute; and to rotation of office under the *giliran* among *perut* and *suku* at all levels except that of the Dato' Naning himself.²⁶

Whatever the anthropological and sociological origins of the Adat and life under it,²⁷ the development was a slow and unconscious business, with decisions becoming precedents and habits becoming customs. Despite the *Teromba* and the legends, there was no Minangkabau Solon or Naning Justinian, nor can there have been deliberations to establish an ideal polity: 'very few peasant proprietors take up the study of comparative jurisprudence as a hobby'.²⁸

The concept of *pesaka* was fundamental, and in Naning the word had its own mystique: that which was inherited had a sanctity about it, and the

longer it had been *pesaka* the more *pesaka* it was. It included land and weapons and titles and the right of succession to them all: it included traditions — *kata pesaka* were weightier than mere *kata*²⁹ — and represented the distinguishing heritage of the *luak* and *suku* and *perut*. This again was not peculiar to the Minangkabau Malays, and can be found in *Adat Melayu*; indeed it will be understood by any fourteenth Earl or yeoman farmer living in the house his ancestors had built or bought three centuries before, or by any Ivy Leaguer John Doe IV conscious of his namesakes before him.

Pesaka fell into one of only two categories: it was *pesaka waris*, inheritance of the family, until it had passed through three generations and was in the hands of the fourth, when it became *pesaka suku*, the inheritance of the tribe. A acquired *pencharian* which remained such until it passed on her death to her daughter, B. The property was *pesaka waris* in the hands of B and, in due time, of her daughter C. On C's death, the property passed to her daughter D, and in D's hands it was *pesaka suku*, and traditionally then it could then pass only to members of the tribe (and sub-tribe), whether on sale or death. Devolution normally was from mother to daughter, but the same rule applied when there was devolution to sons (for example, by agreement of the *waris* when there were no daughters): the property, once inherited, became *pesaka* with the limitations on transmission that this imposed.

It should perhaps be emphasised that these were the only two categories of *pesaka*, for the expression '*pesaka perut*' occurred often enough to prompt the query whether this was in fact a further form. It was not, and the momentary confusion arose from the use of *perut* in one or other of two ways: it could mean 'descent' or 'family group' as a synonym for *waris*, or it could be a further limitation of the unspoken word *suku*. Thus *pesaka perut* without more was *pesaka waris*, and *pesaka perut Kundongan* meant that the property was *pesaka* not only to *suku* Anak Melaka but further to the sub-tribe Kundongan, while *pesaka perut Tiga Nenek* meant that it was *pesaka suku* to a sub-tribe which was not a sub-division of a *suku*. Classification of *pesaka* into *pesaka waris* or *pesaka suku* was in all cases a matter of fact, and the test was whether it had been inherited by three successive generations. There was one exception: land could be 'dedicated' to the *suku* by earlier declaration in due form, and even immediately after acquisition,³⁰ but this was rare and none seems to have occurred in the Fifties.

The fact that land had become *pesaka suku* did not mean that all members of the tribe had an equal claim, for the rights of the nearer *waris* prevailed over those of remoter kin: the rule was that all *waris* of the same

degree of kinship had an equal right, exercisable only if *waris* of a nearer degree did not exist or renounced their claim. By the mid-Fifties there were so many members of all *suku* and *perut* that failure of female descendants — known in Naning as *ketulahan*³¹ — in the immediate lineage did not exhaust the class of claimants, and there was not — nor could be — any such thing as *pesaka gantung*,³² although there might well be an arrangement approved by the *tua* by which males acquired a life interest³³ or were paid off.

The inalienability of *pesaka suku* and its permanence as the endowment of the tribe,³⁴ led to the requirement for *ganti pesaka*. If for some reason *pesaka suku* had to be sold or surrendered, it had to be replaced by other property in which the *waris* had their interests in remainder. Sales were permitted for certain specific objects, one of which was to finance a pilgrimage to Mecca;³⁵ but any surplus of proceeds was supposed to be spent on replacing the lost *pesaka* and was not cash in the vendor's hands. The Malacca Lands Customary Rights Ordinance, Section 10 (introduced to deal with non-Naning land near Malacca Town) empowered the Governor-in-Council to terminate customary rights in land used for building purposes, after which the Collector issued a grant or lease to the registered landholder if he or she made application within three months; and it seems to have been assumed by judges and administrators that the new title would be free of any limitation to the *suku*, and could be conveyed or assigned to any purchaser at unrestricted open market value. It is difficult to discover any basis for this view: quite apart from the effect of Section 5 with its wide saving of the Naning Custom, the Crown Lands Ordinance, (Cap. 113 in the 1936 Edition) provided for rules imposing express conditions, and a condition limiting disposal to members of the *suku* presented no difficulty. In any case, the latter Ordinance dealt with a statutory tenure and was silent on devolution and inheritance: the point has never been argued in the Courts, but it is difficult to see how a Court could find that Naning rules of inheritance and preemption do not apply to land held under one Ordinance but do apply to it when held under another. Whether the assumption was correct or not, the proceeds of any sale which took place should have been used to provide a replacement, *ganti pesaka*.

Pesaka, therefore, was the entire inheritance, and any restriction of the term to land held analogously to entail in tail female, or to right in distribution of property at death, is to undervalue and misapprehend the whole concept. It was the assault on *pesaka* which outraged Dol Said in the matter of Surin and the *duku* orchard.³⁶ Unless the Dato' was lying flatly in his three letters when he stated that the land was in Naning and was *pesaka*, Garling's letter of 4th November can only have struck Dol Said as

a spurious pretext for an assault upon the integrity of Naning and the basis of its polity, let alone upon the inherited Chieftainship of the Dato' himself.

Every aspect of kampong life was informed by the principles derived from these basic traits, increasingly complex rules to deal with the vagaries of family life — marriage, divorce, death, adoption, and the disposition of property, whether acquired or inherited and whether on death or divorce — became established and settled. The organisation for dealing with them developed as the matters themselves became more involved. It took care of competing claims within the mukim, and between two mukims; it provided for rules of evidence and decision, by an arbitrating form of judgement; it produced its sanctions. By the accident of history it remained largely self-regulating inside its society, and this in itself provided for change in changing circumstances.

This has been described as decay. Blagden in 1930³⁷ said that in the northern mukims of Jasin District the Minangkabau Custom was (in 1900) 'very tenacious and there is no reason to suppose that it will be abandoned in any near future' but went on to list twelve rules of succession (given to him by Demang Japar) and six on alienation and proprietary rights which showed that there had been a very considerable deviation from the rules: he himself noted five, and there were others. Humphreys in 1914 wrote that 'the Custom today surviving in Naning is but a maimed fragment of the Adat Minangkabau'.³⁸ Taylor, writing in 1929 of Rembau over the Naning border, commented that 'the general tendency of the British administration has been to relax, rather than to intensify, the strictness of the Adat',³⁹ though he immediately went on to say that the Custom was maintained because the people themselves clung to it. de Moubray in 1931 gave an introductory sketch of the social and political structure (in Negri Sembilan rather than in Naning) as it was before British intervention, and deduced two 'dynamic' principles leading change, one of which was the rubber boom and its effect on the economic life of the Malays; and he devoted a chapter to the 'Decay of Matriarchy' and development into what he called the 'parental joint family' — which he saw 'in the distant future dropping its remaining matriarchal features and becoming possibly the most perfect parental system'.⁴⁰ The comments of Taylor and de Moubray seem to have been always less applicable to Naning, and by the mid-Twentieth century the Adat Naning had absorbed land developed for commercial exploitation as well as for subsistence within its system, and remained free from the constriction of the statutory embrace of the Negri Sembilan Customary Tenure Enactments.

Chapter 3

Marriage and Marital Possessions

There was a taboo on sexual relations between 'brothers' and 'sisters' of the same tribe, whether following a marriage ceremony or as fornication or adultery: this was the *sumbang* — incest — listed¹ as one of the twelve major offences against the Custom. The prohibition extended to the entire tribe across the length and breadth of Naning: there was no equivalent of the marriage permitted between members of the same *suku*, provided that they came from different *perut*, found in some cases in Rembau.²

Membership of a tribe by matrilineal descent therefore meant that marriage between the son of one sister and the daughter of another was forbidden: they were members of the same *suku*. Marriage between non-uterine cousins, daughter of a brother and son of the sister, was permissible and in fact common. Similarly, the Custom allowed marriage between the children of brothers, but in practice this did not occur because of the Muslim bar, since under *hukum sha'arah* either brother might be *wali* of the daughter.

The husband therefore came, literally, from another tribe, into the wife's family: he remained a member of his own tribe but was 'attached for all purposes', to use military parlance, to the wife's family for the duration of the marriage. A proposed marriage was a contract between intended husband and wife, but it was also a matter over which the wife's family, in particular, exercised influence and control and it was an alliance, no matter on how insignificant a level, between the two tribes.

The initiative usually came from the (very) young man, when he was *akhir baligh*. He told his father and the elder of his mother's family the name of the girl or woman he wished to marry; if they agreed, they put the idea informally to her guardians — father as *wali*, and *kodim-kodek*. If these approved, the man's family met to consider the matter, with the father or *tua* presiding; at that meeting the guardian explained that the young man wished to marry that particular girl, who in most first marriages was younger than the proposed husband. If the elder and family approved, they then asked what *tanda suka*³ was to be sent, whether the *mas kawin* was to be paid over or left owing (and ordinarily by the Fifties it was paid over), and how much 'spending money' (*wang hantaran*) was to be promised. When these questions were answered to the satisfaction of the

meeting, the *tua* instructed two men of the tribe, as *menti*⁴ to approach the woman's family and offer the betrothal emblem and, if it was accepted, to ask when the marriage ceremony would be held. They had also to inform the other side of the amount of 'spending money' offered, and to say that the 'wedding gold' would be left owing, if that was to be the case. If the intended bride lived in another mukim, the young man and his family approached their own *tua*, who sent his *menti* to the *tua* of the wife's *suku* in her mukim.

The *tanda suka*, *mas kawin* and *wang hantaran* are part of Adat Melayu⁵ and are not exclusive to the Adat Perpatih. The betrothal emblem had to be something of value and was usually a ring, but was sometimes a brooch or bracelet. The 'wedding gold' is held⁶ originally to have been 'bride price', the payment to parent or guardians for the daughter: Parr and Mackray's suggestion⁷ that it was a payment to the tribe is an interesting assimilation to the Custom, but is not convincing. The payment had become identified with the *mahr* payable under Muslim law by bridegroom to bride; by the mid-Fifties it had become a gift, actual or promised, of money to which the wife became absolutely entitled at the latest on dissolution of the marriage by death or divorce. The amount had been standardised in Naning for many years at \$20 for many years, and was increased to \$25 in 1952.⁸ The 'spending money' or 'money sent' (*wang hantaran*) was the sum sent by the bridegroom and his family to finance the wedding ceremonies. These reflected the status of the wife's family, but there was an element of sumptuary control⁹ with the result that a scale became established.¹⁰

Formal tender by the *menti* from the aspirant husband's *suku* normally occasioned a meeting of the girl's family with their elders to discuss the proposal. The girl's own reaction was taken into account, though it was not the only or in some cases the major considerations; the ordinary circumstances of kampong life however gave opportunity enough for youths and girls to become aware of one another, and the proposal was rarely a surprise to the girl. The first decision was whether the proposal should be accepted, and this involved the 'suitability' of the match, not unlike the concern of Victorian western parents when an offer was made for their daughter's hand: they considered the status and reputation not only of the young man but of his family, which took into account his father and more importantly, his mother's family group. The approval of the *tua*, as guardian of the tribe's good name, was necessary. If the proposal were not welcome, the *tanda suka* had to be returned: if it were welcome, the conference then decided when the marriage should take place, how widely invitations should be sent out, and how many *telor merah*¹¹ and how much

*nasi kunyit*¹² should be prepared. Two *menti* from the wife's tribe were appointed, to meet the *menti* from the man's tribe and to return the *tanda suka* if the proposal were rejected, or to acquaint them with the decisions taken if it had been accepted. Acceptance of the *tanda suka* formally established the contract; and if it was breached later twice the *wang hantaran* became due from the defaulter. The basis of this was the proverb *menerima satu tangan tolak dua tangan* — 'one receives with one hand but pushes away with two'. There was no rebate if the bride was not a virgin.

The ceremony itself, whether grand or modest, followed ordinary Adat Melayu with its Indian pre-Muslim vestiges. The *raja sa-hari*¹³ came in procession with his relatives and friends, and these brought the *mas kawin*, *wang hantaran* and Khatib's fee. The *cincin tepak* — a tray with ring, *sireh*, clothes and the money, was presented. Two elders paid over the money to elders of the bride's side, and when this had been checked and agreed, the fee was paid over to the Khatib. The woman's *tua* with two independent witnesses and the Khatib asked the bride if she agreed to the marriage and when with eyes properly downcast she said she did, she was ceremonially washed and dressed, and the marriage recitals proper (*khutbah nikah*) were made. Thereafter homage — *inaikan*, painting with henna by the chief guests — was paid.

In Humphreys' earlier generation the proceedings were on occasion more extensive and formal:

...after the usual fencing, fireworks and show of resistance below the house, in which...some Hailam kulis gave an amusing display of Chinese boxing. Ungkai Lisut with several of his tribesmen led the bridegroom up the steps on to the verandah of the bride's house. The headman of her clan was seated at the far end with the party of the bride, and to him Ungkai Lisut addressed this recital, pausing after each period and putting his hands together in salute with each repetition of the words "Sembah Dato"....The recital was conducted with considerable solemnity, and was followed with close attention....On its conclusion the real wedding ceremonies were continued....¹⁴

This wedding must have been of a splendour well above the usual in its own day, and by the middle of the Twentieth century the solemn formality had largely disappeared, gone with the *teromba* and the fireworks (forbidden during the Emergency) and the Hailam coolies. Demonstrations of *sepak raga* were rare, but there might be a *ronggeng* or *joget* with professional dancing-girls who danced opposite the male guests.¹⁵ Strict procedure also had been relaxed, if it had ever applied in Naning, and time was not of the essence as Parr and Mackray stated it had been in

Rembau.¹⁶ There remained, however, the central ideas: that the man migrated and went to live with the wife's family; and that this was a matter between two tribes, duly ratified as such by the use of emissaries and the presence of elders. Even the most modest of families invited their *tua*, while those of considerable standing often invited their *Lembaga Undang*, the head of the tribe. In the latter case, the *Lembaga's* insignia, and particularly his pennant, had to be displayed; and the *tua* (and *Lembaga* if present) sat under the *tabir langit* or canopy.¹⁷ Employment of *menti* formalised the offer and acceptance, associating the tribe with it yet impersonalising it: third-party representatives could not provoke as violent an outburst of feeling in the woman's family if the proposal were unwelcome, or in the man's family if it were refused, as the parties themselves might have done. The pre-War *lanson bertandang* — 'visiting people forthwith' — when on the second day the new husband was taken formally to meet the wife's kin his *semenda* — was no longer usual, and the practice of giving him a new name or title, *gelaran*, had ceased.¹⁸

Preparations for the marriage feast were also indirectly a tribal affair: the amount of *wang hantaran* was not in itself a limitation. Apart from their own resources, the bride's family could rely on what they had 'planted out' — *tanam*. Those who might expect an invitation as of right as members of the *perut* or *suku* also had a duty to contribute, and the contributions were a return of the assistance they themselves had received. If Zabaidah had sent twenty eggs and a *gantang* of rice to Aminah when Aminah's daughter was married, Zabaidah could expect twenty eggs and a *gantang* of rice from Aminah or her daughter when Zabaidah's own daughter married: a record of these contributions to a wedding were kept by the *kadim semenda* or the *tua* as they were received, for return as occasion arose. There were of course defaults in the nature of bad debts, because of changed circumstances perhaps some years later when return of the contribution became due, but in general the system worked because a matter of honour was known to the elders of the family or *perut*.

The Adat Perpatih had long accepted that youth is impetuous, and that marriage is not always a matter for deliberative consideration; and it recognised two devices to cater for such events. If the man's parents, family and elders approved of the proposed marriage and he was acceptable to the girl's parents, to her father as *wali* and mother as immediate tribal relative, but was not acceptable to her *waris*, the issue could be publicly forced. The intending husband with a party of his (maternal and tribal) relations and an elder went to the girl's house and, with her parents' knowledge, went up onto the verandah¹⁹ and sat. The parents summoned the girl's *waris* and their *tua*, saying that a man had come, to *menyerambi*.²⁰

A conference took place at the house that night to decide whether the suitor should be accepted and, if so, on the other points. *Mas kawin* had to be paid in cash and could not be left owing; the amount of *wang hantaran* was fixed by the girl's parents and *waris*; the *tanda suka* had to be handed over then and there; and the date of the wedding was fixed. The man and his *waris* were fined one *bhara*²¹ for breach of Adat.

In the case that the girl's parents themselves did not approve of their aspirant son-in-law, he could avail himself of *adat merumah*. He entered the house itself, into the private rooms, and seized the girl: she then cried out for help until she attracted the attention of relatives or neighbours. When they were satisfied that she was suffering no harm, they sent messages to the man's family, to the elders of both tribes, and to the Penghulu of the mukim: when all had arrived the conference began. Meanwhile the man did not release the girl from his grasp. The *tua* of the girl's *suku* told the *tua* of the man's *suku* what had happened, and the decisions made were as directed by her *tua*. The *mas kawin* had to be paid over there and then, and *wang hantaran* in a sum larger than the usual scale was fixed. A Demang's fine was imposed on the man and his *waris*. The *mas kawin* and fine were paid over in front of the two *tua* and Penghulu, and only when this had been done and the other arrangements had been agreed did the man release the girl. The marriage ritual was then carried out by the Imam, in front of two witnesses and the girl's *wali*.

These 'irregular marriages', as Parr and Mackray called them, were similar to those they described in Rembau:²² *adat menyerambi* is the Rembau *serah menyerah*, and their 'marriage by storm' (*merumahi*) is the same: but the emphasis was different. In Rembau the man seems to have taken a considerable risk: he had to 'submit to whatever bodily castigation her relations inflict', while the Nanning descriptions imply collusive action by man and woman to create a scandal which only immediate marriage could repair. No doubt there were occasions when a passionate youth tried to seize the woman he wanted, but it is hard to believe that a man could hold a struggling woman assisted by her relations or neighbours. Parr and Mackray's 'marriage by surprise' — *terkurong didalam*²³ — was not regarded in Nanning as a separate category of 'irregular marriage' but as the consequence, worked out according to the normal rules, of coming upon a man and a woman in compromising circumstances. The *tua* of both sides were called, and the man detained as evidence that he had committed the alleged breach of Custom. The fine imposed was the ordinary fine, a Penghulu's fine, for that breach, and otherwise arrangements proceeded as with a man and a woman whose chastity was not questioned.

Parr and Mackray also quoted Humphreys as describing a further Naning form of 'irregular marriage' not known in Rembau. This was the marriage 'by robbery',²⁴ when the woman publicly exhibited some article of the man's clothing. Again, on examination this does not seem to be a separate category of 'irregular marriage' but a device by the woman to bring the ordinary adat into play without the man's initial proposal. Humphreys described one incident²⁵ when an unmarried girl went into a school and removed the cap of an assistant master from its peg, and this proprietorial behaviour persuaded the elders that there must have been intimacy. (It may be more accurate to say that it was an item of circumstantial evidence but that the girl was more convincing, under examination, than the *ce'gu*.)

Parr and Mackray also listed the 'conditional marriage' — *nikah ta'alik* — as irregular, though with reservations. The Naning formula of the condition was '*Ka-darat enam bulan ka-laut sa-tahun bespesan tidak berita tidak Tuan Kathi gugorkan satu talak*':²⁶ that if there were no instructions or news from a husband away six months on land or a year at sea, the Kathi should set divorce in motion. The classification does not seem appropriate: marriage with condition is a part of Adat Melayu with its Muslim ingredients; and the condition was imposed in Naning, and notified in negotiations by the *menti*, because of caution and doubt in the *waris* and *tua* rather than astuteness in the bride. A Naning man working in Singapore, or some State in the Federation, and returning to seek a bride, or a soldier or policeman liable to transfer, was obviously a greater risk, from the point of view of the woman and her *suku*, than someone permanently *anak buah* within the District.

There was however, one form of marriage outside the Adat: the Muslim marriage. The man and woman went to the Kathi and declared that they wished to be married, and he asked two questions — whether the woman was a maiden or a widow, and whether she and the man were related. If the answers satisfied him, and the woman had not been married, the Kathi asked where her *wali* lived, and sent a messenger to summon him; he also sent for the mosque officials. When they were all present, the wedding recitals were read in front of two witnesses and the *wali*. A marriage in this form was not necessarily intended as an evasion of the Adat and could attract Muslim fundamentalists (of whom there were few in Naning), but it could be used as an elopement when there was universal opposition to the marriage, and was then known as *melarikan perumpuan*.²⁷ It was extremely rare, and occurred when the bride was lost to feelings of family respectability and social display.

Naning people were pragmatic about marriage. It was a contract and not a sacrament, and nice distinctions between nullity on the one hand, and

between void and voidable on the other, did not arise. The contract made when the *tanda suka* was accepted could not be void because it was made between two tribes after sufficient discussion. It could be avoided, in the legal sense, only if there had not been full disclosure and the other spouse turned out to be not of 'merchantable quality' — insane, leprosy including yaws and which had ceased to be a consideration, or sexually incapable.²⁸ Matters of general knowledge which the *tua* and elders should have considered were not valid grounds.²⁹ The aim, achieved in a very high proportion of marriages, was a stable and peaceful union: if it were not achieved, the remedy was to end it, by divorce.

Marriage was a matter of fact, and accepted as such. In 1947 one R. of the mukim of Kelemak married, by *melarikan perempuan*, a woman from Sungei Petai. Both belonged to the same *suku*. This was therefore *sumbang* and a great scandal. R's elder brother, who was on the Land Office staff, was *buapak* of his *perut* in Kelemak and spoke of the *chechat darah*, the taint on the family's blood: he was greatly concerned to re-establish its good name. There was a conference of Penghulu and all the *tua*, at which R's brother was more or less the defendant. The conference began by stating the Adat penalty, death: traditionally the guilty pair should have been shut in a barrel with nails driven inwards, and the barrel rolled down the hill into the river at or near Pengkalan Naning;³⁰ but this was clearly no longer possible. The question therefore arose as to what was a satisfactory commutation and what other steps were necessary. The conference imposed the heaviest fine known to the Custom, one *bhara*, and required a feat of reconciliation (*kenduri*) for which there should be a buffalo and fifty *gantangs* of rice. This in its turn raised problems: rice rationing was in force and there was total prohibition on the slaughter of buffaloes in the Settlement of Malacca, because the total herd had been greatly diminished during the Japanese Occupation: a licence to slaughter was given by the Settlement Veterinary Officer only when an animal was imperfect and *ipso facto* unsuitable for ceremonial purposes. The rice was somehow collected within the *perut* and a further commutation allowed in respect of the buffalo by goats. The financial burden on the *buapak* and *perut* was very considerable, and the fine had to be paid: it was *hutang pesaka*, a customary debt. The stain on the *perut* was expunged, and the *buapak* retained his rank: the significant point was that once the placatory measures had been completed the marriage was recognised and accepted, and was not a nullity. R himself remained an object of suspicion and some contempt.³¹

It followed from the fact that normally the husband went to live with the wife and her family and from the element of alliance between two *suku*

that polygamy was rare: elders were not receptive to the idea of negotiating with one tribe and then with another, nor were the brides' families tolerant of the proposal that they should share a bridegroom with some other family. Naning did not like much-married men: *orang semenda langau hijau* — the professional husband is a greenfly.³² In some cases at least, one of the wives turned out to be from outside Naning, acquired while the husband was outside the jurisdiction. Incipient polygamy could also be forestalled by the supplanted wife, who might invoke a divorce by *nikah ta'alik* if the condition had been imposed and were fulfilled, or by *tebus talak* if the husband agreed, or indeed by provoking the husband to pronounce the *talak*.³³ Divorce by redemption, *tebus talak*, — which was frowned on by the religious authorities — was not different in form from other divorce, and the husband had to utter the *talak*; but its origin lay in the wife's wish to end the marriage and pay for her liberty. She accordingly paid a lump sum: Humphreys stated³⁴ that in Kelemak in his day the figure was fixed at \$100 (a large sum in 1906), but by 1955 it was a negotiable sum, what the wife could offer and the husband would accept.

Regardless of the form of marriage, the position as to belongings and property always remained the same. Whatever the husband brought to the marriage remained his, and whatever the wife brought remained hers; whatever they acquired during the marriage was jointly owned. The property brought by the husband was *pembawa* or more formally *harta pembawaan*:³⁵ it included property given to him by his family, and what he had acquired while single, his *charian bujang*:³⁶ it might also include his share of the *pencharian* of a previous marriage. The property brought by the wife was her (*harta*) *pendapatan* — that which was got — and in most cases consisted of gifts from her family, though increasingly it also included her own earnings, as for example as teacher or nurse; it might also include her share of the *pencharian* of a previous marriage. Both *pembawa* and *dapatan* could be increased by gifts from the respective families, even some time after the marriage, but the intention of the donor and classification of the gifts as *pembawa* or *dapatan* had to be declared when the gift was made.

So far as the wife was concerned, the husband's *pembawa* was outside any claim by her; but to the husband himself the distinction between what he had been given and what he had himself earned was important, since what he had been given went back to the givers and their descendants, while he could dispose of what he had acquired by his own efforts. The difference, to him, was that between *pencharian* and *pesaka*. Equally the husband had no claim on the *dapatan* of his wife, though she herself distinguished between what had been given to her and thus reverted to the tribe,

usually to her daughters, and what she herself had earned, such as that was.

It was essential, to avoid disputes later, that the separate possessions of husband and wife, *pembawa* and *dapatan*, should be known and admitted when married life began, although it was no longer usual for this to be done in the presence of the *tua* in the mother's house. Earlier the *tua* had been recorder, and quasi-arbiter in any later division or dispute, and the rule remained that anything not so declared fell — except sometimes for items self-evidently belonging to one and not the other, such as a *kris* — into the jointly-owned *pencharian*.

Harta pencharian was the common purse from which living expenses were met, and it was liable not only for various costs incidental to the marriage (including the funeral expenses for a spouse) but also for debts due from one spouse to the other. The most usual example was *mas kawin* when this had been left owing: on death or divorce it was payable from the man's half-share of *pencharian* to the wife. The rule that the beneficial interests in acquisitions during the marriage were equal for man and wife was subject to one exception: the house which the husband provided for the wife became her exclusive property from the outset. Traditionally, the wife's mother allocated a site on her kampong land, even if, for example, the husband worked in Singapore and the wife, was going there to live with him; and a generation or two earlier this site had been demarcated by pegs driven in — *tukua lantah* — by or in the presence of the *tua*: this was no longer usual, but the *tua* had to be informed to regularise the allocation in the eyes of the *suku*. This allocation was rarely completed by the formality of a transfer and amendment of the Mukim Register: that was postponed until, at the earliest, the daughter had children of her own (with a claim on their mother's estate) or, more usually, until the bride's mother's death and subsequent Land Case before the Collector.³⁸ By the mid-Fifties the traditional allocation was weakening for two reasons. Firstly, two or three generations of subdivisions among daughters had reduced the land a bride's mother might have at her disposal; and secondly, a still small but increasing proportion of Naning couples had to live away from the maternal kampong to earn their living. Where land had to be acquired as a house site, this was an asset in the joint earnings and was therefore *harta pencharian*. The house itself, if of traditional Malay pattern on pillars, was moveable property at law³⁹ and regarded as such in practice, and could be dismantled and re-erected elsewhere.

Chapter 4

Dissolution of Marriage

The death of either spouse — *cherai mati* — broke the link between the two *suku*. If the husband died first, responsibility for any children of the marriage passed entirely to the wife's family and *suku*: there was no obligation on the husband's relatives to assume his *perintah* and to concern themselves with the children's welfare, nor indeed had they any standing to intervene. The assets he had brought with him, his *pembawa*, went back to his *waris* and tribe. The common fund, the *pencharian*, fell to be distributed. The first charge on it was his debts and funeral expenses, and these were paid. If debts remained out standing, his *waris* in his own *suku* became liable: there was no recourse to the wife's *dapatan*, in which her *waris* and *suku* had their reversionary interest. Ordinarily assets exceeded debts, and the basic rule was that the survivor took all: *mati laki tinggal ka-bini mati bini tinggal ka-laki*.¹

On the death of the wife first, the effects were a mirror reflection of the obverse case. Under the Custom, the widower lost his right to live in his wife's house and to support by her family, and he became again the responsibility of his own *waris*. His children, being of their mother's different tribe, became their responsibility. Her *dapatan* went back to her *waris*: he took his *pembawa* with him. Her funeral expenses and debts were paid from *pencharian*, and the balance passed to him: *mati bini tinggal ka-laki*. Traditionally, he was formally invited back by his *waris* on the forty-fourth day after the death in the ceremony of *jeput*² when they came to collect him. Identification and separation of assets into their separate funds of *pembawa*, *dapatan* and *pencharian* was then made, under the supervision of the *tua* if necessary.

Such a rupture of family life, particularly if there were small children, could have extreme effects. For the husband it could mean not only the loss of his sons and daughters, but also of his home and the land on which he worked for a living. For the children it could mean the effective loss of both parents within two months. The Custom favoured one exception: *ganti tikar*:³ the widower could marry his deceased wife's younger sister. This procedure was almost always adopted for the sake of the children and not because of any mercenary planning by the widower, but it satisfied the needs and claims of the children, the father and the dead wife's *waris*. In

ordinary kampung life a younger aunt, living near by in the grandmother's house, was already a surrogate sister if she were very young and a surrogate mother as she grew older: the appropriateness of such a second marriage was clear to Naning villagers long before it was accepted by the British Legislature when it passed the Deceased Wife's Sister Marriage Act in 1907 in the face of ecclesiastical doubt and doctrinal opposition. The children remained in circumstances as near as possible to those in which they were before their mother's death; the husband acquired a wife whose character he already knew and who was unlikely to be the cruel stepmother of fiction, and he remained in the family home with division and return of *pembawa*, *dapatan* and *pencharian* postponed. The new wife had a claim to the house, and *dapatan*, of her deceased sister as one of her closest *waris*; and the property rights of *perut* and *suku* were thereby maintained and even reinforced.⁴

If there was no younger sister available and willing, the surviving husband's link with the wife's tribe was broken to the extent that he could not marry again into that *suku* unless there had been an intervening marriage to a woman outside it.

By the mid-Fifties *jeput* was no longer universal, nor in practice was the invitation always accepted when offered. Firstly, when the marriage had subsisted for many years, there was often at least one daughter old enough to take over, and if the land and house standing on it had been *dapatan* to the mother, it was *pesaka* to the daughter, while if it was already *pesaka* to the mother, the daughter's claim was a reinforced *pesaka* right. Secondly, where land and house, were *pencharian* to the surviving husband and dead wife, the claim of the wife's *waris* was still inchoate, and the urge to protect *pesaka* was absent. Lastly, dwellings where families lived outside the system (in Government quarters or those which were tied to a job, or were rented) the wife's *waris* had no claim to them and no leverage to persuade the husband to leave, and his own *waris* therefore had less obligation to offer him a home and so to issue the formal invitation.

It was also common for the husband, if he were invited and accepted the *jeputan*, to leave furniture and chattels such as radios for the children, instead of insisting on his rights under *mati bini tinggal ka-laki*.

Occasions for dispute, or competing claims requiring compromise, were comparatively rare after *cherai mati*. The nature and amount of the *pembawa* and *dapatan* were known, as were the Lots of land and moveable property acquired during the marriage, which was the residue. In its simplest form, the matter was easily decided: if the husband brought two buffaloes in his *pembawa* two buffaloes, but not necessarily the same animals, were returned. If he died owning four, the other two were *untong*⁵

and fell into *pencharian*. The principle was transferred to much more complicated circumstances, as when a plot of scrub rubber land part of the wife's *dapatan* had been cleared and replanted by the husband and wife, with high-yielding stock under the Smallholders' Replanting Scheme: all sides accepted that the widower should be compensated for the increase in value due to his efforts and good luck that the stand of trees had succeeded. The solution was a compromise, in form propounded by the *tua* of the wife's *suku* and agreed by the *tua* of the husband's *suku*, embodying what was fair for all. In general it was acceptable because there had been discussion with the *waris*, and by them — though not (human nature being what it is in Naning as elsewhere) without some reluctance on one side or the other.

When the marriage was ended by divorce — *cherai hidop* — the consequences were different though the principle was the same. The wife's separate assets remained in place: *dapatan tinggal*; the husband's separate assets went home with him: *pembawa kembali*; and the joint assets were divided: *charian di-bagi*. In its simplest form of a childless marriage with no debts, the division of *pencharian* was into equal shares. It will be remembered that it was the husband's duty to provide a house for the wife and this became her separate property. Where *pencharian* included land acquired by the couple it might be divided, or sold, or a valuation made and one spouse (almost always the wife) became entitled on paying off one half of the value to the other. Debts were a charge on *pencharian*: this was a single fund or collection of assets from all of which debts incurred by husband and wife were paid, and any balance was divisible between the parties. If debts exhausted *pencharian*, there was no resort to the other's private fund, but to the *waris* of the debtor. Creditors inside the Custom accepted that they could not look to the wife if the husband did not pay any excess; and while creditors outside the Adat might issue civil proceedings against both when one had taken the loan — as, for example, when a Promissory Note had been signed by husband and wife, any payment by the wife above the amount in *pencharian* gave for a claim to indemnity by the husband and his *waris*. Presentation of cases in the Supreme and Sessions Courts, and judgments by their judges, was by lawyers whose thinking was coloured by English law and whose procedure was modelled on that of English Courts, and if the Court delivered a judgment not consonant with the Custom, the influence of Adat officials was corrective and supplemental: the verdict was not challenged but arrangements were made to rectify the consequences. The appropriate liabilities and payments were determined by the *tua* or Penghulu, on the basis of evidence from the parties and *buapak*, and the *waris* of the defaulting male (or occasionally

female) were made liable. Proper payment then became a family or *suku* duty, with the prestige of the elders involved.

Debts were sometimes owed by husband to wife: the liability to payment of *mas kawin*, if it had been left owing, has already been noticed, and the value of rings, bracelets and other objects brought by the wife as part of her *dapatan* and then sold or pawned by the husband was a charge on his half-share or *pencharian* if he had kept the proceeds. This was in contrast with the value of jewellery bought out of *pencharian* and used by the wife and then sold, with the husband pocketing the proceeds: strictly speaking, there could be no gift from husband to wife out of *pencharian* and the jewellery remained jointly owned: in that case the husband was liable to the wife for only half the value, her share.

When there were children, the situation was more complicated. In theory the maxim *dapatan tinggal pembawa kembali charian di-bagi* applied with variation: the proviso *kalau tiada anak di-antara-nya* — 'If there are no children between them' — implied by Parr and Mackray as an exception⁶ in Rembau was not quoted in Naning. The application of the rule, had however been modified by agreement in individual cases for at least a generation. Demang Asah of Pegoh, an old man of eighty-two with thirty-seven years' experience as a Penghulu, informed de Moubray in 1926⁷ that the half-share went to the husband but that on his death this was divided between his *waris* and his children. He also stated the children received in addition a share of the *pembawa* which went back with the husband to his *waris*.

If it is rubber land gone up much in value — say worth \$100 at the time of marriage and \$1000 at the time of the man's death — the *waris* would get say \$300 and the children \$700. I have been concerned in a great many enquiries about *charian bujang*⁸ and the custom here is that the children get a share even if the land has not increased in value at all: *anak banyak kuat* (the claim of the children is very strong). This is not a new phase of the Custom: it has been so all along. It was so fifty years ago.

Demang Haji Abdul Latib of Nyalas in Jasin District had become a Penghulu before 1886 and had forty years' experience, and he made a statement to de Moubray in 1926.⁹ On divorce,

...except for the house, which goes to the woman, the old Custom was for all the property to be divided on a valuation. The *pembawa* must have been made clear at the time of the marriage or...it is treated as *charian laki bini*. Whether there has been another marriage or not, on the death of the man the *waris* always ask for the property which came to him

on his divorce....If there were children by the divorced wife the *waris* should give half the *pembawa* to those children.

The statements of both Demangs were perhaps telescoped, a digest of what was said to a catechist turning up at the steps to their verandahs. At first sight they seem to contradict the basic rulings of the Adat: they say that on divorce the husband went back to his tribe with what he brought to the marriage, plus half the *pencharian*, and that this half-share itself became *pembawa* which he took to a subsequent marriage (all true so far); but that on the man's subsequent death this vested in the *waris* of his tribe and became *pesaka*, yet the *waris* gave away to the children (necessarily of another tribe) property which had just become ancestral.

Another statement to de Moubray throws some light on the matter: this came from 'Dato' Naning Alsat bin Haji Ahmat'.¹⁰ He is described as 'a young man...perhaps not very sound on Adat';¹¹ his statements however read as coherent and intelligent, and he was moreover ex officio Kathi for his area, with the additional understanding this gave him.

The custom on death and divorce is really the same, with the difference that there is always bad feeling on divorce: each side claims as much as possible; whereas at death they are prepared to give quite a lot to the relatives of the deceased. The children of that marriage have no more claim on their father's share of the *charian laki bini*. Nowadays Mohammedan law is followed to the extent that the husband is expected to pay for the maintenance of the children even though their mother's *waris* are looking after them.

This of course refers to maintenance of dependant and therefore young children, whereas division on the father's death after the divorce implies older and perhaps adult children.

The impetus towards this mid-Twenties solution seems to have come from three separate sources. Firstly, there was the moral and religious duty of a father to provide for his children, which during marriage went with *perintah*. Secondly, Demang Asah of Pegoh clearly had in mind the idea of *untung*, but in the early years of the rubber boom the comparatively sophisticated notion of separating 'development enhanced value' into *pencharian* had not been formulated, and transfer from *waris* to children was a corrective measure, intuitive rather than rationalised. More generally, there was a feeling on both sides that the claim of the children was strong and that the merits of a particular case demanded an appropriate disposition of property; and in this connexion the views of the elders on both sides came into the discussion.

These influences, and the convenience to all of settling matters at the time of the divorce, tended to establish the practice of *tentukan*¹² — to assure property, especially land. At the time of the divorce the husband assured some or all of his net share in *pencharian* to the children of the marriage and where this was land it was done by declaration before his *tua* — whose approval, together with that of the *waris*, was necessary. Alteration of the entries in the Mukim Register followed, not always immediately. The practice had its advantages for all: it provided for the children there and then, avoiding the risk of future failure or default: it served as a commutation by the husband and estopped any later claim; and so far as the *waris* were concerned the *charian* element in the *pembawa* he brought back with him passed unchallenged to his *waris* on his death.

Twenty years later the idea that children — or sons, at least — had a claim on the husband's *pembawa* had largely if not entirely disappeared. In 1947 there was a hearing, which went on into a second day, before the Collector of Land Revenue.¹³ The facts were that H. had married W. and during that marriage fathered two sons; he then divorced her. Next, he was entered in the Mukim Register as customary landholder of two Lots of rubber land subject to a mortgage to a Chettiar, whose driver he was at that time. (This was the practice known as *tompang nama*, 'to get a ride on a name'. A non-Malay, disqualified by the Ordinance from being entered in the Register as landholder, colluded with a qualified Malay whose name was used: the non-Malay developed the land). Later again, when the rubber boom had produced money in the kampongs, H. collected the sum of \$300 notionally lent by the Chettiar, tendered it at the Land Office to him, and had the mortgage entry discharged. The biter, thus bit, could offer no objection and H. ended up as the registered holder of two Lots of unencumbered rubber land. A year or two later he married W. for the second time, and then died during the Japanese Occupation: the Land Case was part of the post-Occupation tidying-up. W. and her two sons appeared and asked that the two Lots should be transmitted to her. The *tua* of her *suku* and the *tua* and one representative of the husband's *waris* all appeared, and the Penghulu was present. Both *tua* agreed that on the divorce which ended to first marriage the *dapatan* remained with W., the *pembawa* returned with H., and the *pencharian* was divided; and that the division then made stood and could not be re-opened. Payment off to the mortgagee and acquisition of an unencumbered title to the rubber land was *charian bujarg* and therefore formed part (the main part) of the *pembawa* of the second marriage, and fell to be disposed of as such. The *waris* representative and his *tua* did not, if memory serves, press their claim but stated it and rested their case: W. and her sons argued that it should be treated as *pencharian*.

Neither the sons nor the mother, nor the two *tua*, nor the Penghulu as a sort of *amicus curiae* nor indeed the Land Office Clerk mentioned any claim in the sons themselves upon the father's *pembawa*; nor did the appeal to the Resident Commissioner under the Ordinance made any reference to it.¹⁴

There was one exception to the rule of *chari bagi* and the division of *charian laki bini*, and this was when the divorce 'came about of itself' because the condition in *nikah ta'alik* had been fulfilled. Then the *pencharian* all went to the wife, logically enough since the husband was away and contributing nothing to it. *Dapatan* stayed with the wife, and such *pembawa* as was identifiable by the husband's *waris* and *tua* returned to them.

In divorce by redemption (*tebus talak*), where of course the husband was in communication to pronounce the triple *talak* by word or letter, the ordinary rules of distribution applied: *pembawa* returned with the husband, *dapatan* stayed with the wife, and *charian* was divided. The redemption sum could be debited against the wife's share and credited to the husband's, analogous to *mas kawin* in the reverse situation.

It will be seen that the Adat had hit on a solution of the personal and economic problems affecting marriage, its children and its ending, whether by death or by divorce, which still eluded Christians in the West or Muslims of other systems. There were strong influences working to preserve the stability of a marriage to one wife. The discontented husband had to face the loss of his home, his children and half his acquisitions during the marriage: the wife had to consider that she would lose the labour and earning-power of the husband and would have to maintain the children, in the first place, by what she could get by her own efforts. Their complaints about, and behaviour towards, each other were known to the wife's family and eventually to the elders of both parties: outside opinion came into play. The man's *waris*, and especially his mother and sisters, were aware that they would become responsible for housing and perhaps maintaining the returning husband. The wife's *waris* knew that they would become liable for the children and her to the extent that she could not manage alone. The considerable inertia which had to be overcome preserved marriages with some contentment and perhaps resignation, instead of promoting impulsive divorces. When the marriage had 'irretrievably broken down' (to use the phrase¹⁵ in the English Matrimonial Causes Act 1969 by which the British Parliament agonisingly brought statute law in England and Wales into apposition with social facts) the consequences followed well-established and generally-known rules which left little room for the operation of accusation and counter-accusation and certainly

did not demand proof of adultery or behaviour or desertion required by the modernised British law. Equally, the intention of the subsequent English matrimonial property legislation,¹⁶ that parties should be put as nearly as possible in the position in which they would have been if the marriage had not broken down, was attained with general acceptance of the principle, however much dispute there might be about individual items in the accounts. Nor was there any need to repeat that the welfare of the children was 'the first and paramount consideration' with judicial decisions declaring that it was not the only consideration: the position of the children¹⁷ and their rights of succession to property were both certain.

Chapter 5

Clan Membership and Adoption

To the Custom, an individual was either an insider or an outsider. The insider was a member of a family whose *suku* was a Naning *suku*, and he or she remained a member of that *suku* for life: *suku ta' boleh di-aleh*.¹ This was quoted in terms by Dato' Arshad to de Moubray and implied by the Demangs.² Acceptance of a Naning individual (usually a child) into a Naning family could therefore never amount to adoption in the legal sense, severing the ties with the natural parents and establishing full filial rights and duties. It amounted to fosterage³ with the care and control that *perentah* gave, together with an agreement (explicit or implied) on a right of succession to property for the incoming individual. He or she retained the personal rights of a member of his or her own *suku*: claims through lineage were not extinguished and a daughter could succeed her natural mother as well as receiving property from her fostering mother.⁴ Other claims in *pe-saka*, as for example the descent of *kebesaran* in a *perut* followed the lineage and not the fosterage: a woman of *perut* Paya Dalam *suku* Anak Melaka fostered in *perut* Kandongan passed on to her son eligibility for office when Paya Dalam's turn came round and not when it was that of Kundongan.

An agreement to give property was made known to the *waris* who would otherwise have a claim for it to come to them, and to the elder immediately concerned, usually the *buapak* of the *perut*: it was therefore subject to family and tribal scrutiny and approval. Where possible, specific property for the foster-child came from *pencharian*, but part of *dapatan* could be allocated, *kepan*.⁵ It was a basic rule that whoever maintained an old man or old woman had a right to reimbursement, and the promise of a particular Lot of land was one way of providing this. If the female *waris* could not carry out the duty of maintaining, they could not object to a specific gift to the person who performed it. Usually the fostered child came from among the closer *waris*, a grand-daughter or a niece, and there was little acrimony.

True adoption thus occurred only when an outsider entered a *suku*. The proverbial reason for such adoption was *Dagang bertepatan perahu bertambatan*...⁶ clearly someone settling in the autonomous Naning of 'the Dattoo and Four Sookoos' had to become a member of a tribe if there were

to be any hope of marrying or being given in marriage, or of invoking the Custom as a protection against attack, accusation or punishment; or of cultivating or trading: otherwise there was the risk of ending up executed by *kris* like the Kedah Malay in 1805 for lack of anyone to put the value of one *bhara* of tin.⁷ With the erosion of the Naning criminal and civil jurisdiction which followed on the ineffectual legislation and administration of the East India Company and India Office and increasingly comprehensive administration under the Colonial Office after Innes opened the first office in Alor Gajah in 1889, the reasons for taking shelter within a *suku* were no longer so compelling,⁸ but the assimilation remained necessary to anyone who was to become a full member of the Naning Malay community.

The reasons for adopting someone into a *suku* were various. There might be a wish to have someone to look after one in childless old age, when no-one in the *suku* was available or willing. It might be an act of piety, to care for an orphan — and it was not uncommon for these two motives to be combined. It might be to enable a foreigner to marry into Naning: the foreign man who wished to marry a Naning girl needed a *suku* of his own so that negotiations could be set in train, and there were cases of Naning men importing a wife, actual or intended, and getting her adopted by another *suku* to regularise her position in Naning. Adoption might be proposed to cement a close friendship, or to signify identification, much as people in the West apply for citizenship; or even as a gambit to evade Adat rules on *ganti tikar* (by getting the new wife adopted as a younger sister of the deceased wife) or on devolution of property. The last was rare, and unsuccessful if challenged by the *waris*.

The essential requirements were few. It was not necessary⁹ to be a Muslim at the time of adoption, though it was necessary to become one (and be circumcised) before marriage of a man, while a woman had, at marriage, to be one of the 'children of the Book': Muslim, Jewish or Christian. It was not necessary to be a Malay by race: adopted children included Chinese *mualop* (converts) who, though not common, were frequent enough not to cause surprise; there were Indians and even adult Europeans.¹⁰

Secondly, the adoptee had to be a 'foreigner' outside the Naning *suku* and *perut*, whether living inside the *luak* of Naning (as with immigrant Malays and other races becoming established there) or outside. The Minangkabau Malay living half a mile from Kendung and over the Rembau border was as much a foreigner, in this connexion, as anyone else:¹¹ the Jempol member of *suku* Semelenggang *perut* Naning¹² had no standing among the Semelenggang in Naning — though he or she might find it easier to find an adopter there than a Muslim from Madras.

Thirdly, there had to be someone to adopt the foreigner, and this meant that all adoptees were to some extent given a warranty: the new *waris* assumed responsibility for the new member's behaviour and for payment of his debts, and there was a *tua* and *buapak* to oversee this.

Lastly, the adoption had to be formal and ceremonial. There was a *kenduri*, with a goat slaughtered: the blood was sprinkled on the ground, and prayers were said. The *tua* and *buapak* were there as official witnesses. The Negri Sembilan distinction between *kadimkan adat* and *kadimkan adat dan pesaka* (the latter conferring ancestral rights and being carried out in the presence of the Undang) was not known in Naning, and had not been known in 1926, for de Moubray's Demangs told him that there was only one form.¹³ The older ceremony of *chechah darah*¹⁴ — to dip a finger in the blood and touch the forehead of the person being adopted, and anointing with a paste of rice, saffron and lime juice, was not used: it seems to have been unusual in 1926.¹⁵ The fact that a goat was slaughtered, and not a buffalo, has some significance, for the *kenduri* with a goat was a *Lembaga's* affair while traditionally the Dato' Naning's presence required a buffalo: the adoption was therefore a tribal, and not an inter-tribal, matter. de Moubray suggested that the fact that the presence of the 'Ruler' was not necessary might have been because there had been no official Dato' Naning for a century, but this is doubtful: the Dato' Naning had been recognised by his own people and had presided over the Adat throughout that period; and one of de Moubray's own witnesses, a well-connected Rembau Malay who became Settlement Officer and Magistrate at Tampin, told him that the Negri Sembilan distinction was then of recent growth.¹⁶

The girl or woman acquired the status of member of the *suku*, as did an adopted man; but this stopped short of acquiring ancestral rights. She ranked equal with natural daughters on claims on *pencharian*,¹⁷ but because she was not of the lineage she could not establish any right to property which had already vested in the lineage because it had passed on death and had become *pesaka*.¹⁸ She might in fact succeed by agreement of the *waris* because she had maintained the deceased, but this was by agreement and not of right. Her children however, were true members of the *suku* with rights to *pesaka* land and to tribal office such as *tua* and *buapak*.

There was traditionally one set of circumstances when the tribe was altered, but which was not adoption. This was *balasan hidop*,¹⁹ the 'Balas Edup' of Church's Report in 1829. If a member of a *suku* were killed, wilfully or accidentally, by a member of another *suku*, the *suku* responsible for the death supplied a replacement life from its own ranks to the tribe

which had suffered the loss, and the substitute became a member of that tribe. The aim of this custom plainly was remedial and not punitive, but how far the introduction of penalties imposed by the Courts under the Penal Code had weakened or superseded this custom by the middle of the Twentieth Century is not known, for there had not been occasion to put the matter in issue.²⁰

Chapter 6

The Hierarchy: its Jurisdiction and the Gap between Customary and Statute Law

The authority and extent of the Adat and its officials was wider than supervision of matters of family and inheritance. For the *anak buah* it ordinarily operated within the area of the mukim or parish under the Penghulu and his Sidangs, as they were known to the District Office.¹ They obeyed the instructions of that office but they were not its nominees. The *tua*, or Sidangs, and *buapak* were not shown in any Government Estimates of Revenue and Expenditure, though the assessment on customary land was waived in the case of the *tua* and they might receive sums from an item which provided for payment of bonuses on land revenue collection. The administration had no power of appointment or dismissal of *tua*, though there was a power of veto.²

The *perut*, if it had a separate turn in the rotation, or the *suku* if there were none, chose its *buapak* at a meeting known as *berkampongan*, called by the senior male at his house and attended by the male members of the *perut* or *suku*, of age to attend mosque. When there was a vacancy for the post of *tua* as head of the *suku* in the mukim, the *buapak* expected to succeed to it and did so unless there was strong objection: this itself was unusual, and when it occurred was based on points of lineage eligibility rather than deficiency of character or personality (though the former could have been pleaded to avoid the discourtesy of the latter): actual voting did not take place, and the aim was a *kebulatan*, a unanimous opinion. In general this system ensured that the chief of the *suku* in the mukim already possessed knowledge and experience and had been accepted as competent to discharge the duties of the office when he succeeded to it.

Succession to the post of Penghulu was less automatic. Ramsay described the procedure in his day,³ which

...represented a long established custom: on the death, retirement or dismissal of any Penghulu the District Officer...repaired to the most convenient and popular place of assembly in the mukim...to ascertain the wishes of the *anak buah*. The first matter was to determine which of the four clans had a right to the post....It then became exclusively a matter for the adult males of the clan or *suku* which had established its rights, and various candidates were pushed into prominence by the adherents.

In certain but not all cases the system of rotation was carried even further and the right not only of the clan but also of the sub-clan required to be established...Then again only the clansmen or waris were eligible to vote. The eligible candidates were usually thinned down to three or four men. In doing this the Malays were prepared to accept the decision of the D.O. in winnowing out patently senile or weak-witted persons, and to acknowledge the need for a certain degree of literacy and a reputation for regular attendance at public prayers and of having finally sowed their wild oats. The remaining candidates then submitted themselves to a secret ballot and the winner, subject to the approval of the Resident Commissioner and the rejection of a large number of petitions, frequently of scandalous nature, was declared Penghulu. He thereupon received a letter of authority, the right to wear a Police belt and buttons, to allow a pair of handcuffs to rust in his house, and to draw a small salary.

Fifteen years later and after the Japanese Occupation, the principles remained the same but there were differences in procedure. At two elections in 1947 the meetings took place after Friday prayers, but at the Vernacular School. A desk and some chairs were set in the shade under the school building⁴ for the District Officer and the Land Office Clerk, and the retiring Penghulu and all the 'Sidangs' joined them. The *anak buah*, of all *suku*, collected on the school *padang*;⁵ and on both occasions there were women and children also, watching from the boundary fence. The D.O. briefly announced the purpose of the gathering, to choose a Penghulu for the people of the mukim: it was up to the *anak buah* to select someone who could do the job properly. This was repeated by the Land Office Clerk, who went on to say that according to his notebook the *giliran* fell to a particular *suku* and, if there were a rotation between *perut*, and named the *perut*: was that agreed? There was a pause for objectors. At neither election was there any objection, and there was corroboration from the retiring Penghulu and 'Sidangs'. The Land Office Clerk then went on to say that as the *giliran* was agreed only the *anak buah* of that *suku* or *perut* could take part in the voting, and asked all others to move away to the side of the *padang*. Then the candidates were asked to come forward from the voters' group and stand out on the *padang*, like markers on a military parade. Lastly the others in that group were asked to go and stand in a single rank beside the candidate of their choice. They duly moved across and the various ranks were counted by the District Officer. The proceedings were open for all to see; those voting were in full view of the other *tua*, who knew their *anak buah* and could prevent infiltration, and of the candidates, who could challenge the eligibility of any person in any rank. The result was self-evident, and the choice of each individual clear beyond argument. The proceedings were cheerful, with good-humoured and even ribald com-

ment from voters and onlookers. The D.O. and Land Office Clerk, the retiring and new Penghulus, the *tua* and the head schoolmaster retired to drink orange squash — or, in one mukim, 'Ovaltine' — while the voters and spectators drifted off home. The District Officer reported the result to the Resident Commissioner's Office and in due course a Letter of Appointment was sent. The new Penghulu received no belt, buttons or handcuffs: the Federation of Malaya Police Command was exclusive about the professionalism of those who wore its insignia.

The two differences in procedure were in scrutiny of candidates and in the ballot. In the period between the end of the Japanese Occupation and 1955 there seems to have been no 'weeding out of patently senile or weak-witted persons': perhaps they did not present themselves, or perhaps the District Officer relied on the good sense of the electors. In these two elections there were, if recollection is accurate, four candidates in one and three in the other, and in both the successful candidate (one a *tua*, the other a younger man) was a clear winner over the next challenger, who had considerable support, while the third, and fourth, attracted a mere handful of supporters. These results confirmed the forecasts given in conversation: clearly there had been discussion and some canvassing inside the mukim on both occasions.

The form of voting and apparent departure from a secret ballot is interesting. At that time and immediately afterwards (1950–1953) the ballot was secret in Malacca Central District; there the Collector went to the mosque after Friday prayers, announced the holding of an election (of which notice had been given on the two previous Fridays), called forward the candidates, and sat by himself away from the candidates and *anak buah*. The voters crossed one by one from one side of the mosque compound to the other, passing the candidates — who scrutinised them and had a right to challenge — to the Collector, in whose ear they whispered the name of the man they chose. The Collector kept his tally and announced the totals when all had voted.⁶ The Malacca system reduced the risk that a man would be victimised for voting for one candidate when he had promised to support another especially when his vote had been bought,⁷ but it allowed for timid or furtive voting: the Naning elector had to stand publicly by his decision and justify it in conversation afterwards. There was no protest, nor any expression of surprise as at a novelty at the open voting in the two 1947 elections; and the system probably eliminated unacceptable candidates. Standing almost alone in the middle of a school *padang* was a greater humiliation than receiving a small number of votes, which could be explained away by accusations of desertion to salve wounded pride.

Under both systems the candidates needed to have the proper qualifications of *saka*, *baka* and *perentah* (or *sharat memerentah*):⁸ these were correct lineage and ancestral claim, 'good blood' on the father's side, and the ability to assume authority. In Naning the requirement of *saka* was absolute: the aspirant was a full member of the *suku* (or *perut*, when this arose) or he failed. The qualifications under *baka* and *perentah* were comparative: candidates had them in varying degrees, and the most suitable combination carried the day. A Penghulu's son was of a different *suku* from his father but he might be expected to know more about the Adat and the duties of a Penghulu than someone who had grown up away from their day-to-day operation, and indeed it was possible for father and son to be adat officials in the same mukim at the same time or for a son to succeed his father if the *giliran* fell aright. By contrast a feckless or unprincipled father was a disability: *bapa borek anak rintek*.⁹ *Sharat memerentah* was to have a character which could exercise authority without its going to one's head, the 'bottom' of Georgian and Victorian England.

The presence of the District Officer at the election of a Naning Penghulu was a paradigm of the relationship of Government and Adat. Penghulus had been Government Officials since the days of Ibbetson's original fifteen, and by the Fifties they had long been salaried: they were the point of contact with the mukim in all administrative matters. They attended the fortnightly conferences at the District Office when information and notices were given out and there was discussion of matters affecting the *anak buah*: they themselves raised topics. Officials visiting the mukims usually met them; departmental officers who came and went without letting them know were regarded as going about the job the wrong way as well as being discourteous — and the Penghulu remonstrated to the D.O. who reproved the department concerned. The Penghulu, or a Sidang as his deputy, accompanied the District and Land Office staff on their visits, inspections and dealings with individual plots of land, because it was both his right and his duty to know what was happening in his mukim; but his official relationship with the administration was only part of his position and influence in Malacca generally and particularly in Naning. At the election, the District Officer's actual duty was no more than that of a Returning Officer, and the proceedings could have been completed as satisfactorily if he had been a hundred miles away; but he was there with a watching brief on behalf of Government, in effect to assure himself that the election was made in proper form, and in Naning according to Adat. The Land Office Clerk's notebook of the *giliran* was accepted but cannot have been binding: had his tables been questioned, that matter would have been settled by the elders and *anak buah* before the next step was taken.

The District Officer's presence added Government to the consensus. The Resident Commissioner's approval always followed, but the Penghulu and his *anak buah* felt that the Penghulu derived his authority from the votes cast on the day, and the Letter of Appointment was confirmatory.

The *anak buah* were in general aware of the need to choose someone of the calibre to fulfil the requirements of the position: the Land Office Clerk's notebook contained variations from the normal rotations and notes that a *perut* was entitled to a delayed turn. This had arisen from the fact that if the *perut* thought it could produce no-one adequate to the post it agreed to miss its turn, which passed to the next *perut* or even *suku*, on condition that its own claim revived at the next vacancy. This was described as *di-sandarkan kepada yang lain*:¹⁰ giving to the next as bailee, handing over for the specific purpose upon a condition that it should be returned.¹¹ The right itself of succession to the post could not be surrendered or given away, for it was *pesaka* to the *perut* and *suku*.

Naning had absorbed the Malacca rank of Demang, which in itself was not known to the Adat Perpatih at large and did not exist outside Malacca. It has already been noticed¹² that this was an innovation in the land administration of Maxwell and his successors, and the Demang was the senior Penghulu in a group of five or six mukims: he therefore had experience and knowledge as a Penghulu, usually over many years. The Dato' Naning was *ex officio* Demang of the northern mukims of the Naning heartland before he was officially recognised again in 1921 as Dato', and from 1895 had been paid a higher salary than any other Demang in the Settlement. The other three Demangs in Naning¹³ had three roles: they remained penghulus of their own mukims; they had some oversight of the other mukims in the group and advised their penghulus; and they were the next stage of appeal under the Custom. (The Dato' Naning was not a penghulu of a mukim: Taboh Naning had its own). Matters went to the Demangs, including the Dato', on appeal against a penghulu's decision in any matter under the Adat, or in the first instance in a dispute between two mukims and therefore their penghulus. The rank had become so established that the principle of *giliran* applied here also, and the rotation among mukims — and not in this case tribes, was fixed. A further sign of their incorporation within the Adat system was the general acceptance of a 'Demang's fine' which, conventionalised at \$7.20, was twice that payable to a penghulu and half that payable to the Dato' himself. In his own 'Demangship' appeal was direct to him from the Penghulu, and the fine payable was his *bhara*, \$14.40.

The territorial system of mukim with its penghulu and 'Demangship' with its Demang had the effect of fragmenting the *suku* and modifying the

hierarchy. The pure Adat Perpatih as known in Negri Sembilan, with the *Lembaga* as tribal Chief over all members of his *suku* throughout the *Luak* had given way to a decentralised organisation by which the *suku* in the mukim had its own small *lembaga tua*, and appeals inside the *suku* went to the Penghulu and then to the Demang instead of to the *suku Lembaga* as major Chief, while appeals in inter-*suku* matters against a Penghulu's decision went to the Demang: both went on final appeal to the Dato'. In fact, the Demang's fine was the same amount as that of the *Lembaga* under the unmodified system. Naning *suku* Chiefs were not eliminated, but their position altered in that they became less administrative and more constitutional; although in theory they retained a parallel position (to which recourse was very rarely made) in the appellate jurisdiction, their importance lay in the fact that they were the *Tiang Balai*,¹⁴ the four cornerposts of the Dato's hall of assembly.¹⁵ Their more ancient origins were demonstrated by the number in which they were chosen for their position: this was by the members of the *suku* in Taboh Naning mukim, and not by the tribe as a whole, which would hardly have been practicable.

Within the hall of assembly were its 'contents', the *Isi Balai*. These were three Chiefs who were not heads of *suku*: one came from the independent sub-tribe of Tiga Nenek, and the other two from the Dato's own tribe of Semelenggang but from different *perut*. In 1839, according to Begbie¹⁶ writing of *Tiga Nenek* or 'three ancestors',

...the descendants of the slaves...presented to Jowanna Lengang are supposed to amount to about three hundred persons of both sexes and all ages: but so far from being considered in the light of slaves, they appear to hold a somewhat similar rank relatively to the Panghooloo as that maintained by the vassals to the Lord of the soil in ancient feudal times of Europe....They are perfectly free from the authority of the Sookoos and subject entirely to the control of the Panghooloo, forming a sort of bodyguard to him and rendering him military service.

The need for a personal bodyguard of housecarles vanished with the deposition of Dol Said, but their Chief remained as one of the Dato's personal supporters,¹⁷ together with two Chiefs from his own *Suku*; and these were the counterweight to the *Suku* Chiefs in the Council of Naning.¹⁸

There was a further group, not members of this supreme authority: it consisted of the *Pembesar Waris Undang*, notables of the family of the Ruler, all from the Dato's own *perut* and appointed by him: they advised and represented him but were outside the *Tiang Balai* and *Isi Balai*. Their meetings were *berunding* (discussion) and not *bersabda*, a word reserved for the pronouncements of the Dato' Naning after taking the advice of the *Tian Balai* and *Isi Balai*.¹⁹ The *Pembesar Waris* were also of long standing

in the Naning system: the supplanted elder brother of Dol Syed when the latter was chosen in 1801 was appointed Sri Maharaja,²⁰ the title of the most senior of the four notables today. This body is the authority on lineage and its decision on which *perut* — here meaning a line of descent not a sub-tribe — has the right of succession is conclusive. The official lineage recorded in a District Office file after the election of the present Dato' was certified by the *Pembesar Waris Undang* and counter-signed by the *Tiang Balai* and *Isi Balai*.

The keystone of the whole edifice was the Dato' Penghulu Naning. The full Minangkabau title of the position (as distinct from his style as *Sri Raja Merah*) appears to have been 'Pengkulu²¹ Undang', the head of the law. The title became *Undang* in Rembau, Johol and Jelebu, but their *Teromba* and *Perbilangan* refer to the *Pengkulu* interchangeably with *Undang*;²² and indeed if Naning had adopted the Rembau-Johol-Jelebu contraction, Fullerton might have paused to consider that he was not dealing with some Coromandel *korwal*²³ and history would have been different. The older authorities from Begbie²⁴ and Newbold²⁵ to de Moubray²⁶ in 1931 and Hooker²⁷ in 1972 describe the succession as passing to a son of the late Dato's sister; Newbold and de Moubray further limited it to the eldest son. This, however, has not always been the case as the appointments of Dato' Anjak²⁸ and Dol Syed showed; and in 1946 the succession was altered, to provide *giliran* between the descendants of Dato' Mohammed Salleh's sisters. It is not clear why the rule which had been followed for two centuries was then changed. It was a period of flux: there had already been a claim from a junior line in the person of Pawang Junus;²⁹ during Dato' Osman's minority the Regent Dato' Arshad had come from a junior branch; and there was the interregnum when Dato' Osman's fate as a prisoner-of-war was not known.

The introduction of *giliran* was a constitutional decision taken by the *Tiang Balai* and *Isi Balai* at a time when there was no Dato': the unanimous approval of all four *Suku* Chiefs was necessary for the appointment of a Dato' Penghulu Naning and in the case of a vacancy the supreme direction of the Adat vested in them until they had made a new appointment. Nevertheless, the partial eclipse of the *Lembaga Undang*, the four Chiefs or 'Sookoos', is demonstrated by the fact that during the years between Dato' Osman's capture by the Japanese and confirmation of his death at their hands, and during the year between Dato' Che Lah's abduction by Communist terrorists and proof of his murder by them, the Custom was administered by Demangs and Penghulus: the *Tiang Balai* and *Isi Balai* were not called on to intervene although it was accepted that they remained the ultimate authority, in those circumstances, of the Adat Naning.

The change in the rule of succession ended another special usage which itself had been introduced as recently as 1921: this was the doctrine that the Dato' Naning's wife had to be a member of *perut* Naning while the Dato' himself belong to *suku* Taboh:³⁰ these were different lineages of the same *perut* and *suku* but in different areas: *beza Semelenggang Taboh dengan Semelenggang Naning mata puteh dengan mata hitam*.³¹ Naning, in this connexion, was described as the area from Dol Syed's tomb north to Cherana Puteh, while Taboh was the area south of the tomb. The intention of this rule was to ensure that the *pesaka* regalia should be kept in the heartland of Naning — as it would be with the Dato' moving into his wife's house. This seems to have been connected with the seizure of the *pesaka* by Pawang Yunus³² before the second recognition of the Dato' Naning by the British Government.

The innovation bears some hallmarks of an *ad hoc* arrangement. Firstly, in general *perut* like *suku* are not determined by any territorial limitation; secondly, there is no *perut* of Taboh in modern lists; and thirdly, the Dato' Naning himself is subject like all others to the rule that marriage must be outside the *suku*.³³ It should however be noted that the *perut* of Paduka Tuan, Ayer Hangat and Bunga Tanjung are known as 'Suku Sri Melenggang Taboh' and are called '*Suku nan bergajah tunggal*' — the 'rogue elephant suku'.³⁴

The interesting point about these two changes, the introduction of the *giliran* and the introduction and abandonment of the 'rule' about the Dato's wife is not their genealogical complexity but that they were made at all, and made by the Adat authorities of their own volition to deal with the situation as it was in 1921 and again in 1946.

The intricate limited jurisdiction, civil and criminal, of the various ranks of Chiefs as described by Parr and Mackray ended in Naning, officially at least, with the visit of Ibbetson to select fifteen territorial penghulus.

Previously, as in pre-British Rembau, the *tua* attended all ceremonials which required the slaughter of a goat; he enquired into all cases involving a wound, a scream, blood from broken skin, or a wound in some part of the body covered by clothing - permanent visible disfigurement being too great a matter for his jurisdiction: in civil matters he was limited to cases where there was conclusive proof (*sah*). He could not enforce his judgment, and this was done by the 'Sookoo' or Lembaga, who could fine up to five *rupiah* for contempt if the debt were not paid. The *tua* had an original jurisdiction: anyone skipping him and going straight to the Lembaga was liable to a fine of ten *rupiah*, conventionalised at \$3.60.³⁵

The presence of the 'Sookoo' or Lembaga was necessary at any ceremony for which a buffalo was slaughtered. He dealt with cases of

'grievous bodily harm' — blinding, broken bones, torn sinews, wounds which were visible and disfigurement: he could order a reconciliation feast, and impose a fine of up to twenty *rupiah* (\$7.20). He investigated claims of debts which were probable but not proven (*ta' sah*), and enforced payment. He had oversight of dealings in *pesaka* land, settled the boundaries and saw the money paid over.³⁶

The Penghulu Undang had an original jurisdiction in all matters too great for a Lembaga, apart from being the resort in appeal against a Lembaga's findings. In civil matters he dealt with matters where liability was possible (*terang gelap*: clear and dark) or where there was no direct proof — *gelap sa-mata*: dark to the eye. In addition he was the authority in those matters, criminal rather than civil, which were offences against the social order rather than individuals: these were the *pantang larang* — taboos and prohibitions under the Custom, and things forbidden. The *larang* offences were capital and included treason, wickedness, disobedience to lawful authority, deceit, stoking up large fires, arson, murder and homicide, drugging and poisoning, incest and fornication.³⁷ Execution was by *kris*, without blood spilt.

None of these Chiefs could appoint his subordinates, but he had a right of veto and of dismissal for breach of Adat rules. The *tua* — or, as he was known in Negri Sembilan, the *buapak* — had the duty of presenting an offender, when the offence was too great for his own jurisdiction, to the Lembaga. and the Lembaga to the Undang. The Undang dealt with these matters in balai, in council with the *suku* Chiefs: decisions here were the case law of Adat. The *Dato' berbalai* could, and often did, temper judgment with clemency imposing exile, for example, instead of the death sentence — but the Lembaga and *tua* had no such power: they followed the dictates of the Custom.

'Fines' under the Adat deserve some examination. Begbie took them as an example of tyrannous behaviour by Dato' and tribal Chiefs: '...they appropriate fines in cases adjudicated by themselves'³⁸ and

...the decisions given by the Chiefs were necessarily very arbitrary and a very wide door was unavoidably thrown open by the system of appeal current among the Malays: thus, it was no difficult matter, in a dispute between two individuals, for the party who was cast away by an inferior Panghooloo, to obtain a reversion of the sentence by an appeal to the Sookoo; his opponent, on application to the Panghooloo Belantye, might perhaps get the judgment on this appeal set aside, and the matter terminated by being laid before the Iyang di Pertuan Besar, while both parties by the imposition of fines, and practice of bribery, were reduced to beggary, and ultimately resorted to nefarious methods of life.³⁹

Newbold, writing of the *suku* Chiefs, said⁴⁰ 'Their revenue was derived principally from the power they enjoyed of levying fines on their own particular tribes....'; and official outrage at the 'fine' alleged to have been imposed after the Lendu murder⁴¹ has been noticed. Nobody with any knowledge of human nature will rule out the possibility of bribery or of perverse judgments, whether for inducement or not, and indeed the general practice may have changed completely in the subsequent century under the doubtless beneficent supervision of British rule in both Naning and Rembau. In both, the 'fines' were on a graduated scale, beginning at ten *rupiah* and doubling with each rank until it reached forty — or one *bhara* — to the *Undang* or Penghulu Naning. The very term *rupiah* and its conventional value points to the antiquity of the scale.⁴² In 1910 Parr and Mackray noted that fines were shared and could be imposed on 'a guilty elder',⁴³ and in the early Fifties the Dato' Naning informed the Resident Commissioner Malacca that the 'fine' ordinarily went in one-third shares to the official who heard the case, to the waris of the aggrieved party, and to his *orang semenda*.⁴⁴ Ordinarily the 'fines' were imposed for breach of *Adat* rules; there was, however, a different category, imposed on an *adat* official who was himself found to have misapplied the Custom. Parr and Mackray gave as one example the birth of an illegitimate child: its paternity could not be established by the Kathi's enquiries or the elders' investigations, and the *suku* elders were 'fined' one *bhara* by the *Undang* for '...negligence for permitting such a scandal to arise amongst his *anak buah*'.⁴⁵ de Moubray thought that such 'fines' were no longer imposed in Rembau in 1926;⁴⁶ but in 1947 the then Dato' Naning fined the Demang of Sungei Petai and the Penghulu of Kelemak for their mishandling of a case of irregular marriage by *merumah*.⁴⁷ In this case, the 'fine' was a true fine in the modern sense of penalty; more generally, it was a combination of Court fee and composition payments.

While the criminal and civil jurisdictions had been superseded in Naning by the Straits Settlements Penal Code and Civil Procedure Code and the Courts which applied them, the habits of mind persisted. In Humphreys' day 'the criminal jurisdiction of the *Adat* (was) restricted to offences declared by the Procedure Code to be compoundable'.⁴⁸ In 1955, when the Straits Settlements Criminal Procedure Code (S.S. Cap. 21) was still in force, its Section 253 allowed for nineteen listed offences to be compounded: four required the consent of the Court. They included actual bodily harm, grievous hurt if the Court consented, wrongful restraint for not more than three days, various minor forms of assault, unlawful compulsory labour, mischief causing only private damage, criminal trespass, house trespass with minor intent, breach of contract, of personal service,

and to minors or persons under disability — and defamation, insult and minor criminal intimidation. By subsection (5) composition was to have the effect of acquittal. There was, therefore, a very considerable area of kampong life where arbitration and persuasion by *tua* and *buapa* could influence aggrieved parties to settle matters already brought before the Court.

Besides this, the legal system had to be set in motion. In criminal matters this was done by a complaint made to the police, or a charge brought by them on the basis of what they had seen or found out; in civil matters it was done by issuing proceedings. If the initiating step were not taken, the machinery was not started up. Recourse to the police or to lawyers was rare in Naning — and not only among the Malays. The Naning Malay first took his complaint to his *buapa*, and the cast of mind of complainant, defendant and arbiter was to seek restitution (enough, but not too much) and concord, peace.

The statutory system stopped short with judgment and sentence: it did not concern itself with consequences, and on occasion the Adat and its officials dealt with these. In 1947–48 there was an outbreak of smallpox, and an instruction from Kuala Lumpur to all States and Settlements warned, in effect, that any Government officer who allowed smallpox in his area was guilty of dereliction of duty. There were four or five deaths in Naning, with others sick. The idea of an isolation hospital was not popular, and teams from District Office and Health Department went round kampongs tracking down cases.⁴⁹ The source of the local outbreak was traced to a man in Pulau Sebang mukim who had come back from Singapore Dockyard knowing he had smallpox: he browbeat his widowed mother into saying nothing. Both were brought before the Magistrate's Court, the son accused of concealing a notifiable disease and the mother of aiding and abetting: the Health Officer came up from Malacca to prosecute in person. Both were convicted: the mother had pleaded guilty. The son was fined \$200 or three months in default of payment; the mother, who earned twenty or twenty-five dollars a month by *kreja kampung*,⁵⁰ was fined \$50, the minimum under the Ordinances (S.S. Cap. 186 Section 4) or a month in default: both were given a month in which to pay. A few days later the District Officer-Collector-Magistrate was in Pulau Sebang and raised the case with the Penghulu, saying that if the widow could not raise the money he should tell the D.O. who could lend it, if necessary, while it was collected. The Penghulu replied that everyone realised that the Magistrate was powerless under the Ordinance not to impose the fine of \$50, but that there was no need to worry: he and his *tua* had already discussed the matter and ordered that every household in the widow's *suku*

should contribute twenty-five cents, and all households of the other *suku* ten cents; the fine would be paid well within time. The District Officer asked if they were collecting the son's fine also, and was told that they were not: his own *suku* thought he was a 'wrong un', that he could not raise the money himself, and that three months was about right. Two 'Sidangs' present cheerfully nodded agreement.

Another attitude which had persisted at variance from that of the legal system was that towards evidence. Naning accepted that Muslim law requires witnesses for proof and it knew that the Courts, civil and criminal, depended on evidence and examined witnesses, but the axiom that a man is innocent until he is proved guilty — and proved by complicated rules excluding hearsay but admitting statements as *res gestae*, and by requiring corroboration of the admissions of accomplices — puzzled them: they gave weight to circumstantial evidence, and if this pointed to an offence, it was for the implicated man to explain it away.⁵¹ This is not exclusively a Minangkabau attitude: the proverb *enggang lalu ranting patah*⁵² is known to all Malays, and indeed Western laymen argue along the same lines.

One statement of the validity and requirements of such evidence is from Caldecott's *Jelebu Perbilangan*:⁵³

<i>Sah, kata adat</i>	It is certain, adat says
<i>Apabila bertanda, terbeti</i>	When the necessary exhibits are shown
<i>Terkejar, terlelah</i>	When a man is tracked down and is found exhausted
<i>Terpakok, terpauh</i>	When he is slashed or hacked
<i>Dekat, tertunjukkan</i>	If near, it must be very clearly pointed out
<i>Jauh, terkatakan</i>	If far, it must be described in detail
<i>Undang undang churi</i>	By the laws of theft
<i>Pantang duabelas</i>	Twelve things are not done and are forbidden:
<i>Tiang berpalang, dinding teretas</i>	Fixing crosspieces on a house-pillar, splitting open an inside wall,
<i>Terebut terampas</i>	To have goods taken in a struggle or by force.
<i>Terchinchang terpakok</i>	To be slashed or gashed

<i>di-gedabong di-gedabekkan</i>	To be bruised by stick or fist, to have a palpitating heart
<i>di-serang di-keleakai</i>	To have been rushed and captured, or retained in custody
<i>Nama kinchang kichok</i>	To have a name for cheating and swindling
<i>Beranggur, kalak-kalak</i>	To be hanging about doing nothing, where a charm against a burglary has been used.

One can imagine the submissions of 'no case to answer' by a defence lawyer to a charge based on such evidence, and the judicial interventions if the prosecution introduced 'a name for cheating and swindling' to clinch its case.

In the mid-Fifties many matters which could have gone to Court were dealt with inside the Adat, or not at all. This was of course true of all Malaya, but the difference was that in Nanning the Adat officials operated both inside and outside the statutory system (to a much greater extent than in Negri Sembilan) and were the means by which the Custom with its sanctions of public opinion was brought into play. Outside authorities had to be approached only when the accused party was outside the Adat, either because he was a foreigner of some sort or because he had repudiated the Custom — perhaps for a quite honourable reason such as political or religious belief.

The ultimate sanction was *di-pulaukan*: to make an island of him, the complete boycott. Then the offender and his — rarely her — immediate family were treated as though they had ceased to exist. They did not become outlaws in the sense that they could be attacked with impunity, but they were outside the Adat. They were invited to no marriages, no circumcision feasts, no funerals; the *tua* ceased to treat them as of his *suku*, the *buapa* listened to no complaints, the Penghulu disregarded them when dealing with the affairs of his *anak buah*. Ramsay's note⁵⁴ on this reads:

The sanction for refusal to accept such sentences was 'sending to Coventry', that is *Hukum di-pulaukan*, which meant exclusion from kampung feasts and ceremonies. This was in fact much more effective than would be supposed, but it broke down on occasions where the defendants were generally rootless and irresponsible persons such as hired car touts. The issue was not considered as between two persons but

as between two group of warris, and the effect of the judgements were collective against the warris group rather than *in personam*; the object apparently was not so much to punish an individual as to repair the breach caused by his misconduct in the structure of kampong relationships.

The A.P.I. incident at Sungei Buloh⁵⁵ was a striking example of the power of this sanction in a major issue. A.P.I. was an independence movement of sorts, imported from Sumatra into the unsettled political conditions which followed the Japanese Occupation of both countries, and Surrender, the British Military Government and the Malayan Union. Some of its Indonesian leaders had been proscribed by the Netherlands East Indies Government in the Thirties and had been instructed in Russia.⁵⁶ Its ideology was largely Marxist and the movement was revolutionary, and not evolutionary, in the sense that it foresaw a seizure of power by force and the erection of a system of government under which the masses would do what they were told, for their own good. To this end they flew the A.P.I. flag outside one or two remote coffee-shops and brandished their clenched fists and shouted 'Merdeka' when the District Officer went by, and they trained platoons of youths with sharpened bamboos on school padangs in the evening. The local leader was a young man of considerable personality, well-educated and intelligent; his lieutenant and subordinates were much less impressive. The leader was probably intellectually convinced of the logic and inevitability of his doctrines, and seemed not to be actuated by conscious personal ambition: it was his duty rather than his career to establish the new order. A.P.I. was of course carefully watched by Special Branch and subject to some police action — correctly, since it consciously proposed to subvert the rule of law as then established. Some local gossip gave the leader the attributes of heroes of Malay mythology, that he was ordinarily invulnerable and could be wounded only by a silver bullet, and that he moved about free of the law: this was more likely to have been his subordinates' idea than his own. His new world of course involved the end of Adat as much as of the Colonial Government. The local police searched his house but nothing came of it; the Magistrate convicted and fined him for refusing to prepare the sawah and kept him on view in the police station while he sent for the money to dispel his invulnerability; but it was the Penghulu and *tua* who quelled him and the local movement. The offences against Adat eventually led to a sentence of *di-pulaukan* on leader and lieutenant. They were obdurate for some months and then the lieutenant gave in: the leader stood out for well over a year and then acknowledged defeat. The Penghulu's description⁵⁷ was of the leader coming to mosque after Friday prayers and putting his hands between the hands of Penghulu

and each of the *tua* and asking for pardon: *minta ampun*.⁵⁸ It is true that support for A.P.I. was then evaporating and the rising influence of the moderate and constitutional UMNO superseded it as a vehicle for Malay political aspirations, but Adat triumphed where the Court and administration could never have succeeded.

The orbits of Adat and Courts rarely intersected. The Malaysian Law Digest's chapter on Malay Customary Law⁵⁹ notes one hundred and ninety-five cases; of these one hundred and sixty-nine deal with Adat Perpatih. Of the latter, one hundred and fifty-four were cases collected by Taylor in his work on Rembau and inheritance in Negri Sembilan. Only six relate at all to Naning, and these include *Abdul Latiff v. Mohamed Meera Lebe*⁶⁰ in 1829 and *Sahrip v. Mitchell and Endain*⁶¹ in 1870, both dealing with customary rights across all Malacca and embodied in the Malacca Lands Ordinance introduced by Maxwell in 1880, and *Abdul Wahab bin Abdul Rauf and Anor. v. H. Wahab bin H. Mohammed and Anor.* (1940) which held that Malacca customary land was not capable of devise by will, and was applicable inside Naning as well as outside it. The remaining cases, discussed by Hooker⁶² and later herein, are *Munah v. Isam* (1935). *Dato' Kamat v. Sapian* (1938) and *Sapian v. Tiamat and Others* (1939).

The reason for this *terra incognita* in the lawyer's world is simple: the legislators of the Straits Settlements leaned against extending Court jurisdiction to matters of Malay Custom in general.⁶³ The Mohammedan Marriage Ordinance of 1880 recognised Kathis and Islamic marriage, and that married women could hold property separately; from 1924 the estates of interests could be distributed according to Islamic instead of English common laws rules and there was a proviso that these Muslim rules should not supersede any local custom having the force of law on the date of the Ordinance came into effect.⁶⁴ Where land was concerned, Maxwell's Malacca Lands Ordinance of 1886⁶⁵ set up a system which in general operated outside the Courts: in the second reading in Legislative Council the Colonial Secretary said

This Ordinance had two objects....One is to prepare for them (the people) free from expense a complete register of their rights - a register which will enable them to ascertain without expense and without recourse to law, who is the real owner of land....⁶⁶

Two of the nine Objects and Reasons tabled with the 1890 amending Bill were '...3. To bring the mode of devolution on death (of a Malay) into line with Malay Custom instead of English Law of Property' and '...9. To provide for appeal to the Resident Councillor from the Collector of Land Revenue instead of straight to the Supreme Court'.⁶⁷ From the day of his

arrival in Alor Gajah in 1889, therefore, Innes and his successors worked a system in general outside the Courts' surveillance and this was made the more certain when the 1901 amendment introduced the very comprehensive exception of Section 5: 'Nothing in this Ordinance shall...affect the Naning Custom....'

The Courts were not entirely eliminated: there was a right of further appeal from the Resident Councillor (or, post 1946, Resident Commissioner) to the Supreme Court, but the appeal had to be lodged within three months. The Court then was to try the question whether the order made by the Resident on first appeal was, or was not, inconsistent with the rights of the appellants, and might quash the first order and declare it to be of no effect, ordering the Register to be rectified in such manner as it thought fit. But except as expressly provided by the Ordinance, no Court had jurisdiction as to any claim or question in respect of which jurisdiction was given by that Ordinance to the Collector.⁶⁸ The only other provision in the Ordinance was for application for rectification of the Register (as separate from the appeal against a Collector's order that a particular person was entitled) under Section 30 (3), by any person who was aggrieved by any entry or omission of any entry, or if default was made or any unnecessary delay took place in making any entry; and this was subject to any rights acquired by registration — which the same section declared to be conclusive evidence of absolute and indefeasible entitlement, not to be questioned except on the ground of fraud or misrepresentation, or adverse possession. This section, though, later amended, was part of the original Ordinance before any work on registration started and before the amendment of 1890 (later Cap. 125 Section 29) enabled new customary landholders to be created and registered, or provided for mortgages. At any time during the first third of the Twentieth century an application could have been made to the Court, alleging fraud, misrepresentation or adverse possession and claiming rectification of the Register; but in that time none was made from Naning.

The Collector acquired various functions under the Ordinance and its amendments,⁶⁹ but in his capacity of Registrar he was a recording rather than an initiating agent and his duties were mandatory. The onus to report a change in possession lay on the purchaser or mortgagee, or inheritor: he or she informed the Penghulu or Collector 'immediately after it has taken place' and the Penghulu was to inform the Collector 'forthwith': the Collector had to make 'all such enquiry as is necessary' and on being satisfied had to register the transfer or transmission (but not mortgage, which however had to be entered in a separate Register) and he had power to put the person he considered entitled into possession: Section 19. Any

person claiming to be entitled to registration as a customary landholder, including anyone claiming by succession (who was given three years from the death), could apply the Collector, who published notices and 'after such enquiry as (he) thinks fit to make' had to make an order that the applicant was so entitled and to make an entry in the Register: under this procedure the Resident Councillor and not the Collector was empowered to put the successful applicant into possession: Section 15. In the case of mortgages, the Collector 'on being satisfied that the mortgagee was entitled' had to register it in the appropriate Register: Section 22; and if there was default by the mortgagor the Collector in his discretion could make an order for sale: Section 24. Any such sales had to be at the Land Office or some other place nominated by the Collector, and in his presence: Section 27. Any order for sale, or sale thereunder, could be appealed: the application to set it aside went to the Resident Councillor/Commissioner, whose decision was final: Section 25. The Penghulu or 'two respectable witnesses' had to be present to identify the parties when transfers (dealings *inter vivos*, including gifts as well as sales) and mortgage enquiries were held: Sections 12 and 21. The sections did not mention transmissions (changes due to operation of law, of which most were inheritance), but in all cases the Collector had the necessary powers — which included the power to summon witnesses or to compel the production of documents, by Section 17 — to conduct the enquiry, and he had to decide all disputes and had discretion to partition the land: Section 13 (3).

The duty of the Collector thus was to enquire into the circumstances of any claim to an interest in land and, if were satisfied, to register the claimant and give him possession. If, after the 1901 Amendment, the claim were based on Adat Naning, the Collector's duty was to ascertain whether the claim was good under the Adat, and not to consider the merits of the Custom; and to order and register accordingly. Further, the Ordinance dealt only with rights in land, and gave the Collector no jurisdiction in matters concerning other property. He had no 'Small Estates' jurisdiction until 1965, when Act No: 95 of the Laws of Malaysia came into force in Malacca. Incursion by the administration into the operation of Adat in matters of property was therefore minimal.

The Malacca Lands Customary Rights Ordinance did not require that any record of evidence given during these enquiries should be kept, but in fact Land Case Notebooks were maintained by the Collector and the record formed the basis of his 'order' or judgment. A considerable number of the pre-Second World War records at Alor Gajah was destroyed during the Japanese Occupation, but there is coverage of most mukims and a full series from 1946 to the present day. Evidence of the working of Adat in

land matters was, before that War, available from the records or from someone expertly experienced in them: the Collector was called as a witness in *Munah v. Isam*.

Most Alor Gajah cases, Naning and non-Naning, were settled by agreement among the *waris* and the Collector's duty was to record rather than to adjudicate. The number of Naning cases in which men succeeded to an interest appears at first sight to be a considerable departure from the Custom and matrilineal succession, but examination shows that they were all cases where there was agreement to do what in the circumstances was most appropriate, and that where there was no such agreement the Collector followed the Adat and made his order accordingly.

The proverbs quoted, then and now, for such agreements to suspend the working of the Adat are *Habis Adat tegal muafakat* and *Habis Adat kerana kerela'an*, literally, 'adat ended by reason of agreement of all concerned' and 'Adat ended because of willing consent'. Like many Naning proverbs, it could be quoted for or against: proponents construed it as meaning that willing compromise suspended the Adat principles, while opponents used it to attack such arrangements as bringing about the end of the Custom. Either way, there had to be general agreement and if this were not given the Adat rules applied. In all cases, the property remained *pesaka* and the next claimants entered their applications, when the time came, on the basis of their inherited right of succession.

Devolution of an interest in land to males was not a new development.⁷⁰ Dato' Arshad in 1926 told de Moubray

...only sons may be given a life interest in ancestral land (*sa-mentara hidop* i.e. for so long as they live) if his *waris* all agree, but not if there is any dispute. This cannot be done if there is a daughter. Even if the son has a female first cousin he cannot be given a life interest.⁷¹

The Demang of Pegoh stated it differently:

Ancestral property goes down to daughters only. It cannot be inherited by sons. But a mother can lend property to her sons during her lifetime, but this is never done in the case of ancestral property and only in that of acquired when the parents have a lot of acquired property. After the son's death the property goes back to the *waris*.⁷²

Without knowing whether the Demang was asked explicitly about *hasil sa-mentara hidop*, it is impossible to say whether he denied that it was acceptable, or stated a general principle without qualification, but '...at the son's death the property goes back to the *waris*'. The Demang of Nyalas, that *laudator temporis acti*, harked back to 1886:⁷³

At the time when I was first a Penghulu and at the time grants for land first came in, the adat Naning was followed in all its purity. It was followed for about four years after the introduction of grants. Then with successive District Officers coming the adat was more and more relaxed. The true adat Naning did not allow for inheritance of land by males at all, either ancestral or acquired, not even of rubber land....Now males claim even ancestral land, and such claims are allowed by the District Officers at Jasin. In my experience this always leads to trouble.

A quarter-century earlier the Demang of Bukit Senggeh told Blagden:⁷⁴ 'In the absence of daughters and their descendants, sons inherit the land equally' Blagden commented:

This is denied at Alor Gajah: if there is such a case the land goes to the nearest female, not to the son or sons. It is admitted however that...a son...may not of right but by *pakat* be allowed a life interest and the use of the land during his life. But he cannot pass on any rights to his children and at his death the land must go to the nearest female representative or representatives in the female line....Case decided at Ramuan China Kechil 28.9.95.

The Demang also told Blagden: 'Pusaka land must, whenever possible, be kept in the family from which, through the female line, it was originally derived'.⁷⁵ Rembau also allowed a life interest for a male⁷⁶ with remainder to females when there were indirect heiresses.

The English lawyer may be tempted to classify *hasil sa-mentara hidop* as 'mesne profits'⁷⁷ or to conclude that because the man had in layman's terms a life interest he was in legal terms a tenant for life with all that this imports. He would be wrong: the male went into possession on the basis of an implied contract as a recognised exception to the ordinary rule that he had enjoyment for life in consideration of agreeing that the land should remain *pesaka* in the *perut* and *suku*: there was no question of any fiduciary relationship of trustees. The doctrine of a distinction between law and equity is foreign to Naning, which comprises both in Adat.⁷⁸

Nevertheless entries were made in the Registers of males as quasi-trustees.⁷⁹ It is impossible to say when this practice began without examination of all Mukim Registers in all Malacca Districts or, in the absence of contemporary files, whether the opinion of the Attorney-General was sought. The problem was what entry should be made in the Register when the entitled persons were minors. There seems to have been no reason in law why they should not have been registered,⁸⁰ but they were not legally competent to deal nor, when they were very young, physically able to discharge the duties. The effect of the practice was to make the title of the

registered customary landholder — stated by Section 31 (1) to be indefeasible — defeasible by *cestui que trust* though not by third parties. The complications which could be caused are shown by two cases: in *Dolah* the Register's 1925 entry was corrected in 1966 after expert evidence from Penghulu and *tua*, and in *Yunus*, also in 1966, after research by the Deputy Collector into a 1933 record. The fears of the old Demang of Nyalas were not unjustified, but the interesting feature is that claims in *pesaka* revived, without any consideration that they had become time-barred or superseded by adverse occupation.

Such registrations of quasi-trustees seem undeniably *ultra vires* the Collector's powers under the Ordinance⁸¹ for these extended only so far as to enable him to satisfy himself who was entitled, settling disputes if they arose partitioning the land if necessary, and ordering accordingly and amending the Register, all in accordance with the Custom. The *waris* could agree on exceptional arrangements if they so wished, but in the absence of unanimity the Collector could not introduce any such solution: he had to apply the Adat. It must follow that the appellate authorities, whether Resident Councillor/Commissioner or Supreme Court, were in the same position; for in essence appeals can only have been framed on the ground either that there had been fraud, misrepresentation or adverse possession, or that the Collector had misdirected himself by misconception of the Adat. No doubt there is an 'inherent jurisdiction' in the Supreme Court, but in its exercise any departure from applying Adat principles would have been a departure from the intention of the Ordinance and even perverse. The position as stated by Hooker⁸² —

...Section 5 is to be read as barring the substantive provisions of the Statute from applying to Naning pesaka. And finally that any pesaka dispute may be brought to Court under any section of the Ordinance which has the sole function of being a mechanical transmitter of adat. It does not replace adat principles in determining the detailed rights of the parties...

can be both qualified and extended. As has been noted, the Court's jurisdiction was limited (to the admittedly wide class of persons mentioned in Section 15, which did not include mortgagees *not* in possession);⁸³ and *pencharian* and, for example, its division on divorce was also free from any restrictions in the Ordinance.

The limitation on Collector, Resident and Court becomes clearer when one remembers Taylor's distinction between tenure and inheritance and in particular his statement that 'the tenure is...provisionally modified so long as the holder is a person subject to the Custom';⁸⁴ the duty of all

authorities was to establish the Adat under which the customary landholder lived, and to apply it. Furthermore it would seem inescapable⁸⁵ that this principle was applicable to all property passing on death, whether personal chattels or land alienated under the Crown Lands Ordinance (Cap. 113) — that is, other than 'customary land' — because of the effect of the 1923 recognition of local custom as prevailing over Muslim law;⁸⁶ and perhaps also to property passing by act of parties. It is arguable to say the least, that property held by a person who accepts and adopts the Custom is held subject to that Custom no more and no less than property held by a man who adopts the Muslim religion devolves subject to that religion, regardless of where and how it may be registered: 'the tenure...is provisionally modified.'

The three cases noticed in the Law Digest can now be considered in perspective. The first is *Munah v. Isam*.⁸⁷ At some time before 1923 Sudah binte Mydin, of the tribe Tiga Nenek,⁸⁸ borrowed money from a Malacca Chettiar and signed a Promissory Note: she defaulted and the Chettiar obtained the appropriate order for distress sale by the Sheriff. Among Sudah's assets was EMR 274 Ramuan China Kechil, and at auction in 1924 the Lot was knocked down to a Malacca Malay, 'tout' of the Chettiar.⁸⁹ (The land adjoined a developing village). That same day the Collector was alerted to the fact that the land was *pesaka suku* to Tiga Nenek, and told the Penghulu to find a purchaser from that tribe so that the tout could be paid off. The Penghulu could find no Tiga Nenek woman willing and able to put up \$60 but found a man, Haji Salleh. There was some sort of discussion with the Collector, and Haji Salleh must have understood that the land was to remain *pesaka suku*: the Register was annotated 'Pesaka Suku Tiga Nenek',⁹⁰ but as some sort of compromise the land was registered in the name of Haji Salleh's wife Munah, of suku Anak Melaka.

Over a decade later Sudah's *waris*, Isam a granddaughter and Alang a daughter, offered Haji Salleh the money he had paid plus the assessment which had also paid to the Land Office during his years of possession, in return for the land. Haji Salleh wanted its current value of \$400. Isam and Alang asked the Collector to register them as customary landholders in consideration of payment of the sum they offered, and he refused. They appealed to the Resident Councillor, and he did not find as they wished but varied Munah's position: she appealed to the Court. There was no dispute as to fact, and it is clear from the judgement that Haji Salleh and Munah⁹¹ did not contest that they could sell only within Tiga Nenek, that the land was *pesaka* to that tribe, or that Haji Salleh was the active party: Munah was purely passive. The point in issue was how much money should be paid, and what value applied.

The Resident Councillor found that Haji Salleh 'acquired the land as a purchaser for value but on the understanding that it could not be sold outside the Suku (sic) Tiga Nenek', and that the Collector intended him to take a life interest. He left the reimbursement amount open for the parties to settle between themselves, unless the registered owner Munah died, in which case the Land Office valuation was to be applied.

Burton, Acting Chief Justice, decided that 'the whole dispute turns on the legal position of Haji Salleh'. He doubted whether Haji Salleh was a purchaser of value or whether a life interest was intended. He found that Haji Salleh was not a trustee because he was not under any duty to account for profits, and that he had been in possession and had the right to take the profits.

...But the indorsement on the title by the District Officer of the words "Pesaka Tiga Nenek" means that there remained a right vested in the tribe to redeem the land....It follows that Haji Salleh had an interest in this land which is defeasible upon a wavis of the Suku Tiga Nenek performing the condition of payment of \$60. The position seems to be practically that of a mortgagee. Consequently the appellants are entitled to redeem on repayment of the sum of \$60 and the quit rent \$5.50.

The whole sequence of events raises queries. There was no reason why Sudah should not have signed a Promisory Note or why the Chettiar should not have obtained his distraint order; but the Sheriff seems to have been in error in offering the land for sale to all comers, and the Court in making the order should have borne in mind Section 12 of the Ordinance whereby all mutations in title should be effected in conformity with it, and Section 20, which excluded quasi-mortgage by Promisory Note. The Collector, by being not satisfied of entitlement, could have refused registration to the Malay tout under Section 13, and rested while the parties appealed; but this fainéant policy would have left the conflict between Court order and Register unresolved. The registration of Munah of Anak Melaka was not perverse as at first sight it seems; for the interest — whatever it was — for which Haji Salleh paid was *pencharian* in the hands of husband and wife and their respective entitlements and claims were delimited by Adat and not by registration of Munah as sole landholder.

The whole dispute and its consequential rulings on Adat Naning did indeed turn on the legal position, meaning by this the legal acceptance of Adat, of Haji Salleh; and this was determined by the agreement made at the time. It was clear from the search for someone in Tiga Nenek to put up \$60, and from the immediately subsequent notation on the Register folio, that this land was to remain *pesaka suku* to Tiga Nenek. There were three possibilities, and the evidence of the Penghulu — 'Mr. Curtis later told me

that Haji Salleh could have the land until a *waris* was available who could pay the price⁹² of the land' — excludes none of them. Firstly, it was possible for Haji Salleh to buy a permanent heritable and transferable interest in the land (to use the wording of the Ordinance) limited to Tiga Nenek when transfer or transmission came to take place and thus terminating any right in the *waris* of Sudah. Secondly, Haji Salleh could have bought a life interest, *hasil sa-mentara hidop*, with reversion to the *waris* of Sudah. In either of these cases the value of Haji Salleh's interest would be the current market value of that interest, the first more valuable than the second. Lastly, Haji Salleh could have become a mortgagee by *chagar makan hasil*, with an interest in possession determinable on tender of the redemption money. The Resident Councillor, who heard witnesses, came to the conclusion that the transaction fell into the first category, though he mentioned an element of the second. The Judge, according to the headnote, heard evidence 'given by several witnesses that the Naning Custom lays down that if a Malay *waris* acquires *Pesaka* land he is bound to surrender it to a female of the *Suku* if she pays him the money he paid for the land' and he may or may not have taken evidence of fact as to events: there is no indication that the statements of principle were tested by relating them to the three possibilities. The Judge concluded that the transaction fell into the third category, though he did not say so in Naning terms.

With respect, the learned Acting Chief Justice found *per incuriam*. His statement that 'Haji Salleh, being a male could not be registered as owner of *pesaka* land' was an undue extension of what the Resident Councillor had written in his judgment, disregarded any element of *pencharian*, and was not correct — as evidence, if it had been adduced, would have shown. The 'indorsement on the title' had no statutory or legal significance: it was a notation by way of *aide-memoire* of no greater or lesser value than a slip of paper attached to a Register sheet, and less than that of a report in a Land Case notebook: the annotation served only as a reminder to the Collector that the land was subject to one particular facet of the Custom. It did not follow, even given legal significance to the 'indorsement', that a payment of \$60 by a qualified person would defeat Haji Salleh's interest. The judgment gave no indication that there was any argument before the Judge on the nature of Haji Salleh's interest, other than an irrelevant suggestion that he was a trustee; nor did the Judge in finding that there was 'practically...a mortgage', consider Sections 20 to 22 and Section 16 or wonder if a mortgage could exist when it was not registered as such. He gave no grounds for awarding to Haji Salleh \$5.50 as reimbursement for assessment paid, for this payment was an incident of possession: by his own reasoning the award should have been \$60 net.

The conclusion must be that this decision should be distinguished, in any future judgment, and that the headnote does not accurately state the position, then or now. It is submitted that it would be better stated by:

In the case of land held under the Naning Custom, if *pesaka* land of a *suku* is registered in the name of some person not a female of the tribe the tribe's right and interest is not thereby affected and the rights acquired by registration are defeasible upon the *waris suku* performing the condition of reimbursing the registered owner the value of his interest.

It is perhaps worth commenting that if either the Collector had registered Haji Salleh or if the Resident Councillor and Judge had not varied the Collector's order, the matter would have corrected itself on the death of either Haji Salleh or Munah, when the status of the land would have come under examination, the claim of Tiga Nenek revived, and the amount of reimbursement investigated and decided.

The other two cases, *Dato' Kamat v. Sapien*⁹³ and *Sapien v. Tiamat and Ors.*⁹⁴ related to the same set of circumstances. Sapien, or Sapiah, of *Suku Mungkar*, was the registered landholder of four Lots at Pulau Sebang; she had no daughter or sister. Tiamat or Tiamah, her first cousin, was nearest surviving female relative and therefore next in succession.⁹⁵

In 1932 a survey was made for a village lay-out at Pulau Sebang. The Ordinance had been amended in 1922 by a section which became Section 10 of Cap. 125 in the 1936 Edition: the Object and Reasons⁹⁶ were:

...to empower the Governor in Council to make an order that land held by customary tenure under the Ordinance has ceased to be so held, upon the ground that for the previous three years it has been used, not for agricultural, but for building purposes. When such an order is made and documents of title are delivered, the owner will receive a Statutory Grant as title to his land. If the documents are delivered the land will be forfeited. The reason for the Bill is that certain lands near Malacca now held by customary tenure are being used for building and not for agricultural purposes.

The amendment was intended to regularise the position in the environs of Malacca Town, but was of course applicable to the whole Settlement.

Sapiah applied, or perhaps announced that she intended to apply, for conversion of two Lots to Statutory Grant, so that shophouses could be built; and she arranged with a Chinese *towkay* to finance the project. It is not clear whether the plan was originated by Sapiah, or by her grandfather, or by the *towkay*: it seems to have been assumed that once the land was held

by Statutory Grant (in perpetuity) it would be freed not only from customary burdens but also from the Custom and thus be freely alienable — and much more valuable. Sapiah failed to pay \$1775 owing to the Chinese, who obtained judgment against her; and she then borrowed money to pay the Chinese from Dato' Kamat, Undang of Johol and a close friend of her grandfather. This loan was to be secured by a mortgage under the Ordinance, but the Collector refused to register it: according to the trial Judge, the Collector considered 'that the limited right of disposal possessed by (Sapiah) prevented her from giving a charge to any person other than a female of the same Suku'.⁹⁶

Neither Sapiah nor Dato' Kamat appealed this refusal, as they could have done under Section 30; instead, one month later Sapiah signed an agreement set down by a Tampin petition-writer by which she undertook, in consideration of \$1800 received, to repay the sum within ten months from the proceeds of sale of two Lots, including the one with the shophouse on it; there was a proviso that should the sale not take place within the time, the Lots should be transferred. The judgement, and presumably its agreement, did not say to whom, but it may be supposed that it was to be a nominee of Dato' Kamat, since he himself was not qualified under Cap. 125. The agreement provided that the Mukim Register Extract should be handed over to Dato' Kamat.

Tiamah the cousin objected to the proposed surrender and exchange (naturally enough, since it was aimed to defeat her interest in remainder) and sent petitions to the authorities, though she did not make the formal application to the Court provided for by sub-section (3) of the relevant section, 10. No surrender in exchange for a Statutory Grant was made (and could not have been made by Sapiah when Dato' Kamat held the Extract) and Sapiah failed to repay the money or carry out the bargain. After four years Dato' Kamat, weary of the feud between Sapiah and Tiamah and anxious to get his money back, brought an action for breach of contract against Sapiah; and he was awarded \$2500 (to include an element for interest) and costs.

The only substantive point relating to Ordinance and Custom was whether the deposit of the Certificate had any legal significance. It was not unusual for the Extract to be demanded from borrowers from lenders, particularly by Chettiar money-lenders. The Land Offices took the view that it had no legal consequences, but as early as 1923 had suggested to the Colonial Secretary that there should be legislation imposing penalties on money-lenders who retained Extract Certificates.⁹⁸ The practical reason for demanding the Extract was the same as that for taking title deeds in early English practice: to prevent the borrower from dealing with the same

land elsewhere. Under Section 12 a vendor had to produce the certificate to the Collector, or account to him by affidavit for non-production, and the same was true by Section 21 for a mortgagor: if the Certificate were not forthcoming, therefore, the Collector was put on enquiry.

Dato' Kamat's counsel argued that handing over the Certificate served to create an equitable mortgage in terms of English law, with its right in the lender to require a legal mortgage — or perhaps because counsel was conscious of the futility of acquiring a right which the Collector would not register — some vaguer type of lien. The Judge was explicit:

...the agreement...in so far as it attempts to create a lien by deposit of the Extract...or purports to be an agreement to give a charge i.e. a mortgage under Chapter 125...is illegal....By Section 4 of the Ordinance the Conveyancing law of the Colony is not to apply, and if the law does not apply equity which follows the law cannot apply....

He referred to Sections 12, 21 to 28 and 29 and said: 'The effect of these sanctions appears to me to preclude a lien or equitable charge being created by deposit of the Extract....'

In the absence of any plea of frustration or mistake the reason why Sapiah did not carry out her side of the bargain did not come before him for decision, and he expressly declined to comment on the Collector's refusal to register a mortgage. His remarks on limitation on mortgages by Adat are therefore *obiter*. After his statement of the Collector's reason for refusal, he continued:

...Certainly such a charge seems inappropriate as it can only be enforced by a sale or transfer to the same Suku...the holder has not under the Custom an unlimited right of disposal; and as a sale can only take place within the Suku, that part of the Ordinance giving the customary landholder capacity to charge his interest in the manner provided is, in the case of land held under the Naning Custom, practically a dead letter. The fact that no charge had been registered during the last 13 years strongly supports this view.

The case is not authority for the proposition that *pesaka suku* land may be mortgaged only to females of the same suku, nor is that proposition valid.

The statement of principle of its consequence and of fact cannot be disputed: the question is what limits were set on 'disposal' and what transactions were included in it. The Ordinance made no provision for sub-tenures, either in the nature of leases (when the entire interest passed, subject to exceptions and reservations, for a fixed term) or in the nature of a licence. Section 19 required notice of all changes of possession, and

registration by the Collector of the person acquiring that interest. Yet in Naning, and across all Malacca, there were arrangements by which sub-tenures were set up, *bona fide* by *sewa* (hire) or *bagi dua* (crop-sharing) or *mala fide* by *tumpang nama*. Leaving aside whether these were valid under the Ordinance they were legitimate vis-a-vis the Custom if they were agreed by all the *waris*, and this applied to all *pesaka* land, whether *pesaka waris* or *pesaka suku*. In the latter case the consent was formally signified by the *tua* and was in practice hard to come by. Mortgage transactions allowing possession of the land were known to Adat, as *chagar makan hasil*; mortgages without possession were also known; and both were recognised by the Ordinance. Under Adat legitimate transactions became illegitimate when the rights of the *waris* — immediate *waris perut* or *waris suku*, as appropriate — were diminished and the property was irretrievably lost: the maxim was *Untok anak jangan di-berikan*.⁹⁹ The risk of this was proper ground for objection by the *waris*, and anything short of unanimous consent meant that Adat principles applied: evasion or neglect of the duty to obtain consent provoked opposition (when discovered). Tiamah was in the right, and Sapiah in the wrong, in the proposed conversion to Statutory Grant; and Dato' Kamat in the right up to the stage that he introduced the proviso in the agreement.

It is submitted¹⁰⁰ that the statement attributed by the Judge to the Collector, that the Custom prevented the defendant from giving a charge to anyone other than a female of the same *suku*, was not in fact a rule and that the true position was that a mortgage of *pesaka suku* land was possible either to someone inside the *suku*, or outside it if the *waris* agreed; but that on default and order for sale the class of possible purchasers was limited to members — including males, for *hasil sa-mentara hidop* — of the same *suku*. Put another way and more generally, the rule was that anyone dealing, whether by mortgage or otherwise, with a landholder subject to Adat took his interest subject to the limitations imposed on the landholder by the Adat. (This will cause no difficulty to an English-trained lawyer who knows that no-one can convey an estate in land greater than he himself has, and the objection that a *bona fide* purchaser for value without notice takes free of restrictions fails, because Section 5 gives constructive notice and puts the purchaser on enquiry). Any forced sale was therefore in a very restricted buyer's market, and this in itself made moneylenders and speculators chary of mortgages under the Ordinance and attracted to Promissory Notes and other imprecise devices.

Sapiah did not satisfy the judgment in favour of Dato' Kamat¹⁰¹ and he obtained an order of seizure and sale of all four of her Lots. The auction took place on 20th June 1938 at the instance of the Sheriff (and not the

Collector under the Ordinance) at the Land Office and was carried out by a member of the Land Office staff in the presence of the Collector. The bidders seem to have been restricted to members of *suku* Mungkar, and the land was still customary land under Cap. 125. Three of the Lots were bought by none other than the customary heiress Tiamah; the fourth was bought by another Mungkar woman. They were duly registered. All were before the Court next year in *Sapiah v. Tiamat and Others*:¹⁰² these others were the other Mungkar woman and Dato' Kamat as second and third defendants.

The evidence revealed that on the day of the sale Dato' Kamat had made a written agreement with Tiamah. He paid her an unstated sum of money, in consideration of which she agreed to buy the land at the auction and, after it had been registered in her name, to apply for exchange into Statutory Grant or lease: thereafter the new titles were to be conveyed to Dato' Kamat for one dollar. If all this went through, Tiamah could keep any balance of the money Dato' Kamat handed to her; if it did not, she was to be liable for all the money given to her on a Promissory Note she undertook to sign. Tiamah also agreed to account to Dato' Kamat for all rents and profits received while the land was in her name; for his part Dato' Kamat agreed not to proceed against Sapiah (who was not a party to the agreement) for any balance on the former judgment. The second defendant was not initially party to this agreement: she went to the sale and joined in the bidding (whether as a genuine bidder or to provide a semblance of competition is not clear) and Tiamah did not overbid, so one Lot was knocked down to her. However, she rapidly adopted the agreement, and Tiamah paid the other woman's purchase money with Dato' Kamat's cash. The four Lots realised less than \$2500.

Sapiah brought an action to have the sale declared void and — presumably under Section 18, though this is not stated — the Register rectified by cancelling the registration of Tiamah and the other woman. The ground was that they were nominees of Dato' Kamat who was not qualified to be registered as a customary landholder. Sapiah's counsel also apparently argued that there was a fraud, on the *suku* rather than on her — a theme he understandably could not develop very far, in view of his own client's machinations; that the agreement was illegal in that it was intended to defeat the purpose of the Ordinance; and that a Sheriff's sale was *ultra vires* that Statute.

The Judge dealt with these points in turn. He said that —

...the Ordinance nowhere in direct terms forbids a purchase by a nominee.¹⁰³ Section 30 states that "the registration of a mutation upon a genuine transfer...or transmission by the registered holder...shall be

taken in all Courts as conclusive evidence that the person named therein as registered holder is absolutely and indefeasibly entitled to be registered as holder thereof" but allows the title of such holder to be questioned on the grounds of fraud or misrepresentation to which he is a party.

After considering other points he came back to this in his finding and, after commenting on Section 13, said:

...I do not consider that the Collector is put on enquiry as to whether the person claiming to be registered is a nominee or not, or as to where he got his purchase money from, whether from a nominator or from, say, the proceeds of a gang robbery the night before.

The learned Judge did not in fact sufficiently consider the part of Section 30 which he himself quoted, presumably because it was not argued before him. He overlooked the word 'genuine' in the phrase 'genuine transfer', and failed to appreciate that questioning the registered title on the grounds of fraud or misrepresentation (or adverse possession) were expressed in the Ordinance as arising only after registration. If these were the only grounds on which a registered title could be defeated, the word 'genuine' was meaningless and unnecessary. It is difficult to believe that when the Legislature enacted that the registration of a genuine transfer gave indefeasibility it really meant that the registration of any transfer whatever, genuine or bogus, was indefeasible unless later challenged on specific grounds; and if Legislature and Ordinance meant what they said it must follow that if at the time of registration any doubt were raised, the Collector was put to enquire whether it was genuine.

On counsel's next argument, that sale and agreement were a fraud, the Judge said —

...the fraud alleged was argued to be a fraud...on the tribe in that if these transactions were carried out there would be no money for 'ganti pesaka' i.e. to buy other lands to be held under the same Naning Custom. But that seems no real argument because that is exactly what happens when any land is converted...from customary land to grant or leasehold. The misrepresentation was presumably, though the point was not argued, that the purchasers were nominees and not persons who were going to receive the profits arising from the land.

He made no reference to any evidence, if any had been given, that when any such surrender and issue of grant or lease had taken place involving *pesaka suku* land then the registered holder pocketed the proceeds with the acquiescence of the *waris suku*; or that the land under its new title could not remain *pesaka*; or consider that if there had been cases

whether they were in breach of Adat; or examine whether Section 5 and its saving of the Custom suspended or modified Section 10 and the possibility of conversion.

On the argument that the agreement was illegal because its intention was to defeat the Ordinance, the Judge — after observing that the Ordinance was 'very inconclusive' and 'difficult to interpret', with lacunae — decided that its object seemed 'to be to maintain Malacca customary lands as far as possible in the possession of Malacca customary landholders'; but though he had stated that Dato' Kamat was not qualified, the Judge decided that the point did not arise in this case. This is hard to follow, for it can hardly be denied that the intention of the agreement was to put Dato' Kamat, and not Tiamah, in possession; and the case was brought for an order that the names of the two women should be deleted from the Register. The Judge added that the legality or illegality of the agreement would be in issue in any subsequent proceedings on the contract, and seems to have inclined towards its illegality, for he quoted the maxim *In pari delicto potior est conditio defendantis*.¹⁰⁴

On the last point, whether a Sheriff's sale was outside the Ordinance the Judge considered Section 29 — that no mortgage or sale of any interest should be valid unless made in accordance with the Ordinance: it seems that it had been argued that this section should apply to all sales. The Judge found that it related only to public sales after default by a mortgagor. There is no doubt that this was the intention of the Legislature: the mortgage sections were all part of one amending Bill,¹⁰⁵ and the marginal note and the context support the Judge's interpretation. No attention seems to have been paid to other sections, however: the definitions in Section 2 necessarily include a sale in 'transfer' or alternatively a Court Order under 'transmission'; Section 12 required 'all mutations in title whether by transfer mortgage or transmission...shall be effected in accordance with this Ordinance and not otherwise'. In the case of a transfer, Section 13 (which the Judge quoted) made it mandatory on the Collector to draw up a form (Schedule A) to be signed by the registered holder-vendor or his 'duly accredited agent'. If it were held that the sale was a transmission within the definition, Section 15 would seem applicable with the mandatory requirement for notices and enquiry, before the Collector could be satisfied and register the Sheriff — who would have to be certificated by the Resident under Section 3 unless he were a Malacca-domiciled Malay (and at that date he was not). It would seem that while the Sheriff could conduct the sale personally or by agent, he was not in a position to complete the transfer or transmission.

The Judge found that the inherent jurisdiction of the Supreme court

could only have been ousted by express statement in the Ordinance and that the sale was not illegal merely because the land was sold at the request of the Supreme Court under a writ of seizure and sale. One can follow him thus far, but doubts remain whether the subsequent registration complied with the Ordinance — unless of course all the mandatory requirements had been complied with and the Sheriff had become at law the 'duly accredited agent' of Sapiah.

It is unfortunate that the advocates did not draw the Judge's attention to other sections of the Ordinance and that he did not consider them more fully. The customary landholder had to be a Malay domiciled in Malacca, or certificated, before he could be entitled to rights of use and occupancy, and the profits therefrom; and these rights, except in the case of mortgage, were of their very nature rights in possession. The Collector had to be satisfied that the applicant was entitled to these rights, apart from any further limitations imposed by the Adat Naning. It is barely conceivable that if Tiamah and her friend had appeared before the Collector to claim registration and stating that they were buying land from which would take no profits, with money not theirs, and of which they would not keep possession, in order to execute a manoeuvre by which the land was to cease to be subject to any claim in remainder by the *waris* (which is what the evidence revealed) then the Collector would have been satisfied and would have registered them: and it is inconceivable that if he had put that position to them and they had denied it, there would not have been fraud and misrepresentation. Indeed, the Judge's gang-robber, if he had been of the right *suku* and intended to exercise the rights and perform the duties of a customary landholder and observe the Custom, would have had a more unassailable claim to registration. The inevitable conclusion is that in any future case this decision should be distinguished, and since of the ten lines in the Malayan Law Digest headnote stating what was held, only the first three correctly state Custom and law (and that only in part) it is not possible to suggest an amendment.

At the end of the day, Sapiah, who had intended, as principal or catspaw, to make a quick unearned profit at the expense of her *waris* and in disregard of the Custom, ended up with nothing. Tiamah, who had protested her claims under the Adat so vigorously, joined in a scheme in which she bound herself to lose her birthright, perhaps with some return in cash and to deprive her own *waris*. Dato' Kamat, once he had moved on from lending the money and had succumbed to the idea of getting the shophouses for himself in disregard of the Custom of which he was a Lawgiver, brought delay, anxiety and financial loss upon himself. In the kampungs this may in the end have seemed poetic justice. Poetry of a

satiric kind and justice of a sardonic nature there may have been, but it was not begotten of the law as then argued by Counsel and found by the Judge and without an understanding of the Custom.

Chapter 7

The Naning Community

The Naning community as it was just before the advent of the independent nation-state can now be shortly described.

It was still mainly a peasant society, and the Adat had developed as a Custom applied by a peasantry to themselves. It was based on the ownership by almost all families of quite small areas of land, made smaller each generation by fragmentation. It produced subsistence, with a little surplus for sale to buy what it could not produce: even the widespread kampong rubber was produced in dribbles and sold on a quasi-barter basis to local shopkeepers. To the economist it was labour-intensive, with low productivity per man-hour employed: it was not a society able to generate much capital for entrepreneurial enterprises to increase its economic assets dramatically, or to train the entrepreneurs themselves. To the Marxist, it was archaic: it had no proletariat with nothing to sell but their labour, or classes to engage in the class struggle. To the town-dweller, it was outside the developments of modern life: he could not believe that the Adat organisation could operate in metropolitan areas.

It was a stable society. It thought in terms longer than the individual life: the idea of *pesaka*, the *suku* and *perut*, the claims of the *waris* and the influence of the *tempat semenda* all set the individual against a background more enduring than himself. There was nobody very rich or very poor but many comfortably off, by the standards of the rest of Malacca and the Malay States. Almost everyone had someone to whom he or she could turn for help and subsistence as of right. The position of women and children, in particular, was more secure than elsewhere: the women's possession of *pesaka* land gave them relative independence of income and of mind, and some provision for the children. The harshest effects of divorce were tempered by rules known to all, administered by third parties who were concerned as elders but not directly involved. The disruptive effects of poverty and consequent envy, of unstable marriages and rootless children, and of a lack of interest by neighbours, were largely diminished by the nature of life under the Adat.

It was an introverted society, for the reason that others — the *tempat semenda* and the elders — had a right to comment, advise and direct: this was the other side of the responsibility to maintain and assist. In matters

of ordinary daily life, standards were set and requirements were made by the wife's family, and in wider matters the issues were settled by adat officials at the appropriate level: even the orders of Government often issued, in the end, from the mouths of the elders.

It was hierarchical: everyone, except the Dato' Naning himself, had someone above him and the ordinary man had many — *buapa, tua, penghulu, Demang, Lembaga, Dato'*. Entry into the hierarchy was not open to all: the candidate had to possess *saka, baka* and *sharat perentah*, and to be in the right place at the right time according to *giliran*. The right place was the parish: the lower ranks were mukim elders, and nobody living outside the mukim was eligible (and posts were vacated by moving outside). But it was not elitist or a meritocracy, in the western sense of those sometimes pejorative terms: any man with *saka* could try his luck when the *giliran* allowed him to stand forward. It was not authoritarian: at every level the adat official had to listen to those below him, and was subject to appeal to the next above him; and all were aware that their decisions could be the subject of discussion, with impunity, by the *anak buah*. It was not despotic: no level of elder or Chief had anything more than a veto on the appointment of the official below him.

It was not democratic, in the sense of 'one man, one vote': even on the few occasions in a man's life-time when there was an election of a penghulu for the mukim, the individual might have no vote because it was not his *suku's* turn to provide the new man; and the women did not vote at all. The Naning reply to the first objection was that his *suku's* turn would come round, and that it was the same for all; to the second, he would have had none at all, except the comment that adat positions were the man's sphere.

The system was characterised by conservatism, even inertia. The elders referred to the *kata pesaka* and not to statements of contemporaries:¹ they were usually elderly or middle-aged country cultivators set in ways which were satisfactory and indeed praise-worthy in their own eyes. The effect of the method of choice and promotion was to produce men of common sense, experience, local knowledge and honesty rather than high-flyers — or demagogues, for it had the very great merit of being a brake on personal ambition. The administrative machine was representative, in an unusual sense of the word: the elders moved with their *anak buah* and not much ahead of them. It could occasionally throw up remarkable men, but this was fortuitous, a result of a happy coincidence of *giliran* and the presence of a man of outstanding quality — though in these cases the *anak buah* did not hesitate to choose him. The system was geared to the possible and not to the ideal, but when the possible was still too little the *perut*

postponed its turn, of its own decision.² The noticeable characteristic of a Penghulus' Conference, however, was the absence of fools or knaves or attention-seekers, and the general common-sense and competence.

It was a mild society. The traditional system was one of restitution and not revenge; and this attitude persisted. Disputes were settled at the lowest level, and nobody had absolute power — not even the Dato', who deliberated *berbalai* with the advice of the *Tiang Balai* and *Isi Balai*. Such litigiousness as existed manifested itself within the Adat: the cases of *Munah*, *Dato' Kamat* and *Sapian* all went to Court on the instance of someone outside the Adat Naning. The number of appeals to the Resident under Cap. 125 was small. Even inside the Custom there seems to have been an absence of litigious behaviour: the reputation of Rembau men³ did not attach to those of Naning. Venality and cupidity existed, as the cited cases show; but the crime rate was low, even for petty crime, and general behaviour good: *samsengs*⁴ were few because public opinion was against them. Public opinion with its ultimate sanction of *hukum di-pulaukan* was the controlling factor and, while this is theoretically true of all societies, few happened to be organised in such a way that it could exert itself with immediacy and effect.

It was very rarely dynamic or forward-looking. Under the *giliran* there was no way of training Daniel before he came to judgment because no-one knew who Daniel was. Even in the case of the Dato' himself one glance at the genealogical table will show that the services of an actuary and a vocational guidance psychologist would be necessary to nominate the probable successor in say fifteen years' time to that he could be trained. The lower officials learned on the job, and the rule that the *buapa, tua* and *penghulu* had to live in the mukim excluded those who had left to seek their fortunes elsewhere; and these included the liveliest-minded and best-educated young men as well as the lazy or feckless. The impetus to seek a position which conferred some status and produced a better and less fluctuating income than that earned on the land of the *semenda* had driven many Naning men to leave their area since the turn of the century: the Straits Settlements Police in Singapore attracted many.⁵ Often, on retirement, they came back to Naning, but there were no vacancies in the hierarchy for them, and their experience and ideas were largely untapped by the Adat organisation. In some cases they, as persons of some position, experience and substance became alternative sources of influence and leadership in mukim affairs.

The first Penghulu of Sungei Buloh⁶ had retired from a fairly senior appointment in Singapore Customs and was bilingual in English and Malay. Much of the kampong rubber then produced was of the lowest

grade dried on paths or in house compounds, sometimes containing bark or grit and even marked by bicycle tyres: it was taken to the smokehouse of the local Chinese dealers, at whose shops the Malays bought dried fish and kerosene and other necessities, often on credit. The Penghulu put it to his *tua*, and they to their *anak buah*, that it should be produced properly, and by themselves. The Penghulu obtained a licence for a smokehouse, and the *anak buah* got it built. He went to Malacca Town and met the managers of the British, French, American and Scandinavian rubber companies and got their prices for smoked rubber of varying grades; he discussed, and accepted, their specifications; he obtained the various prices, collected and delivered. The outcome was the production of top quality Number 1 RSS rubber delivered to godowns in Malacca, commanding the top price from assured producers. It was a remarkable performance, demanding linguistic and technical knowledge beyond the ordinary, and considerable presence and self-confidence in the Penghulu himself. He in fact created a co-operative society successful beyond those set up by the Department of Co-operative Development (from which he took advice while remaining independent) because he harnessed the Adat organisation. It was, however, atypical in that Dato' Mohammed Aris was not thrown up by the *giliran*: he was elected Penghulu when the mukim was created and the *giliran* began with him. He did not evangelise but was always ready to explain; the other mukims knew of the scheme yet of the twenty-six mukims in Nanning twenty-five did nothing similar. And the enterprise decayed and collapsed when the Penghulu was persuaded to join the Rural Development Authority.

Nevertheless, the Adat organisation was not static. Ibbetson's fifteen mukims had become twenty-six,⁷ and all the additions were made at the instance of their inhabitants as they established their mosques and congregations and subdivided into areas which were autonomous in everyday matters. New *perut* had been established: when the members of a lineage wanted their own *buapa*, they made application through the *tua* of their *suku* in the mukim, and if all the *tua* agreed (on behalf of the other *suku*) the new *buapa* and his separate *perut* was recognised. Nanning smallholders began to plant rubber as early as those anywhere in the Peninsula, and Lots of rubber land were absorbed as *pesaka waris* and later as *pesaka suku*: the Adat was not co-extensive merely with a rice and fruit economy. It was good at assimilating outside influences to square with the Custom: with the convention that Islam and Adat were complementary and not opposed — *adat bersendi hukum, kuat adat ta' gadoh hukum, kuat hukum ta' gadoh adat*⁸ — it mollified the stricter tenets of religion, and it took part in the administrative arrangements: *tua* were on mosque committees as

representatives of their *suku* and the *pegawai mesjid* from Imam down came in turn from the *suku*, while the Dato' was Kathi for his own area.⁹ (This was probably a vestige of the *berkhalifah*¹⁰ status of Dol Said in the days of his independence, but the 'Senior Demang', as the Dato' was officially called before he was again recognised as Dato', was appointed Kathi¹¹ of heartland mukims before that recognition). Naning appeared to accept Ibbetson's abolition of 'Datoo and Sookoos' and the appointment of territorial penghulus: the penghulus remained territorial but acquired their miniature *suku*. This process of infiltrating the alien system may have begun very early, with the appointment as Penghulu of Taboh of the person qualified to succeed as Dato'.¹² It resisted neither the Collector of Land Revenue when he first arrived at Alor Gajah nor the registration of customary rights under the 1886 Ordinance, but within a year or two of the completion of the surveys it had prevailed on the Malacca administration to persuade the Straits Settlements Government to except the working of the Adat from the effects of that Ordinance on land law. Clearing of land to plant rubber holdings were outside the rules of *pesaka*, but this was no longer the case in Naning in 1955.

Perhaps the most significant feature of the Adat Naning was its independence: the indigenous system continued, largely untrammelled. The local administration with its statutory framework had been set up, and modified by the Adat, before ever the Yang di-Pertuan Besar and the Undangs of the Perpatih *luak* of Negri Sembilan formed themselves into a confederate State and asked for a British Resident in 1895; and the Straits Government was content to leave Naning as it was instead of embarking on the sort of legislative programme which, with its Lands Enactment, Distribution Enactment and Customary Lands Enactment, confined the Adat in Negri Sembilan under a District Officer who, with his Government-appointed penghulus, largely excluded the adat elders. The Naning penghulu was, in the Land Office, a government official: in the kampong he was the senior Adat elder; in his own house and opinion, he was probably both but indivisibly one.¹⁵

Whether the system was good or bad lies in the beholder's eye. Most of those who have written from close experience of the Adat Perpatih have been attracted and impressed by it, and most District Officers in Alor Gajah were proponents of the Adat Naning (notwithstanding that they themselves were comfortably rooted in a patrilineal culture) since the time of Innes, who praised the Naning community to Legislative Council with a Vergilian tag.¹⁶ Measured by the clichés of modern popular political thought, it scored reasonably well. The people were born free, and nowhere did they think they were in chains. There was no absolute power

to corrupt absolutely. On the mutually contradictory principles of liberty, fraternity and equality they could point to much liberty and fraternity, but limited equality of opportunity and less of status. The Custom was little concerned with health, wealth (except the just division of such as existed, on death or divorce) or the pursuit of happiness, which was unbidable. Government of the people by the people through the people was however theirs, to a degree unimaginable in a unitary western State or its imitators in either hemisphere. In its own way and place it satisfied a more ancient test:¹⁷ 'The state is the union of families and villages having for an end a perfect and self-sufficient life by which we mean a happy and honourable life'.

BOOK THREE

**THE NEW
INDEPENDENCE**

Chapter 1

Political Currents

I

A Naning Rip van Winkle, awaking twenty years after Merdeka Day, would immediately have been astounded to see, wherever he went, wide areas of sawah left uncultivated and yet to find in the kampongs an air of prosperity such as he had not known. He would not fail to notice occasional imposing houses newly-built, and also one or two areas of building-estate housing;¹ it might also have struck him that police stations and their barracks were larger and obviously defensible strong-points. The changes would at first seem enormous; and if he had seen on his bus a young woman in a blouse embroidered with the legend 'Love is....', or in the Land Office a Malay wife with her husband and young son, the woman herself in jeans and tee-shirt complete with logo, albeit the austere symbol of a Bank,² (and, it might well be, a degree in Economics), he might have concluded that there had been a sea-change. Not until he returned to Naning from visiting other places he might have known before — Malacca Town, or an East coast centre like Kuantan, or especially the valley of the Sungei Klang — would he have realised that Naning had changed less than many other places.

The changes were all the results, direct or indirect, of Government policy: very little was the effect of undirected and pure economic forces. This was inevitable: the independent Federation had inherited the centralising tendency of the 1948 Constitution and the attitude that the central Government had the duty of shaping development. The nationalism which had fuelled the independence movement was mainly Malay and through UMNO, with accommodation for the Chinese of the MCA and a slighter gesture to the Indians of the Malayan Indian Congress. Expectations had been aroused in the kampongs: the warning implicit in 'Self-government is better than good government' that it could, as government, be worse was not mentioned: the new Alliance Government had to deliver, and to be seen to deliver. This meant dealing in national and not local plans and agencies, put into operation in areas either where the need was greatest or resources (whether land for settlement, or services and communications for industry) were to hand, or alternatively in areas where political advantage could be gained.³ Where expectations were not fulfilled, there was discontent:

'There is no more *tanah Melayu*, the land of the Malays. He is now a different person, a Malaysian, but a Malay Malaysian, whose authority in Malaya...is now not only shared with others, but shared unequally'.⁴ The Pan Malayan Islamic Party found the Federal Constitution too secular and it and its successor the Islamic Party (PAS) aimed at '...strengthening Islam and Islamic law in Malaysia'.⁵ Rank and file members of the MCA muttered unofficially that Malays were receiving more generous treatment than other Malaysians (and, after 1963, Malaysians). There were outside pressures: the 'Emergency' was not declared formally at an end until 1959, nor did the hard-core leadership surrender; the 'Communist threat' and the 'domino theory' were in most minds, with first Korea and then Vietnam the battlefield between Great Powers; after 1963 there was *konfrontasi* by Indonesia. Everything required that the Federation Government should maintain the initiative, and this shut out debate with, or tenderness for, localised ideas and prejudices. The fall in popular support for the Alliance Government in the 1959 elections led to the establishment of the Ministry of Rural Development, with a programme 'designed to meet the needs of the rural population of all communities, but ... in the main directed to the welfare of the Malay villages';⁶ the riots⁷ in May 1969 after another election when Alliance support again dropped led to Emergency rule, and then to the New Economic Policy when Parliamentary government was restored.

The policies were carried out by a proliferation of Authorities and Councils, many known by their acronyms. In differing ways all provided finance or credit: MARA — Majlis Amanah Rakyat — provided initial finance for any undertaking by *bumiputera*, the 'sons of the soil' (Malays and theoretically at least the 'Orang Asli' or aboriginal races). FELDA produced land settlement schemes for the landless; FELCRA provided for rubber replanting, or the planting of alternative crops such as oil palms, on an estate basis; RISDA catered for rubber replanting by smallholders on areas less than ten acres. State Economic Development Councils⁸ planned, and carried out, schemes for areas in their own States: this could include low-cost housing, or industrial areas, or even Free Trade Zones: but the State of Melaka, at least, was dependent on the Federal Government for finance and approval. Inherent in the policies and schemes was the idea of industrialisation, a Federal function under the Constitution, and of mechanisation. The belief in technological progress aroused the

...expectation that men can dominate and even transform their environment, rather than nature dominating them...that means are available for providing more...on a per capita basis than ever before...that successful economic policies involve increasing agricultural production both

per unit area and per capita of agricultural labour...and this must involve industrialisation.⁹

II

The first legislative change to affect Naning and Melaka came in 1960, when on 1st May the Administration of Muslim Law Enactment No: 1 of 1956 came into force. As the date in its title shows, it was enacted before independence, as part of the programme to homogenise and standardise legislation throughout the Federation.¹⁰ The position of Muslim law and officials had been very different in the Settlements from that in the Malay States. Each Ruler was Head of Islam in his State, and previous treaties had always excepted the Muslim religion and Malay custom from the subjects on which British Residents could make administrative orders. In the Settlements there was no Head of Islam nor any exception for Muslims from statute and English common law beyond what was set out in the Mohammedans Ordinance (Cap. 57 of the 1936 Revision) dating from 1880: this provided for the appointment by the Governor of the Straits Settlements of a Registrar of Mohammedan marriages and of Kathis, and laid down the procedure for the registration of every marriage, divorce and revocation. It was under this Ordinance that every Dato' Naning was appointed Kathi on succeeding to the position of Sri Raja Merah Dato' Penghulu Naning.

One of the many questions the Constitutional Commission had to consider was whether Islam should be declared the official religion of the independent Federation, and the eventual decision was that the Yang di-Pertuan Agong should be Head of Islam in the two Settlements of Penang and Malacca.¹¹ The Enactment of 1956, passed by the Settlement Council because under the 1948 Federation Agreement Islamic affairs were a State and not a Federal matter, provided by its Section 4 for a Majlis Ugama Islam to advise the Yang di-Pertuan Agong on matters relating to the Muslim religion in the State (then Settlement) of Malacca. It went on to set up a Legal Committee of the Majlis, to provide for the appointment of Chief Kathis and Kathis, and for their jurisdictions, powers and duties, all matters not mentioned in the Straits Settlements Ordinance. With the coming into effect of the Enactment in 1960 the new system was established and the Dato's appointment as Kathi terminated.

The next legislative change was the bringing into force in Melaka of the Small Estates Distribution Ordinance 1955. This was another step in 'harmonisation' throughout the Federation, and this Ordinance was brought into force in Kelantan in the year in which it was passed and then in all the Malay States except Kedah two months before Merdeka Day.

The scheme of the Ordinance was that the bulk of small estates should be dealt with by Collectors of Land Revenue in the local Land Offices: a 'small estate' was an estate of which part was land and with a gross value not exceeding \$10,000.¹² The High Court's probate jurisdiction was expressly reserved, but the Court could either deal with the application or remit it to the appropriate Collector, by ordering that a petition for distribution under the procedure in the Ordinance should be filed, or order the Collector to proceed as if a petition had been lodged. In cases of intestacy, any petition to the Court had — Section 7 (1) was mandatory — to be transferred to the Collector.

The procedure of distribution was to be started by a petition to the Collector, by any person claiming to have an interest in the estate of the deceased or (if none such acted within six months from the death) on the report of the penghulu. It was then the duty of the Collector to clear with the Court that no application had been entered there, and if not to investigate and value the estate. If it did not come within the statutory limit, he reported to the Court; if it did he gave notice to petitioner and beneficiaries of a hearing, and appointed a guardian *ad litem* for any infants or those of unsound mind. The hearings were to be open to the public.

At the hearing the Collector had to record the evidence of all witnesses, to call evidence where necessary to ascertain the religious or customary law of the deceased (Section 12 (4)) and that applicable to devolution of his or her estate (Subsection (7)), and claims by any alleged purchaser: all these were mandatory. He also had discretion to examine 'as a witness any person who appears...to be capable of giving relevant evidence', and therefore presumably summonable by him; and to require the attendance of any penghulu who might be able to give material information. This latter discretionary power would have produced in Naning at the time the Ordinance was passed the adat official whose duty it was to acquire material information, but by the time the statute was brought into force the altered Penghulus' Scheme had substituted officials without such complete information.

The Collector also had the duty and the power to settle collateral disputes before making his final order: where money or other moveable property in dispute did not exceed \$10,000 in value he acted of his own powers. Where it was more than that sum, he had to direct the parties to institute proceedings in an appropriate Court, but if the parties took no such action within two months the Collector had to deal with the matter. Parties could therefore keep the matter before the Collector by doing nothing and saving Court fees and lawyers' costs.

In his order the Collector had to make provision for the payment of fees and any duty (including *baitulmal* in Muslim cases) payable, with an order for sale if necessary; he had to order that an infant beneficiary's share should be registered in the name of a trustee and enter a Collector's caveat on the Register: he had to transfer land to any purchaser who substantiated his claim, and to award any appropriate compensation to a claimant to land who failed to prove the purchase. These particular provisions were new to Naning as law (as was Estate Duty), since Cap. 125 contained none of them — although notes in the Register of Holdings and in the Land Case Books (technically the 'Register of Original Cases': Schedule F. to the Rules) served the same purpose more erratically.

The Collector had a discretion (Section 15 (1)) to make an order following the terms of an agreement reached by all beneficiaries if they were all of full age and capacity, and a further discretion (Subsection 2) to assent to such an agreement on behalf of a minor or person not of full capacity. Should he not assent, it seems that he is then taken back to Section 12 and the mandatory decision on religious or customary law applicable to the devolution of the estate. When difficult points of Muslim law or Malay Custom arose, the Collector might, but was not bound to, refer the matter to the Ruler, or to such other person or body of persons as the Ruler might direct. 'Ruler' was not defined in the Ordinance, but it would seem that in the case of Malacca this was the Yang di-Pertuan Agong.¹³

There were special provisions for Penang and Malacca set out in the Third Schedule, empowering Collectors to make two or more distribution orders to deal with intervening unadministered estates and to vest the land in the person currently entitled and thereby to bring the Mukim Registers up to date. Interestingly, Part III of the Ordinance set out in Section 24 principles of the Adat Perpatih which in all its paragraphs (a) to (g) were entirely correct for the Naning Custom, but made that Part applicable only to the Districts of Jelebu, Kuala Pilah, Rembau and Tampin, because it then linked the operation of the part to the 'tribes' or *suku* specified in the Customary Tenure Enactment (FMS Cap. 215) of Negri Sembilan. Estates to which this Part of the statute applied were to be administered as 'small' whatever their total value, and all appeals were to an Appeal Committee appointed by the Yang di-Pertuan Besar of Negri Sembilan instead of to the High Court.

In fact the whole apparatus of Adat knowledge was available to the Collector if he wished to use it, because the superseded penghulu and 'sidangs' of the old system were replaced formally though unofficially by the simple expedient of the Dato' Naning appointing his own. In a move reminiscent of Naning's response to the 'abolition' of 'Datoos' and

Sookoos' after Dol Said's defeat, he appointed '*Lembaga kecil*' in each mukim: these consisted of the Dato' Setia Bukti, the *Lembaga perpangkat tua* and the *Lembaga perpangkat buapak*, with the addition of a Dato' Maulana hakim;¹⁴ and he recognised the Mata-mata Penghulu. Shorn of their honorifics, this gave each mukim a penghulu adat and continued the suku elders and mata-mata of old, with a sort of legal adviser added. The certificates which had been issued to the old 'sidangs' were replaced by a *tauliah*¹⁵ from the Dato'.

Application of the Small Estates Distribution Act to Malacca was delayed until the State's Land Offices were ready to work the National Land Code (Penang and Malacca Titles) Act No: 2 of 1963 and the National Land Code itself (Act 56 of 1965). The Penang and Malacca Titles Act provided in Section 119 (1) (b) for extension of the Distribution Act to Malacca by order of the Federal Minister responsible for land after consultation with the Governor. Both the National Land Code Acts came into force in Malacca on 1st January 1966, two days after the Small Estates Distribution Act.

The purpose of the Penang and Malacca Act was set out in its preamble:

Whereas it is desired to introduce in the form of a National Land Code a uniform land system within all the States of Malaya;

And whereas it is in consequence necessary for the purpose of ensuring uniformity of law and policy to introduce into the States of Penang and Malacca a system of registration to land and other provisions incidental thereto consonant with the provisions of a National Land Code....

The Act was largely procedural, concerned with setting up various authorities — a Commissioner of Land Titles and his Deputies, a Land Titles Appeals Board — and defining their powers, duties and jurisdictions as well as those, of a Collector of Land Revenue. It established an Interim Register, from which land held under the previous Customary Rights Ordinance was excluded: the Interim Register was to be composed of folios setting out 'Replacement Titles', and these Replacement Titles became indefeasible as registered, either when the Commissioner of Land Titles had completed his examination of the title and time had run for appeal against an apparently clean title, or when twelve years had elapsed without objection by caveat. The 'final title' became a title under the National Land Code, and governed by it.

Nevertheless, substantive changes in the land law of Malacca were necessary before the mechanics of the Torrens system in the National Land Code could be applied. All pre-existing titles were determined and

replaced by titles under the Act, by Section 36 as regarded non-customary land and by Section 99 in the case of customary land; grants and leases, by whomsoever made and indeed in cases where — as for example when there had been adverse possession — no title could be claimed¹⁶ became State grants and State leases noted as such in the Interim Register. Dutch and East India Company grants became 'Grants first grade', Statutory Grants and Leases for nine hundred and ninety-nine years became 'grants', and leases for shorter term became 'State leases'. While they were entered in the Interim Register they remained subject to the 'express covenants conditions or restrictions' (exceptions and reservations, were not mentioned) in the superseded title¹⁷ and also became subject to conditions set out for various categories in the Third Schedule, and the earlier documents remained evidence of these incidents of tenure; once however that the titles became 'final', only the register was evidence of the conditions and restriction of interest.

The other innovations brought to the law of real property in Malacca were the caveat and prohibitory orders, deriving their legal force from the National Land Code but applied also by the Penang and Malacca Act. Caveats were of two kinds: the Registrar's caveat and the private caveat. The Registrar's caveat was an anticipatory device, designed to forestall any dealing when the Commissioner or the Collector (depending on where the Register was maintained) had reason to suspect fraud or any other improper dealing, to protect the interests of a variety of persons — Government Federal or State), minors, those of unsound mind, absentees from the Federation — or when there was an apparent error in the Register.¹⁸ The Registrar acted and then gave notice to the parties affected: the caveat remained in force until the Registrar decided to remove it, or the registered proprietor applied for its removal, or the Court so ordered after hearing an appeal against the Registrar.¹⁹

The private caveat could be entered by anyone claiming either title to the land or a registrable interest in it; by anyone claiming to be beneficially entitled to one or the other; and by someone acting on behalf of a minor claiming to be entitled in any of these ways.²⁰ Registrable interests formed a wide but limited class: ²¹ it consisted of transfers, leases and sub-leases for terms exceeding three years, charges by way of mortgage and their discharge, liens by handing over issue certificates of title, and easements. The person entering the caveat had a further option: he could enter a caveat to run with the land, or to bind a particular interest in it. The caveat could be withdrawn at any time by the caveator who had entered it: other persons affected by it could apply to the Registrar for removal, and this took place at the end of a month unless Court proceedings had been instituted

meanwhile: then action depended on the Court's finding and order. If no such application were made the caveat endured for six years, and was then removed by the Registrar.

So far as the State was concerned, the initiative in establishing the new Registers lay with the Commissioner of Land Titles, in whom all the Land Office Registers maintained under the Mutation of Titles Ordinance were vested²² and to whom powers to examine all Survey and other Government records were given.²³ As a matter of administration but not legal title, the Commissioner was required to give to all interim titles to country land not exceeding ten acres a 'mukim indication' so that when registration made the final titles indefeasible, the Registers in which they were recorded should be maintained by Collectors in Land Offices.²⁴ The Act did not provide, somewhat surprisingly, that small titles could be converted to customary land when the owners were properly qualified Malays.

The Penang and Malacca Titles Act contained a Part VIII, particular to customary land held until then under Cap. 125. None of the provisions as to Interim Registers, Replacement titles, or indefeasibility of title applied to such land:²⁵ the Mukim Registers were continued, but under the name of Malacca Customary Lands Register separate from the ordinary (National Land Code) Mukim Registers consequent on Section 43. The customary landholders were declared to have 'a permanent and transferable right of occupancy of land deemed to be land alienated before the commencement of the Code' and they were 'deemed to be a proprietor within the meaning of the Code'.²⁶ The phrase 'right of occupancy' seems to have been nothing more than a partial historical echo, for it does not appear again in the Act or at all in the Code, stating the tenure for purposes of transition to the Code, when continuation titles were to be as nearly as possible in the form used for Mukim grants²⁷ — areas not exceeding ten acres held in perpetuity subject to various conditions. The proprietary rights of those on the Register (provided that they were properly registered) remained indefeasible.²⁸

The qualification for customary landholders was continued; they had to be Malays domiciled in Malacca, or 'certificated' to hold specified land and no other, and there was a measure to reduce the number of certificated landholders by providing that when a Malay became a registered proprietor of such land the certification was cancelled.

The Act also abolished assessment in the conventionalised form as set out in Cap. 125, and the payment was 'deemed to be rent for the purposes of the Code' after the expiry of a three-year period within which the Governor had power to alter any assessment. To the historian this change meant the end of a tenure and taxation system which had maintained a

continuous existence since before the Dutch and perhaps the Portuguese had arrived in Malacca, but to the landholders themselves it meant little more than a rent revision upwards but with the possible bonus that the next revision would not take place for another fifteen years,²⁹ a different set of forms, and different though similar conditions and obligations.

There were two references to Naning. Section 2 (2), after safeguarding some Federal and State legislation went on to say 'nor shall anything herein (other than Section 97) be deemed to affect the Custom called the Naning Custom'. This again seems to have been an echo of Cap.125 instead of using the description given in the State Constitution: the phrase was repeated in Section 97, which was part of Part VIII on Malacca Customary lands and reads: 'Whenever the Collector is satisfied that any land in the Malacca Customary Land Register is subject to the Naning Custom he shall endorse the appropriate folio of the Register with the words "Naning Custom"'.

The history of Naning in the last quarter-century has been that of an indistinct part of the State of Melaka, itself one of the smallest and financially weakest component parts of Malaysia. In general, the very remarkable development in the Federation has been the result of plans to exploit untapped resources of every kind, and such resources as Malacca possesses have been used more or less efficiently for a century and more, while its influence on the corporations has been — and under the Federal Constitution must be — small and generally ineffectual. Its chief resource in recent times has been its educated younger population. Of those, in the age group 20–29 in 1975, nearly two in every five had secondary or tertiary education, but of these only one quarter did not move out to employment elsewhere.³⁰ The active age-group, those aged between sixteen and sixty-four, was at 49.9% less than half the population and the lowest in Peninsular Malaysia.³¹ Thus, while Malacca contributed to the development of the Federation at large, its own development was at the coat-tails of the central Government. The State List of sources of revenue³² was short, and the only possibly productive items were revenue from lands, mines, forests and sales of land, where Melaka had little room for manoeuvre, since 83% of the land was alienated³³ and the rest had to be kept in hand for official use or ecological conservation. In 1976 its estimated revenue from its own sources amounted to \$10.53 m., a smaller figure than any other State in Malaysia except Perlis, but its 'operating expenditure' was more than twice that income at \$22.33m., showing a deficit of \$5.74 m. after Federal grants of \$6.06 m. Its development expenditure, again less than that of all the States except Perlis, was \$35.98 m., of which only \$5.72 m. came from State sources and \$23.63 m. came from (Federal) loans.³⁴ It seems clear that

all State Governments experienced increasing financial strain,³⁵ but Melaka with its small totals was particularly dependent on Federal largesse and vulnerable to outside decisions. It has been said that 'during the last twenty years, Malacca has been treated by the National Government with a kind of specialised neglect³⁶ but it may be truer to say that in Malacca there was nothing to attract Federal action: no restless landless to settle colonies, no tracts of land to become Pahang and Johore Tenggara, no rice bowls for Muda Agricultural Development Authorities as in Kedah, and indeed nothing to encourage the central Government to reward the faithful, in the Alliance or outside it. The administration seems to have been accident-prone, though it was not alone in this: the Air Keroh Scheme³⁷ in 1968 for the development of a satellite town in conjunction with a private contractor revealed the naiveté and lack of expertise and foresight which cannot have increased the Federal Government's confidence in the State Government, while a series of deaths in Melaka General Hospital in 1973 and infant deaths in 1975 led to charges of maladministration in Federal Legislative Council (for Medicine and Health was a Federal and not a State subject) and to an apparent closing of ministerial ranks against attack.³⁸ The State as a whole could not be regarded as pre-eminently faithful to the Alliance Government, for while it has always elected an Alliance majority to the State Legislative Assembly — unlike Penang in 1969 — there have, always been opposition members equally democratically elected, and serving as a sounding-board for an active and intelligent if loquacious opposition.

Towards the end of this period one administrative step was taken for partial repair of a reform introduced in the recent past, by the re-introduction of 'Sidangs'. The system was, however, different from the earlier form, although the idea that they were private individuals rather than Government officials was revived.

Ordinarily they took the place of the former penghulus, with a 'Sidang' for each of the mukims now grouped under a Penghulu Tanah. When a vacancy occurred, the Penghulu was to discuss possible candidates with the District Officer, and put forward the names of three candidates considered suitable and acceptable. These names were then to be formally submitted to the District Officer, who was to prepare reports on them and send them on to the State Secretariat with a recommendation or indication of the candidate he preferred. The State Secretary had the candidates screened by the Police and then put them before the Chief Minister, who made his selection in his absolute discretion. In the case of candidates in the Naning mukims, the District Officer was to obtain in advance the views of the Dato' Naning before sending the names to the State Secretariat.

When the Chief Minister had approved the appointment a *tauliah* was issued. There was provision for more than one Sidang in areas with a population of more than two thousand, if the District Officer supported the proposal.

As for qualifications, the candidates were to be settled residents in their area (any question being decided by the Penghulu applying the test set out in Section 108 of the Administration of Muslim Law Enactment 1959), male Malay Muslim aged thirty or more and married. The District Officer had a discretion to accept candidates under the stated age if no suitable man of that age was available. The candidates had to have reached at least Standard 6 in Primary education and an adequate religious knowledge of Islam. A criminal conviction in a lay or religious Court with a fine of \$2,000 or more, or imprisonment, was a bar, as was bankruptcy. Serving Government staff and Imams were ineligible: and lastly the candidates had to be in good health.

The Sidang's appointment could be terminated, at the discretion of the Chief Minister, if the Sidang's service was not satisfactory, if he damaged the concord and unity (*keharmonian masyarakat*) in the kampong, in the case of ill-health, and in the event of conviction and fine of \$2,000 or more, or imprisonment.

The table of his duties and responsibilities was of some length. He was to be the headman superintending *adat istiadat*; he was to inform the people of the dates of padi-planting as fixed by Government notification and was to ensure that simultaneous planting was carried out; he was to arrange work to be carried out by the *anak buah* on irrigation channels and drains; he was to be the intermediary of Government in dealings in land; he was to transmit to his people Government directions and announcements from the penghulu or the District Officer. More generally, he was to get to know matters affecting the benefit, unity, economy, education and religion of his *anak buah*, and he was to work with the *Jawatan Kuasa Kemajuan Kampong* (Committee for Kampong Improvement) and the *Jawatan Kuasa Muhibbah* and other committees appointed by Government. He was also to execute all lawful directions of the penghulu and District Officer, and finally he was to settle problems and disputes between his *anak buah*. As a general direction he was to concentrate his duties on communications from Government and on superintending *adat* in his area. He was explicitly instructed to refer questions of *adat* in the *Perpateh* areas to the *lembaga* (or *tua*) — *Di Wilayah adat Perpateh Sidang-Sidang menjadi penyelaras adat istiadat kepada Lembaga (Tua)*.

On retirement, which was compulsory at sixty, a Sidang was eligible for a gratuity, of \$500 if he had less than five years' service, \$1,000 for

service between five and ten years, and \$1,500 for more than ten years' service. He was also eligible for bonuses as fixed from time to time by Government, first set at \$200 for those with less than ten years' service and \$350 for those with more. In addition there were grants not exceeding \$1,000 to Sidangs going on pilgrimage to Mecca, payable after ten years' satisfactory service, but to only one Sidang from each District, although if there were no claimant from any one District, the vacancy could be filled by a Sidang from another.

The Sidang received a letter of authority signed by the Chief Minister and an identity card signed by the District Officer.

The Rules explicitly stated that when it could be attained a Sidang should also become Chairman of his local Committee of the peace and prosperity movement.

Lastly, after 1st October 1979, a Sidang could be dismissed by Government without any reason having to be given.³⁹

Chapter 2

The Custom and Change

I

Those writers, other than legal commentators like Hooker, who have written on the *Adat Perpatih* since Merdeka have concerned themselves with change in the sphere and impact of *adat* rather than its theoretical form.¹ Two deal with Rembau, one with Jelebu and one with Inas: none mentions Naning.

The earliest² was based on field work in Inas a year or two after independence: Inas was a somewhat submerged area³ west of Johol and east of Rembau to which British administration and agricultural development came fairly late by West Malayan standards. These introduced fundamental changes for three main reasons: the increasing planting of rubber, a cash crop outside the previous subsistence economy; the imposition of an official system of creating and recording land tenure; and an increase in population by immigration as well as natural increase. These led inevitably to a change in the allocation, occupation and devolution of land and a departure from the previous tribal system, while the cultivation of rubber led to inheritance of rubber land by males in (apparent) disregard of the normal rules of inheritance. The effect, over half a century, was the emergence of a new system of managing the economy, of holding property, in social relations, weakening the hold of the *Adat Perpatih* and its organisation by *suku* and *perut*. Nevertheless, the *Adat* was resistant to

...concerted efforts over the past thirty or forty years...to bring about change. Attempts to weaken the *adat* by a growing number of Islamic scholars among the Minangkabau Malays have been supported by Federation government officials and civil servants in the State who have come from outside the State and whose lack of sympathy for the *adat perpatih* can be traced to their adherence to the *adat temenggong*. However, neither the influence of Islam nor attempt by the Federation Government have made much headway in weakening the traditional system.⁴

The second study was of Jelebu,⁵ and based on field work completed before the New Economic Policy brought in its propagation of statutory authorities. On the particular matter of failure to cultivate padi areas, it made a general comment:

Traditional leadership is no longer active and no longer accepted as legitimate by all villagers. The only authority with anything approaching general acceptance is the new educated class, and such leadership is not available in the ricefield. Leadership in the village now depends to a very great extent on personality. If a leader is forceful and prepared to work hard himself, cooperation of a simple kind can be organised. If there is no such personality the routine authority attached to an office such as that of Adat Chief or Government-appointed *ketua* will not suffice. The situation is common to all villages, but it is more serious where the value of rice cultivation itself is questioned.⁶

The point was made that the Government administration had ousted *adat* control: in some spheres, functions previously carried out through the *adat* were now discharged by the modern executive. The most important of these was the administration of justice and the use of force. Control of legitimate force and the use of force for legitimate policy were the exclusive monopoly of the administration, and left the *Adat* without any sanctions in the last resort, except those relying on sentiment — the expression of dislike, ridicule, contempt, and the loss of prestige. 'The most severe, and usually the most highly organised, are the formal imposition of definite punishments, especially the physical coercion of deviants: these the Government...monopolises'.⁷ It was suggested that perhaps the customary organisation was particularly vulnerable: States with Sultans had an administrative hierarchy which could be made over into a modern administration, while in Negri Sembilan authority emanated from below in a mass of kinsmen and was not suited to indirect rule or new definitions of existing political organs.⁸

There was another fault inherent in the *Adat* system: 'kinship groups are led by chiefs who are not trained and who are only partly concerned with the affairs of their kind, for exogamy and matrilocality mean that a man's domestic and economic activities centre in another place'.⁹ The Chiefs were divorced from the administrative hierarchy set up in the days of the F.M.S. of District Officer, Penghulu Tanah and Ketua Kampong: in Jelebu at that time no *ketua* was in possession of *adat* office, and in some cases had no hope of attaining one.¹⁰

The system could be said to have failed:

...appeal of new ways is enhanced by their identification with wealth and prestige for the new ways are the criteria which distinguish a member of the modern elite class of officials from the peasantry....The appeal is even greater to the young. For the adventurous few, modern ways suggest really radical notions such as choosing one's own spouse or education and a career for a girl: for any youth they provide a charter

of revolt against the older generation. For the elders have not validated their claims to wisdom with any tangible success, a clear proof that they do not understand the modern world and should give way to those who do.¹¹

The *Adat* requirements for marriage were a strong influence in preserving the stability of marriages,¹² but the former aversion from marriage inside the *suku, sumbang*, — was weakened: an example was given of a large and distinguished gathering attending such a wedding.¹³ The conclusion (not only from this event) was that gradually matrilineality will give way to a bi-lateral form of organisation similar to that of other Malays.¹⁴

The earlier study¹⁵ of Rembau and of a kampong there was made shortly afterwards. Originally a thesis for a further degree, it has the vocabulary and attributions necessary to commend it to examiners: 'conflict' meant the 'struggle over values arising from rapid social change and how this affects the life of the villagers', and the causes of change were more or less those noted by Swift in Jelebu — the effect of the British administration; a money economy; new tools and a new technology; cash crops; education and increased communication with the outside world.¹⁶ There was more attention than in the previous works to the actual occasions and places where the community met (in 'social inter-action'): these were the coffeeshop as a refuge for husbands from the *tempat semenda*, the *surau* (for the kampong had its own chapel of ease for the mosque) and *keramat*, or shrine; and at *kenduri* given at various times for objects as different as first cutting of a child's hair and building a new house, and of course including betrothal and marriage.¹⁷ The causes of 'conflict' included the fact that *orang semenda*, then incoming husbands, identified with their own families to which they frequently returned; and these husbands were now often earning wages and were thus less dependent on the wife's family; and there were Western values as a result of English education — 'anyone with a smattering of English looks down on the old ignorant villagers'.¹⁸ *Adat* ceremonies themselves were diminishing, partly because of their cost: even volunteers helping at for example the start of a new house had to be fed; *adat* rules were varied, with *tanah tebus* becoming *pesaka* and *tanah ta' tebus* tending to devolve to males as *pencharian*. The 'elementary family' was taking the place of the matrilineal group both as to where the family lived and who assumed responsibility: fathers wanted more say in their children's future: there was 'no fixed norm of domestic grouping for the younger generation' and the sons and daughters moved out 'tending towards neo-locality'.¹⁹

The fourth study²⁰ reviewed the three earlier studies briefly before passing on to statements of the historical background and the traditional

structure, and thence to the motivation for a change. This section repays quotation:

Since the coming of the British various developments had occurred in this society, particularly the change from informal to formal education based on vernacular schools and English education. This led to the spread of new social values.

Education when introduced was quickly seen as an avenue to white-collar jobs with the Government and a position in the British administrative structure. New avenues of achieving prestige were opened by education. Sending children to school also entailed the purchase of European clothing as school uniform and material equipment of various kinds. This has led to direct European contact by migration (a phenomenon which is not new to these peoples) to urban areas and assimilation into jobs in the new British administration. Thus the social groups in this society strive to push some of the 'sons' ahead in schooling and to obtain scholarships in competition with other groups: individuals who acquire schooling, wealth or political influence are expected to use their new social standing to benefit the groups with which they are associated...

This could not have happened if there was no change in the political sphere. When the British came they introduced a new centralised administrative system. In other words the British did not try to stabilise the traditional *adat* system of government within the framework of the colonial administration. As a result the traditional system of government was weakened and ceased to be a functioning entity. For example, the arrival of the British saw a change in the land tenure, especially in 1909, when the Customary Land Tenure Enactment Cap. 215 was passed. By this Act the registration of ownership of land was conceived in western terms (i.e. one or more persons as individuals might have various rights over land amounting to ownership). This set in train a vital series of changes, for the administration of land was removed from the hands of the *lembaga* and *Undang*, and placed under the District Officer, the *Penghulu Mukim* and *ketua kampung*...

Thus today the substantive provisions of the *adat* are now largely "frozen" in the form of statutes and judicial decisions. In almost all cases of land inheritance the District Officer's decisions are considered right and proper. In addition, in most of the recent cases Islamic law has taken precedence.²¹

The consequent changes were much as those described in Jelebu and the Rembau kampongs:

Today members of this society have a tendency to acknowledge the father's line as well as the mother's. In line with this the nuclear family is becoming more significant. With the growing significance of the

nuclear family there has been a shift of power from the maternal uncle to the father in household affairs.

The increasing importance of paternal ties and the autonomy of the nuclear family has entailed a shift in post-marital residence.... Young couples now want to move away from the village after marriage. They usually go to the urban areas where the husband and/or wife is working. Besides that, young people are now free to marry girls of their own choice and there is a tendency to take a wife from outside the district. In such a case no formal adoption (*berkadim adat*) into the clan is necessary.

Practically all the traditional institutions of this society are no longer of crucial significance. Its members are breaking and have broken away from traditional conformity. They no longer regard matrilineal principals and the exogamic rule as things which should be followed and respected. Although in theory they are still members of a matrilineal society composed of descent-based groups, at a practical level these matrilineal institutions have very little relevance for them. In fact most of them do not know to which *suku* they belong and a few are clanless because their mothers are females from the non-*adat* Malay or other ethnic communities. Even the prohibition on parallel-cousin marriage with mother's sister's daughter, a very significant institution in the *adat* system, is giving way. During my fieldwork a few cases of irregular marriage and traditional punishment for transgression of *adat* were taken over by modern agencies....

The people, especially after having achieved secondary English education, became more liberal in the sense of being more sophisticated and independent in their thinking, and placing greater value upon individual freedom and well-being.... The older generation, especially the *adat* chiefs,.... were unable to sustain this system vis-a-vis the younger men in particular who have had considerable contact with European culture in the urban areas. Today... most of the new *adat* chiefs are educated, some only in Malay but others in both Malay and English. Thus they are more liberal in their point of view. They justify their position by the *adat* saying which runs: if the majority of the people want, the *adat* can be replaced (*Alah adat kerana muafakat*).²²

Anyone in Naning reading these accounts will nod in recognition of similarities with the position in his area. The introduction of cash crops and particularly rubber had altered the old rice-growing subsistence economy beyond recall. Education by English methods and in English had created a new class which thought itself superior and had achieved positions of influence: it tended to be, and aimed to be, self-perpetuating. Fathers were certainly increasingly influential in their children's care and education. The young were less deferential to their elders, and thought themselves

independent when they earned a weekly wage. Young couples moved out to the towns: the age of the nuclear family had arrived. The *Suku* Chiefs, the *Lembaga*, had lost their power long since. There were many cases of men being registered as proprietors of inherited — *pesaka* — lands. All four commentators had made some or all of these points, and there would be no doubt that life under the *Adat* had much changed.

The similarities make it the more important to recognise the differences, which are sufficiently great as to nullify the idea that the changes in the *Adat Perpateh* in Rembau and Jelebu as described make up an exact and detailed guide to the *Adat Perpateh Naning*.

All four writers hark back to their traditional model, the base-line against which they measure their changes, to the *Adat* world of Parr and Mackray and perhaps Lister, and the beginning of British administration in 1895. The equivalent in Naning was the State before the first Naning Expedition, over sixty years before: the changes which had taken seventy years to bring about in Negri Sembilan had taken well over a century — say four generations — to accomplish in Naning: yet life was lived under the *Adat*. Three of the four writers mentioned devolution of land to males as breaching the rules of *pesaka*, while in Naning *pencharian* (which could be and was owned by males) became *pesaka*, and *pesaka* was occupied for life by males under *makan hasil*. Two of the four mention the effect of registration of title: as has been seen, the Malacca Lands Customary Rights Ordinance, a looser-drafted statute, expressly saved the 'Naning Custom'. One mentioned the Customary Tenure Enactment (FMS Cap. 215), a strictly-drawn statute which, with the best of intentions, ossified the idea of *pesaka* lands: this had no equivalent in Naning. Two of the four writers paid attention to the dichotomy between *adat* and Government officials and particularly between *Tua* and *Buapak* on the one hand and *Ketua kampong* on the other: in Naning until 1957 they were one and the same, and when the *penghulu tanah* system replaced the *penghulus* of the older sort, the *Sidang-Tua* were not replaced until later but remained in their mukims — and Hervey's invention, the Demangs, had been absorbed into the *Adat* organisation. One writer stated that in Jelebu the village as a unit had no clear place in the people's conception of their society; and there and in Rembau the *adat* organisation was based on *suku*, *perut* and *ruang* with their respective *Lembaga* dispersed across the whole *Luak*: in Naning the organisation was territorial and based on the mukim.

II

Any attempt to assess how far life in Naning has changed since Merdeka can only be subjective: in the absence of a questionnaire put to carefully selected samples, the student can form his impressions only from remarks made to him in many conversations, and these remarks will be reminiscences with the possible distortions of hindsight or impressions brought to the interviewee's mind at that particular, but not necessarily some other moment. Some documents are still working files; collated summaries do not yet exist; the thirty-year rule may apply. Conclusions must therefore be wary and speculative.

So far as people and matters outside the Custom are concerned, the changes have been much as in the smaller West Coast States of West Malaysia. The European rubber estates have disappeared, and their companies are largely Chinese-owned: much of the commercial business continues in Chinese hands. More than half Pulau Sebang's population was Chinese in 1970, as it had been in 1931 and 1957, but the Chinese majority in Pegoh and Alor Gajah in 1947 had become a minority.²³ The Indian population had dropped in proportion to the total: in most mukims there were fewer to the square mile, and only in Kelemak-Alor Gajah and Pulau Sebang did they exceed two hundred to the square mile. The Indian estate population of 82% of all Indians had dropped to 38.5% in 1965 and 34.1% in 1975 for the State as a whole.²⁴ Immigrants had been brought by the FELDA schemes to settle on 10-acre holdings at Hutan Percha in Tebong; twelve, fringe development schemes were started by FELCRA in the mukims of Sungei Buloh, Brisu, Taboh Naning, Kemuning, Tebung, Batang Melaka, Jus and Nyalas.²⁵ Local municipal government had continued in Alor Gajah as in Central and Jasin Districts, but — and this was no change from the 1957 position — 'none of the three District Councils is financially autonomous, depending...on the State Government for administrative, technical and financial assistance for their very existence'.²⁶ Despite the alleged 'specialised neglect',²⁷ Naning as a predominantly Malay area profited to some extent from the New Economic Policy and its concentration on improving the economic position of the Malays. The extent was not very great: it was estimated that in 1970 the average per capita income in Alor Gajah District was \$623;²⁸ in a family with three children this worked out at \$60 a week. There were of course many with incomes well above this average, and it was these whose prosperity was so apparent to a local Rip van Winkle: there were also those — widows and the aged in remoter kampungs in particular — as far below, and it was this latter group which depended on the mutual support provided by the *adat*

organisation — and remittances from children who had gone to the towns, when these were offered.

Far the greater part of the population continued to live under the Custom. The child born in 1980 was still likely to grow up in a matrilineal society, because the home was usually a house on the mother's or grandmother's land, and the close relations, and neighbours, were likely to be maternal. Inside the home, it seems that the family became more 'nuclear', with father and mother acting together and less deferential to the comments and advice of the *kadim*: the influences at work in 1956 were stronger in the Eighties. *Perentah* was always shared, and the father was also *wali*: as to the former, the increasing financial independence of the father stiffened his independence and made him harder to bring to heel; as to the latter, the increased pervasiveness of Islamic law has produced a climate in which the father's authority was officially recognised. This is not to say that the modern fathers were more (or indeed less) observant of Islam than their fathers but only to point to the organisation, notably by the Administration of Islamic Law Enactment and the Department of Religious Affairs, of official control where previously none had existed. In the increasing number of parents who moved away from the family area, whether to official quarters or to Low Cost Housing or to the towns, the matrilineal influences were cut off and the family was on its own with no choice but to become 'nuclear'. This in its turn should not be exaggerated: the Low Cost Housing Development Schemes instituted by the State Government were intended to provide for all those within a stated area, on a fixed percentage by race; but applicants had to be without land, and those with a claim to *tapak rumah* on *pesaka* land were therefore excluded.

Outside the home the family group was still matrilineal and in family affairs — marriage, divorce, devolution on death, and the various feasts and occasions — the supreme figure was the *Tua* of the mother's, and the child's *suku* or *buapa* of the *perut*. The child did not know its *suku* by name, or of the tribal organisation, but learned on reaching years of discretion: the boy, when *akhir baligh*, became a member of the mosque congregation and as such was qualified to join in the various selections for *adat* and religious officials; and the girl when she became marriageable learned her *suku* and *perut*. These groups remained small, in the lesser matters of ceremonies and occasions, because of the organisation on a mukim basis: the *tua* and *buapa* were, and had to be, fellow-parishioners. The statement, regarding Rembau, that in fact most of them did not know to which *suku* they belonged,²⁹ does not seem to be true of Naning, though the remainder of the comment — 'a few are clanless because their mothers are females from the non-*adat* Malay or other ethnic communities' — cer-

tainly applied. Statistics do not exist, and it is impossible to say what relation the number of clanless bore to the number of adoptions into clans for the purpose of marriage, for these also existed.

The community remained a settled one: in Alor Gajah District as a whole, out of a total area of 160,000 acres, 140,000 acres were comprised of small-holdings,³⁰ and there was no abandonment of land (as distinct from cultivation) — the doctrine of *pesaka* worked against it. The problem was that the population was too large and the opportunities too few, so that there was male emigration (as there had been for a century): those who remained had their place where their roots were.

The educational standards, and consequent sophistication, were much higher in 1980 than a generation before. On the eve of Merdeka a perceptible though not large minority had undergone secondary and English education: in 1980 that same approximate proportion seems to have gone on to tertiary education. The very occasional reference to a neighbour's graduate daughter was couched in terms not of surprise at something outlandish but of admiration of the parents' sagacity. Secondary education had become common, and the population at large was literate. In particular, technological use and maintenance of machinery were noticeably spread more widely.

Naning experienced the increased communications of the age, by television as well as radio and the Press: all were Establishment-minded and anodyne, so far as reports of current Malaysian events were concerned: unlike Malacca Town, Naning had little choice of programmes.³¹ So far as these had an effect on Naning viewers and listeners, it must have been to implant an idea of uniformity in West Malaysia, and this together with the implicit materialism of the Western Consumer Society inherent in imported soap-operas induce in the young a sensation, rather than a perception, that the novel is progressive and that what is familiar is outmoded.

One measure of economic progress is that the luxuries of one generation become necessities for the next. The schoolmaster who in 1955 delighted in his motorcycle thought himself entitled in 1980 to a gleaming motor car; the kampong Malay who a generation before diffidently signalled to a 'pirate taxi' expected in 1980 to find a licensed vehicle on the rank in Alor Gajah or Masjid Tanah or Pulau Sebang awaiting his instructions. Digital watches and transistor radios and other inventions were widely available, and bought. It required only one step in thought to reach the conclusion that those who did not have them were deprived, and that if they did not feel deprived they were out of date. It followed that many of the elderly in the kampongs were 'out-of-date', and if the adat officials were members of this class they were unsuccessful and outmoded also: the

Generation gap' discovered by the West in the Sixties manifested itself, to a lesser extent but for the same reasons, in Melaka and Naning in the Seventies.

This was one of several reasons for a slackening of the tight authority which had characterised Naning in the years just before Independence. Again, this should not be exaggerated: so long as the *adat* officials had authority and the self-confidence it gave them, they attracted respect and obedience: the position seems to have been that noted in Rembau, of criticism of *adat* standards and the older Chiefs³² but usually very little more. It was moreover self-correcting: new *adat* officials came, from the younger, better-educated and more sophisticated age-group.³³

In Naning authority and self-confidence had been sapped though not destroyed by the Government-imposed changes in the status of penghulus and sidangs, and the development of politico-social alternative sources of authority and influence.

In official land and other matters the intermediaries of Government were the Penghulus and Sidangs recruited under the Schemes introduced, for penghulus before and for sidangs after, Merdeka. The Penghulu had ordinarily to be aged thirty on appointment, and to retire at fifty-five. The necessary qualification was a School Certificate with credits in Bahasa Malaysia and Ugama Islam: if the candidate possessed this, no question arose of *baka* (unlike for example Pahang where penghulus had to be sons of penghulus) or *saka*. The newly-appointed penghulu could be posted anywhere in the State, and was liable to transfer. He did not have to live in his sub-District, nor necessarily to have his office there: in 1982 there was a plan for an office 'complex' at Lubok China serving the western part of the District, to be followed by another at Pulau Sebang for its neighbouring mukims. At that time, two of the six penghulus in Alor Gajah District were Naning men: three came from Malacca. They thus did not have local knowledge and interior knowledge of the *adat* (to quote one senior officer) or the influence wielded by good examples of the old type of penghulu (to quote another).

The Sidangs under the new Scheme perforce had knowledge of their mukims, but did not necessarily of more complex points of *adat*. As their Scheme shows, they were not elected, and since they were appointed and dismissable by the Chief Minister, himself a political figure, they are regarded as political appointees.³⁴

The third centre of influence was the JK KKK — Jawatan Kuasa Kemajuan dan Keselamatan Kampung, the Committee for kampung progress and security. This was the lowest tier in an Alliance-Government-sponsored pyramid: the JK KKK looked up to the District Committees

which in their turn looked to the State Committee, itself deriving inspiration and possibly assistance from Federal Headquarters. The basic intention was to set up a network which could and would achieve continuously higher standards of both economic and cultural life, without official Government direction or aid: one of its passwords was *gotong-royong*, 'all working together'. Any success the JK KKK might have in the mukim resulted from the ability and energy of the Committee members, and particularly the Chairman, elected at the Annual General Meetings: an active Chairman could use the link with the District Committee to approach the State Committee, and undoubtedly acquire considerable if somewhat nebulous influence — and in a Malay area like Naning the links were political, with a built-in correlation with UMNO. Paragraph 12 of the Scheme for Sidangs — 'wherever possible a Sidang should also become Chairman of the KKK Committee' — was clearly intended to strengthen the position of the Sidang in bringing about the improvements which it was his duty to attempt; it was perhaps also intended to obviate discord between the two office-holders.³⁵

The deduction must be that the *anak buah* in a Naning mukim circa 1980 had two if not three persons from whom he could expect advice or directions, instead of the one, thirty years before. The *Tua* knew the *Adat*, but had no official standing to put it to the Government's administration; the Sidang may or may not have known the Custom, could appear at an official hearing but had it in the back of his mind that if he came out with statements politically unwelcome he could be dismissed; the Chairman JK KKK may or may not have known the *Adat*, had no official standing but had connexions along the unofficial political network.

An example was given³⁶ to the writer of the breakdown in mukim authority. A tree on one Lot fell on to another Lot, causing damage and giving rise to a claim for compensation. In the account it was said to fall from one man's land to another's: that might be so or it might have been land belonging to the respective wives. The matter had been referred to the *Penghulu Tanah*, who made enquiries but could not achieve a settlement. The *Wakil Rakyat*, the local member of the State Council, tried to obtain an agreement but could not persuade both parties to accept it. The matter was also referred to the District Officer, who advised but had no power to enforce the terms he considered equitable. The dispute continued.

The unsuccessful arbiters in this case were all from the administrative and political sphere, but the fact that the quarrel was not ended was in itself a sign that *Adat*, in its wider sense of proper behaviour, had lost its hold in this case; and whether adat officials — *buapa, tua* and *Penghulu adat* — had been brought in and failed or had not been invoked, it is clear that they

had failed to do what would have been with in their competence a generation earlier. One should perhaps comment that this case stuck in the memory because it was exceptional: cases settled by mukim arbitrators did not ordinarily come to official notice, and there is no guide to the numbers settled by *adat* officials. Nevertheless, another senior officer³⁷ gave it as his opinion that there was a tendency to apply, in civil disputes, to all manner of people, such as the Penghulu (new style), Sidang and the Assemblyman, so that automatic recourse to the *Adat* structure has been noticeably weakened.³⁸

It might be supposed that where the sources of influence were in one man's hands the situation would be different. In one mukim the great majority of inhabitants is from *suku Tiga Batu: Sri Melenggang* has perhaps a dozen households, *Mungkar* and *Anak Melaka* no more. The *Tua* of *Tiga Batu* was appointed *Sidang*, and at the Annual General Meetings year after year the *Tiga Batu* majority voted him in as Chairman of JK KKK. His influence among members of his own *suku* is very considerable, but the equity of the *giliran* system with its rotation of power among the *suku* has been lost and the minority *suku* are disaffected to some, usually slight, degree with stray coffee-shop suggestions that votes will go to the opposition at the next election. The *buapa*-*Sidang*-Chairman was said to have declined the *tauliah* issued by the Dato' Naning to *lembaga* of the rank of *tua*: this implies that in this case the *adat* position is less valued by the elder than his political and administrative position, though there may be other explanations such as personal antipathy. Nor is this shift in attitude necessarily a long-term change: a defeat for UMNO and the Alliance in State or Federal elections, let alone in both, might well reverse it.

The changes since 1955 are most dramatically obvious in the sawahs. Logan's 'perfectly level plain of rice...with the precise appearance of the indented shores of...an inland sea' of 1847 and the carefully irrigated emerald tracts of padi flanking the valley roads of Alor Gajah in 1955 were no longer to be seen: by 1980 the bunds were broken, *tali ayers* choked and secondary jungle was beginning to appear along the fringes. To anyone accustomed to the insistence of mukim officials on simultaneous preparation and cultivation of the sawahs in the Fifties, this seemed to be evidence of the abandonment of authority. It was no longer the official duty of *tua* and *buapa*, but of the Sidangs; neither could manage to get the work done. In some places — Melekek and Taboh Naning, for example — road widening and deviations to construct the trunk highway had damaged irrigation systems, and this was occasionally quoted as a reason; but in the end everyone questioned came out with the fact that there were no young people left in the kampungs to do the work. There are statistics as well as

impressions to support this: in 1975 in Malacca overall less than half the population was of the working age-group 15-64 and only 24% of the age-group 20-29 did not leave the State,³⁹ and Naning, with its long tradition of young men moving out, was unlikely to have a lower percentage than that obtaining generally.

In 1982 the Department of Agriculture was formulating a scheme by which the land should be 'collectivised' and cultivated, with mechanisation, for the benefit of the landholders. If there are to be more than one or two schemes purely as models for experiment and demonstration, considerable investment of time, capital and labour will be required, since the sawahs and in particular such Irrigation Areas as exist are unconnected and widely dispersed, and will need treatment almost simultaneously as the planting and harvest seasons come round. There are economic, social and political problems inherent in such schemes which may need attention both inside and outside the State of Malacca and which may have their effect on the *Adat*.

In earlier generations Naning held as a rule of thumb the aim of having a full granary at all times, and the prudence of this had been underlined by first the Slump of the Thirties and then more starkly by the Japanese Occupation: possession of the basic foodstuff for one's family was the ultimate insurance if hard times came. Those events are not likely to come again in a Peninsula of diversified production in an internationally realigned Far East, but it is doubtful whether the Association of South East Asian Nations, let alone Malaysia standing alone, would issue an unconditional guarantee against them. Should world events bring a local catastrophe, the land will be available but not ready for cultivation with the crop delayed until at least the next year.

Mechanisation of agriculture by a co-operative society is at first sight very attractive: it measures well against the economist's yard-stick of increased *per capita* productivity. Judged by the scale of cost in units of energy or productivity *per ringgit* invested it is not so impressive: men with changkols and buffaloes need no bought-in fuels nor investment in equipment. Execution of such schemes will require either patient persuasion of the *anak buah* — and the individual *petak* of the sawahs are small and most held in undivided fractional shares, with many as *pesaka suku* — or, in the absence of general agreement the exercise of quasi-requisitioning powers by the Department or Authority set up to achieve the object. The latter course is not likely to command long-term success unless it can win the active support of the landholders, and is administered at least in part by some of them. It would seem that the *tua* and *buapa* of a mukim are best placed to persuade all their *anak buah* and secure co-operation: the

JKKKK is less likely, in optimum conditions, to bring in everybody. In practice, whether any schemes of this nature will reinforce the *adat* or weaken it will depend on the personal qualities of the *adat* elders, as compared with the Sidangs and JK KKK members, and how far they work together.

There would also be the social effects attendant on the 'Green Revolution' to the extent that such schemes introduce its methods. Malacca rice production is unlikely to compete successfully on the Peninsular market with the 'rice bowls' of Kedah, Perlis and Perak: the greater the productivity of these States the lower the market price and the narrower the profit margin for the Malacca producers. The 'Revolution's' components of land improvement, capital equipments, manures, insecticides and herbicides require cash, in Naning forthcoming usually only on the security of land. The experience of the Punjab, with its vastly increased grain production and concentration of land in the hands of an increasingly prosperous small class at the expense of increasing numbers of landless expropriators, has demonstrated the disadvantages concurrent with technological advance: the effect of an agrarian revolution on this scale in Naning would inevitably destroy the independence of the *rakyat*: there is a fundamental difference between earning money from casual labour and returning to a home on family land on the one hand, and depending entirely on a wage on the other.

The continued non-cultivation of the sawahs also presents a legal and administrative problem to which there is, for political reasons, no answer other than inaction. Since 1st January 1966 the padi land had been held under the provisions of the National Land Code, and the old customary tenure with its three-year period as indication that the land has been abandoned was superseded. As land 'deemed to have been alienated under the Code' it came within the provisions of Section 110 of the Code; this attached certain conditions and restrictions of interest to the sawah land, in effect, in one of two categories. These were differentiated by whether the word 'padi' or one of the synonyms listed in the Code's Fourth Schedule appeared on the Extract and Register.

If they were not so endorsed, the land fell under Section 53 only: this made it a Land Office title subject to an implied condition that it should be used for agricultural purposes only (with provision for ancillary buildings including a dwelling). This in turn imported the conditions set out in Section 115, and particularly that the area other than the curtilages of the permitted buildings should be maintained and cultivated according to the rules of good husbandry, continuously except that there could be breaks for periods not exceeding twelve months in part, but only part, of the land. As

soon as this continuous cultivation ceased, there was a breach of condition under Section 125 (1) and the land became liable to forfeiture under Section 127, although the Collector had — the Section was mandatory — to issue a notice under Sections 125 and 129 requiring, in this case, remedy of the breach: if it were not remedied in due time that Collector had to make an order declaring the land forfeited to the State Authority. The Collector could allow time in appropriate cases, but was given no discretion to consider inability to provide the required remedy, nor to allow for family hardship; and it would seem that the State Authority could not do so unless the individual landholder submitted a petition for annulment under Section 133.

Where the land was noted as *padi* or *sawah*, the words used on many Extracts in Naning, Section 119 applied. This imposed an implied condition that at least three quarters of the area which the Collector considered suitable for rice cultivation should be 'continuously cultivated' with no fallowing of any part (a part only, and not the whole) for a year. 'Continuous cultivation' is defined only by requiring it to be according to the rules of good husbandry, so that an annual crop according to the custom of the country should be enough to comply with the implied condition: the failure to prepare and sow in the second year creates a breach. On breach the land becomes liable to forfeiture exactly as in the case of 'agricultural' land, with the same mandatory procedures.

It is extremely difficult to imagine that any Collector in Malacca would be so perverse as to set about enforcing these Sections of the National Land Code. There are some eleven thousand acres of sawah in the State, and the average holding is 2.1 acres;⁴⁰ because of the great number of undivided shares in these Lots, the actual administrative work of inspecting, serving notices on all registered proprietors, holding hearings and the like would choke for a long time to come Land Offices already fully extended in trying to keep land work up to date. More importantly, any such action would inflame indignation and protest, and this would immediately bring intervention from the elected State Assembly and party leaders: forfeitures on the sale National Land Code requires would ensure defeat at any subsequent elections. In Naning the resentment would be more widespread than in other parts of Malacca, because many of the Lots are noted as *pesaka suku* in the Registers and many more are *pesaka suku* in fact because they have been inherited through three generations: forfeiture would expropriate the *sukus* as well as the individuals, and the *waris* in remainder would increase the number of the objectors.

The concept of *pesaka* was always axiomatic in Naning from before the days of Dol Said until independence: how far it has been varied is there-

fore a cardinal test of the power of the *Adat* at the present time.

As has been noticed, there were two aspects of *pesaka*: the accepted and continuing right of the *sukus* and their subdivisions to a share in the general organisation, by the device of *giliran* in succession to *adat* positions; and the rights of the family and *waris* to property and land.

The area within which *giliran* operated and in which the *sukus* and their *anak buah* thereby had a vested interest was greatly diminished. It still came into play in the appointment of *adat* officials in the mukims, and it was still observed in the selection of mosque officials: within the mukim therefore the situation was not much changed. The connexion with Government, and the process — unique in the Federation — by which the *anak buah* supplied the Government administration with the officials who linked mukim and District Office was however broken. In essence the later Twentieth century arrived, *mutatis mutandis*, at that same position as Ibbetson had established in 1832, of nominating, instead of accepting, the administrative officials of the mukims, and assimilation of 'them' and 'us' over more than a century was cancelled.

The attitude to *pesaka* in devolution inside family groups is easier to observe: some form of case-histories exists in the records of hearings under the Small Estates Distribution Acts. These records do not contain all the recondite facts that a social historian may wish to find, with good reason. The Collectors have always been working against time in an unsuccessful battle against arrears. The 1966 books contain cases going back to 1960; the 1974 hearings went back to 1972, and the 1980 hearings were of applications lodged in 1979 and 1978. In one case (No: 5/1979) the landholder had died on 10th August 1961. When all the next heirs are agreed on the devolution and possession of the property, it is not in the nature of smallholders anywhere to be punctilious about immediate changes in official registers — as was recognised by the Third Schedule of the Penang and Malacca Titles Act with its provision for multiple administrations. The time required in obtaining evidence and reducing it to writing in such cases as Dolah, Yunus, Anum⁴¹ is obviously considerable, and while few cases were so complicated or so protracted, full recording — 'The Collector shall record in writing the evidence of all witnesses in attendance' inevitably became as summarised as possible in straightforward or uncontested cases, perhaps encouraged by the Land Code's less comprehensive Section 31 — 'it shall not be necessary for the Collector to take down the evidence of any witness verbatim unless he thinks it desirable to do so or is requested by that witness or any other person appearing'. The pressure of arrears continued, and by 1980 an officer was seconded by the Federal Government to deal with cases arising

under the Small Estates Distribution and Penang and Malacca Titles Acts across the State with hearings in Jasin and Central Districts as well as Alor Gajah. The number of actual hearings in Alor Gajah in 1979 was three hundred and twelve. The consequent total in the State leads an observer to conclude that the pressure of work on the 'Pegawai Pesaka' — 'the official dealing with inheritance' — is considerable and unremitting, and that this appointment can only be a temporary palliative: sooner or later the Federal and State Governments, like the Company and the Colonial Office before them, will have to steel themselves to provide the Land Offices with administrators to carry out the legislation they pass.

An examination of one complete Small Estates Distribution Suits record book, covering the period 2nd May to 30th December 1966 was followed by studying a record book of hearings in 1974 and another for hearings in 1980. This was nowhere near as comprehensive as Taylor's study of Rembau cases,⁴² but it was thought that there might be sufficient indication of the form of devolution soon after the Small Estates Distribution Act came into force and in 1980, with a mid-term figure which might show whether any change accelerated in the later years.

Firstly, the number of cases in 1966 when the deceased's estates were declared to contain *pesaka suku* land includes those where a witness's statement of that fact was recorded in the more leisurely narratives of that day, as well as land noted as such by endorsement in the Registers: in the later years only the Lots so endorsed were noted in the abbreviated reports. Secondly, the general tenor of the National Land Code is to register as 'proprietor' the person legally competent to deal with the land at any given time and does not provide for *makan hasil sa-mentara hidop*; and at least one of the 1980 devolutions to a male seems to have been a case of *makan hasil*: in this case *In re Timah binte Haji Ali*,⁴⁴ deceased had been married three times and her only child was a son by the first marriage. At the hearing there appeared the son, the third husband now widower, and the Sidang who agreed that the land should devolve on the son. It is not possible to say whether deceased's female *waris* had been summoned or not, or on whose behalf the (new-style) Sidang gave his agreement; but it was pointed out⁴⁵ that the female *waris* would remember and claim when the time came. Thirdly, the reports do not and cannot show how far in agreements by the *waris* the principles of *untong* has been a factor.

Even with these imponderables the figures show that there was an almost complete absence of contention among the *waris*, both within and outside Naning, and that the general form of agreement between them is for the land to devolve on females. The extent inside Naning is not unexpected; the degree to which women succeeded in the non-*Perpateh*

Adat Melayu mukims of Alor Gajah District is perhaps unexpected. It may also be surprising that devolution according to the rules of *Syara'* seems not to have increased over the period. The cases support the view that in matters of inheritance of land (and particularly *kampong* land, where house sites are) at least the Custom is voluntarily still matrilineal with little indication of change.

The theory of the *Adat* law of property in 1980 was what it had been in 1955. All property, moveable and immoveable originally acquired by a married couple was *harta pencharian*, disposable as they chose during the marriage and passing on death to the surviving spouse. On the death of that spouse and its descent one generation, it became *pesaka waris*. *Pesaka waris* descended according to *pakat*, the agreement reached in *kampongan*, discussion or debate, by the family with the *tua* or *buapa*, and with the advice of the Dato' Naning if he were asked for it. The usual agreement was that the property should pass to the daughters in equal shares. If agreement was impossible the Dato's advice was that distribution should be by *Faraidz*, the obligations under the canon law *Syara'*: the statutory requirement was that it should follow the custom of the deceased and therefore the *Adat*.

On transmissions for the third time the *pesaka* became *pesaka suku*: there must have been transmissions from *moyang* to *nenek*, from *nenek* to *emak* or *emak saudara* (aunt), and from her to the holder. In dealing with property, therefore the first duty was to ascertain whether it was *pencharian* or *pesaka*, and if *pesaka* whether it was *pesaka waris* or *pesaka suku*.

Pesaka suku cannot be owned by men, and so they should not be registered as proprietors, but men can by agreement take *hasil sa-mentara hidop*, with the land thereafter passing to the next entitled female(s). There cannot be *pesaka gantong*⁴⁶ because there will always be someone of the same *suku*: the solution is to find the nearest matrilineal relatives — which may be an *Adat* Chief's task.

Pesaka suku is *wakaf dzuriat* — an endowment in mortmain for later generations, children and grandchildren — and cannot be sold or charged: *jual ta' makan beli gadai ta' makan tebus*.⁴⁷ In the case of a woman who wished to go on the Pilgrimage and owned nothing but *pesaka suku* land, there was a transaction known as *keluarkan wang*,⁴⁸ which is neither sale nor charge. In such a case the parties with the *lembaga* and *waris semenda* go to the Dato' Naning: he first makes certain that there is no *pencharian* or, failing that, any *pesaka waris* from which the necessary funds can be raised; then he investigates whether any near *waris* — the *kodim kodek* in Naning Minangkabau dialect — will put up the money. If this is also unsuccessful, the Dato' allows *keluarkan wang*, with an advance from

waris, close or remote. The amount needed for the Haj is usually less than the value of the land, but if it should be more there is no question of repayment: the gift of the balance is a matter of *ikhlas* or piety. The payment of the money handed over is not a debt to be repaid, nor is it a conditional sale of the land.

The Dato' Naning can by *sharat*⁴⁹ allow *pesaka suku* land to be offered as security for a loan to the Bank Bumiputera or to Mara, provided that he issues a permit.⁵⁰ (By a statutory fiction these corporations are legally Malays and presumably fictionally domiciled in Malacca, so that they come within the restricted class of persons competent to hold customary land set out in Section 108 of the Penang and Malacca Land Act).

The practice of *keluarkan wang* seems to differ from the theory. Enquiry showed that the money was obtained from one or more of the *waris* who were paid off at the death of the proprietor-pilgrim by those succeeding to the land. Thus if A was advanced \$1,200 by one daughter B out of three, B, C and D, on A's death the land went to B, C and D in one-third shares with C and D each paying \$400 to; if the advance had been made by a niece K, B, C and D each paid \$400 to K and took the land in equal shares: K did not get any share under *adat*, though family agreement might allow her a share as a compromise since K was of the same *suku* and entitled to hold the land. Such an arrangement was an intermediate point in *keluarkan wang* and a transaction within the *adat*: a note was made and signed by the *Tua*.⁵¹

The Dato' Naning's *sharat* by which *pesaka suku* land can be charged to selected authorities is a flat contradiction of the theory of *pesaka*. The demand by Malays for entrepreneurial capital following the introduction of the New Economic Policy was met by such bodies, and they required security: the usual and only security was land. The legal fiction mentioned above met the needs of Malay smallholders at large but did no more than pave the way for using Naning *pesaka suku* land as that security. The *sharat* to vary the *Adat* is in fact theoretically permissible since the Dato' *berbalai* — in Council with the *Tiang* and *isi Balai* — is competent to make changes with rulings known as *bersabda*. In practice and to the lender, the *sharat* seems to operate as an implied guarantee by the Dato' Naning that should the borrower default there will be *waris*, near or far, within the *suku* to pay off the loan, although the lender's ultimate legal sanction of obtaining an order for sale — in the restricted market of the *suku* — remains unaffected.

It nevertheless remains a fact that the amount of land endorsed in the Registers as *pesaka suku* has not increased to any noticeable extent. The great bulk of these Register endorsements was made before the Japanese

War, very few were made in the late Forties, and they seem not to have been made since.⁵² No addition has been made under the Small Estates Distribution Act and the Penang and Malacca Titles Act: the requirement of Section 97 in the latter enactment, 'that whenever the Collector is satisfied that...land is subject to the Naning Custom he shall endorse the appropriate folio of the Register' — has been interpreted as applying only to land already endorsed '*Pesaka Suku*' in the old Registers though it is at least arguable that he is under a duty to make his own enquiry. The Dato' Naning has prepared a pro forma application so that Register folios can be endorsed: this in itself is a tacit admission that land becoming *pesaka suku* was not being officially recorded as such; and there has been no demand. It may be that the rakyat saw no virtue in, or need for, such an annotation, on the basis that if it were known to the *waris* and the *tua*, it does not much matter whether others knew of it or not. In the case of *Yunus*,⁵³ the evidence came first from the *waris*, the witness who gave it thereby disinheriting his sisters, brothers, mother and himself. Another, and possibly more common, reason is that proprietors were reluctant to burden their title certificates with an official restriction of interest limiting their powers of dealing: in 1978 more enquiries were received on the possibility of removing the endorsement than for having it entered.⁵⁴ This was so that it could be used as security for loans, and particularly for building private residences: it may be that the Dato's *sharat* has made this unnecessary.

The basic importance of *pesaka* still determined the position as to adoption. If a girl was to be adopted into a Naning family and the Naning community, formal adoption by *chechah darah* before the *Tua* remained necessary in 1980. The adoptive daughter was barred from inheriting *pesaka*, but as she had become a member of the *suku* she was competent to own, and therefore to buy, *pesaka* land, and her son could become a *lembaga* of the *suku* into which he was born. It was, incidentally, necessary for the adopting parents to provide for the adopted daughter from their *pencharian*, or otherwise she would get nothing.

If there were no reason or wish for the adopted daughter to be absorbed within *Adat*, there was no impetus for the actual ceremony. Those inside the Custom deplored that this could happen: the impression they left was that instances were not common, or as common as formal adoption, but existed. The daughters, like wives from outside the *Adat* introduced by Naning men into the mukims of the Wilayah, seemed to be regarded as being rootless, in some sort of limbo.

III

The particular characteristics of a Naning marriage in 1980 were those of the earlier generation, but the ceremonial had been diminished. Where the girl was not a member of a *suku*, as when she belonged to some family which had moved into the area, this of course did not apply and arrangements were made under the more general *adat Melayu*.

The Naning marriage remained a matter of an alliance between two *sukus*, and the ban on *sumbang* remained. It was suggested in 1978 by a Malay from outside the *Adat Perpatih*⁵⁵ that the dislike had weakened, and he quoted the case of a man in Lendu who three or four years previously had married a girl of the same *suku*: the only penalty had been a fifteen-dollar fine. This of course was the *bhara* at \$14.40, and others who were questioned could think of only two cases in the period: the Lendu case just quoted and another recently in Tanjong Rimau. In the latter cases both families were *pulau*, ostracised. There was no parallel to the Jelebu case⁵⁶ of a large and distinguished gathering at an 'incestuous' marriage. The aversion to such marriages remained rooted in Minangkabau culture, for there was no objection whatever on grounds of consanguinity: marriages between first cousins who were children of brother and sister were common, and between the children of two brothers were permissible though in fact not arranged because of religious objection.

There was no change in the formal negotiations: the young man approached the *Tua* of his *suku* in his own mukim, and a *menti* was sent to the *Tua* of the girl's *suku* in her mukim — which might be the same or a different area. There was perhaps a slight shift in emphasis in that the *sakadim* were less influential in the choice and offer, but the family was informed and its approval was necessary. The *tanda suka* was a ring, the *chinchin bertanya*,⁵⁷ and acceptance signalled the contract: if either party later withdrew, a payment of twice the *wang hantaran* was due to the other. The doubled payment was justified by the proverb *Menerima satu tangan tolak dua tangan*.⁵⁸ There was no rebate if the girl was found not to be a virgin.

There was no longer any need for the respective *tua* to agree on the general expenses: these were on known scales⁵⁹ set by the Dato' Naning and possibly modified by mukim Mosque Committees. *Wang hantaran* was fixed at \$151.20 (ten and a half *bhara*, for marriages of daughters of the *rakyat* and \$165.60 (eleven and a half *bhara*) when the brides were daughters of *adat* officials. *Mas kawin* remained at \$25.00.⁶⁰ The incidental charges were listed: on the Dato' Naning's basic scale these amounted to \$27.76 handed over, for registration, mosque officials and mosque fund,

door-keeper (and including \$2.16 if the bridegroom wanted the bride's teeth to be filed); and \$11.16 payments to his own *suku* for his attendant, *tua*, *buapa* and *menti*. The bride's family's similar payments to *tua*, *buapa* and *menti* came to \$9.00. The tariff for the ordinary wedding was thus \$214.56 for the groom and his family, and \$9 for the bride and hers. The tariff was not unalterable: a bridegroom might add to the customary *wang hantaran* to demonstrate either his affection or his superior social standing, and if the bride was a daughter of a rich family and set on obtaining a particular husband, the *wang hantaran* could be reduced.

The wedding ceremonial was shorter than in the Fifties. The *chinchin bertepak*, the ring on its tray with *sireh*, clothes and money, was sent to the girl's mother's house on the wedding day, and the *wang hantaran*, *mas kawin* and incidental fees paid over. The bride's nails were still painted with henna.⁶¹ The groom usually wore the (hired) costume of the 'Raja sahari' and the *bersanding* procession to the foot of the steps of the bride's family house was normal. After the prayers, homage was still paid, and the feast for the guests was still in the normal family partly provided by contributions under *tanam*. There was however a conscious movement towards informality and perhaps economy: the custom noticed in Rembau in 1967⁶² of *elak buapa* or *elak lembaga*, when the Chief sat under a ceiling cloth⁶³ was no longer seen in Nanning, though there was a canopy for the *tua* and for the *Lembaga Suku* if he attended: when the latter was present his insignia and particularly his flag⁶⁴ were on display. The proceedings ended on the one day, and the *sepak raga* and *ronggeng* of the Forties had also gone: one was now a sport instead of a boy's game and the other had become a *joget lambak* with no professionals,⁶⁵ the music perhaps electronic.

The irregular forms of marriage were still known to the Custom, but were rare. This seems to have been the result of the greater financial independence of the would-be bridegroom and the reduced influence of the *kadim-kadek*, together with the influence of the jurisdiction of the religious courts introduced by the Administration of Religious Law Enactment in 1960: any attempt at *menyerambi*, and much more so at *adat merumah* or *melarikan perempuan*, could become *khalwat*, retirement and suspicious proximity — with its attendant punishment of the man as principal and woman as abettor.⁶⁶ *Melarikan perempuan* was very rare, resorted to when all else failed, and it was a cause of shame to both families. The so-called conditional marriage, *nikah ta'alik*, had on the other hand become very common: whereas in 1955 the condition was imposed by the *tua* and *waris*, it was in 1980 endorsed on the back of the marriage certificate and had to be signed by the bridegroom; the actual periods of absence by land or sea which brought about divorce 'of itself' previously notified by the *menti* of

the bride's *suku* were now decided by the girl and her *waris*, with the Kathi.

Rights in property under the *Adat* did not alter with the passing of a generation. The *pembawaan* of the husband and the *dapatan* of the wife remained their separate estates: they were not formally declared as such, because they were known to the respective *waris*. The *pencharian* of husband and wife was a common fund, with the exception of a house built for the wife on her family's land. With the increased employment of women and migration of couples it was no longer automatic that the house was erected. Where there was *tanah pesaka*, a site was allocated to the daughter for her house, but the formal delineation by driving in pegs — *tukul lantah* — was rare and no step was taken to have the Mukim Register altered until the birth of a child, at the earliest. The *tapak rumah* assumed a new significance with the emergence of a numerically small class of successful husbands and also wives, usually in senior Government positions often outside Naning, earning high salaries and favourably treated with housing allowances and mortgage advances: then the house site was more detached and laid out for an impressive house built in fairly extensive grounds, as the home when retirement on pension could be taken.

In matters of dissolution of marriage whether by death — *cherai mati* — or divorce — *cherai hidop*, the principles remained constant but the procedure altered in detail.

The rule *mati bini tinggal ka-laki mati laki tinggal ka-bini* was not susceptible to variation unless the whole ethos of the rights of the descent and the *suku* were brought into question. The only possible change therefore was in practice on the death of a wife, since if the husband predeceased the wife, she remained to inherit *pencharian* and to pass on *pesaka*.

The custom of *jeput* was less observed in the Eighties than in the Fifties. To some extent this was due to the increased number of families living in homes away from family land, whether in official quarters or in and near townships; in these cases there was no claim sustainable by the *waris*. More generally, it seems to have been the result of a better health service in improved economic conditions: fewer wives died in childbirth and the longer life-expectancy made for a longer duration of marriages. If the wife died, it was more likely than in earlier generations that there would be a daughter (who of course was one of the *waris* next in succession) old enough to take over care of younger children. When this was not the case, *ganti tikar* frequently provided the solution. The traditional Naning custom was that the new wife should be a younger sister, but one 1980 example was found of the new wife being an elder sister who had been divorced: the variation was accepted by the *adat* officials. Where none of

these sets of circumstances existed, widowers were invited back on the forty-fourth day, but usually left the furniture and household goods for his children.

Similarly, the established *adat* rules still applied in cases of divorce. One form, *tebus talak*, had in effect disappeared: it was frowned on by religious officials, and in any case the Administration of Muslim Law Enactment provided that a married woman could apply for a maintenance order⁶⁷ to, or more generally institute civil proceedings in,⁶⁸ a Kathi's Court.

All divorces had to be notified by the husband to the Registrar of the area, Kathi Besar or Kathi, and he entered details in his Register and issued a certificate to the man and woman. He also decided on the division of *harta pencharian*: this included all chattles such as television sets, though items of this sort were usually left for the children; the Kathi was the adjudicator, and superseded the *tua* of the two *suku*; if they were present their role was now that of witnesses. The *tua* were, however, still the arbiters of the property brought to the marriage by each party, the *pembawaan* and *dapatan* respectively. *Pencharian* was still the body of assets liable for the debts of the marriage: if, for example, the husband's *pembawa* were valued at \$200, the wife's *dapatan* at \$500, and the *pencharian* at \$2,000 with debts of \$1,500, there was \$500 to divide between the divorcing couple, and the property brought went back with the spouse to the *waris*.

The device of *tentukan* had become more general, perhaps because if it were not applied the Kathi had power to award maintenance. The *tua* and the *waris* had to agree to the application of property for this purpose, since it was a diversion of property otherwise returning to the former husband's *suku*: the Kathi recorded the details and the Land Office accepted the decision as recorded.

IV

Authority in Naning was still conferred from below, and not devolved from above.

The *lembaga kecil* in the mukim, the *tua* and *buapa*, were chosen in a meeting — *berkampongan* — called, on the death or retirements of a *tua* by the eldest male member in the mukim of that *suku*, at his or some other member's house. All males of the *suku* or *perut* who were of age to attend mosque (*akhir baligh*) were entitled to attend. Ordinarily the *buapa* — or where there was a *giliran*, the *buapa* of the *perut* next in the rotation — succeeded as *tua*. The decisions were on the basis of general approval:

there was no formal voting. The Dato' Naning had a power of veto but none of nomination.

The Penghulu *adat*, customary head of the mukim, was appointed by the Dato' Naning, with the title of *Dato' Setia Bakti*. (This was in fact less of a shift to autocracy than it sounds, since to the extent that *giliran* was observed and the claim of the appropriate *tua* was considered, it was very much the system of Colonial Office days with a purported power of appointment which was exercised to confirm the popular choice. Nor, in the nature of the ordinary incidents of kampong life, could the *Dato' Setia Bakti* be the Dato' Naning's catspaw, even if this had ever been intended, for the Penghulu *adat* was inevitably influenced by his *suku* elders. He appointed his own *Mata-mata*: again the Dato' Naning had no more than a power of veto. *Dato' Maulana Hakim* alone was the Dato' Naning's nominee not directly owing his rank to his position in the *suku*.

Vacancies among *tua* and *buapa* arose by reason of death, when there was the meeting of the males of the *suku* — *berkerapatan*: by resignation and with willing consent (*berkerelaan*) or following disregard of the *adat* — *salah bueh* (the dialect form of *buat*) *posako luroh* — 'discarding *pesaka*'.⁶⁹

The creation of a new *perut* in any mukim was possible: this was a matter for the *suku* and the mukim. If a family-descent group wanted its own *buapa*, the *kadim* put the matter to their own *tua*: if the proposal was supported by him and not opposed by the *anak buah* of the *suku*, the new *perut* chose its *buapa*, who took his place at the foot of the *giliran*. In 1974, at the hearing of a Small Estates Distribution suit, land in Ayer Pa'abas was declared to be *pesaka* to Anak Melaka Kalkati — a *perut* which does not appear in the list of *suku* and *perut*.⁷⁰

There was perhaps a greater emphasis on the disinction between *Seri Melenggang Nan Gajah Bertunggal* and the *Suku Lembaga Nan Bersekat* — 'the Suku whose Lembagas' powers were restricted'. The former had as its Chiefs the Dato' Naning himself and the four *Pembesar Waris* of his family, and it should be said that the division seemed to be of greater significance to the members of the 'Rogue Elephant Suku' than to the others — Sri Melenggang, Mungkar, Tiga Batu and Anak Melaka. Their Chiefs, the *Lembaga Suku*, were chosen by the *suku* members in Taboh Naning mukim and not by any system calling for the suffrages of all members throughout Naning. (This may derive from the fact that the 'Sookoos' had been 'abolished' in 1832 before the Custom captured the territorial mukims as they were established). On occasion the *lembaga kecil* in the mukims were referred to by their *suku* titles: the *tua* of Mungkar, for example, was called Dato' Angkai; and the *tua* of Tiga

Nenek witnessed a Taboh Naning agreement in 1969 as 'Dato' Gompo' (i.e. Gempar).⁷¹

The Administration of Muslim Law Enactment stipulates that when a vacancy arises in the post of imam of a mosque in any *kariah*,⁷² the Legal Committee of the Majlis is to enquire what possible candidates there are, to examine their qualifications and to select two or more: these are voted on (no other candidate being allowed) by male members of the congregation ordinarily resident: the successful candidate's name is submitted to the Yang di-Pertuan Agong as Head of Islam in Malacca, with a recommendation. All other mosque officials may be appointed by the Legal Committee.⁷³ A later section⁷⁴ empowers the Majlis to make rules for the appointment of mosque committees, the manner of their appointment and their duties and functions: such committees are, together with the mosque officials, to be responsible for the proper order of the mosque, good conduct of members of the *kariah* in matters of the Muslim religion, and for sending information promptly to the Majlis Ugama.

In the case of mosque officials, the system in Naning was described⁷⁵ in Naning terms. The *giliran* in the mukim was known to the various *tua*, *buapa* and others. The *suku* next in turn chose its candidates from among its members, and their names were forwarded to the Religious Affairs Department for the Legal Committee. If the favoured candidate's qualifications were satisfactory, he was appointed; if not, candidates were then sought among the *orang semenda*, the men married into the *suku*, and their names were forwarded. If these were also rejected, the candidature became open and the turn under *giliran* was postponed — *di-sandarkan* — only until a suitable candidate from the entitled *suku* became available, for example by qualifying at a religious college. This was known as *menunjong pesako sa-mentara hari siang*, carrying the inheritance on the head until daylight: the appointment was conditional while the *suku* could not take its turn, *sa-mentara gelap*, — while it is dark.

The appointments to one mosque committee for 1975/76 are shown in detail in Appendix N Part II. There were four 'Advisers', persons of local eminence holding honorific rather than deliberative posts and corresponding to 'Patrons' or 'Vice-Presidents' in a Western Committee: in this case one of these was the 'Sidang' (new-type) who was also *tua* of one of the smaller *suku*. Of the executive office-holders, the Chairman was an *adat* official, *Dato' Maulana Hakim*. The working Committee is of interest: the purely religious members were the four mosque officials and a representative from each of the *surau* dependent on the mosque making a total of nine: working with them were eight representatives from the various *suku*, three *tua* (including the Sidang) and four *buapa* from the

respective *suku* and one from the Lubok Kepong *perut* of Tiga Batu. The intention was to provide representation for all *suku* rather than to balance almost exactly the number of members from religious offices. The interesting feature of this membership is the tacit assumption that lay representation should be on a *suku* basis in a matter of general interest not limited to *adat* affairs, although of course the congregation was largely composed of men born within the Custom.

In his exposition of the modern hierarchy, the Dato' Naning described the Dato' Setia Bakti as the penghulu *adat* of his *luak*. The constitutional theorist versed in Negri Sembilan custom might be led to suppose that there are in Naning independent areas *in petto* with independent chiefs similar to the *luak* of Rembau, Sungei Ujong, Johol and Jelebu, and that therefore the authority superior to them must be *alam ber-rala*.⁷⁶ This is not the case: the Penghulu Undang of Naning and the four Undangs of Negri Sembilan are independent commoner Chiefs, with the difference that the four remained, by the accidents of history, also Electors of the *Yang di-Pertuan Besar*, the first of which was imported by them.

One feature in the way in which candidates for mosque appointments are chosen marks a departure from the classical *adat* system: in selection for *adat* posts, there has been no question of considering *orang semenda* as a second choice before yielding to *sandarkan pesaka* until a suitable person presented himself. It would seem highly unlikely that this will extend to *adat* appointments, since the *orang semenda* of one *suku* are members of another and eligible in their own right to positions in it in their turn. In this connexion, *saka*, *baka* and *sharat perentah* remained important and sons could, and on occasion did, hold office simultaneously with their fathers, but for their mothers's *suku*.

That tranquillity which had attracted comment in earlier times remained characteristic of Naning. It proved impossible in 1982 to find out what proportion of Malacca civil cases originated in Naning because all indices were by names of parties with no locations given, but the writer was told⁷⁷ that Naning cases rarely came to Court because the *Adat* prescribed the tenure and devolution of land. The position in matters of tort and contract was not so clear, since there was no relation of parties to the Naning mukims, but an opinion was given that there is an increasing tendency to resort to proceedings because in that area men are often well off and educated. When this was mentioned to an *adat* official in Alor Gajah it was challenged on the ground that very few Naning people would go to Malacca solicitors likely to ask for a payment of \$750 on account.⁷⁸ As to serious crime no comment was made in many conversations to imply that it had increased, and when the question was put as to whether the prin-

ciple of *balas hidop*⁷⁹ was still accepted the answer, from sexagenarians, was that there had been no murder or homicide among Naning Malays for so many years that it was impossible to say.

Inside the field of the law of real property and devolution, the change in Naning practice in the period since independence appears to be less than the change in the law itself: there is a gap between what the statutes say and what Naning does.

The Penang and Malacca Titles Act and the Small Estates Distribution Act (by its Second Schedule) aim to prepare up-to-date registers for registration of title under the National Land Code's particular form of the Torrens system. The essence of this system is that Registers of Title shall accurately record the proprietors of exactly-defined Lots of land, together with a statement of their rights and the limitations on them. These limitations, when they apply universally or to stated categories of land, are statutory and set out in the Code and not in the Register, which however can bear an endorsement importing them. Derivative interests and interests in remainder are protected by entry on the Register, either by the statutory forms when one is created (as by a charge or sub-lease)⁸⁰ or by caveat. The titles to the interests as registered are indefeasible except in cases of fraud of three sorts, and even then the bona fide purchaser for value is protected.⁸¹ A certified copy of the Register document of title is prima facie evidence of all matters contained in it.⁸²

Previous to 1st January 1966 the Register (under Cap. 125) contained no provision for endorsement, nor any place for an entry except under 'Remarks'. Registration was under Section 30 conclusive evidence in all Courts that the person registered was absolutely and indefeasibly entitled to be holder of the land, without more. It was not evidential in any way of inhibitions or restrictions of interest (other than charges, reservations to the Crown, duties in the *sawah* and regulation of crops under Section 6), but in any case the Naning Custom was declared to be unaffected, by Section 5. Land became *pesaka* to the *waris* and *suku* as and when the *Adat* said it did, and annotation or the lack of it did not affect that position.

Section 99 of the Penang and Malacca Titles Act requires the Collector to endorse the words 'Naning Custom' on the Register whenever he is satisfied that, to quote the unfortunate inversion already noted, the land is subject to the Custom. This falls short of requiring the Collector to satisfy himself whether or not the Custom applies, and leaves it to his alertness and percipience when normal dealings under the Land Code come before him. One large group of changes in the title in which the Collector officiates is that of small estates passing on death, but the Small Estates Distribution Act contains no such section, though it would have been simple to have

written in it as an additional paragraph in the Second Schedule. The omission incidentally fails provide endorsement in the case of land outside the State taken up by proprietors subject to the Custom,⁸³ which becomes their *charian laki bini* and by operation of Custom must become *pesaka* on the first, and *pesaka suku* on the third, devolution on death. It may have been considered unnecessary to write the duty of endorsement into the Small Estates Act in view of its Section 16 requirement that the Collector is to arrange for the distribution order 'so far as it relates to land to be registered as may be necessary' and he has been previously required 'when necessary to ascertain...the customary law applicable...to the deceased'; and this is transferable to the Register by Section 348 of the Naitonal Land Code.

The question arises as to why the Section 99 endorsement of 'Naning Custom' should be done and what effect it has. The reason why it is to be done is presumably to ensure that where land is held according to the Custom it shall continue to be so held and customary rights shall not be disregarded or terminated, at least until all interested parties (remote as well as near) shall agree on a change. These rights can only be established by enquiry: the issue is the exact nature of those rights, in the deceased and the *waris*, under the Custom, and not the land itself: clearly, if some mysterious pestilence were to carry off every member of *suku* Mungkar, the land registered in their names would be subject to no custom at all. The intention of the endorsement must therefore be to record — and therefore give notice to anyone searching the Register — that the registered proprietor is subject to restraints in his or her dealings as proprietor over and above any restriction in interest noted in the Register. It might be thought that the matter could have been dealt with adequately by annotation in the panel 'Restrictions in interest' in the Register and form of Mukim grant,⁸⁴ but this is open to the objection that 'restriction of interest' is defined in the Code as being a limitation on the proprietor's powers by the Code or any previous land law, and the Custom is not law but custom.

It is also intended to be more than a caveat, for as has been seen the Collector's most general power is to enter his caveat where it appears necessary or desirable to prevent fraud or improper dealing, and the whole tenor of the Section on caveats is that they relate to individual parcels and cannot be extended to blanket caveats against the proprietors *en masse* of hundreds of Lots.⁸⁵ Private caveats are short-term, not exceeding six years, and in any case no-one can have expected or intended that the *rakyat* should come, 'in shoals' to use Blundell's phrase, to protect their interests.

The intention must have been to impose a permanent memorial on the title drawing attention to the particular position of any registered proprie-

tor dealing in the land, and as a reminder to any official registering such dealings. The memorial however does not say what the position is; interpretation is left to such knowledge as the proposed other party to the dealing, and his advisers, may have, or to the interpretation of officials.

It is clear that the intention of the legislation was that tenure under *Adat* should prevail over the normal stipulations of the National Land Code when there was any disparity: the Penang and Malacca Titles Act stated that nothing in it, other than the requirement to endorse 'Naning Custom' when appropriate 'shall be deemed to affect the...Naning Custom',⁸⁶ and stipulated that the Part of that Act dealing with what had been customary land under Cap. 125 should 'prevail over the Code in the event of inconsistency'.⁸⁷ This is very wide and the words as in Section 99 impose a more extensive duty than merely to check whether the land is *pesaka suku*, or to endorse should it prove to be such: the duty is to record that the proprietor holds according to the Custom.

The Penang and Malacca Titles Act does not confine the duty of endorsement to transmissions on death, but deals with all transactions. Nevertheless, in Naning the Registers can do no more than record events in such a manner as to give the fullest possible notice of a proprietor's rights; and it is not conclusive.

The Distribution suit *re Tomah bte Mamar*⁸⁸ gives an example of actual transactions amounting to a transfer on sale known to and accepted by the *waris* but totally unenforceable under legislation, and of a mortgage by *chagar*, under which the lender entered into possession and took the produce as her interest, not catered for except by amendment of forms for registration under the Land Code. The contract for sale and *chagar* agreement were made four years after the new land legislation was brought into force in Malacca: the *waris*, *buapa* and eventually the Collector all regarded both agreements as binding although there was no registration or caveat. Admittedly Tomah had made no further attempt to deal in the land, but it is submitted that if she had done so the purchaser would not have been successful against Biah or Jamilah merely on the ground that he had relied on the Register.

In another Distribution suit *re Rahmah binte H. Yusof*,⁸⁹ evidence supported by the production of a document, was given of an agreement to sell by *jual janji* two Lots of land so that the purchaser and her husband could consolidate them with their own Lot for replanting under a *RISDA* scheme. *Jual janji* is usually translated as 'conditional sale', and appears to have been synonymous with *gadai makan hasil* in some places;⁹⁰ in Naning they are entirely different, for *gadai* or *chagar* imply *makan hasil*, while *jual janji* is a sale declared and perfected in itself before the *tua* or

Sidang, before any step is taken to register it. In this case neither party took any step towards registration and no private caveat was considered necessary. The decision in the suit included formal allocation of the two Lots to the purchasers and change of name in the Register. In this case there was no indication in the record of the hearing as to how Rahmah came by the land and therefore its status: in the hands of the purchasers it was of course *pencharian*.

In theory disposition of land becomes subject to the Custom when it is acquired (whether from Government or from some other party) by a man or woman who follows the *Adat Perpatih*, since it then becomes *harta pencharian* passing, if acquired during a marriage, to the surviving spouse. That right is however inchoate, and there are obvious objections to an annotation of 'Naning Custom' on the title, the most obvious one being that the survivor might sell to someone outside the *Adat*. On the survivor's death, the land becomes *pesaka waris* but can still devolve other than according to the *Adat* until the third transmission: then the rules should apply without variation, if *Adat* had been the personal law of the last deceased. For a full record of land whose proprietors hold according to the Custom — if that is what Section 97 of the Penang and Malacca Titles Act intends, and it is difficult to see any point in the section unless that is the intention — the climactic is the third transmission. It follows that when any land matter comes before the Collector, enquiry should be made. In those cases where it is not already done as to the status of individual Lots, whether they are *pencharian* or *pesaka* and if *pesaka* whether they have already descended two generations — whether, in short, the parcel was formerly in the hands of mother and grandmother and (unless the daughter is also deceased and her estate is being administered) great-grandmother. If so, the Register should be endorsed; if not, it should be unless there is evidence of dedication (as in *Re Yunus*).⁹¹ The usual occasion for such an enquiry is at the application for, or hearing of, a Small Estates Distribution suit, but there does not seem to be any objection to its being put at the application for registration of other transactions such as transfers and charges.

The endorsement should of itself serve to signal that any male registered thereafter holds on *hasil sa-mentara hidop* only, and of the likelihood that the *waris* will enter a claim on his death: but a memorial of this, or of the appointment of a trustee — a female of the same *suku* whenever possible⁹² — would confirm the nature of the registered proprietor's interest, and obviate the need for Collector's caveats.

The statement above of the modern theory of the *Adat* and the general direction that *pesaka suku* land becomes *wakaf dzuriat* in mortmain does

not amount to the rule that it cannot be sold in any circumstances at all; per contra, the idea that it can be sold to persons outside the *suku* or Custom freely if no person within the *suku* will offer to buy⁹³ is too wide. The position is that ordinarily it may not be sold or otherwise disposed of outside the *suku*, but that in extra-ordinary circumstances it may be or may have to be sold but that the proceeds become part of the *suku* inheritance. The idea of *ganti pesaka* would not have developed had *pesaka suku* been totally inalienable.

Greater numbers of cases may occur in future. The National Land Code divides land into town land, village land and country land; by Section 11 (d) the State Authority may declare any area to be a town or village and it is not unlikely that a Government wedded to the principles of planned urban development may declare such areas in, for example Pulau Sebang, Alor Gajah, Masjid Tanah and Batang Melaka. Section 53 (2) imposes on Land Office titles to town and village land a condition that it shall be used for agricultural purposes only (with savings for existing buildings and their curtilages and buildings and works ancillary to agriculture). Thus, in an area zoned and planned for development, small-holders' land would be excluded from that development unless the proprietors success fully applied for variation of that condition — and the application requires the consent of 'every person or body having a registered interest in the land'. This does not include the *waris suku* with an interest in remainder: they are not registered. It is possible that an entrepreneur might organise co-operation in such an undertaking, even to the extent of enlisting a multitude of proprietors each noted in the Register, but it is more likely that these would be bought out by the developer, or in the case of Government-sponsored development by the relevant Authority, or even compulsorily acquired under the appropriate statute. The consideration should of course be invested in alternative land for the *waris* and *suku*, *ganti pesaka*. Endorsement of 'Naning Custom' on the related Register folios at an early stage of any such planning would help preserve such rights, and incidentally obviate such manoeuvres and judgments as those in *Sapian's* two cases discussed earlier.

There is one small category of Naning land which remains outside the protection of the endorsement. Part VIII of the Penang and Malacca Titles Act reconstitutes the Registers made under Cap. 125 as the Malacca Customary Land Register, maintaining an existence separate from the Mukim Register, and the endorsement may be made only in the Customary Land Register. Other lands are entered in the interim Register and when the area does not exceed ten acres are given a 'Mukim indication',⁹⁴ so that the final documents will be a Land Office title. The short-lived enthusiasm of

the Straits Settlements administration for issuing Statutory Grants and leases before and just after the 1922 amendment of Cap. 125 led to parcels of land in and near various villages such as Lubok China being indistinguishable from neighbouring customary land and devolving like it but being held under a different type of title. The legislation provides no means of attaching an enduring warning to these except by the dubious expedient of a Collector's caveat, *ultra vires* in the absence of grounds for fearing improper dealings.

Finally there are the first signs of the emergence of a new problem with which statute cannot deal, and which may be beyond the capacity of *adat* officials. This is the question of *untong*, when land on which considerable development has been carried out by the husband under schemes like RISDA comes to be distributed on death or divorce. The conversion of a Lot of obsolescent scrub rubber into a stand of young high-yielding clonal stock can more than double its value, and it is accepted that *untong* on *dapatan* land brought by the wife (or on *pembawaan* brought by the husband) forms part of *pencharian*⁹⁵ passing to the survivor on death and equally divided on divorce.

In theory the *pesaka* land should revert to the wife (on divorce) or to her *waris* (if she dies) unofficially charged with payment of a sum agreed or adjudicated as *untong*. When the sums are comparatively small they are within the abilities of the *waris* and agreements conditional on such payments are acceptable. Variants such as an agreed transmission of one Lot to the husband in lieu of such a payment are also possible until the land becomes *pesaka suku*. The problem can be handled unless the sums are large and the disparity between values before and after development is very great.

Mention has been made of large and imposing houses built on *pesaka* land by senior officers for their retirement. Figures, not accurate as market prices, may illustrate the difficulties. A and B his wife are both serving Government officers: they build on one plot of land belonging to B's mother, *pesaka* from further back. The land, not valued before building began, has a notional value as kampong land of \$2,000. The building cost \$60,000, paid over to the builder: it was financed by a loan at three per cent, over ten years, \$87,000 was paid from joint though not equal earnings. The husband laid out gardens and orchard, now mature as the grounds. After the first death, the property is valued for probate at \$125,000 and administration must be sought from the Court, not necessarily versed in *Adat* and inclining to the law, and not from the Collector.

A preliminary point is that such an estate is not devisable by will: the decision in *Re Dato' Ngiang Kulop Kidal decd*⁹⁶ has the headnote 'The

Adat Rembau — a person subject to recognised matriarchal custom cannot make a will', and the headnote to the report of *Abdul Wahab v. H. Wahab*⁹⁷ reads 'Malacca Customary land is not capable of devise by will and the land descends on the death of the holder to the holder's heirs according to Mohammedan law. Any attempt to devise such land by will is nugatory'. In the former case the finding was on the basis of the *Adat Perpatih* and not statute and is persuasive; the latter case was directly to the point.

The first question for decision is whether such a house is within the category of dwelling which the *Adat* requires the husband to provide for the wife. The traditional Naning Minangkabau house is capable of being erected and dismantled: a high-cost bungalow is not. One can say with some certainty that *adat* officials are unlikely to rely on the Land Code definition of 'land'⁹⁸ or on principles of English common law⁹⁹ in formulating the *adat* rule but it is much less certain that they would accept the *adat* requirement without qualification in these circumstances. Had the house been built on purchased land, land and house would both be *pencharian*, and it is an easy though not conclusive argument from that premise that site and house are in different categories; or alternatively they might admit *untong*.

In the easiest case of all, of the husband predeceasing and leaving only widow and daughters, the result would be the same whatever principle was adopted: the land, as *dapatan*, and the house whether built under duty for the wife or as *pencharian*, would go to her together with the improved orchard and gain from inflated land prices, and later pass to the daughters. Where the husband predeceased leaving children of both sexes, the question of whether the house passed with the *dapatan* or was *pencharian* could arise, for otherwise there might be nothing available to meet any claim by, or wish to profit, the sons.

The situations when the wife predeceases are more complex. If there are only daughters, the *dapatan* passes to them and they will probably not wish *jeput* to remove their father from the house he built. If there are sons as well as daughters, the father may wish to make some provision for them (other than by agreement with the daughters), out of the property while he is still able by custom to deal with it as *pencharian*.

Contentious claims are most likely if the couple have no issue: the claimants are then the *waris*. If the husband dies first, his *waris* might claim *untong* as an item separate from *pencharian* (arguing that the *pencharian* was \$87,000 leaving *untong* of \$33,000) — a possible though thin argument. If the wife dies first, the husband and his *waris* have a claim for whatever *pencharian* there may be and *untong* going with it — in the example \$120,000.

The difficulty is perhaps shown by the fact that when the example was put to two *lembaga kecil*, both said that the problem of *untung* is very difficult, and likely to occur more and more. One after some thought, decided that the house, however unusual by kampong standards, went to the wife because the husband had to provide and added '*Biar mati anak jangan mati adat*'. The other regarded it as *pencharian*. Both said that the respective *tua* of the two *suku* would try to settle.¹⁰⁰

Settlement of disputes is of course part of the duty of a *tua*: he is guardian of the peace of his *suku* as well as of its *pesaka*. Failure to reach agreement would take the matter before the Penghulu *adat* and perhaps above: the *Dato' bersabda* is the ultimate arbiter, and these rulings will become the precedents. The practical details would not necessarily be resolved: a finding that the wife's *waris* should pay \$60,000 to the husband's *waris* might be beyond them except after sale of the property. As *pesaka suku* land it would have to be offered inside the *suku*: there appears to be no rule whether an offer well below valuation even at a sum taking into consideration the restricted market must be accepted, but clearly the administrator could refuse it for the time being. If the offers were derisory or non-existent, it seems that the intending vendor would have to obtain permission for the sale from the *tua* confirmed by the penghulu *adat*, and have to provide *ganti pesaka*. The same considerations would apply if the Court — or in the case of a small estate, the Collector — were to order sale to raise fees and duties from the proceeds.

Envoi

Writing more than half a century ago, de Moubray ended his book¹ with an address to administrators and English-educated Malays in the *Adat Perpatih* areas amounting to a plea for the Custom: he set out in its favour 'the value of a tenacious and strongly characterised body of tradition....', its ability to change in changing circumstances the virtues of the doctrine of *pusaka* and of keeping women on the land, the insurance, of women and children against want and discountenancing of divorce, the, benefits of monogamous marriage, and the virility of men following matriarchal custom. These, he almost implored them to accept, were necessary for Malays in the world in which they would live. Elsewhere² he could see the *Adat Perpatih* 'in the distant future dropping most of its remaining matriarchal features and becoming possibly the most perfect parental system' — which he called the 'parental joint family', the family unit of husband, wife and children.

The Malay role in the world he foresaw was however one which is no longer recognisable, if it ever existed: it was to be one for

...an independent peasant proprietor, filling in lulls of his farming activities with village industries, with no wish to govern himself... taking life not too seriously, a hero in bigger disasters, a child in his pleasures, enjoying above all things the sport of the chase and competitions of one kampong against another in kite-flying, top-throwing and such like, pastimes ending in feasts at which the women have their opportunity for vying with each other in cookery....

He foresaw no commercial future: 'the Malay outlook is yet more unsuited than that of the Tamil to big business' and he doubted 'whether many centuries' education directed to this end would suffice to eradicate so pronounced a trait'.

This would seem to be a warning against prophecy; and Taylor permitted himself only one single remark: 'there can be little doubt that the Malays of Rembau, who are among the most conservative of a conservative race, will cling to their ancient customs so long as they grow rice and own buffaloes'³ — which with the passing of time has come to carry an overtone of Birnam Wood coming to Dunsinane.

Naning has a continuing history as coherent and as well documented as anywhere in the Malay Peninsula, and beside it the various States are recent creations with legends of vanished kingdoms for their past.

It is now four hundred years since Diogo d'Azambuja put the torch to Kampong Enau in Taboh Naning, and the record ever since has been one of submission — enforced when need be by an expedition — to the authority of Malacca and its own higher authority, in Goa or Batavia, Singapore or Kuala Lumpur, wherever it might be and whoever might wield it. The *Adat* Chiefs were always at the mercy of that authority, as when they avoided execution by contrite apology in 1646, or when Dato' Anjak was appointed against their wishes in 1786, or when Dol Said was deposed and they were 'abolished' in 1832. The slighting continued: when the Dato's titles were restored in 1922, the Dato' was not accorded the position, prestige and moneys of his *Adat Perpateh* equal the Undang of Rembau or his inferior the interloping Tengku Besar of Tampin, the disgraceful Syed Shaaban's fief. The situation did not alter with Independence: the penghulus and 'sidangs' were supplanted in that administration of which they had been an official part since 1832 in the one case, and 1894 in the other. Cheese-paring was permissible: the Dato' Naning received no postage or telephone allowance, paid for his own car purchase, received only his stipend-allowance, an entertainment allowance and a fixed travelling allowance, again worse treated than his fellow Undangs in Rembau and Jelebu.⁴ Perhaps the most significant was the change in order of precedence in Naning: after independence the Dato' Naning took precedence before all, after the Governor as the representative of the Yang di Pertuan Agong; by a change in the late Seventies he now yields, in his *vilayah*, to the Chief Minister.⁵ The catalogue is long, and only partially offset by occasional moves to repair in part wrongs inflicted in the past and recognised later. 'History to the defeated may cry alas, but cannot help or pardon'.

The time has not yet come to cry alas, for Naning, in its *adat* and its community, has not yet been defeated. Time after time it has made its submission and gone its own way, and it has assimilated the administration to the Custom rather than weakened the Custom to fit the administration. The Dato' remained, despite government decree; the *Lembaga Suku* lost their power to their successors in the *Adat* the Demangs and Penghulus, but their flags still fly at important weddings. The Government penghulus became *adat* penghulus. The *tua* and *buapa* became the members of Mukim Councils set up under statute. After the recent changes, some *tua* became Sidangs, new-style: whether the *Adat* will take over all will be a matter for examination a generation or two away. Lastly, Naning has

escaped the interventions and political log-rolling which has attracted attention in Jelebu.⁶

The community has accepted the shock of universal education, and survived. It saw the introduction of the South American *hevea brasiliensis*, and the rubber smallholdings have become *pesaka* with the passing of time. Land legislation with a fundamentally different philosophy has been introduced — twice — and the substantive law has been qualified in its application to Naning tenure and devolution. The families are 'nuclear', but influences — comment, advice, and arbitration are — still largely matrilineal. Inheritance in the female line is, on the evidence, generally agreed and at the instance of the families themselves. de Moubray's virtues are to be found, and for the reasons he gave. To the outside observer, the Naning community appears to be moderate and self-policing: its members are — despite the new elite emerging there as elsewhere⁷ — peasantry, but peasantry of a yeoman and not a deferential sort.

It has been said⁸ that in Rembau '*adat* is becoming less of a way of life and tradition in a modern society. It is possible that this process will continue until there remains a hard core of *adat* based on ancestral land and matrilineal inheritance.'. This may be true for Naning also: the modern world is unimaginably different from that of the days when Portuguese caravels came dipping passed the mouth of the Linggi River, yet the descendants of those *sukus* who built their stockade against the Portuguese in 1586, and who told Governor van Vliet in 1643 that they were the Raja Merah's subjects and not his slaves, are still there and still refer between themselves to *adat*, to *adat perpatih*, to *adat perpatih Naning*.

APPENDICES

APPENDICES

Appendix A

Short History of Kuala Linggi

Tawarikh rengkas Mukim Kuala Linggi

1. Dewasa Negri Melaka di-perintah oleh orang Portugis T.M. 1511 pernah juga Orang Portugis itu membuat benting tempat supai₂-nya mengawal Sungei Linggi itu daripada di-masokki oleh musuh₂-nya pada masa itu dan memungut chukai. Terutama orang Portugis memang sangat chemburu tentang perniagaan lansong benting tempat supai-nya berkawal itu. Tertinggal nama-nya di-panggil orang Bukit Supai dan ada satu perigi Supai nama-nya juga ayer-nya sangat chantek dan mashor maseh di-gunakan orang di-situ lagi.
2. Kemudian T.M. 1641 datang pula Orang Belanda merampas Melaka daripada tangan Portugis itu, dalam pemerintahan Belanda pun Sg. Linggi ini di-kawal keras oleh orang Belanda itu. Benting₂ Portugis itu di-baikki-nya lagi lansong di-dirikan di-atas Bukit Supai itu sebuah kota bungan-nya empat persegi yang sangat kokoh rupa-nya hingga hari ini kota itu maseh baik dan tegoh lagi. Dari kota ini sangat senang berkawal dan boleh menembak arah tiga penampang (muka). Kota ini di-bangunkan oleh orang Belanda dalam T.M. 1655. Kota ini di-lawati oleh Pegawai Barat Yang Melaka, tetapi sayang sadikit tempat terbiar jadi semak sahaja.

Translation

1. During the time that the country of Malacca was ruled by the Portuguese, A.D. 1511, from time to time they had a breastwork as a place for their soldiers, to keep guard over the River Linggi against enemies entering it, and to collect taxes. In particular the Portuguese were always very suspicious about trade and this soldiers' breastwork completely policed it. Its name remains and nowadays people call it Soldier's Hill and there is a well named Soldiers' Well whose water is pure, and well known and is still used by people there.
2. Then in A.D. 1641 the Dutch came and seized Malacca from the hands of the Portuguese, and during Dutch rule the River Linggi was closely guarded by them. The Portuguese breastwork was improved, and there was a move to a four-sided fort built at the top of Bukit Supai (Soldiers' Hill) From its appearance it was very solid and to this day it is in good order and strong. From this fort it was very easy to impose

control and they could fire in three directions from the parapets. The Fort was built by the Dutch in A.D. 1655. This Fort has been fully visited by European officials from Malacca, but it is something of a pity that the place has been allowed to become overgrown with scrub.

NOTES:

- This account was given to me in 1947-48 by the then Penghulu of Kuala Linggi, written in Rumi, but not necessarily his own compilation.
2. The provenance is somewhat suspect because:
 - (a) Kuala Linggi was a largely Bugis mukim from the early XVIIIth century (Newbold, Vol. I p. 420) reinforced by Bugis refugees from Selangor in August 1833 (when Newbold was in command of the garrison: Vol. II p. 31) and they would have no folk-memory of events before that;
 - (b) the account, with its exact Christian-era dating, reads like a repetition of facts supplied by a history master or visiting experts: contrast the anecdotal tone of the foundation of Sungei Baru at Appendix D.
 - (c) Bort's Orders to those blockading the Linggi mention palisades across the river, but no fort (JMBRAS Vol. V. Part I p. 81); and his list of garrison posts and parade state (Ibid, pp. 28-32) do not refer to any post at Kuala Linggi.
 - (d) The fort on Bukit Supai, Fort Filipina, was constructed about 1757: Sheppard, 'Malayan Forts', Museums Department, Federation of Malaya (1961)
 - (e) The reference in the last two lines may be to the 1935 visits by the British Resident, Selangor, the Resident Councillor Malacca and Dr. van Stein Callenfels (Sheppard, 'Taman Budiman' pp. 78-79).

Appendix B

Tribes and Clans (*Suku dan Perut*) of Naning

*Suku*₂ and *Perut*₂ of Naning

In Naning there are four *suku* or tribes or clans (literally 'quarters') they are Semelenggang, Mungkar, Tiga Batu and Anak Melaka. Each *suku* is made up of *perut* (literally, 'belly, stomach or womb' and thence uterine descent-group) or sub-tribes or septs. There are also *perut* not part of a *suku* with their own subordinate headmen and outside the main tribal system in which they are however subsumed.

The *suku* Semelenggang uniquely is divided in another manner: four *perut* more closely associated with the Penghulus of Naning by lineage or territorial propinquity have their own Chiefs and headmen (*tua* and *buapa*) and commanders (*hulubalang*), while the other three *perut* of that *suku* with their own Chief, headman and commander, are organised in the ordinary way.

The supreme Council of Naning under the *Adat*, the *Lembaga Undang Naning*, consists of the four tribal Chiefs (the *Tiang Balai* on 'Pillars of the Justice Hall') and the *Isi Balai* (the contents of the Hall). The Chiefs are formally called *Orang Kaya* and are addressed as Dato', and are shown below in capitals, but the *Isi Balai* (who are not tribal but sub-tribal Chiefs) are asterisked.

The Headmen, all addressed as 'Dato'' and Commanders, all called *Panglima*, are shown in lower case and are arranged to show the *tua*, next his junior the *buapa*, and lastly the *hulubalang*.

SUKU	CHIEF	PERUT	HEADMEN
Semelenggang	(Maulana Garang*	Ayer Hangat	Maulana Muda Nara Panglima Perang
	(
	(
Suku Sri	(
Melenggang	(Mempelas*	Bunga Tanjong	Mempelas Muda
Taboh	(Perdana Menteri
('Suku Nan	(Panglima Besar
Bergajah	(
Tunggal')	(Naning	
	(Peduka Tuan	
	Nan Kaya	Ampat Ibu	Nan Kaya Muda Juan
		Batu Kikir	Panglima Berantai
		Melekek	
Tiga Batu	Mangun	Lubok Kepong	Mangun Muda
		Kemus	Kanda* Bangso* *as equals
		Perliang	Panglima Jati
		Chiniago	
		Nesan Tinggi	
		Cherana Puteh	
		Seri Ayer	
		Kampong Padan	
		Kampong Tengah	
		Belang	

SUKU	CHIEF	PERUT	HEADMEN
Mungkar	Angkai Kechil	Kemus Perliang	Angkai Muda Kaya Menteri Panglima Laxamana
		Bidara Arongan Machap Chiniago Kuala Inar Segamat	
Anak Melaka	Angkai Nan Besar (*Niko*)	Paya Dalam Limau Purut Paya Kundangan Sungei Buloh Rembau Kampung Bukit	Angkai Muda Sela Pahlawan Panglima Anggat
<i>Outside the Suku₂</i>	Gempar* (*Gompo')	Tiga Nenek Tanah Datar Paya Kumboh Batu Hampar	Gempar Muda Malikara Panglima Bebas Menti Maharaja Rajah Menteri Baginda Raja Sura Sutan
		Biduanda) Waris) Biduanda) Dagang) Biduanda) Rembau) Biduanda) Segamat) Biduanda) Jati)	Ganti Setia Bentara

Each *suku* has its *pennant*. That of Semelenggang is known as *Ular-ular* and is vertically divided into three equal sections of white (nearest the staff), red and black. That of Tiga Batu is known as *Tonggo* and is all black. That of Mungkar is called *Utar-utar* and is horizontally divided into red above and white below. That of Anak Melaka, *Meruar* (or *Merual*), is horizontally divided into black, on top, and red. The Chiefs of the extra-*suku perut* have no *pennants*.

I am indebted to Dato' Mohammed Shah for this detailed information, originally given to me in 1978 and since checked with him. The last forty-one *perut* slightly extends that of thirty-six in 1972 (Hooker: Adat Laws p. 94).

It should be emphasised that while the *suku* and *perut* are basic, administration through tribal headmen was paralleled at the lower levels by territorial-and-tribal headmen in the mukims from about 1835: see pages 161 and 165 *et seq.*

Appendix C

History of the establishment of Sungei Baru

Tarikh Kejadian Sungai Baru

Ketua-ketua yang membuka belah di-Sungei Baru Masjid Tanah mula-nya orang ini turun-nya dari Melekek datang membuka belah ka-Sungei Baru asal-nya tiga suku. 1. Suku anak Melaka Lima perot 2. Suku Semelenggang 3. Suku Tiga Batu. Apabila sampai ka-Sungei Baru masa itu hutan rimba lagi dan belum bernama lagi Sungai Baru, kemudian ia berjalan sampai dekat Masjid Melayu di-pekan Masjid Tanah yang ada sekarang ini, di-situ-lah ia berjumpa pokok-pokok baru-baru di-tepi tali ayer, kemudian berkata ia antara tiga orang ini marilah kita ikut ini tali ayer di-mana pematian-nya kemudian di-dapati kematian-nya tali ayer itu sampai ka-laut, kemudian ia berkata atas 3 orang ini, berbalak pangkal jalan tempat permulaan, di-situ-lah baharu ia melantek nama negeri itu iaitu di-namakan Hulu-nya Sungai Baru Hulu, Hilir-nya Kuala Sungai Baru dan baharulah orang 3 ini membuka belah. 1. Datok Sahat namanya Suku Anak Melaka Lima perot, 2. Semelenggang, nama Khatip Muhammad 3. Muhammad Shukur suku Tiga Batu Lobok Kepong, selepas daripada itu orang pun menjadi ramailah, kemudian Kerajaan Belanda mintak satu Penghulu, masa itu Office ada di-Melaka Tuan-nya bernama Badariang bangsa Belanda kemudian di-hukumkan-nya tiga-tiga orang boleh datang ka-Melaka, kemudian orang ini menyempurnakan akan hukuman tuan itu, apabila di-tanya tiga-tiga orang ini mau jadi Penghulu, tetapi dengan keadilan Tuan Badariang di-suroh-nya beli tiga biji Kuini kemudian ia suroh bawa balek tanam buah itu, kata-nya kepada orang ini siapa tumbuh dahulu boleh kasi tahu kepada sahaya, dipendekkan cherita ini dengan kuasa Tuhan tumbuhlah tanaman Datok Mohd. Sahat dahulu suku Anak Melaka Lima perot (2) tumbuh pula tanaman Datok Ganti Semelenggang (3) tumbuh pula tanaman Datok Daing suku Tiga Batu Lobok Kepong, daripada tarikh inilah sampai sekarang mengikut pesaka bergilir belum ada ubahannya, adat yang dipakai ia-lah adat Perpatih ia itu adat Naning, dan tiga-tiga orang ini semua-nya mati di-Sungei Baru.

Giliran Penghulu-penghulu saperti yang tersebut di-bawah ini:

(1) Datok Penghulu Tua Suku Anak Melaka Perintah Belanda

(2) Datok Penghulu Ganti	Suku Semelenggang	Perintah Belanda
(3) Datok Penghulu Daing	Suku Tiga Batu Lubok Kepong	Perintah Belanda
(4) Datok Penghulu Lajis	Suku Anak Melaka	Perintah Belanda
(5) Datok Penghulu Linsan	Suku Semelenggang	Perintah British
(6) Datok Penghulu Ahim	Suku Semelenggang	Perintah British
(7) Datok Penghulu Nudin	Suku Mungkar	Perintah British
(8) Datok Penghulu Ijang	Suku Semelenggang	Perintah British
(9) Datok Penghulu Ariff	Suku Anak Melaka	Perintah British
(10) Datok Penghulu Leman	Suku Tiga Batu	Perintah British
(11) Datok Penghulu Hj. Tahar	Suku Anak Melaka	Perintah British
(12) Datok Penghulu Ma'asim	Suku Semelenggang	Perintah British

Cherita ini saya dapat daripada Haji A. Latiff mukim Masjid Tanah yang sudah mati dahulu: itulah sahaja.

History of the Foundation of Sungei Baru

The headmen who opened up and divided Sungei Baru and Masjid Tanah came originally from Melekek and they sprang from three tribes: (1) Anak Melaka Lima Perut* (2) Semelenggang and (3) Tiga Batu Lubok Kepong. When they reached Sungei Baru, which was then virgin jungle and not yet named Sungei Baru, they travelled until they came to where the Malay mosque in Masjid Tanah now stands, and there they came upon *bari*² trees along the edge of a stream. The three then talked among themselves and said 'Come, let us follow this stream to its end' and they found that it ended in the sea. The three men then talked together and said 'Let us go back to the beginning of our journey and the place where we started', and there they conferred names on the territory, calling the upstream part 'Sungei Baru Ulu' and the downstream 'Kuala Sungei Baru', and these three opened it up and split it. Dato' Sahat was the name of the headman from Anak Melaka Lima Perut; of Semelenggang it was Khatib Muhammed, and Mohammed Shukur was from Tiga Batu Lubok Kepong. Then later the people became many and the Dutch Government wanted a Penghulu. At that time the Office was in Malacca and its head was named Badariang, a Dutchman, and he ordered three men to go together to Malacca: they went in obedience to his command. When they were asked, all three men wished to become Penghulu, but to behave fairly to all of them he told them to buy three *kuini*² fruits, and then he told them to take them home and plant the fruit, saying that whoever's seed sprouted first should let him know. To cut the story short, with God's providence the first stone so planted to sprout was that of Dato' Mohammed Sahat of Anak Melaka Lima Perut,

next that of Dato' Ganti of Semelenggang, and then that of Dato' Daing of Tiga Batu Lubok Kepong. From that time until now this inheritance in turn has not yet been altered:⁴ the Custom which is followed is the *Adat Perpatih*, that is the *Adat Naning*, and all three men died in Sungei Baru.

The rotation of Penghulus is as described below....

(as in the Malay version)

I received this story from Haji Abdul Latiff of Masjid Tanah who died some time ago.

- (a) It was so written instead of 'Limau Purut': it seems to be an erroneous back-formation and means 'Five descents'.
- (b) Wilkinson: 'a seashore tree (*Hibiscus tiliaceus*) of which the best yields a useful fibre'.
- (c) Wilkinson: 'a fruit tree (*Mangifera odorata*) closely resembling the horse-mango' and with large stones.
- (d) the list given in fact shows departures from the rotation, and one appointment (Number 7) outside it.

NOTES:

1. This account was given to me in 1947 by the then Penghulu of Masjid Tanah and is reproduced unedited. Variations in spelling appear to arise from the transliteration of a Jawi version.
2. I find its naïveté and anecdotal tone more convincing as a folk-memory legend than Appendix A.

Appendix D

Dutch Land Grant 13th January 1794 to Bellemont

Abraham Couperus, Governor and Director of the Town and Fortress of Malacca In Council maketh known:

That with the consent of the Political Council I grant and bestow by these Presents, for the melioration of this place and for other proper motives to the Burgher, an Inhabitant of this place Johannes Bellemont a certain piece of land called Soengi Baroe beginning at the Seashore from the South East side of the River Soengy Baroe and extending to the River of Lingie which lays to the North West side of it and the length is from the entrance of the said river running in a direction towards the interior and passing by the Countries Baco Renda Bakit Broang and Ramo China (till the Hill called Bokit Penbagian which makes the boundary between Soengy Baroe and Nanning. And that from henceforth he may exercise his authority over it in a lawful manner and he may either dispose or alienate it or otherwise rent Mortgage or use it in any ways which he may think fit, provided the said piece of Ground be cleared and Cultivated and its Possessor be subjected to such impositions, Government Duties or Statutes as the High Authorities of the Country or their Representatives have or may hereafter fix upon all granted grounds under an engagement that in case the said piece of Ground shall be required by the Honourable East India Company it shall be restored without compensation

13 January 1794

A Couperus

Translation made by the Dutch Interpreter Rappa and submitted by Lewis to Fullerton and the Council of 5th July 1827: Factory Records SSR Malacca Diary Vol. 172 p. 177.

Appendix E

Treaty with Naning 1801

Treaty entered into in 1801, by the British Resident at Malacca, Lieutenant-Colonel Taylor, with the Penghulu of Naning, - 1801.

Articles and conditions dictated by Lieutenant-Colonel Aldwell Taylor, Governor and Commandant of Malacca, for and in behalf of the Honourable the Governor of Fort St. George, with Raja Mera, Captain Panghulu, etc., called Dhol Syed; and Lela Uluh Baling and Maulana Hakim, called the late Orangkayo; Kechil, called Musih; and Menobenjonkaya, called Konchil; and of Maharajah Ankaia, called Samuna; and Mulahna Garan, Ministers and Chiefs of Naning, and the circumjacent villages, who have solemnly accepted and sworn to the following Articles:-

ARTICLE 1.

The said Captain, or Panghulu, Ministers and Chiefs, promise and swear in the name and in behalf of the whole community of Naning, to be faithful and submissive to the above-mentioned the Honourable the Governor in Council of Fort Saint George, likewise the Governor and Commandant of the Town and Fortress, and all Commandants that are, or may hereafter be, appointed under them, and moreover, will do their utmost to conduct themselves in all cases with obedience to the British Authority, as is required of all dutiful subjects, without conjointly or severally attempting any hostile measure against the said Governor, either directly or indirectly, and the following Articles shall be solemnly and strictly observed, and all other contracts and covenants that have been previously passed with another nation to the prejudice of the British be annulled.

ARTICLE 2.

In case any persons at Naning, children of the Menankabans, and Malays, shall violate the contents of this Contract, or shall be disobedient to the Governor or his Officers, the Panghulu and Chiefs shall, at the demand of the Governor, deliver them up to be punished as they deserve.

ARTICLE 3.

The Panghulu, Chiefs, and inhabitants of Naning, Menankabans, as well as Malays, are bound to deliver one-tenth of the produce of their rice and

all fruits to the East India Company; but in consideration of their indigent circumstances, the Said Company has resolved that the Panghulu shall come in person, every year, or cause one of his Chiefs to come to Malacca, in order to pay their homage to the Company and, as token of their submission, they shall present to the Company from the first fruits of the crop one-half coyan of paddy (400 gantangs).

ARTICLE 4.

The inhabitants of Naning, when quitting the country, in order to proceed to Malacca, shall produce to the Shah Bunder a written permission from the Panghulu, signed and sealed with his seal; and likewise all persons who may wish to proceed from Malacca to Naning, are directed to produce to the authority there similar documents, signed (by order of the Government) by the Shah Bunder, otherwise both parties shall be obliged to send such persons back; but when provided with the required Certificates, they will be permitted to reside at Naning and adjacent villages, and to seek the means of livelihood by agricultural pursuits, in planting betel, etc., provided they adhere and conform to the customs and usages of the place in the same manner as the other inhabitants.

ARTICLE 5

The Panghulu and Chiefs promise, that all the tin brought from Srimenanti, Sungei-Ujong, Rambow, and other places in these districts to Naning, shall be immediately sent and delivered to the Company, for which they shall receive 44 Rix Dollars in cash for every bhar of 300 catties, payable in Surat Rupees.

ARTICLE 6.

They also promise to deliver the pepper to Naning and the adjacent districts, when any greater quantity is to be had, to the Company, at the price of 12 Rix Dollars per bhar.

ARTICLE 7

The Panghulu, Chiefs, and people of Naning shall have no authority to negotiate or traffic with any inland nation, but shall bring their goods down the river of Malacca, making use, under no pretext whatever, of any other passage of conveyance, nor holding any communication with any such inland nation in the River Panagie, on pain of forfeiting their lives and property.

ARTICLE 8.

The Panghulu and Chiefs promise, in the name of the said Community of Naning, that whenever the Chief Rulers happen to resign the Government, or any misfortune befall them, they shall, in such case, propose one of the nearest and most qualified of his family, to the Governor of Malacca, for his successor; but it is not to be expected that such a proposal must always meet the Governor's approbation; on the contrary it is optional with him whom he thinks proper to appoint.

ARTICLE 9.

Any slaves belonging either to the Honourable Company, or the inhabitants of Malacca, that may take shelter in Naning, or the circumjacent villages or places, the Panghulu, Chiefs, and inhabitants (none excepted) shall bind themselves to apprehend and immediately send to Town such fugitives, that the same may be delivered to their masters, and a demand of 10 Rix Dollars, and not more, as a reward, shall be exacted from the owners.

ARTICLE 10.

Any male or female slaves, that may be enticed away from Naning to come to Malacca, in order to embrace the Christian faith, the proprietor of such a slave shall receive, as compensation, one-half of the amount of the price of the slave, according to the appraisement of the Committee which the Government shall appoint.

ARTICLE 11.

But any person who sells any Christian slaves or freemen of Malacca to Mussulman or heathen, either with their own consent, or seduced, or carried away by force from their masters, more especially those who induce such Christian slaves or freemen to be circumcised, or use violence to persuade them to become Mohamedans, shall forfeit their lives and property.

ARTICLE 12.

And that the contents of the said Articles may be inviolably observed the Panghulu and Chiefs promise and swear, in the name of the whole multitude, that they will immediately restore and deliver to the Honourable the Governor all such runaway slaves that are in Naning or other places.

ARTICLE 13.

Lastly the Panghulu and Chiefs promise and swear on the Koran, in the name of the Community of Naning, that they will in every respect solemnly observe and maintain the orders set forth in these Articles, and do bind themselves to deliver up any transgressors of the said orders to the East India Company, in order that punishment may be inflicted on such persons.

For the due fulfilment of what has been herein promised and agreed, I have hereunto set my usual signature.

**Done and sworn in the Town and Fortress of Malacca,
16th of July 1801.**

(Sd) A. TAYLOR

Sworn to by the Panghulu and Chiefs of Naning. We, Captain or Penghulu and Chiefs, promise and swear, as well for ourselves as in the name and behalf of the Community of Naning, to be faithful and sincere to the Governor in Council of Fort Saint George and the Governor and Commandant of Malacca, and all Commanders that are, or may hereafter be, appointed under them, and furthermore to be punctual and strict in observing their orders and commands, that have, or may hereafter be issued, and in conducting ourselves in future, towards the East India Company, in such a manner as is required of all dutiful and faithful subjects and vassals.

Signed by marks by DHOLL SYED, BELAL MOREN,
KANTJÜIL, SOEMOEN, and MOULANA GÜNAN.

MALAY VERSION

(Blagden, JMBRAS Vol III Part 2 [1925] pp. 299–302)

Perjanjian Sinyor Colonel Aldwell Taylor Gobernador Commandant yang semayam di-atas takta kerajaan kota negeri Melaka dengan segala hakim-nya memberi surat ka-pada Seri Raja Merah Kapitan Dol Sa'id dengan Lela Hulubalang dan Orang Kaya Kechi' dan Membangun Kaya dan Maharaja Nan Kaya dengan Maulana Garang pengetua di-Naning dengan segala daerah-nya memberi sumpah dengan suka-nya

Perkara yang pertama

Kapitan dengan penghulu yang tua-tua dengan nama segala orang Naning sudah-lah bersumpah dengan suka-nya dengan takta kebesaran Tuan

Besar di-Inggeris lagi dengan Tuan General di-Madras dengan segala hakim-nya lagi dengan Gubernur dengan segala hakim-nya di-Melaka kemudian jikalau orang lain datang memerintah demikian juga tiada berubah jikalau dengan hati betul keperchayaan maka masing-masing itu berbuat taalok-nya kepada takta kebesaran di-Inggeris sudah menjadi keperchayaan maka hendak-lah segala orang itu memegang perkataan-nya atas taalok-nya ka-pada Kompeni maka segala orang itu jikalau bercherai-cherai dudok-nya atau bersama-sama perkataan yang telah di-ikrarkan itu jangan berubah ka-pada hati lagi hendak-lah segala orang itu muafakat bertegoh-tegoh dengan suatu kata saperti berhadapkan hati ka-pada Allah dan Rasul-nya jangan berubah dari-pada hati yang suchi saperti perjanjian dahulu sudah di-perbuat perniagaan ka-pada tempat lain bersakutu dengan Kompeni menjadi kerugian sekarang buangkan-lah perkrejaan itu

Perkara yang kedua

Tiap-tiap segala orang Naning dari-pada anak Menangkabau atau anak Melaka jikalau melalui ordi Sinyor Gubernur dengan segala hakim saperti yang tersebut itu maka hendak-lah Kapitan dengan segala penghulu bawa orang itu ka-Melaka ka-pada Sinyor Gubernur akan di-beri (upah-nya) hukum-nya

Perkara yang ketiga

Kapitan dengan segala penghulu serta orang yang dudok di-Naning dari-pada Menangkabau dan Melayu membayar kapada Kompeni beras padi atau buah-buahan ka-pada adat dahulu sa-puluh satu maka kita sudah dengar dan kita lihat orang itu banyak miskin maka segala hakim berkata ka-pada Kapitan atau sa-orang penghulu di-surohkan ka-pada sa-tahun sakali datang menghadap tanda taalok-nya seraya membayar padi tengah koyan ka-pada pertama tanaman-nya jadi itu

Perkara yang keempat

Segala orang yang dudok di-Naning yang masing-masing yang dudok ka-pada kampong halaman-nya jika orang itu hendak ka-Melaka hendak-lah dengan suatu tanda idzin suatu surat dari-pada Kapitan dengan chap-nya supaya di-tunjokkan surat itu ka-pada Shahbandar demikian lagi jikalau orang Melaka hendak dudok di-Naning hendak-lah dengan suatu tanda surat dari-pada Shahbandar dengan tapak tangan-nya dengan ordi Sinyor Gubernur supaya di-tunjokkan ka-pada Kapitan jikalau tiada dengan tanda yang demikian jikalau orang Melaka di-suroh ia pulang ka-Melaka dan jikalau ia orang Naning di-suroh pulang ka-Naning yang sudah

beroleh pula dan jikalau orang Melaka yang pergi dudok ka-Naning yang sudah beroleh idzin boleh ia dapat suatu tempat akan berbuat kebun-nya bertanam sireh atau barang sa-bagai di-tanam-nya seperti adat orang sekalian berkebum demikian-lah adat perentah-nya

Perkara yang kelima

lagi Kapitan dengan penghulu sudah berkata hendak berjaga timah yang datang dari Seri Menanti dan Sungei Ujong dan dari Rembau datang ka-Naning atau dari tempat-tempat yang lain anak-anak sungei hendak daya upayakan bawa ka-Naning di-hantarkan berbetaul ka-Melaka ka-pada Kompeni maka orang yang empunya timah itu pada sa-bahara tiga-ratus kati akan di-beri harga-nya empat-puluh empat rial dengan tunai di-beri rupiah Surat

Perkara yang keenam

lagi sudah kata lada semua yang keluar di-Naning jikalau ada sa-kira-kira boleh banyak atau terlebih sedikit di-bawa dan di-beri harga-nya pada sa-bahara dua-belas rial

Perkara yang ketujuh

Kapitan dengan penghulu dengan segala orang Naning tiada boleh berniaga dengan orang dari negri lain lagi hendak-lah semua-nya jualan-nya dan perniagaan-nya di-bawa-nya hilir dari Sungei Melaka jangan di-bawa ka-pada Sungei Penajah berniaga dan tiada boleh berjual beli dengan orang lain negri sahaja di-larang-lah sa-kali jikalau dapat orang bagitu di-denda barang-barangnya ia kena hukum di-atas berat-nya

Perkara yang kedulapan

lagi Kapitan dengan penghulu berkata kalau suatu penghulu datang ka-pada masa ia keluar atau pada hal mati maka hendak-lah pada antara itu barang yang ada lebeh pengetahuan-nya yang terdekat Kapitan datang ka-Melaka ka-pada Sinyor Gobernador dengan segala hakim tetapi orang itu tiada boleh di-namai Kapitan karna belum boleh ordi Sinyor Gobernador dengan segala hakim maka barang siapa yang hendak di-jadikan-nya

Perkara yang kesembilan

barang siapa hamba Kompeni atau hamba-hamba orang di-Melaka yang lari pergi ka-Naning atau ka-pada segala daerah-nya maka Kapitan dengan penghulu dengan segala orang di-tangkap segera sa-orang pun tiada boleh berchulus hendak-lah membawa orang itu ka-Melaka ka-pada tuan-nya di-

beri upah-nya sa-kali sahaja sa-puluh rial

Perkara yang sepuluh

segala hamba orang dari Naning yang lari ka-Melaka hendak masok Serani tuan-nya dapat sa-tengah harga-nya jika laki-laki atau perempuan demikian-lah adat-nya lagi Sinyor Gobernador memberi ordi ka-pada orang Kometir (?Kompeni) berapa patut harga-nya hamba itu maka di-beri sa-tengah harga-nya

Perkara yang kesabelas

Lagi barang siapa membawa Serani anak merdehaka atau hamba orang di-Melaka di-bawa-nya dengan keras-nya atau dengan suku-nya minta bawa maka di-jual-nya ka-pada orang Islam atau hendak di-khatankan-nya kapada lain bangsa ugama jikalau orang yang membawa itu akan kesalahan-nya hilang-lah badan-nya orang tua dengan segala barang-barang-nya pun hilang-lah sa-kali

Perkara yang keduabelas

maka segala yang tersebut itu Kapitan dengan penghulu sudah berkata dengan segala orang Naning bagaimana sudah sumpah dahulu itu hendaklah di-pulangkan segala hamba orang yang lari dari Melaka yang ada disana semua-nya hendak-lah di-bawa ka-Melaka pada Sinyor Gobernador di-serahkan-nya

Perkara yang ketigabelas

Kapitan dengan segala penghulu dengan nama segala orang Naning sudah bersumpah pada Kuran al-adzim hendak memegang tegoh penchobaan dari Sinyor yang bergelar General dengan segala hakim-nya barang siapa tiada menurut ordi ini di-tangkap orang itu di-serahkan kapada Kompeni supaya dapat di-denda barang sa-patut-nya memberi kuat ordi ini maka membubuhkan tapak tangan di-atas kertas ini dengan chap Kompeni Inggeris demikian-lah yang di-krejakan bersumpah di-dalam bichara besar di-dalam kota negeri Melaka ka-pada tarikh enam-belas hari bulan July sanat 1801 ya-itu ka-pada tarikh empat hari bulan Rabi 'u-l-awal sanat 1216 kita Kapitan dengan tua-tua sudah berchakap bersumpah akan ganti segala panghulu dengan nama segala orang Naning akan baik ka-pada kita dengan segala orang karna Tuan Besar di-Inggeris dengan Tuan Besar Kompeni di-Inggeris dengan Tuan General serta hakim di-Madras dengan Tuan Gobernador dengan segala hakim di-dalam negeri Melaka dari-pada betul hati dengan keperchayaan-nya di-beri-nya ordi ini apabila datang ordi yang lain (printed as lian) itu pun hendak-lah di-pegang dengan hati yang suchi tegoh-tegoh kita sakalian-nya akan jadi hati betul pada taalok ka-pada Tuan-tuan itu.

Appendix F

Inter-departmental Correspondence, 1825-1830, in Malacca

In May 1828 the Governor-in-Council decided that the house occupied by Garling should be reserved for use by the Secretary to Government when he was in Malacca, Garling vacating, and the verandah connecting it to the adjoining house should be demolished. Appropriate instructions were given to the Inspector-General, who passed them on to Capt. Wiggins, O.C. Troops and Executive Officer.

Garling to Wiggins: '...As my effects still remain in that house you will abstain from any present interference...'

Wiggins to Garling: 'I shall most willingly comply.... But I cannot act upon your letter as an order. On perusal of your letter I am disposed to believe you will think that when an Officer is directed by his Superior to perform a Duty it should never be called an interference...'

Garling to Wiggins: '...I...regret that the word "interference" which was used casually without any special reference to its abstract import, should have drawn from you any discussion of the principle upon which you purpose meeting my wishes. I am not disposed to cavil about words. I do not expect that any case will arise where you will have occasion to feel hesitation in complying with my instructions in the Executive Department. Should such a case occur, it will then be time enough to bring the principle expressed in your letter to the test'.

(SSR Vol. 168 Malacca Diary pp. 320-1)

The Morning and Evening Gun

9th July 1828 Garling to Wiggins: 'I observe that the firing of the morning and evening gun has ceased, and I conclude that the same has been dispensed with at your requisition. I request that you will have the goodness to acquaint me officially of any obstacle which may render it advisable to discontinue the usual periodical firing of the gun. I have also to request that until my sanction has been given the Morning and Evening Gun do continue to be fired as usual'.

Wiggins to Garling: '...You must be aware from having seen the Garrison Orders the cause of the discontinuance of the firing the morning and evening gun... I now officially acquaint you that our annual indents have not been complied with and in consequence I have only a few car-

tridges in store. I do from the tenor of instructions furnished for my guidance consider myself as commanding the Troops and Garrison fully authorised and competent to judge of the necessity under existing circumstances whether or not it may be expedient to discontinue the firing of the gun. In declining to comply with your request I beg you will consider I do so from a sense of duty and not at all from a desire to act in opposition to your wishes'.

Garling to Secretary to Government: 'The present case I consider to involve not only a want of courtesy but an infringement of my authority... The firing of salutes I have been accustomed to consider as by my authority. From the late order of Captain Wiggins I am to suppose that the salutes are fired in virtue of his single authority... I am fully alive to the invidious character which an appeal on a matter so apparently trivial may assume at first. But I must beg the Board to distinguish between the fact and the principle. The firing or discontinuance of a Gun is abstractedly of no importance but the principle by which that act is regulated may embrace insults to which I am by no means disposed to submit without the clear opinion of the Board'.

22nd July, Wiggins to Garling: 'The gunpowder has arrived and the Morning and Evening Gun will therefore be fired as usual'.

Secretary to Government to Garling: '...the Commanding Officer should have communicated with the Honourable the Resident Councillor previously to making any alteration in local arrangements...'

(SSR Vol. 168 Malacca Diary pp. 12, 15, 34, 84)

The Commissariat Accounts

Lieutenant Geoghan submitted accounts, on which Garling commented that certain items should be marked 'A/S'. Geoghan wrote and asked what this meant, and Garling replied that the Accounting Officer should know. Geoghan replied that he was a soldier and not to be expected to know bookkeeper's details.

Geoghan to Garling: '...But I should suppose from the strain in which the paragraph I allude to is written that you had meant to convey a reprimand. I am induced however to hope that you have not formed so erroneous an Idea... and should I require any information in future which it may be your duty to furnish me with I request you will be pleased to do so without indulging in any offensive remarks. Had you done so in the first instance this unnecessary correspondence would have been avoided'.

Garling to Secretary to Government: (forwarding the letter) '...written in an insubordinate and insulting strain.... strengthens the Resident Coun-

cillor in the opinion which he has entertained that the Military Department is aiming to strike out a course independent of the local Government Authority. The Resident Councillor would feel himself justified in placing Lieut. Geoghan under arrest....'

Secretary to Government to Garling: The Council considered '...the Commissariat Officer requiring an explanation as to the meaning of the letters 'A/S', a mode of expression which the Hon'ble Governor-in-Council does not recollect to have seen in official correspondence and which easily might be misunderstood. The Hon'ble Governor-in-Council does not therefore consider the question asked by the Commissariat Officer such as should have subjected him to do so severe an animadversion...'

(SSR Vol. 168 Malacca Diary pp. 22, 223-5)

Who signs first?

Nairne, a Covenanted officer of less than two years' service, arrived on 12th December 1827, and was appointed to the Office of Imports and Exports and Court of Requests.

Minute of Council, 21st January 1828 'The Resident Councillor having submitted a question relative to the rank of Mr. Lewis and Mr. Nairne, it is Ordered that when these Gentlemen act together Mr. Lewis sign papers first.'

(SSR Vol. 168, Council p. 9)

The Recorder

Lewis, President of the Board of the Orphan Chamber (which had local residents as members) proposed to address the Recorder in March 1829.

Garling to Lewis: 'In consequence of your reply, I feel it incumbent upon me distinctly to state to you that unless you shall previously obtain the sanction of the Local Authority, you are strictly prohibited from assembling the Inhabitants on any account whatever, whether at the Police Office or elsewhere...'

16th March

Garling to the Recorder, copy to Secretary to Government: 'While I was this day seated with you on the Bench, in my capacity as a Judge, you addressed the Interpreter... "Symonds, declare in open Court, that if the people have any points in dispute, they have no business to go to Mr. Garling". [This was an] 'apparent gratuitous want of courtesy. The character of the fact is not altered by my office as Resident Councillor being implied.

The distinction is too nice for the comprehension of those to whom the Interpreter addressed himself....'

21st March

(SSR Vol. 169 Malacca Diary p. 7, 5)

Church's Application for the post of Superintendent of Police

3rd April 1829: Church to Secretary of Government: stating that he was under-employed and carrying out duties 'precisely done' by Nairne, an officer of two years' standing whereas he himself had held senior posts and had thirteen years' service; quoted Lewis's 'expression that the intensity of duties to be performed by him, which rendered it impracticable for that Gentleman to attend Quarter Sessions daily', applied therefore to be appointed Superintendent of Police, stating that similar posts in Penang and Singapore were held by Covenanted officers; Bond, Church's assistant, had nothing to do 'not having sufficient employment myself'. Garling to Secretary to Government, forwarding and recommending: '...the expression of Mr. Lewis was repeated, I abstain from any comments on Mr. Lewis's tone at the time. But I submit that by his own showing he has more business on his hands than he can satisfactorily execute....'

Fullerton to Garling: '...The services of Mr. Lewis in the Police and Land Department cannot be dispensed with, and final arrangements will be made on revising the Establishment...'

18 May

Garling to Fullerton: '...In what light your Honour may view the Office of Resident Councillor at the Station not immediately the seat of Government I cannot determine, but assuredly if their opinions and feelings are to be disregarded as mine have been on more than one occasion, their seat in Council is a mere nullity....'

19 May

Fullerton to Garling: '(I have) read Mr. Garling's letter with considerable surprise.... I can never admit that the Governor-in-Council in the exercise of his legitimate control is to be subjected to such observations and animadversions, conveyed in such a style as that which pervades the whole of Mr. Garling's letter and I hope and trust that such will not be repeated...'

22 June

Lewis through Garling to Secretary to Government (petitioning against

Church and his application): '...Mr. Church has been pleased to remark that his claims to employment are of a widely different character to mine. I admit that they are so and think that Mr. Church ought to consider himself fortunate that his claims are of such a nature for it does not appear that he was selected to his present high situation or the late one he held at Penang from any other cause than that of his rank in the service....' (Thirteen paragraphs ending with a request to the Governor to bring the matter before the Court of Directors).

18 July

Garling's Minute forwarding Lewis' petition: '...I do observe one reasonable ground of complaint. The Hon'ble Board will perceive that the facts are perverted, and that his letter has been dictated more by jealousy and suspicion, than from any necessary cause or praiseworthy principle'.

Secretary to Government to Garling: 'The Board required a distinct statement from Mr. Lewis as to which of his duties are onerous' and whether the Superintendence of Police in the Town can be separated from that of the Country.

Lewis to Secretary to Government: '...having before performed the trifling duties of this Station, I am ready to undertake them again....'

Secretary to Government to Garling: '...The Board resolve that it is quite unnecessary to enter into any discussion.... Mr. Church may be much more usefully employed at this Station than at Malacca. Such indeed now becomes indispensable... Mr. Church will proceed as soon as possible to this Station, where he will assume charge of the Office of Account and Audit, which it will be necessary to extend to a certain degree over the whole three Settlements...'

12 August

Minute by Garling: '...Individuals holding subordinate station have been permitted in these instances without reprehension or remark to behave towards me in a manner highly irregular and insulting... The consequences have proved such as might reasonably have been expected. Instead of meeting with alacrity and cheerfulness in the discharge of this several duties from the gentlemen I have placed under me, I have experienced disrespect and indifference in many instances, such as has rendered my private intercourse with them extremely irksome, while the harmony and confidence between the Community and the Resident, which previously existed, have since been in some degree destroyed... Mr. Lewis has, I conceive, presumed upon the impunity extended to others, upon the impunity which he himself has experienced, and doubtless upon the

patronage which he has uniformly enjoyed. He now stands absolved of all censure and is further gratified by the recent Order of the Hon'ble Board which by recalling Mr. Church deprives me of the services of a gentleman who enjoys unqualified confidence and leaves me to the irksome necessity of conducting business through one between whom and myself there exists neither confidence nor respect.

(SSR Vol. 169 Malacca Diary pp. 30, 32, 88, 90, 4, 249, 263, 271, 283, 311, 312)

On Slavery

22nd May 1829: Garling to Lewis, as Police Magistrate: '...Several circumstances, some of which have fallen under my personal observation, tend to create a belief in my mind that obstacles are needlessly opposed to the gradual Emancipation of those Individuals who for too long a period have borne the Designation of Slaves. I beg to call your most serious attention to this subject, as that neglected Class of Individuals are entitled to rights which they cannot under present circumstances secure to themselves. It is with regret I intimate my apprehension that some measures adopted in the Police Department have not had a Salutary Tendency.....'

Lewis to Garling: (stating that the Police Department had taken no action on slaves: cases of cruelty were brought before the Magistrates). There had been no delivery of runaway slaves to their masters since Garling had spoken to him. 'Where slaves have applied for their freedom they have been sent away by me, as I do not consider myself as Superintendent of Police the Arbiter of the Rights of persons, and ascertained the point before the Hon'ble the Recorder left Malacca, who cautioned me not to interfere in cases which belong to the High Court... Feeling diffidence in deciding points of Justice, reference is invariably made by me to Books, and having at a great expense lately received Law Books from England and on referring to Russel (sic) on Crime, the last Act of Parliament noticed on Slavery was passed in 5 William IV Cap. 113. By this Act slaves are not emancipated...

Garling to Lewis: '...The Act so far as I can discover can operate only where slavery is legal. If this be true, it will be for you in the first instance to settle in your mind that local slavery has legal existence'. He referred Lewis to Blackstone. 'You may find it difficult to trace the term "slave" in Burns' "Justice of the Peace". I refer you also to Auber's Analysis on the subject of Slavery.

25 May

Lewis to Secretary to Government, through Garling: (A Malacca woman wanted to marry her daughter to a slave: this aroused opposition, as her children would be slaves. Lewis and Haji Abu Bakar (ex-Kapitan Melayu arranged a settlement) 'To my surprize Mr. Garling received a petition against me on this subject.... It was his pleasure to decide the case on an ex-parte hearing, by which the people must necessarily suppose that my conduct was wrong... It is far from my intention to say that the Hon'ble the Resident Councillor should give a deaf ear to complaints against me but he must be aware that in cases of this kind such decisions only tend to lower the Officers of Government in the opinion of those that ought to look to them for redress, and that as the Court is always open to appeals he can have no right to decide matters of this nature at his private dwelling house...'

10 November

Garling, Minute to Council: '...Nearly 50 applications during the last six months have been made to me by persons held in Slavery. The wretchedness and humiliation of mind and body with which I became thus acquainted will ever be a practical refutation of the assumption that "they are treated more as children than as slaves"..."

17 November

Minute by the Governor, Fullerton: 'Slavery at Malacca is widely different from that prevailing elsewhere and carries with it none of those severities we read of as existing in other places.... It is much to be regretted that overweening (sic) zeal and mistaken notions of humanity have been so busily at work....'

17 November

Minute by Garling, reporting that he had heard that there was 'in preparation a Petition that Mr. Lewis should be elevated to the Residency. Under a well-founded conviction that feelings personally injurious to me have been kindled and fostered in this place, and that violence has been intended to my good fame' he asked for action.

Lewis to Garling for Secretary to Government: '....I would wish to state that I disclaim being an Upholder of Slavery....'

Garling to Secretary to Government: '....I require Mr. Lewis's specific charges against me....'

Secretary to Government: 'The Board not being aware of Mr. Lewis's intention to prefer any specific charges against the Resident Councillor and the President not having received any Petition containing the expressions alluded to, declines to call upon Mr. Lewis in the terms

suggested by Mr. Garling....'

Minute by Garling: '...had Mr. Lewis conducted himself with that decorum and ingenuousness which became his relative Station, instead of adopting the frigid and doubtful principles which seem to have regulated his bearing towards me for some time past, the present embarrassments.... would have been avoided...'

17 November

Minute by Fullerton: 'The Collision was absolutely and utterly unavoidable from the course pursued by Mr. Garling'.

26 November

Appendix G

Report by Thomas Church on his visit to Nanning in 1829

Sir,

1. It affords me peculiar gratification in being able to communicate the favourable termination of the Nanning affairs confided to my management in your letter of 25th Ultimo.
2. The Census is in a considerable state of forwardness, and I expect the whole will be completed in a few days, when I shall do myself the honour to transmit it to you.
3. In accordance with your instructions I left Malacca on 3rd. instant and on reaching Soongye Patye which is only half a mile distant from the Nanning frontier, I despatched a confidential Native with a letter to the address of the Panghooloo and Sookoos announcing my arrival and stating that it was my desire to proceed on to Nanning on the morrow. I at the same time intimated that I should be glad to see the Panghooloo or any of the Sookoos at Soongye Patye. In the evening my messenger returned bringing a verbal reply that the Panghooloo and the whole of the Sookoos would come and pay their respects the following morning.
4. The Panghooloo and Sookoos accompanied by upwards of 100 armed followers came to Soongye Patye at the time appointed; it was abundantly apparent from the agitation and demeanour of the Panghooloo and others that they entertained strong suspicion that violence to their persons was contemplated. The people of Nanning being thus assembled, I considered that a more suitable opportunity was not likely to offer for explaining to them the object of my visit. After I had endeavoured to tranquilize their minds, I represented that Government had witnessed with regret the extraordinary and unprecedented line of conduct of the Panghooloo during the past few months, that both himself and Sookoos were sensible they were bound by the strongest obligations to obey the commands of the Hon'ble Company, that government felt disposed to bury in oblivion what had passed but at the same time expected the Panghooloo would give effect to orders received and particularly render all necessary aid in taking the Census which hitherto he had declined doing.
5. The Panghooloo and Sookoos briefly replied that for a considerable

period passed their mind had been much excited in consequence of the daily reports conveyed to Nanning of the intention of Government to seize them and banish them that they were much pleased with what I had just communicated and would cheerfully contribute every necessary assistance in taking the Census of the population.

6. After having entered into general conversation relative to Nanning I took the opportunity of mentioning to the Panghooloo and Sookoos that you had received their letter concerning the Coyan of Padi which they were bound to deliver to the Company and that you had commanded me to intimate to them, that the tenor and tone of their communication differed very materially from what had hitherto been the practice, that they were necessitated to deliver the Tribute in person at Malacca and not the Company receive it at Nanning. The Panghooloo and Sookoos most readily engaged to have the Padi conveyed to Malacca according to established usage.
7. I acquainted the Panghooloo and Sookoos that as they had faithfully promised to attend to the requisitions and orders of Government, the principal portion of the Duty confided to me was finished, but I should notwithstanding in all probability proceed on as far as Tabow the Residence of the Panghooloo.
8. On Monday the 6th. instant I visited Tabow, where the Panghooloo and the majority of the Sookoos were assembled. They received me in a most friendly manner and with every token of respect. The people appeared to have recovered from their late alarm and imbibed (*sic*) a degree of confidence totally unlooked for on my part.
9. The Panghooloo and Sookoos again consulted in my presence relative to taking the Census and the necessary directions were given of the facilities to be afforded and the route to be taken. In this second interview they were ingenuous in their communication professing themselves in a most unreserved and unequivocal manner as Subject of the Company and Nanning as belonging to Government for many Ages past. I availed myself of every available opportunity of personally impressing on the mind of the Panghooloo how imperative it was on his part to attend to the direction of the Hon'ble Governor-in-Council, that I could assure him, that whatever he had to advance in support of his supposed privileges would meet with every consideration, but any approach to opposition would be unavailing.
10. It is very incumbent that I should observe, that while I consider that orders relative to taking the Census, Repairs of Roads and other

minor matters will in future meet with a ready obedience, yet if it is the desire to interfere and divest the Panghooloo and Sookoos of all Judicial authority not only secret but for a limited period even open resistance may be calculated on, the whole population would in my opinion rise up in arms at the call of the Panghooloo.

11. As you had anticipated, the Panghooloo and Sookoos repeatedly interrogated me concerning the authority of the Court of Judicature. They represented that from the days of their remotest ancestors all Civil or Criminal Cases which originated at Nanning were invariably adjusted in a summary manner on the spot, without the smallest interference of the Court of Malacca. To this I concisely replied, that I was not commissioned to convey any orders or opinion and that it was useless for the Panghooloo and Sookoos to discuss or agitate the question with me.
12. I am much disposed to believe from what I have individually seen and heard, combined with the statement of creditable persons, that the late insubordinate conduct manifested by the Panghooloo and Sookoos is to be principally ascribed to the fallacious reports carried to Nanning by evil disposed persons relative to the intentions of Government and not to any innate desire to oppose the reasonable wishes of the Hon^{ble}Governor in Council.
13. The Panghooloo and Sookoos represent as a more serious impediment to a more frequent intercourse with Malacca the establishment within the past year of a Duty of 10 per cent on all Fruit, Sugar etc. brought down from the interior; not only the inhabitants of Nanning are subject to this impost but those from Rumbow, Sree Menantie, Johol ect. (*sic*) and in fact all Persons traversing the Ching and Soongye Patye Road. I deemed it necessary to acquaint the Panghooloo and Sookoos that the subject would in due course be brought to your notice and the result would be made known to them.
14. The inhabitants of Nanning are subdivided into 4 Tribes termed Tega Batoe, Anak Malacca, Sa Malanjang and Mungkal and governed as is already well known by a Panghooloo and Sookoos, the former by way of distinction and eminence is universally called 'Dato Panghooloo' while the latter are designated simply 'Dattoo'. The whole mass of the population are amalgamated, and each Dattoo has Anak Buahs scattered in all parts of the country.
15. The present Panghooloo is the first of his family who has possessed the Chiefship of Nanning. This is easily explained, as the succession is not hereditary in a direct line but a similar custom prevails as in

- some of the Sumatran States of selecting on a vacancy a suitable successor from the Nephews of the deceased on his sisters' side: it by no means follows that the Senior Nephew succeeds. The elevation of the existing Panghooloo demonstrates this fact: he has now living an elder Brother who calculated becoming Panghooloo on the demise of his uncle, but his conduct had been so flagitious and tyrannical that the Sookoos became alarmed and proposed to Government the younger brother in preference.
16. The existing Panghooloo is the same Radia Merra who is referred to in the document entitled 'Articles and Conditions dictated by Lieutenant-Col. Taylor etc.'. He has held his present office 28 years. He is a man much respected and even revered and although not a member of the Priesthood he is deemed as a saint: even the water in which he has washed his feet is supposed by these superstitious people to possess extraordinary virtue and is sought after with avidity by those suffering either in mind or body.
 17. The individual as deemed most likely to become Panghooloo on a vacancy is a Nephew and also a Son-in-Law of the one now in Office.
 18. In electing the Sookoos the same principle exists as the Panghooloo ship, that is a successor is selected from among the Nephews of the deceased. The whole of the Sookoos mentioned in the paper adverted to in Paragraph 16 are either Dead or vacated their offices by reason of advanced age or infirmity.
 19. It is a necessary qualification that the proposed Panghooloo and even the Sookoos be approved of by Government: without this they cannot lawfully exercise any contract or authority. (*)
 20. Written Laws they have none, imperfect traditional usage is all they aspire to and even this depends principally on the fickle will or capriciousness of the Judges; that the Panghooloo and Sookoos are not over scrupulous may readily be credited, as the fines adjudged invariably go to enrich their own Coffers.
 21. Hitherto the Panghooloo and Sookoos have exercised unlimited power over the lives and property of the inhabitants. All Judicial cases be they of a Civil or a Criminal character originating among their own people have been settled in the interior and for many years past few instances of an appeal to Government are on record.
 22. Any trifling dispute among persons of the same tribe is generally settled by the elder of the Campong, if a fine is adjudged it cannot
- * It is not clear from the text whether this was Church's own opinion, or what he was told by them: there is no evidence that this was the case, as respects the Sukus.

on any account exceed 5 Annas equivalent to 6 Rupees which is receivable by the individual acting as Judge or arbitrator. In cases of more serious nature and likely to involve a pecuniary fine of not exceeding 20 Dollars the Sookoos collectively are fully competent to arrange the same without any reference to the Panghooloo. Robbery, House Breaking, Murder etc. etc. must of necessity be brought before the Panghooloo and Sookoos but the former does what he thinks proper without much regard to the sentiments or wishes of the Sookoos, the fine adjudged seldom exceeding 1 Bahar 28 Dollars in cases settled in full Council. The fine levied is equally divided one moiety to the Panghooloo and the other to the Sookoos. The Panghooloo extends his authority so far as even to fine the Sookoos themselves.

23. Crimes and offences of every description are expiated by the payment of a pecuniary fine, thus the wilful and deliberate murderer with his hands still stained with his brother's blood pays as a compensation 20 Dollars to the Panghooloo, the funeral expences of the individual killed and is also compelled to transfer as a substitute one of his own family such as a Child Sister or Brother to the Friends of the deceased: this is termed 'Balas Edup'.
24. If an individual is so unfortunate as to be incapable of discharging the fine etc. etc. decreed, the next process is to seize and sell his property such as House, Fruit and Paddy Plantations as the only alternative remaining himself and frequently wife and Children are compelled to become a species of Slaves until the amount is liquidated.
25. It is obviously not the present interest of the Panghooloo and Sookoos to inflict corporal or any other punishment; it is easily perceived the reason which prompts them to adhere so pertinaciously to the odious system of mulcting their dependants. The infliction of Death is almost unknown: one instance of it has occurred during the period the Panghooloo has held Office; it happened so I am informed when Col. Farquhar was Resident. The Field of Blood was shown to me on my way to Tabou and is denominated by the Natives themselves 'Padang Perbunuan'.
26. From the concurrent testimony of persons at Nanning and adjacent Districts, I am inclined to credit that murders seldom occur and that Robbery and Theft are by no means common.
27. In the foregoing I have briefly attempted to exhibit Jurisprudence as it has been administered at Nanning. The whole body is corrupt and the evils are so apparent and well known to you that it is altogether

superfluous for me to dilate on this most important subject.

28. The Panghooloo individually is not supposed to derive any direct emoluments or Revenue from the Lands. In case of a requisition the inhabitants assist in preparing his Sawahs or Paddy Fields.
29. The Sookoos receive annually from each house 5 Gantons of Paddy, 1 Fowl and 2 Cocoanuts, the former is supposed to be appropriated towards the payments of the Established Tribute but it is abundantly clear that the quantity collected far exceeds 400 Gantons, the surplus whatever it may be is a perquisite of the Sookoos.
30. The Annual Revenue of the Panghooloo and Sookoos is evidently very inconsiderable and consists of what they can abstract from their dependants in the shape of pecuniary fines for real or imaginary offences.
31. The inhabitants of Nanning are in every point of view in a very reduced grade of human Society, they are most melancholy ignorant poor and miserable in the extreme. It is readily admitted by all, that throughout the whole District there are only two persons who can read and write, and they even very imperfectly. The religious edifices are built of rude materials and their houses are wretched hovels totally destitute (*sic*) of Comfort or Cleanliness. These observations are not confined to the body of the people but extend in equal force to the Sookoos.
32. Nanning does not possess any internal resources. A tin mine was formerly worked there by the Company but proving unprofitable was discontinued. Pepper was also cultivated to a limited extent: this has also ceased. The Paddy produced seldom exceed (*sic*) their own wants, they depend on Malacca for Salt, Tobacco, Wearing Apparel etc. The country produced a considerable quantity of Fruits, which altogether with Sugar, Ducks and Fowls are generally conveyed to Malacca and there sold.
33. In traversing Nanning the paucity of population is very apparent: Over a surface of many miles probably neither a single habitation or human being is visible. Impenetrable forest too frequently meet (*sic*) the eye on all sides, there is however notwithstanding such, available land well suited for the growth of Paddy but which hitherto has not been cultivated for want of population.
34. The present Superintendent has I believe already submitted a detailed report on the Nanning Lands, and the Gentleman alluded to had for many obvious reasons better opportunities of gaining correct information that (*sic*) I could venture to calculate on under existing circumstances it is needless for me to trouble you with any remarks

on that subject.

35. There is not the smallest natural obstacle opposed to the advance of a Military force with the required equipment of Field Pieces etc. from Malacca to the residence of the Panghooloo an estimated distance of 24 miles. The road as far as Soongye Patye is in excellent order, from Tabow leading to the different Districts In Nanning there exists merely confined foot paths through Jungle, Swamp and Paddy Fields. In the former part of this letter I have hinted at the devoted new of the people of Nanning to their Chief as the Panghooloo is considered. At his summons every man capable of bearing arms would in all probability come forward and whenever it may be deemed expedient to deprive the Panghooloo and Sookoos of all Judicial Authority, it will be very necessary to keep at least for a considerable time a strong Military force in the Country; a Company of Sepoys I by no means consider sufficient.
36. In the whole of my intercourse with the Panghooloo and Sookoos I have most scrupulously abstained from pledging the continuance of any particular system for reasons sufficiently well known; at the same time I have constantly kept in mind the present views of Government concerning the importance of keeping the affairs of Nanning in their old form.
37. Conceiving that I was by you investing me with discretionary power, I did not deem it imprudent (*sic*) to deliver the written letter to the address of the Panghooloo, the contents from incorrect interpretation or the influence of interested persons might have alarmed that Functionary and perhaps interrupted the good understanding which subsisted immediately he was made acquainted with the wishes of Government. The principal substance of the letter was however orally communicated from time to time to him and the Sookoos.
38. It only remains for me to conclude in expressing a hope that my proceedings will meet with the approval of Government.

I have, etc.

T. CHURCH

Deputy Resident

Malacca

The 16th. July 1829

Appendix H

Letters from Syed Shaaban of Rembau betraying Nanning during the Nanning War

This letter from Toon Koo Syed Sabban to J.B. Westerhout Esq. with compliments etc. in Malacca

We wrote to our friend regarding Mr. Lewis going to beat Nanning for not obeying the orders of Government

Therefore assistance came to the Panghooloo of Nanning from all the Malays in great numbers. We are also amongst them together with the Panghooloos of Rumbow but we have not assisted as yet. There being so many men from Rumbow to Nanning is the reason for our following there.

We now inform our friend that if he will settle with Mr. Lewis to pay Spanish Dollar 500 we will get the Malays to return back to their own countries. For what have we got to say to the business? It is the Company's people warring with the Company, and all the Panghooloos will be guided by us, and if we return all the other Panghooloos will also go away. If Mr. Lewis settled it as expressed in this our letter, our friend can send the money together with our friend's signature by the hand of a truly trusted person to us.

We further ask our friend if Mr. Lewis is going to take the country as far as Rumbow. If so, we must decline receiving the money. If he is not going to do so, we will receive it.

After compliments. Dated 19th August 1831

Letter received 22nd August

This letter is from Toon Koo Syed Saban to J.B. Westerhout Esq. after compliments

Our friend has requested that all the Panghooloos and ryots should return from Nanning to their own different countries, that when it is ascertained that they have done so Spanish Dollars 500 will be certainly paid to us. Now when our friend's letter came to hand we retired to our separate countries, but the people only agreed to do so for two or three days, and if in that time our friend does not send the money the Panghooloos mean to return to Nanning and then we cannot prevent them

If our friend sends the Sp. Drs. 500 we will receive it and our friend will see that his friend's wishes will be fulfilled regarding all these Panghooloos

When the sepoy were coming up [and here he alludes to Captain

Hibgame's party going to Soongye Pattye] there was a little fighting amongst the people as our friend's letter only just arrived at the time the troops did

We were then in Panghooloo Seedin's house at Gajah Mati fast asleep, and suddenly awakened by the report of guns. We therefore immediately retired

Our friend's wish to take the same Panghooloo of Nanning we cannot comply with, but if our friend's life and ours is spared we shall see what can be done

Written on 22nd August. These letters brought by Pandeka Ondo Mata mata of Roombyah.

Letter dated 25th August

This letter with sincerity etc etc from ToonKoo Syed Shabban who is now residing in Roombyah and is addressed to J.B. Westerhout Esq with compliments

Our friend wrote us a letter which has been safely received. From it we understand that our friend states that the Dollars 500 will be brought to Roombyah on Monday 21st Awal or 29th August. As we were to send a trusted person for it, we have now sent Pandeka Ondo and Hadji Talib with our receipt against seal to receive the 500 Dollars in question

With compliments

Letter enclosed with the above. Now we have to inform our friends as a secret that the Panghooloo of Nanning wants to attack Malacca and he has requested assistance from Rumbow and Mooar, but the people of those places cannot any more assist, as we and the Iang de Pertuan of Rumbow cannot assist Nanning any more as we have sworn fealty^a with our friend and we will never break from our engagements.

The record reads 'facility'

Source: Translations by Lewis copied in SSR B. Sec. Pol 362, Consultations of 14th October 1831.

Appendix I

Mosques and Penghulus of Naning in 1832

Newbold listed sixteen 'mosques to momkins or mukims in Naning' (Vol. I p. 250) and Abdullah listed the fifteen penghulus appointed by Ibbetson (Gibson-Hill, JMB RAS Vol. XXVIII 3. p. 229)

Neither list includes:

- (a) The four western mukims of the two Ramuan Chinas, Masjid Tanah and Sungei Baru Ulu, land shown on Moor's Map as the 'Estate of Adriaan Koek' whose penghulus were perhaps appointed by 'Badarian'/Bellemont
- (b) Jus and Nyalas, shown on Moor's Map as 'Disputed by Malays'
- (c) Sungei Petai and Rembia, then on the Naning frontier
- (d) Sungei Buloh, not then carved out of Brisu and Taboh Naning.

Newbold		Abdullah		
Mukim	Place		Penghulu	Tribe
Kelemak	Bukit Tutu removed to Kalamah	Ikan Lemak	Bilal Mania ¹	Batu Belang ²
Pegoh	Pago	Piku	Marat	Batu Belang
Melekek	Mullikey	Malkek	Maulana Sultan	Batu Belang
Taboh Naning	Tabu	Taboh	Safar	Sa melenggang
Lendu	Londu	Lendu	Kiman	Tiga Batu [*]
Ayer Pa'abas	Ayer Parbas	Ayer Parbas	Dul	Anak Melaka
Brisu	Brissu	Brisu	Aludin	Anak Melaka
Sungei Siput	Sungei Siput	Sungei Siput	Laut	Sa melenggang

Padang Sebang	Padang Sebang	Padang Sebang	Kuroh	Tiga Nenek
Tanjong Rimau	Tanjong Rimo	Tanjong Rimau	Lengkar	Tiga Batu
Pulau Sebang	Pillowe	Pulau	Talib	Mungkal
Kemuning	Kamuning	Kemuning	Udin	Sa melenggang
Batang Melaka	Batang Melaka	Batang Melaka	Kujah	Mungkar
Malacca Pindah	Malaka Pindah	-----omitted ³ -----		
Tebong unidentified	Tebong Pulo Sonno	Tebong	Dul Kunchi	Biduanda ⁴
		-----omitted-----		

- (1) Bilal Munji, Begbie's 'Nanningite of some Importance', rewarded by Garling for helping to arrest Pandika Tambi.
- (2) Possibly *Perut Belang* of *Suku Tiga Batu*.
- (3) Also omitted in the manuscript translated by Thompson in 1876, p.262. The lists tally completely, even to *Ikan Lemak* for *Kelemak*.
- (4) Not one of the *Suku* of Naning.

Appendix J

The Malay Writer's (Mohd. Jafar's) visit to Naning in 1892 and his Report

R.C. 1932

92

Munshi to proceed to Naning to collect information regarding the Malay Custom about inheritance

MINUTES

Munshi,

Boleh choba mendapat pengatuhuan darihal adat orang Melayu di Malaka dan di Naning dan di mana₂ didalam parentah Malaka fasal harta pesaka dan tanah₂, sahya mahu buat surat ingatan kepada C.L.R. dan D.Os.

2. Barangkali baik Munshi pergi menumpang sedikit hari di Naning berjumpa orang di-sana yang mengarti adat₂ itu.
3. Boleh dapat allowance bagaimana adat.

5. 7. D.F.A.H.

Hon. R.C.

1. Inilah sahya masukkan report perjalanan sahya ka Naning itu, serta tulisan adat perbhagian harta pesaka.
2. Fasal adat perbhagian harta pesaka dalam Malaka atau lain nya, yang lain daripada mengikut kasuka'an hati itu, tentulah hukum shariat sehaja.
3. Kalau Tuan suka kita menuliskan sapuchok surat kepada Shekh Ali atau Haji Said Alim meminta aturan perbhagian harta pesaka itu dengan sachukupnya

Mohd.

MEMORANDUM

From: Atg. C.L.R.
To: Atg. D.O.A.G.
Date: 7. 7. 1892

Bearer the Govt. Munshi has been sent by the R.C. to get information as to the Adat Naning. Will you please assist him by calling such people as might tell him anything. Mamat Parit is one of the best.

7. 7. 92 J.R. Innes

Kapada Demang Naning dan Demang A. Gajah

Ehwal kita malumkan kapada Penghulu, adalah hukum deripada Tuan Besar Malaka telah menyurohkan Krani Malayu nya (Enche Mohd: Jafar) akan naik kadarat ini hendak memeriksa dengan terang nya bagaimana adat yang biasa di pakai di sabelah darat sini derihal perbhagian harta pesaka Si mati kapada waris₂nya.

Maka sebab itu kita pinta hendaklah Penghulu menolong sediakan satu atau dua orang Tua, yang sangat faham didalam adat itu, * dan barangkali Enche Mohd. Jafar itu akan tiba di rumah Penghulu (Naning) pada hari Ahad esok atau isneen akan menyuratkan sagala adat₂ itu, karna Tuan Besar hendak menyiakan suatu peraturan didalam ofis₂ Govt. deri hal itu.

sd/ D.O. Alor Gajah 9. 7. 92

*(for P. A. Gajah)

Maka pada hari ini Enche Mohd. Jafar itu sudah tiba di sini, kalau sempat pada pukul 11 atau 12 tengah hari ini Penghulu datang berjumpa dengan dia di Kelemak.

TRANSLATION

If you can try and get information concerning the customs of Malays in Malacca and Naning and everywhere else in the jurisdiction of Malacca concerning inheritance and land, I will write a memorandum to the C.L.R. and D. Os.

It may be desirable for you to stay a few days in Naning to meet people there who understand the Custom.

You will get the normal allowances.

5. 7. D.F.A.H.

Hon. R.C.

1. I now put in a report on my journey to Naning together with a document on the Custom in division of inherited property.
2. Concerning the custom in dividing inherited property in Malacca and other places, when this is different from following general wishes, there will certainly be Muslim law and nothing else.
3. If you wish, I will write a letter to Sheikh Ali or Haji Said Alim asking for details of the method of dividing property.

Mohd.

To the Demang Naning and the Demang Alor Gajah

I inform you that I have had an order from the Resident Councillor Malacca that he has instructed his Malay Clerk (Enche Mohd. Jafar) to come up here to examine and get clear how the Custom is normally applied up here in matters of the division of the property of a deceased person among the kin.

I accordingly ask that you will help and prepare one or two Elders who particularly understand the Custom, and perhaps Inche Mohd Jafar will arrive at the house of the Penghulu (Naning) tomorrow Sunday or on Monday to write down all these customs, because the Resident Councillor wishes to prepare an instruction for Government offices on this.

D.O. Alor Gajah
9.7.92

REPORT

perjalanan pergi mengambil adat Naning
deri perbhagian herta pesaka

Pukul 8 malam Sabtu (8 p.m.) 8.7.92 Sahya bertolak dengan kreta lembu deri Malaka, pada pagi Sabtu 9.7.92 sampai di Kelemak (14 miles), lebih kurang pukul 8 pagi itu Sahya berjalan ka A. Gajah hendak berjumpa Ag. D.O. di sana, tetapi Tuan itu dengan Krani₂ nya sudah pergi ka Pn. Balak memungut chukai. Apabila Sahya berjalan hendak balek ka Kelemak (tempat Sahya menompang) berjumpalah Sahya dengan Demang Md. Shah, lalu Sahya cheritakan lah maksud kedatangan Sahya itu; jawab nya, baik juga ini hari kita boleh bertemu di Bkt. Tutoh di tempat orang 'memati luar' karna hari ini Penghulu₂ yang lima buah kampung serta Lembaga₂ nya akan datang berkampong di sana.

Pukul 1 lebeh kurang Sahya menajak 2-3 orang kawan berjalan pergi ka Bkt. Tutoh itu, lebeh kurang 3 batu jauh nya deri Kelemak, meredah hutan dan mengarung sawah, balek pun demikian lah. Apakala sampai Sahya tempat itu bertemulah dengan Penghulu₂ dan Lembaga₂ itu, Demang Mohd. Saleh, Naning, pun ada juga; maka Sahya nyatakanlah maksud kadatangan Sahya itu, lalau dicheritakanlah dengan pensel sehaja mengambil peringatan saberapa yang terbuat pada hari itu; pukul 4 Sahya pun balek lah ka Kelemak.

Pagi Ahad 10.7.92. datanglah tiga orang Lembaga berjumpa dengan Sahya di Kelemak, karna telah Sahya pesankan samalam, yaitu

- (1) Membangun, Mohamad, tiga batu;
- (2) Raja Nan Kaya Merah, Semelenggang;
- (3) Andika, Mohamad, anak Malaka;

Maka Sahya tuliskanlah barang apa yang di khabarkan nya deri hal aturan perbhagian herta pesaka di dalam adat Naning itu.

Pukul 4 petang Ahad itu Sahya berkreta lembu naik ka Naning (7½ batu deri Kelemak) make pukul 7 lebeh kurang sampailah, berjumpa dengan Demang Mohd. Saleh, Mata₂ Srilung (?) Pendek, bekas Mata₂ Daud dan lain₂. Sahya bachakanlah tulisan yang telah Sahya tuliskan di Kelemak itu, serta bersual jawab sedikit; kemudian katiga orang yang tersebut itu memberi tanda tangan yang meng sahkan apa₂ yang telah Sahya tuliskan itu, kemdian Sahya balek lah pukul 10 malam sampai di Kelemak. Pukul 9 pagi isnen 11.7.92 Sahya turun ka Malaka sampai pukul 6 petang.

Mohd. Jafar
12.7.92

TRANSLATION

Journey to go and get information
on the Naning
Custom on division of ancestral property

At 8 p.m. on Saturday* 8.7.92 I left Malacca by bullock cart and on the morning of Saturday 9.7.92 arrived at Kelemak (14 miles) at about eight that morning. I went on to Alor Gajah intending to meet the Acting D.O. there, but he had gone with his clerks to Pengkalan Balak on a tax collection. While I was on my way intending to return to Kelemak (where I was staying) I met Demang Mohd. Shah and told him of the purpose of my coming; he answered, It was lucky and we could keep an appointment

at Bukit Tutoah at the place of 'the foreign dead man', for that day the Penghulus of the five mukims together with their Lembaga were to come for a conference together.

At about one o'clock I persuaded two or three friends to go to this Bukit Tutoh, about three miles' distance from Kelemak slashing a trail through jungle and wading across sawahs, and doing the same coming back. When I reached that place I met the Penghulus and Lembagas. Demang Mohd. Saleh of Naning was also there. I explained why I had come and the people here gave me an account and I wrote down just in pencil, notes of what was done that day; at 4 p.m. I went back to Kelemak.

On Sunday 10. 7. 92 three Lembagas met me at Kelemak, because I had instructed them to do so the evening before; they were

- (1) Membangun, Mohamad, Tiga Batu;
- (2) Raja Nan Kaya Merah, Semelenggang;
- (3) Andika, Mohamad, Anak Malaka;

* the Malay/Muslim day begins after sunset

I wrote down whatever they told me about the arrangements for division inherited property within the Naning Custom.

At four that Sunday afternoon I went by bullock cart up to Naning (7/2 miles from Kelemak), arrived at about 7 and met Demang Mohd. Saleh, Mata-mata Sulong Pendek, retired Mata-mata Daud and various other people. I read out what I had written down at Kelemak, asked some questions and got answers, and then these men I mentioned above put their signatures to certify what I had written; then I went back arriving at Kelemak at ten o'clock. At nine on Monday morning 11.7.92 I left to come down to Malacca arriving at 6 p.m.

Mohd. Jafar
12.7.92

ADAT NANING

deri hal perbhagian herta pesaka "a" "b"
(Charian berbhagi, pendapatan tinggal, "c" pembawa kembali)

Apabila bersemenda sa'orang kapada sa'orang prempuan, jikalua bercherai hidup atau bercharai mati; maka di kirakan herta nya kadua pehak itu, di tentukan yang mana herta pembawa ("c") kan Si laki pada mula nya, dan yang mana herta pendapatan ("b") Si laki itu, dan yang mana herta pencharian ("a") salama di dalam pertemuan nya itu.

- "c" Maka herta pembawa itu pulang kembali kapada waris Si laki itu yang di namakan herta pembawa itu ya'itu apa₂ herta yang di bawa

deripada rumah mak bapa nya atau sedara nya kemandi deripada berkehawin itu, yang ada berkaterangan di katahui ulih ibu-bapa atau katu didalam Suku.

- "b" Maka herta pendapatan itu, ya'itu herta Si prempuan yang dahulu deripada berkehawin itu maka pulang lah kapada Si prempuan juga atau waris nya.

- "a" Maka herta charian itu di bhagi dua di antara laki atau waris nya, dengan istri nya atau anak yang prempuan atau waris nya.

Maka herta charian pehak bhagian Si laki itu, apabila habislah di blanjakan atas Si Mati ulih istri nya sabagaimana adat yang biasa (sperti kerbau sa'ekor, beras 50 gantang) maka tiadalah harus waris Si laki itu menuntut perbhagian suarang itu lagi.

Tetapi jikalau ada baki nya herta suarang itu harus lah di pulangkan kapada waris Si laki itu.

Adapun yang di katakan waris di sini, ia lah pehak prempuan sehaja, umpama nya herta pencharian yang bhagian istri itu jatuh milek lah kapada nya atau anak nya yang prempuan sehaja, dan herta pembawa itu di kembalikan kapada waris nya yang prempuan, sperti mak nya atau sedara nya atau lain nya, sperti perkata'an di dalam perbilangangan di sabelah darat

perbilangangan
= pepat-ah =
kata²

(I) Waris ber sakadiman,

(II) Herta ber Tuan,

(III) Hak nan mengandola,'

(I) Waris ber sa kadiman (sperti sedara sajalan jadi, yani sama saperut (umpama nya apakala mati saorang laki₂ yang meninggalkan herta, baik deripada pesaka atau charian sendiri nya atau pun suarang, maka pulang lah herta itu kapada waris nya yang prempuan mengikut peraturan nya yang terlebih hampir, sperti mak nya,

Kadin
Kadim
berhampiran

kemudian sedaranya yang perempuan yang sama sa'ibu, kemudian neneknya (ibu maknya) kemudian mak sedaranya (yang sa'ibu dengan maknya) kemudian sapupunya yang perempuan yang sama sa'nenek, hingga penghabisannya. Apakala tiada lagi perempuan yang sama sa'nenek dengan dia, maka bharulah berpindah kepada pihak sedarane nenek perempuan hingga penghabisannya, diarahkan aturan persedarananya itu siapa yang terlebih dekat, asal jangan menyempang pada pihak laki₂.

Maka demikian juga herta peninggalan mati sa'orang perempuan itu pulanglah kepada anaknya yang perempuan sehalu kemudian kepada maknya, maka lalu lah mengikut seperti peraturan yang tersebut di atas itu

(II) Herta bertuan (artinya, herta pesaka itu miliklah pihak perempuan, tetapi sedaranya laki₂ itu menjaga dan memeliharaannya) umpamanya dedaralaki₂ yang di dalam sebuah perut itu dinamakan akandia itu 'Tuan herta' dan berkuasa menjalankan bechara di dalam sesuatu perkara atau perselisihan di dalam herta itu, tetapi tidak boleh memileki.

Maka jikalau tiada bersedaralaki₂ didalam saperut itu bulihlah sapupu laki₂ pihak perempuan juga menolong menjaga di atas herta itu.

(III) Hak nan mengandola (artinya itu, sa'orang yang dituakan di dalam sesuatu suku, ya'itu seperti Lembaga di dalam persukuan itu dialah yang jadi 'Hak nan mengandola', karna jikalau apa₂ perbuatan atau perkara perselisihan di dalam persukuan, melainkan barang apa perkataanya itu lah yang akan dipakai dan diturut

mengandola =
di perbela =
di kawali =

ulih sakalian ibu bapa di dalam persukuan itu.

-temat-

Deri hal chagak
(gadai tiada berbunga)

megun =
liam =
terhenti
*selalu
fasal herta
sehaja,
tetapi bulih
juga fasal
tanah

ikras =
janji

*Selalu
fasal tanah
sehaja,
tetapi bulih
juga fasal
herta

Adapun chagak itu dua jenis (1) chagak **megun** (2) chagak menanti bayaran.

(1) Chagak megun itu pun dua macham nya; pertama*, chagak mati atau chagak janji nama nya; apakala datang sasa'orang membawakan herta baik mas perak atau tanah (**dengan ikras**) hendak meminjam wang, maka di letakkan nya herta itu ka dalam kuasa orang yang punya wang itu dengan perjanjian sa berapa lama nya akan di tebus kembali; maka apabila sampailah perjanjian itu tiada di tebus nya lalu lah (hilang) herta itu menjadi milek orang yang memegang itu.

Kadua* chagak hidup nama nya (arti nya apabila sasa'orang meminjam wang kepada sasa'orang dengan men-chagakkan herta nya itu yang tiada dengan perjanjian lama nya itu, melainkan barang bila₂ masa nya pun baik bulih lah di tebus nya kembali, baik ulih sendiri nya atau ulih waris nya, tetapi salama herta itu didalam pegangan orang yang memegang nya itu bulih lah di pakai nya dan mengambil faidah di atas nya itu, serta membelanjakan di dalam barang yang patut di atas nya itu.

Maka di dalam perkara ini mahu lah dengan berketerangan tetekala mula₂ membuat perkara itu, ya'itu di katahui ulih sakalian Tua₂ di dalam persukuan.

(2) Chagak menanti bayaran, artinya itu, jikalau sasa'orang telah di kenakan hukum denda di atas sesuatu kesalahan nya; maka

sementara belum di bayarkan nya dengan wang tunai, di taruhkan nyalah dahulu akan chagak herta nya, baik mas atau perak atau lain nya di tangan Hakim dengan perjanjian sakian, hari akan di bawakan nya wang tunai; maka apakala sampai perjanjian itu, tiada juga di bawakan nya wang tunai, maka lalu lah (hilang) herta yang dichagakkan nya itu, tetapi hutang nya sabanyak itu juga.

Yang si saheh kan ulih

sd/Peng. Mohd. Saleh, Naning
Mata₂ Sulung Pendek Naning
late Mata₂ Daud Naning

TRANSLATION

Adat Naning

concerning the division of ancestral property (a) 'Earnings divided' (b) 'Wife's property remains' (c) 'What the husband brought goes back home'

When a man has married into a woman's family and they are divided whether by death or divorce, an account is taken of the property of the two sides; it is decided during that conference what is property brought by the husband at the outset (c), what is property brought to the man (b), and what is earnings (a).

(c) The property brought by the husband goes back to the husband's kin. (The property brought by him is whatever property was brought from the house of his mother and father or sisters and brothers and also that which after the marriage was declared and known to the elder or Headman of the clan).

(b) The wife's property is that which was the property of the woman previous to the marriage and goes back to the woman or her kin.

(a) The earnings are divided equally between the husband or his kin, and the wife or her daughters or her kin.

Should the husband's share be used up by the wife on the expenses of the husband's funeral on the customary scale (such as one buffalo and 50 gantangs of rice) then it is not proper for the husband's kin to follow up any claim on the joint earnings.

However if there is a surplus from that share it should be returned to the man's kin.

Those who are called 'kin' are female only: for example, the wife's share of the earnings belongs to her or to her daughters only, and the property she brought goes back to her female kin, such as her mother or sisters and others as in the world in the **proverb** in that countryside

share

I Kin of **common descent through females**

proverb =
saw =
saying

II Property has a master

III Rights which protect

I Kin of common descent (such as sisters and brothers or near relatives of one line, that is from the same womb). For example, when a man dies leaving property, whether inherited or acquired by himself or jointly, that property goes back to his female kin according to who is nearest, such as his mother, next his sisters by the same mother, next his grandmother (mother's mother), next his kin from the same grandmother as his mother, next his female cousins from the same grandmother, and so on to the end of them. When there are no females descended from the same grandmother, then it shifts to the side of the sisters or the grandmother, until they are exhausted: they look at the degrees of relationship and for who is closest. The starting point cannot be a connection through males.

ancestry
relationship

In the same way property left by a dead woman goes back to her daughters only, then to her mother, and after that following the rules described above.

II Property has a master. The meaning of this is that ancestral property belongs to women, but the male kin guard and look after it—for example, a kinsman in the same descent will be named 'master of the property' and empowered to conduct proceedings in any matter or dispute concerning the property,

but he cannot assume ownership of it.

If there is no kinsman in that descent a cousin on the mother's side can help watch over the property.

III Rights which **protect**. This means that a person who is made an elder of the tribe, such as a Lembaga in that tribe, is the one who has the 'right which protects', for if there is anything done or any dispute within the tribe, whatever he says must be accepted and obeyed by all elders in that tribe.

Concerning pledges
(mortgaging where no interest is paid)

Of these pledges there are two kinds (1) **sleeping*** pledge and (2) pledge pending payment.

(1) The 'sleeping pledge' itself has two forms: *firstly* a 'dead pledge' or 'pledge by agreement'. When someone comes with property, whether gold or silver or land, with a **promise** and wants to borrow money, he gives over that property into the power of the lender with the promise that in a certain time it will be redeemed: if when that time comes the promise is not fulfilled then the property is lost and becomes the possession of the person who holds it.

The *second* is called a 'live pledge'. This means that someone borrows money from someone else without the previous promise. Then whenever it is convenient to him he can redeem, either he or his kin, and get the land back; but so long as the land is in the hands of him who holds it, he can use it and take the profits from it and spend whatever he thinks proper on it.

*Wilkinson: Megun: meditative, buried in thought

enfold =
bring up =
to police

sleeping =
silent =
stopped still

Always a
matter of
moveable
property but
can be land

voluntary
promise =
agreement

In this matter there should be information from the very beginning of the transaction, that is, it should be known by all the elders of the tribe.

(2) 'Pledge pending payment' means that, if a person has been fined for some wrong he has done, for the interval before he pays the money down a pledge, whether gold or silver or other property, is taken from him into the hand of the judge on the understanding that in a certain number of days he will bring the money; when the time comes if the money is not brought the property pledged is forfeited, to the extent of the debt.

Always of
land only,
but can be
of other
property

Certified by

sd/. Peng. Mohd. Saleh, Naning
Mata₂ Sulong Pendek
Late Mata₂ Daud

10.7.92

ADAT

Yang di lakukan di atas orang mati
di sebelah Naning

Apabila putus lah nyawa (mati) sasa'orang bercherai daripada badan nya; maka siapa₂ yang dekat di situ pada waktu itu mengangkatkan lah akan mayat itu lalu di *bujorkan*, ya'itu kepala nya pehak hulu dan kaki nya pehak hilir, mengikut ke'adaan Sungei di tempat itu; make di lurus₂ kan kaki nya dan di rapat kan, kalau₂ terkangkang atau bengkok bulih lah di ikat, sepaya lurus; maka tangan nya pula di pelokkan ka dada nya, tangan kanan memindeh tangan kiri, dan bulih juga di ikat, sepaya betul; maka jikalau mulutnya ternganga, bulih lah di andur, sepaya terkatup; dan jikalau renggang mata nya, bulih lah di urut, sepaya rapat.

terbujur = tidor
terlentang
berlunyor
mengikuti seperti
hiliran Sungai,
tetekala hidop₂ itu
memang di
patingkan
ulih orang Tua₂

andur =
di ikat dagu
nya ka kapala
nya

kalau orang *
yang termulia
sedikit, di
selubungi dengan
kain bersongket
(benang mas)

beras mayang
pinang =
mayang pinang
yang sangat muda
itu dengan putek
pinang yang lagi
halus₂ itu, betul
sa besar₂ beras

Kemudian di selubungi hilang₂ dengan kain panjang deri kapala sampai ka kaki;* kemudian di letakkan sa potong besi (keris atau golok atau pisau) di atas perut nya sepaya jangan di hampiri ulih Hantu Shetan; kemudian di letakkan tempat bara di sisi nya dan di bakar kan kemenyan; maka di ambil pula beras mayang pinang di isi kan pada suatu mangkok, lalu di taburkan ka'atas mayat dan keliling nya, sepaya dapat bau₂ yang wangi sedikit.

Maka samantara mayat belum di mandi kan ulih waris₂, belum berkampong, maka di hiasi lah rumah itu, mengikut ka'ada'an orang yang mati itu, di gantungkan tabir dan di bentangkan langit₂ (kalau Lembaga, di tambahi perhiasan itu dengan 'sampaian', erti nya, kain benang mas di sangkutkan dengan tali, arah kapala dan kiri-kanan mayat, dan satu tilam pandak dengan tikar nya di letakkan di tumpuan nya dengan tempat bara, dan jikalau Undang demekian lah juga, tetapi bertambah sedikit, di letakkan sahelai lagi tikar pandak di hujung tilam pandak itu) dan di susunkan 2 atau 3 biji bantal gedang₂ di arah kapala mayat itu.

Satelah berkampong waris₂ Si mayat itu, maka di angkat lah mayat itu di bawa kapada suatu tempat di dalam rumah itu juga akan di mandikan, maka di mandikan lah suchi₂, (siapa₂ waris laki₂ perempuan menolong lah menyiramkan sa'orang sedikit) satelah suchi; lalu lah di kapankan (3 atau 5 atau 7 lapis) kemudian di sembahyang kan lah; maka waris Si mayat pun memberi lah sadekah atas kadar nya kapada beberapa orang yang menyembahyangkan itu; kemudian di masokkan lah mayat itu ka dalam osongan (kalau orang kebanyakan, buloh, lantai nya dan pemikul nya; kalau 'Lembaga', batang pinang pemikul nya;

Kalau Lembaga
5 biji
Kalau Undang
7 Undang
dan alamat
5 das

tanah badan =
tanah yang di atas
kubor itu
ditinggikan sedikit
di perbuat
seperti dada tuma,
betul satentang
dengan mayat yang
di dalam nya itu

jari lipan =
mayang pinang
itu di anyam
di perbuat sperti
lipan berjari

*adat sedekah;
kalau Lembaga,
20 serpi (\$7.20)
dan kalau Undang
sa bahara (\$14.40)
Maka di dalam
sadekah kedua,
kali itu, wang itu
lah juga di bhagi

kalau 'Undang', batang pinang juga, tetapi
besar, karna 3 orang lagi akan dudok di atas
nya itu, 2 orang prempuan menjaga tempat
bara, 1 orang yang akan jadi pengganti nya)
dan di bawah lah ka kubor, lalu di masukkan
ka dalam liang lahad, kemdian lahad itu di
dinding dengan sakeping papan, lalu di
timbusi lah kembali sampai rata, maka di
perbuatkan lah **tanah badan**, dan di
chachakkan dua potong kayu, satu arah
kapala dan satu arah kaki, akan tanda nya;
maka di letakkan pula di atas kubor itu lima
keping **jari helipan mayang pinang**;
kemdian di diruskan sedikit ayer di atas
tanah badan itu tiga kali jalan deri kapala ka
kaki, maka bharu lah di bachakan talkin;
maka ketika itu waris Si mayat itu memberi
sedekah* pula atas kadar nya kapada orang
ramai di situ

Maka pada ketika hathir di kubor itu
juga muafakatlah sakalian waris Si mayat
kadua pehak (sabelah mak dan sabelah bapa)
hendak menetapkan apa hari nya yang baik
menaikkan tanah (meninggikan lagi sedikit
tanah kubor itu) maka barang kali ditetapkan
lepas tiga hari atau tujuh hari atau lain nya,
karna pada hari itu khanduri besar,
menyembeleh kerbau atau kambing, sa
kurang₂ ayam; satelah tetap lah perundingan
itu, maka kembali lah sakalian orang ka
rumah tempat Si mati itu, lalu makan dan
minum akan apa, jua yang telah tersediakan
ulih waris₂ mayat itu.

Maka pada hari₂ yang kemdian deripada
hari mati tu hingga hari yang ka tujuh, pagi-
petang berkhanduri atas kadar nya, tetapi
padi hari yang katiga dan yang katujuh dan
yang kadua kali tujuh dan ka empat puluh
hari dan yang ka saratus hari, besar₂ sedikit
khandurinya.

Maka apakala sampai lah janji hari yang di tetapkan akan menaikkan tanah itu, maka di kampongan lah sakalian waris kedua pehak, jauh dan dekat akan berkhanduri besar.

satelah habis saratus hari, habislah khanduri.

TRANSLATUON

Custom

which is observed for persons who have died in Naning

When the soul of the dying man has left the body, whoever is there near at that time lifts up the corpse and *straightens* it lengthwise, with its head in the direction of the source and feet in the direction of downstream of the river in the neighbourhood; the legs are straightened and put side by side, and if they are straddled wide or bent it is permissible to tie them so that they are straight. The hands are folded on to the chest, right hand on top of the left, and these too can be tied, to make them correct. If the mouth is gaping this can be tied up, the lower jaw to the head, so that it is shut tight, and if the eyes are staring wide they can be massaged so that they are straight.

Then the body is completely shrouded from sight with a long *cloth* from head to foot: next, an iron blade (kris or machete or knife) is put on the stomach so that evil spirits of Satan do not come near: next a container of embers is put near at one side and benzoin burned; then 'palm flower rice' is emptied from a bowl and scattered on and around the corpse, so that there is a fairly pleasant scent.

In the interval before the corpse is bathed by the kin who gather together, the

to sleep prostrate with legs outstretched as if down the stream of a river: in life this is as a matter of course thought improper by the elders

If a person of some standing, it is shrouded with embroidered cloth (gold thread)

Palm flower rice =
the flower spike of
the areca palm,
very young and
white, and to be
correct large
(grained) rice

If Lembaga, 5
If Undang,
7, and a signal
of 5 guns (salute)

earth of the body =
earth on top of the
grave, raised a
little and shaped
to be low-pitched
(‘louse-chested’)
exactly over the
body inside it

house is decked out according to the status of the person who has died, with wall coverings being hung up and canopies fixed. (If the dead man was a Lembaga, the decorations are increased by hangings hung up on hooks, that is to say of cloth with gold thread held up with string over the head and to the left and right of the body, and one short quilted mattress with a sleeping mat are put under it and the ember container. If it is the Undang, it is the same but added to somewhat with a short sleeping mat at the end of the mattress) and 2 or 3* big pillows are put by the head of the corpse.

When the kin of the dead man have assembled, the body is lifted up and carried to a place inside the house so that it can be bathed: it is washed completely clean (whoever is kin, men and women, help in sprinkling the water, each person a little). When it has been cleansed it is wrapped in a shroud (3, 5 or 7 layers): afterwards there are prayers, and the kin of the dead man give alms so far as they can manage to some of those who pray. Then the corpse is put onto a litter (if an ordinary man, the shell and carrying pole are bamboo; if a Lembaga, the carrying pole is an areca palm stem, and if an Undang, the carrying pole is also an areca palm trunk, but bigger, for three people are going to sit on it, two women to watch the ember container and one to be their relief). It is carried to the grave and put in the niche in the grave; then the niche is closed off by a plank and the pit is filled until the ground is level, and then the ‘*earth of the body*’ is formed, accurately corresponding to the body which is in the grave; two lengths of wood are planted upright, one at the head and one at the foot, as markers. Five pieces of areca palmleaf fringes — the ‘*centipede*’s

*fingers** — are put on the grave. Then a little water is poured on the mound over the body, three times, going from head to foot, and only then the funeral address to the dead man is given. At that time the kin of the dead man give alms* to the best of their ability to the public there.

At the time of the meeting at the grave all the kin of the deceased on both sides (of his mother and his father) agree on deciding which day will be best for raising the grave (to put a little more earth on it) and perhaps they may fix the third or the seventh day, or another day, because on that day there is a big solemn feast, with a buffalo or a goat or at the very least chicken. When this discussion is over, everyone goes back to the house of the dead man, to eat and drink whatever has been prepared by his kinfolk.

In the days following the day after the day of death to the seventh day, all day there is the solemn feast so far as they can manage to provide it, but on the third day, the seventh day, the fourteenth day, and the fortieth day and hundredth day the feast is bigger.

When the day agreed for raising the grave arrives, all the kin on both sides, from far and near, gather for a big feast.

When the hundredth day has passed the feasts finish.

centipede's
fingers = areca
palm flower
spikes plaited,
looking like
centipede's
fingers

*The custom as
to alms;
if Lembaga, 20
serpi (\$7.20) if
Undang a bhara
(\$14.40). The
money is divided
between the two
occasions when
alms are given

MEMORANDUM ON NANING CIRCA 1892

Note: The body of this document is in the so-called 'civil service' hand of the late nineteenth century, derived from copybooks with their 'pothooks' and 'hangers'. It seems therefore to have been a copy made by, or perhaps dictation given to, a clerk. The addendum is in Innes' hand, and the main text has two corrections in similar writing. The format and style is European, not Malay; and the deduction is that this was a memorandum submitted by Innes during or after his tour of duty as District Officer, Alor Gajah.

Notes on Naning Custom

The Naning custom obtains in the following Mukims Taboh Naning, Melekek, Brisu, Sungei Siput, Ramuan China Kechil, Ramuan China Besar, Sungei Baru Ulu (to a limited extent), Lendu, Ayer Pa Abas, Pegoh, Kelemak, Sungei Petai, Rembia, Malaka Pinda, Gadek, Padang Sebang, Tanjung Rimau, Pulau Sebang, Kemuning, Tebong, Batang Malaka, Selandar, Bukit Singgeh, Nyalas and Jus.

Inheritance of land

In the Naning District tanah pesaka (hereditary land) can only be held by females. If the owner of the land has no female issue the land passes to the next of kin who is female. It cannot pass into another suku (tribe). It is contrary to the adat Naning to sell tanah pesaka to anyone outside the family circle.

Chagar (Mortgage)

The ordinary form of mortgage does not exist in the Naning Mukims. A woman wishing to raise money on her land hands it over to another person for a certain sum of money. The lender cultivates the land and takes the produce. The borrower can redeem the land whenever she wishes and the interest of the other person in the land ceases as soon as his money has been repaid. This form of mortgage is called chagar or (in the town of Malacca) jual hidop.

There is no limit to the time for the redemption of the land. I have known instances where land has been redeemed (*tubuskan*) 20 years after it was 'chagar'ed.

Sukus (tribes)

The institutions of tribal divisions still survives throughout the Naning Mukims. The four principal Sukus are Ana Malaka, Semellengang, Tiga Batu, Mungkal. Each mosque appointment is filled by members of a certain suku. Thus the Khatib must belong to the Semellengang suku. The Imam to the Anak Malaka, the Bilal to the Tiga Batu. In the Mukims where all the Sukus are not represented these rules are subject to variation. The Penghulu and his Mata Mata cannot be of the same suku. These officers are chosen from each suku in turn. The children follow the mother's suku.

Marriage Customs

In the Naning Mukims as the land belongs to the woman when a man marries he goes to live in the bride's house. This is called *Menyemenda* and the house and land attached to it are called the *tempat semenda*. In reckoning marriage expenses as curious denomination — *Serpi* — is used. A *serpi* is 36 cents. The marriage expenses which are paid to the parents or waris of the bride are 28 *serpi* or \$10.08 where the bride is a virgin and 20 *serpi* or \$7.20 where she is a widow. This *adat* or *blanja* takes the place of what is known as the *antaran* elsewhere. The *mas kawin* is not as elsewhere a variable amount fixed with regard to the circumstances of the parties but is always fixed at \$10. It is paid on separation. It frequently happens that an aspirant to a lady's hand goes up to the verandah of her house (*naik rumah*) and makes his proposal in a more or less direct fashion. This is considered a breach of etiquette (*langgar adat*) and the delinquent settles matters with parents of the woman by paying an additional 20 *serpi* (*wang kesalahan*). It is customary for half of this 20 *serpi* or \$7.20 to be spent in entertaining the *kepala suku* and other elders who have assisted in arranging matters. In speaking of this half of the \$7.20 viz. \$3.60 — the people curiously enough always use the term *duablas rupea* — a *rupea* being 30 cents. The *duablas rupea* is called *Kapala Mas*. A man in the Naning Mukims cannot marry his cousin.

Divorce Custom

The rules as to division of property on separation of husband and wife are strictly adhered to. The custom is summed up in the following formula S'orang beraji kutu di belah, chari bagi, dapatan tinggal, pembawa kembali. This formula is continually in the mouths of the elders who are called in to settle matters in dispute. It amounts to this: What is earned during the time the two parties are together is divided on separation, what is inherited is kept by the person who inherits, while what is brought to the marriage returns to its owner. The waris prempuan hand over to the husband when he separates the pillow and mat (bantant tikar) and he gives to the tempat semendor (sic) 3 suku duit i.e. 36 cents.

This transaction takes place before the kepala suku and sometimes the Penguulu, and ratifies the separation. If a woman dislikes her husband through his ill treatment of her she can divorce him (benchi talak) but has to pay him his blanja twice over i.e. \$20.16

'Perduakan Sawah'*

The rules regarding '*perduakan*' land are different in Naning from those that prevail elsewhere in Malacca. If a man '*perduakan*'-s his sawah to another he provides the padi seed himself, but each man ploughs and plants in one half of the land. The rent and the profit are divided between them.

If a buffalo or bullock is '*perduakan*'ed and is killed in the daytime by a tiger or dies of disease the loss is borne equally by the two parties as the person in whose charge it is cannot reasonably be expected to provide against dangers of this kind. If on the other hand the animal strays away at night and is killed by a tiger the person to whom it is '*perduakan*' incurs the whole loss. The profit derived by the sale of the calves of an animal that has been '*perduakan*'ed is divided between both parties.

*Metayage; share-partnership between the landholder and another.

Appendix K

Extract from Humphreys 'Malay Proverbs' from Naning

Extract from 'A Collection of Malay Proverbs' by J.L. Humphreys printed in the Journal of the Royal Asiatic Society, Straits Branch, No: 67 (1914) pp. 95-123.

Part II

Part II. Naning Proverbs. The speech of Naning Malays is rich in proverbial expressions of all saws, adages and maxims, both in prose and metre. Indeed, the origin of many proverbs common in Johor and Perak can be traced in Minangkabau *terumba*, where their form and meaning are often widely different from those subsequently acquired.

The proverbs quoted below are classed roughly in two groups, the first group dealing with the problems of married life, the second with the administration of customary law.

1. Proverbs on married life. The delicate problems of married life are of perennial interest to Malays, and again peculiar importance in Naning from the practice of exogamy. A marriage is a matter of tribal interest, a miniature alliance between two clans. The husband at marriage passes from his own tribe into that of his wife, is subject to her family, lives in her house, tills her fields. Divorce, like marriage, has a tribal import: as in Acheh, it is seldom merely an expression of ill temper or a mark of the cooling of first love; but rather a deliberate step taken with all proper courtesies. The man leaves his wife's tribe and house; the children remain with her; he removes the personal property brought by him at marriage; joint earnings are divided. It is the duty of parents to arrange early marriages for their children, for the young unmarried Malay of either sex, in Naning as elsewhere, is very much the child of nature.

- ...33. *Rumah tinggal sarang hantu ...*
orang bujang sarang fitnah
the empty house is a roost of ghosts,
the unmarried a roost of slanders.

Marriage is safest: it avoids the calumnies that attend on single life. There are saws to warn the youthful of the folly of wild oats; for example,

34. *Lengkuas pintu kandang
selera puas badan menyandang*
boughs to bar the cattleshed
passion sated, health fled

Certainly married life is best,
daripada berputing baik berhulu
better a hafted blade than a haftless blade.

(*Puting* is the projecting butt of a knife-blade which is buried in the handle).

A Malay seems never too old for thoughts of marriage.

36. *tua-tua tupai ta' tidor di-atas tanah*
However old the squirrel he will not sleep on the ground.

(*Glia uban*, the madness of grey hairs, is another expression for uxorious age).

Naning betrothal and marriage are encompassed with many ancient formalities, strongly resembling the Acheh custom. The formal proposal and acceptance are made with set speeches and a great display of humility. A proverbial expression much used in self-depreciation by parents, the hand of whose daughter is sought, is,

37. *tuah kebun berpager
tuah rumah bertunggu
tuah anak berlaki*
the fortune of a garden is a fence,
of a house an inmate,
of a girl a husband.

Another expression commonly used on such an occasion is,

38. *kecil tapak tangan nyiru di-tadahkan;*
my hands too small, (to receive your favours),
I hold out a winnowing-tray.

The irregular methods of marriage in Naning are very similar to those in Rembau described fully in 'Rembau', Parr and Mackray.... The following proverb describes the requirements of the man who essays the method of marriage by storm (*merumahi, tangkap berani, panjang rumah,*) by forcible entry into the house of the chosen lady.

39. *dada bidang kulit-nya tahan
mulut bachar mas-nya padan
hati berani senjata tajam*
a broad chest and a tough hide to it,
a loud mouth and money to match,

a stout heart and sharp weapons
therewith.

He must be prepared for failure of his suit and a severe drubbing as well, unless he possesses these requisites. Nowadays the second qualification is found the most valuable, especially if a prosecution for criminal trespass, before an unwary Magistrate, follows the attempt.

A type of the useless son-in-law, the worthless acquisition to the tribe of the wife, is the stupid fellow, doomed to mis-fortune,

40. *ka-laut pechah perahu*
ka-darat pechah periok;
at sea he wrecks the boat,
ashore he breaks the cooking-pot.

He will waste the property of his wife, and her clan, as well as his own bringings. (The expression is also used as a curse).

Monogamy, a natural result of the exogamic practice, is the rule in Nanning in spite of the Muhammaddan sanction for polygamy. Occasionally a richer peasant or Penghulu will attempt the adventure of a second wife; but the rivals will resort, sooner or later, to the ordeal of a public personal combat. Separate establishments, miles apart, are essential. The suggestion of

41. *rimau dua sa-kandang*
balam dua sa-sangkar;
two tigers one pen,
two doves one cage;

is not to be entertained for a moment.

The Nanning Malays are neither more nor less moral than Malays elsewhere. Intrigues are not unknown;

42. *enau sa-batang dua sigai,*
sa-jinjang dua pelesit ;
one sugar-palm two climbers,
one master two familiars;

is the proverbial description of the lady with a lover as well as a husband.

Sigai is the bamboo pole by which the tapper climbs to tap the *mayang* for the sugar juice....

Divorce must have been rare in the pre-Muhammadian days of the Adat; but there are old sententious aphorisms it was not unknown.

43. *Baik tunang-nya jahat,*
hidup tunang-nya mati,
kaseh tunang-nya cherai;

the winning of a meal fills the belly,
the winning of a loyal heart is a lifelong treasure.

2. Proverbs on the administration of the Adat. The second class of proverbs deals with the administration of customary law. The Custom today surviving in Naning is but a maimed fragment of the Adat Menangkabau, whose former fullness could be expressed in the saying,

*alive we are in the womb of custom,
dead we are in the womb of earth.*

After the Naning War, most regrettable of all military operations, the political constitution of the State was destroyed, so fully and deliberately, that instructions were even issued '*that the terms "Dattoo" and "Sookoo" be not used"*'. This would seem today an unnecessary precaution: the terms have, indeed, survived. But the Datok Naning once head of the most powerful State of the Negri Sembilan, is today a superior Penghulu on a monthly salary of thirty dollars; the criminal jurisdiction of the Adat is restricted to offences declared by the Procedure Code to be compoundable; and sayings that expressed a peasant's awe of a tribal chief, or his resignation under a hopeless wrong [are now applied] to the more or less harmless activities of the kampong elders, or to the interesting behaviour of the new District Officer.

Nevertheless in all questions of property, marriage and inheritance the Adat is still a very present reality to the Naning peasant, and even in criminal matters the *sayings of the old men of former days* have a genuine, if modified significance. Small wrongs are felt as keenly as great ones, *rankling like a little thorn in the flesh*; and their redress is a matter of not less moment to the injured.

The ideal of the Adat is a peaceful settlement of disputes on the lines of ancient precedent, without the issue of a contested trial,

51. *menang berkechundang,
alah berketundukan,
sa-rayu berjabat tangan;
victory — defeated foe,
defeat — a bowed head,
agreement — a joining of hands;*

says the proverb. Even successful litigation is unsatisfactory — it leaves an embittered foe. A Malay is generally a bad, and always an unhappy, litigant; and certainly a Magistrate at Alor Gajah finds that the content of the district increases in proportion as the settlement of compoundable

matters on customary lines is encouraged, and the decisions of the Penghulus are judiciously upheld.

But it is premature to attempt the settlement of a quarrel while passions are still hot.

The proverb says,

52. *bunyi godam di-hutan merengangkan,*
bunyi baji di-luar merapatkan;
 hammering in the forest is the noise of cleavage,
 the sound of wedges without is the noise of bringing together.

The wedges hammered in the jungle are the wedges that split the trunks; the wedges hammered outside are the wedges (between the rattan bindings and the sticks) to tighten the faggots. Not while angry words are still heard, but only when the first heat has cooled, and the parties are met together, can arbitration be begun. The proverb to describe the perfect settlement — used also to describe the concord of clansmen or friends, is,

53. *kata sama sa-nya,*
berlenggang sama sa-rayun,
melangkah sama sa-degong,
menghinggap bersempulun;
 saying "yes" with one voice,
 walking with one sway and swing of the arms,
 stepping with one tread,
 alighting in one covey.

Where the parties agree to a settlement, it remains only for the tribal elders to amend the injury by awarding compensation.

54. *burok di-baikki*
kusut di-selesaikan;
 the injured is made whole,
 the tangled is made straight.

This is done by seeking and applying the customary remedy.

55. *sa-hari hilang sa-hari di-chari.*
sakit di-ubat, luka di-tasak:
 a day of loss is a day of search,
 the hurt is healed, the wound is staunched.

To 'search for the custom' (*menchari adat*) is a phrase with a real significance. When there is an appropriate precedent ready to hand it remains only to apply it.

56. *baju sudah di-sarongkan,*
lembaga ada di-tuangi;
 when a coat is ready it is put on,
 when a mould is there the metal is poured in.

And a few cases are conceivable for which there cannot be found a customary remedy; for the Adat is omnipresent, has an universal application.

57. *ka-laut menjadi apong,*
ka-darat menjadi suloh;
 at sea driftwood,
 ashore a torch;

floating up every creek and bay, illuminating the darkness. But the 'search' for the remedy is often neither short nor easy. The blood-price for a wound, for example, will be varied by the amount of provocation and also according, in the words of the Adat as the wound 'grows on the hill, on the slope, or in the 'valley': (*tumbok di-bukit di-lereng, di-lembah;*) that is, on the head — where it is visible; on the body — where it is concealed by the clothing; or on the leg — a less expensive limb.

In cases of difficulty reference is often had to the women, who, in Naning as in Acheh, are not only the hereditary guardians of tradition, but frequently show a knowledge of affairs and a sound understanding superior to their menfolk.

When the suspected offender denies his guilt and all offers of arbitration are refused, there is no remedy but a resort to a trial.

58. *putus tali, putus kelawan,*
putus kelikir, rempong hidong;
 rope broken, check-string broken,
 nose-ring broken, nostril torn.

The buffalo is unmanageable: there is no hold or means of coercion. And so the matter goes to trial. The complaint must be laid in the proper quarter,

59. *menumbok ka-lesong,*
bertanak ka-periok;
 pound rice in a mortar,
 cook rice in a pot.

A matter that the elder (*ibu-bapa*) is competent to decide, must not be taken to the tribal chief (*lembaga*); even the District Officer will be offended if proceedings are commenced by a petition to the Resident.

But the lower authority must loyally support the higher when support is demanded:

60. *lemah melapis, chondong menupang;*
backing the weak, propping the falling.

The matter then goes to trial: but trial under the Adat differs widely from an European inquiry. The Adat has a very wholesome distrust of oral evidence,

61. *beraleh kain ka-balik rumah,*
beraleh chakap ka-balik lidah;
change a sarong behind the house,
change a word behind the tongue.

Lying is easier than changing clothes: privacy is not necessary for the performance.

The Adat method of inquiry is based on a belief in circumstantial as opposed to oral evidence. In this it differs consciously from Muhammadan law,

62. *hukum berdiri dengan saksi,*
adat berdiri dengan tanda;
religious law is established by witnesses,
custom is established by signs.

The inquiry begins, then, with the search for the speaking evidence of a sign. It is a maxim of the Adat that each one of *the twelve offences* has its appropriate clue by which the culprit may be detected. For example,

63. *rumbun bakar, berpuntong suloh:*
churi samun, tertetas dinding;
upas rachun, bersisa makan;
arson, the butt of a torch;
theft and pillage, a panel hacked through;
poison, the remains of the meal.

If no clue is at once apparent, search must be made,

64. *kalau terang di-tumpu,*
kalau gelap di-jala;
if clear, take footing,
if dark, cast the net.

The clue found and traced will lead to the culprit,

65. *di-mana anjing menyalak di-situ biawak memanjat,*
di-mana api berpupok di-situ asap keluar;
where the dogs are barking, there the lizard is climbing,
where the fire is piled, there the smoke is issuing.

But when an appropriate *tanda* is once found, the Court holds very fast thereby, and proceeds with the inquiry.

66. *kalau bertangkai boleh di-jinjangkan,*
kalau bertali boleh di-helakan;
if there is a handle, if can be held,
if there is a cord, it can be pulled.

Or,

67. *jika bertali tempat menghela,*
jika berjumbai tempat bergantung,
jika bertungku tempat ber-sa-tingkis.
if a cord, a means to pull,
if a dangling string, a means to hang,
if a hummock, purchase for the foot.

An inquiry without a clue to go upon drifts aimlessly,

68. *ibarat gasing berpaku tetap berpusing,*
ta' berpaku merayau:
a top with a peg spins steady thereon,
without a peg swings wide.

And finally the decision must be based on the evidence of the clue,
evidence that warrants the finding,

69. *menyenchang berlandasan,*
merlompat ber-sa-tumpuan;
chop on a chopping-block,
leap from a taking-off place...

The deadly effect of a *tanda* is a warning to the wise,

70. *mara hinggap mara terbang,*
mara bergesel sampai lalu.,
enggang lalu ranting patah;
danger alights, danger flies,
danger touches as it passes,
the hornbill passes, the twig snaps.

Mere coincidence will probably be taken for cause and effect.

The moral for the individual, therefore, is avoid suspicious
proximities; because,

71. *tergesek kena miang*
tergegar kena rebas;
graze the bamboo, you get the itch;
jar it, a switch in the face.

The slightest touch of the fine hairs on the sheath of the bamboo
(*kelopak*) sets up an irritation; still more painful is the switch in the face
from a twig, that follows a more clumsy collision.

The moral for the judge is — let the inquiry be cautious and thorough.
The best judge is he who is

72. *malim biawak bengkong,*
skilled in the art of the wriggling lizard,

climbing slowly from the base to the very top of the tree: the type of the cautious seeker for truth, who is not ashamed to retrace his steps when the line of inquiry has proved wrong.

73. *Sesat ka-hujong jalan, balik ka-pangkal jalan,*
sesat ka-hujong kata, balik ka-pangkal kata;
astray at the end of the track, back to the base of the track,
astray at the end of the utterance, back to the-base of the utterance.

The type of the bad method of justice, the method of insufficient discrimination, is

74. *hukum serkap,*
the judgment of the thrusting fish-trap;

the cone-shaped trap thrust downwards by a wader in shallow water: all is fish that it encloses. I regret to say that this proverb is commonly used, not without a certain aptness, to describe some phases of English justice, especially the summary trial and conviction of batches of prisoners such as gang-robbers, hawkers, or gamblers.

A worse judge still, because corrupt, is he who is

75. *malim kubong,*
expert in the art of the flying lemur;

pouncing down where he sees a sure prey, exploiting the suitors of his court with a nice discrimination.

76. *bajak lalu tanah yang lembut,*
the plough bites only where the soil is soft;

the fool who submits to extortion has only his own softness to thank.

Unfortunately, wrong decisions, however honest, will occur at times; and injustices result,

77. *lain bidok lain galang,*
lain bengkak lain menanah,
lain pantat lain chawat;
one man's boat another man's rollers,
one man's swellings another man's runnings,
one man's loins another man's clouts:

one man enjoys the jack-fruit, the gum adheres to another, as a more common proverb has it; one man sins, another suffers.

When this happens the injured person is liable to feel a dissatisfaction that will not be quieted,

78. *terkilan di-hati terkelang di-mata,*
terasa-rasa ba'duri dalam daging;
 rankling at heart, a mote in the eye,
 an ever-present irritation like a thorn in the flesh.

He satisfies the judgment of the court because resistance is useless, but his heart does not consent to the payment.

79. *di-unjok di-berikan.*
pepat di-luar ranchong di-dalam;
 he offers it and gives it,
 smooth without, but pointed within.

When the injustice is incurable, it is useless to repine.
 Philosophic resignation is the only wisdom.

80. *timun pada dia, pisau pada dia,*
lilis tebal tiada siapa menegah,
lilis nipis tiada siapa suroh:
 he holds the pumpkin he holds the knife,
 if a thick slice — there is no one to restrain him,
 if a thin slice — there is no one to command him:

This proverb is frequently quoted with resignation after some erratic and wholly unacceptable decision of the European Magistrate: when, for example, a mild stabbing matter, that under the Adat could have been atoned by the death of a fowl and a fine of twenty rupia (\$7.20), having unfortunately been brought to trial, is met with a sentence of three months' rigorous imprisonment.

When the sufferer feels that he has been made the victim of a deliberate injustice, at the hands perhaps of some 'flying lemur' expert, he will vent his feelings with a less veiled complaint; such as,

81. *perahu karam sa-kerat,*
limau masam sa-belah;
 the boat was submerged at one end,
 the lime was sour on one side;

a proverb which conveys the suggestion that the other party has been unfairly favoured.

There are, however, traditional rebukes available, with which the old men will upbraid such vulgar recrimination. A favourite one is,

82. *bingong tengkar, cherdek begar,*
bichara ta' mau kalah,

menang ta' pernah di-rasa:

a fool and quarrelsome, cunning and stubborn,
he will not take defeat
but never enjoys a victory.

The third line amounts, perhaps, a warning with a proleptic significance.

Or perhaps they will repress the recalcitrant fellow with some doggerel distich, homely but biting, such as.

83. *chenatur sa-bilah parang.*
berkata ta' di-dengar orang;
chenatur is a sort of axe,
no one listens when he talks.

Or,

84. *gelar si-Raja orang.*
dudok di-belakan orang:
his title — mighty, King,
his seat — outside the ring.

The victim is not, however, without suitable retorts, more or less penetrating: the quotation of

85. *ketok kata ayam, kichau kata murai,*
bongkok dek menganyam silap mengelarai;
'cluck' cries the hen, 'chirrup' cries the robin,
a hunchback plaits the mat, but still he spoils the pattern

has been known to cause a twinge to the most case-hardened village elder. The special point of the innuendo is this:— a hunchback is well bent over his task, and has no excuse for bad work; the bad decision of the old men is the more reprehensible for their age.

Perhaps he will add the sarcastic reflection,

86. *akal ta' sa-kali datang,*
rundung ta' sak-kali tiba;
understanding arrives not in a moment,
wise judgment comes not at once;

suggesting that a haste unsuitable to the abilities of the elders was the cause of their indifferent decision.

It is not likely that he will have the last word in the controversy. The resources of the old men are considerable. It is more probable that, if he persists in his ill-chosen grumbles he will be overwhelmed with the supply of less subtle abuse reserved for such obstinacy.

Useful expressions will be,

87. *singkal ta' membalik,*
unggun padam bara;
a ploughshare that turns not the sod,
a firebrand that quenches the embers;
or,
88. *chendawan mabok,*
poisonous fungus,
useless for any purpose whatever; or,
89. *buah belolok,*
terchampak ka-laut tidak di-makan ikan,
terchampak ka-darat tidak di-makan ayam;
fallen fruit,
thrown to sea rejected by fish,
thrown ashore rejected by fowls.

The Adat is peculiarly rich in such crushing rejoinders: doubtless because in the democratic Menangkabau States, where the custom depends for its power as much on the consent of the many as on the authority of the few, the tongue, *sharper than spear or kris*, has always had need to be an effective weapon to coerce the wayward.

Appendix L

1972 CIRCULAR LETTERS ON CUSTOMARY CHARGES AT MARRIAGE AND ON OTHER OCCASIONS

(A) CIRCULAR LETTER FROM THE DATO' NANING DATED 2ND AUGUST 1972.

B.D.N. 42 dlm 25/52

Bahawa dengan kuasa 'Undang Berkelantasan — Hidop Mati Kepada Undang-Undang Menitek kan' make segala Anak₂ Buah yang menunjong Posako saperti yang di rakan kan di bawah ini Di 'Adat-kan bagi 'Adat Hantaran Anak₂ Perempuan nya masing₂ saperti ber-ikot:

- (i) Dato' Maulana Hakim 11½ Bahara.....\$165.60 cts
- (ii) Dato' Pduka Tuan 11½ Bahara.....\$165.60 cts
- (iii) Dato' Panglima 11½ Bahara.....\$165.60 cts
- (iv) Dato' Pawang 11½ Bahara.....\$165.60 cts
- (v) Mas Kawen nya sama saperti di dalam BD: 25 dlm 25/52 yaitu \$25.00 cts.

Ingattan: Siaran ini ia lah tambahan kepada 25 dlm 25/52

B.D.N. 43 dlm 25/52

'Pendaan'. Bahawa dengan ini make Siaran D.N. No: 26 dlm 25/52 Ceraian 5 di penda 15 Ropiah yand ada itu di potong dan diganti kan dengan '30 Ropiah'; oleh itu Ceraian 5 itu terbunyi

'5. Umpok 5 orang Pegawai masjid itu 30 Ropiah...\$10.80 cts.'

'Pembatalan' Bahawa dengan ini Siaran B.D.N. No: 26 dlm 25/52 ceraian 7 di-batal kan.

B.D.N. 44 dlm 25/52

'Pembatalan' Bahawa dengan ini Siaran No: B.D.N. No: 27 dlm 25/52 di-batal kan dan di ganti kan saperti di bawah ini:-

Bahawa Di 'Adat-kan bagi Lembaga (Tua) dan Lembaga (Ibu bapak) bagi tiap₂ Suku nya masing₂ ber-hak lah menerima kapala belanja dari pada Anak₂ Buah nya masing₂ di dalam menjalankan Istiadat Semenda Menyemenda, saperti berikut:-

- (i) Lembaga (Tua) separas 10 Ropiah.....\$3.60 cts
- (ii) Lembaga (Ibu-bapak) separas 9 Ropiah...\$3.24 cts

B.D.N. 42 in 25/52

Under the authority of the general law as handed down all the people who obey (literally, carry on their heads) the (inherited) Custom as is associated with what is set out below will put into practice the, custom concerning Wang Hantaran for the daughters of different ranks as follows:-

- (i) Dato Maulana Hakim(11¹/₂ bahara) \$165.60
- (ii) Dato Peduka Tuan.....(11¹/₂ bahara) \$165.60
- (iii) Dato Panglima.....(11¹/₂ bahara) \$165.60
- (iv) Dato Pawang.....(11¹/₂ bahara) \$165.60
- (v) Mas kawin for them will be as in B.D. 25 in 25/52 i.e. \$25.00

Note: This notification is an increase on the figure in B.D. 25 in 25/52.

B.D.N. 43 in 25/52

Amendment: Notification 26 in 25/52 Section 5 is amended by deleting '15 Ropiah' stated in it and substituting '30 Ropiah', so that Section 5 reads '5. For the five Mosque officials 30 Ropiah...\$10.80'

Cancellation: Notification 26 in 25/52 Section 7 is cancelled.

B.D.N. 44 In 25/52

Cancellation: Notification 27 in 25/52 is cancelled and substituted by:

'It will become customary for the Lembaga (Tua) and Lembaga (Ibu bapak) of each of the different Sukes to be entitled to receive as payment from his anak buah for officiating in matters of marriage into a family as follows:

- (i) Lembaga (Tua) equivalent of 10 Ropiah \$3.60
- (ii) Lembaga (Ibu bapak) equivalent 9 Ropiah \$3.24.'

(B) CIRCULAR LETTER FROM THE DATO' NANING DATED 2ND JUNE 1975

Chabutan Daripada Bab Nan Kesebelas
Daripada Tambo 'Lam Naning

Fasal.

5. Bahawa Di 'Adatkan bagi lain-lain Kepala Belanja yaitu bagi Lembaga yang berpangkat Tua dan Lembaga yang berpangkat Ibu Bapak pehak

laki-laki menyerahkan kepada Lembaga yang berpangkat Tua dan Lembaga yang berpangkat Ibu Bapak pehak perempuan ia lah sebagai berikut:-

	\$ cts
1. Bayaran Register Nikah ka Pejabat Kadzi.....	4 00
2. Lembaga Sharaa seramai 5 orang 1 bah. 5 Ropiah.....	16 20
3. Fun Masjid — 6 Ropiah bagi satu pehak.....	4 32
4. Umpok Tukang Andam Laki-laki 6 Ropiah.....	2 16
5. Umpok Hambat Pintu 3 Ropiah.....	1 08
6. Umpok Menti (2 orang sebelah laki-laki 2 orang sebelah perempuan — masing ₂ pehak mengeluarkan; 6 Ropiah satu pehak).....	4 32
7. Umpok Lembaga yang berpangkat Tua 10 Ropiah.....	3 60
8. Umpok Lembaga yang berpangkat Ibu Bapak 9 Ropiah....	3 24
9. Umpok asah Gigi 6 Ropiah (jika suami nya hendak mengasah Gigi Isteri nya).....	2 16
10. Umpok Hambat Pintu 3 Ropiah.....	1 08

Ingattan:-

- (i) Bahawa pehak Laki-laki Di 'Adat kan memulangkan kepada pehak Perempuan sebanyak nya \$27.76 cts: maka Lembaga Pehak perempuan akan bertanggung jawab menyerahkan kepada Lembaga Masjid (Tuan Imam) sebanyak nya \$20.20 cts.
- (ii) Fund Masjid sebanyak nya 6 Ropiah lagi hendak lah di ada kan oleh pehak perempuan menjadi kan sebanyak nya 12 Ropiah sama juga \$4.32 cts dan di serah kan kepada Setia Usaha Masjid dan mendapat kan resip nya.
- (iii) Para 7 dan 8 Di 'Adatkan di terima oleh masing₂ pehak yaitu Lembaga pehak laki-laki di-bayar oleh pehak laki-laki dan seterusnya.

S.K.

- (i) Di hantar kan juga kepada semua nya Pengurusi Lembaga Masjid saluroh Wilayah 'Adat Perpatih Naning untok di hebah kan di dalam Masjid.
- (ii) Di hantar kepada Majlis Ugama Islam, Melaka — untok peng-yahuan.

Extract from Head 11 of the Rules of Naning

5. It is the rule that Lembaga of the rank of Tua and Ibu bapak of the man's side shall hand over to the Lembaga Tua and Ibumapak of the woman's as follows:

	\$	cts
1. Fee to register the wedding in the Kathi's office	4	00
2. To religious officials(5 persons) 1 bahara 5 ropiah	16	20
3. Mosque Fund-6 ropiah from each side	4	32
4. For the bridegroom's attendant 6 ropiah	2	16
5. For the Doorkeeper 3 ropiah	1	08
6. For the <i>menti</i> (2 men on the bridegroom's side and 2 on the bride's side: each side pays out 6 ropiah)	4	32
7. For the Lembaga Tua 10 ropiah	3	60
8. For the Lembaga Ibumapa 9 ropiah	3	24
9. For the tooth filing 6 ropiah (if the bridegroom wishes the bride's teeth to be filed)	2	16
10. For the door keeper 3 ropiah	1	08

Notes:

- (i) The bridegroom's side will deliver to the bride's side a total of \$27.76; the bride's lembaga will be responsible for handing over to the Mosque Lembaga (Imam) a total of \$20.20.
- (ii) 6 ropiah required from the bride's side will make up a total of 12 ropiah or \$4.32 and this is to be handed over to the Secretary of the Mosque, a receipt being obtained.
- (iii) Paras. 7 and g will be put into practice by all concerned and the Lembaga of the bridegroom's side will be put in funds by the bridegroom's side and so on throughout.

C.C.

- (i) Sent to all Chairmen of Mosque Lembaga throughout the District of Adat Perpatih Naning for publication in mosques.
- (ii) Sent to the Council of Religious Affairs, Malacca, for information.

- (C) CIRCULAR LETTER FROM THE LEMBAGA MASJID TANJONG RIMAU DATED 10TH AUGUST 1975, incorporating the changes in the circulars previously quoted and varying certain charges.

Tuan/Puan,

Di-maklumkan keputusan dlm mesyuarat Adat Istiadat Kampong Tanjong Rimau, yg bersidang pada 12.7.75 dan di-terima dlm mesyuarat Agong Lembaga Masjid Tanjong Rimau yg: bersidang pada 1.8.75 ada cadangan ada sokongan (ta' ada bantahan) perkara₂ yang tersebut di-bawah ini telah dilulus-kan, kuat kuasa dari 1 hb Ogos 1975.

1. Perkara Hantar perkahwinan wang Roncit₂

.....
Biasa wang roncit₂ \$35 di-naik-kan \$40/- (segala sagu Hati berkena'an sudah ada di-situ. Buapa ta' payah minta wang lagi dari pehak Pengantin Perempuan).

2. Sagu Hati Bapak Pengantin Laki₂ dan Perempuan

..... Biasa-nya di-bayar \$3/- di-naik-kan \$4/- dan juga Jaga pintu tidak berubah \$2/- juga.

3. Mandi-kan Mayat dan Talkin

.....
Biasa-nya \$2.50 di-naik-kan \$3.50 ta' masok sedekah pada Pegawai dulu 45 sen di-naik-kan 90 sen

4. Mengajikan Al Quran pada si-mati. Dahulu \$20/- di-naik-kan \$30/-

5. Sedekah Hari Raya Puasa dan Hari Raya Haji Pendapatan kedua₂ Hari Raya itu 1/2 di-keluarkan pergi kapada Pegawai Sharak dan 1/2 ka Pan Mesjid. Pan yang lain₂ di-batalkan6. Satu perkara yang telah berjalan tempoh hari dahulu Pegawai₂ Sharak dan Adat selepas Pengantin Laki₂ Nikah. Beliau₂ ini turun ka-bawah sama₂ orang ramai di-pangking₂ di-persetujui rami di-pakai semula Buapak sediakan tempat dudok di-serambi seperti biasa tetapi tilam pandak dan tikar kerawang₂ ta' di-mustahak kan.7. Perkara yang lain₂ yang tidak termasuk seperti diatas semua-nya berjalan seperti biasa juga.

Kerja₂ yang tersebut di-atas kerjasama Pegawai Sharak dan Pegawai adat di-mustahak-kan.

Tanda Tangan Pengerusi Lembaga Masjid

Ketua Pegawai Sharak Tuan Imam

Ketua Pegawai Adat Sidang

Sir/Madam,

This is to inform you of the decision taken by the Adat Istiadat Tanjong Rimau which met on 11.7.75 and was accepted by the General meeting of the Lembaga of Tanjong Rimau Mosque held on 1.8.75 when the proposal was accepted nem. con. that the contents set out below should come into effect on 1st August 1975.

1. Various expenses at marriage.

The normal payments of \$35 are increased to \$40* (all appropriate payments are included in that figure, and the Buapak need not ask for any additional payment from the bride's family).

2. Payments to the father of the bridegroom and the bride.

The normal payment of \$3.00 is increased to \$4.00. The payment of \$2 to the door keeper (at the mosque) is not changed.

3. Washing the body of a deceased and the exhortation to the dead.

The normal payment of \$2.50 is increased to \$3.50, not including alms to officials formerly 45 c. now increased to 90 c.

4. Recital of verses of the Koran on behalf of deceased. Formerly \$20 this is increased to \$30.

5. Alms at Hari Raya Puasa and Hari Raya Haji.

The receipts on these two days are to be divided, half to the religious officials and half to the Mosque Fund. Gifts to all other beneficiaries are cancelled.

6. It has been the custom for religious and adat officials, after the marriage ceremony has been completed, to go down with the others to sleeping platforms. It was agreed that this could continue for general guests. The Buapa should prepare somewhere for seating on the verandah in the usual manner, but cushions and openweave palm-leaf mats are not necessary.

7. Any matter not mentioned above remains unaltered. The co-operation of Religious and Adat officials in the matters mentioned above is of great importance.

Signed, Chairman, Mosque Council
Imam, Chief Religious Official
Sidang, Chief Adat Official

*The payments, not itemised in this letter, consisted of:

Bride's and bridegroom's attendants	\$5.00
Mosque Fund	3.00
Doorkeeper	2.00

Pawang	2.00
Buapa	8.00
Religious officials	20.00
	<hr/>
	40.00

With normal Wang hantaran at \$151.20 and Mas Kahwin at \$25 the tariff rate for a wedding was thus \$216.20.

Part II

Circular letter dated 10th August 1975 from the Secretary, Lembaga Masjid Tanjong Rimau. (Personal names are omitted).

Bahawa mengikut keputusan dlm mesyuarat Agong yg: bersidang pada 1.8.75 yg: lalu tuan/puan, telah di-persetuju'i memegang Jawatan Kuasa Lembaga Masjid Tanjong Rimau bagi Tahun 1975/76. Dengan ini kepada tuan/puan kami ucapkan terima kaseh di-samping tuan/puan memberi kerejasama bagi kebaik-kan Kampong Tanjong Rimau.

(Wakil Rayat)	Penasehat
-	"
Sidang	"
Pawang	"
-	Pengurus
-	Naib Pengurus
-	Setiausaha
-	Penolong
-	Bendahari
Jawatan Kuasa	
Dari Pegawai Sharak	Imam
	Mungkim
	Khatib
	Noja
	Bilal
Dari Pegawai Adat	Sidang
	Buapak
	Buapak
	Buapak
	Buapak

Tua
Tua
Lembaga 3 Batu Lubuk Kepong

Dari Wakil Surau₂

Surau Sri Tanjong
Surau Solok Duku
Surau Tengah
Surau Panglima Hitam
Surau Bukit Mechat

Dari kaum ibu₂

i. -
ii. -
iii. -
iv. Imam Perempuan

Pemereksa kira₂ (2 orang)

Sir/Madam

In accordance with the decision of the General Meeting held on 1.8.75 just past it was agreed that you should be a member of the Committee of the Lembaga, Tanjong Rimau Mosque for the year 1975/76 and we offer our thanks to you for finding time to work together for the improvement of Kampong Tanjong Rimau.

(Assembly Representative)

(Adviser)

Sidang

"

Pawang

"

-

Chairman

-

Deputy Chairman

-

Secretary

-

Assistant

-

Treasurer

Committee

From the mosque officials

Imam ('Presiding elder')

Mungkim

Khatib ('reciter of *khutbah*')

Noja (Mosque attendant)

Bilal (muzzein: 'caller to prayer')

From the Adat officials

Sidang (under the new
scheme)

Buapak (from Suku 1)

" (" " 2)

" (" " 4)

" (" " 2)

Tua (" " 2)

Tua (" " 3)

Lembaga from perut Lubok
KepongRepresentatives from the Surau
(local chapels/meeting houses)/

at Sri Tanjong

at Solok Duku

at Tengah

'Panglima Hitam's'

at Bukit Mechat

From the women's group

-

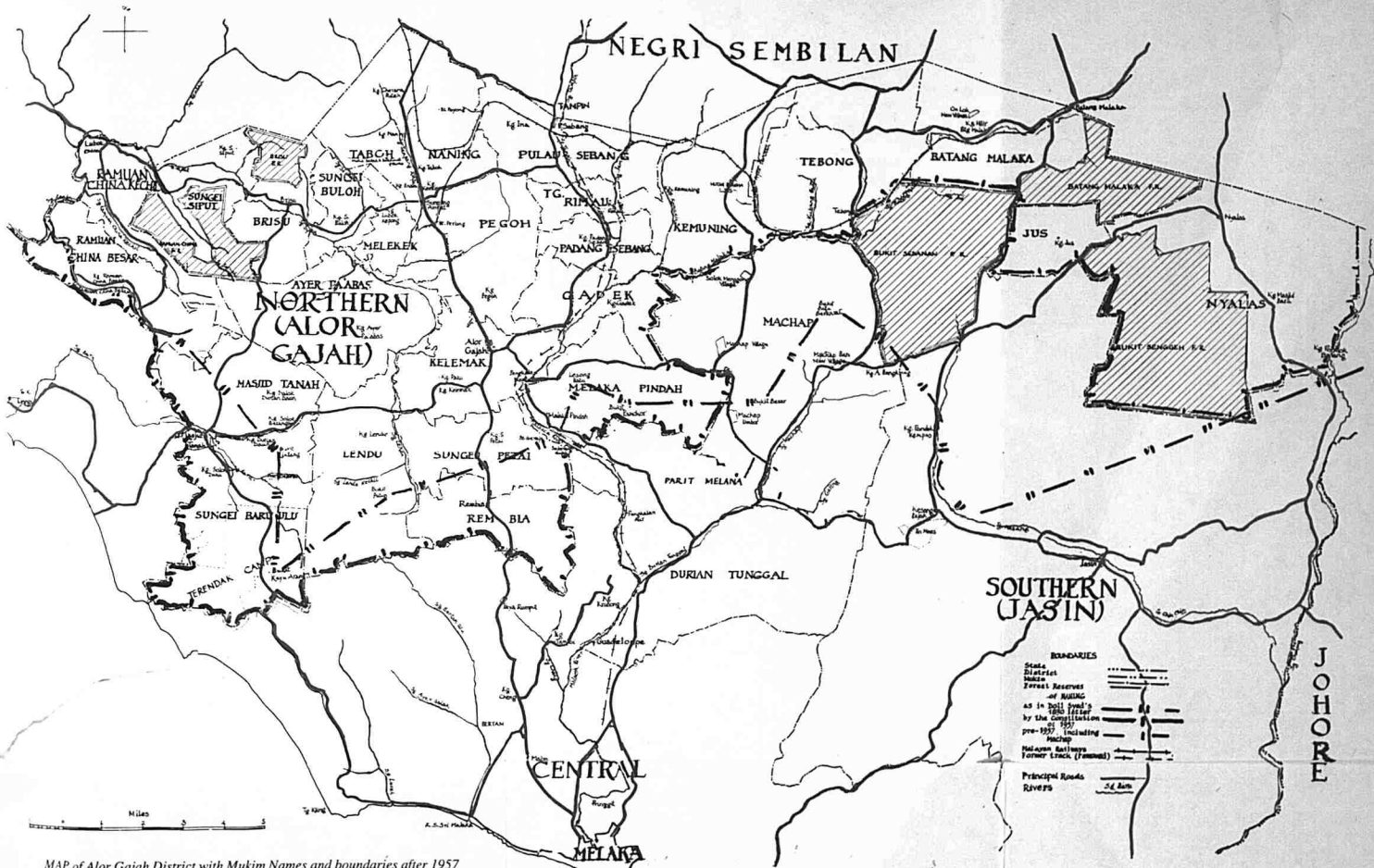
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-

- ('the women's Imam')

Auditors (2 persons)

(It will be noted from the first paragraph of the letter that the Committee considered as its aim 'the improvement of the kampung' without limiting itself to any narrow religious or dogmatic statement, and that representation of all components of the congregation was (consciously or unconsciously) considered to be desirable, leading to an approximate balance of religious and adat officials, *ex officio*. The mosque officials themselves were chosen from a *giliran* among suku (see text, Part III).)



MAP of Alor Gajah District with Mukim Names and boundaries after 1957

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BOOK ONE THE HISTORY

Chapter 1

Early Times and the Sultanate

1. Ayer Pa'abas, Brisu, Gadek, Kelemak, Kemuning, Lendu, Masjid Tanah, Melaka Pindah, Melekek, Padang Sebang, Pegoh, Pulau Sebang, Ramuan China Besar, Ramuan China Kechil, Rembia, Sungei Baru Ulu, Sungei Buloh, Sungei Petai, Sungei Siput, Taboh Naning, Tanjong Rimau and Tebong in Alor Gajah District; Batang Melaka, Jus and Nyalas in Jasin District: Malacca State Constitution 1957 Article 34.
2. See R.O. Winstedt, *The Malays, A Cultural History*, London, Routledge, Kegan Paul, 1950. p.80 *et seq.*; R.J. Wilkinson (ed.), *Papers on Malay Subjects* (First Series), Law 1, Kuala Lumpur, Government Press, 1922, pp. 34-45. Malacca Malays did not use the latter term, though they understood it.
3. "What have we to do with planting padi?" said Penghulu Chik of Kuala Linggi in 1947, "We are born on the sea and die on the sea".
4. R.O. Winstedt, *A History of Malaya*, *JMBRAS.*, XIII, Pt. 1, (1935), p. 13.
5. Sheppard, *Historical Guide to Malacca* p. 50; Federation Museums Journal, N.S. Vol. II p. 71; J. Chandran, *The Cultural Significance of the Pengkalan Kempas Megaliths*, *JMBRAS.*, XLVI, Pt. 1 (1973), pp. 97-100; Adi Hj Taha & Abdul Jalil Osman, The Excavation of the Megalithic Alignment at Kampong Ioooh, Tampin, Negeri Sembilan: A Note, *JMBRAS.*, LV, Pt. 1, (1982), pp. 78-81. The last yielded only negative evidence.
6. Winstedt, *Cultural History* pp. 6-12, and see *Anthropos* XXIII (1928).
7. e.g. by Baharon Azhar bin Raffer, *The Temuans of Melaka in Melaka The Transformation of a Malay Capital c. 1400 - 1900* ed. Kernial Singh Sadhu and P. Wheatley, Vol ii Chap. 26.

8. J.R. Logan *Five Days in Naning* J.I.A. Vol. III (1849) p. 412.
9. R.J. Wilkinson, *The Aboriginal Tribes*, in *Papers on Malay Subjects* (First Series), Supplementary, Kuala Lumpur, Government Press, 1910, pp. 25-27.
10. c.f. Wilkinson, *ibid.* p. 38 on *Hervey's Kenaboi*.
11. The follower quietly warned me to watch where I stepped: aborigines' spittle contained venom (*bisa*).
12. Wilkinson, *ibid.* p. 29.
13. *Eredia's Description of Malacca, Meridional India, and Cathay*, J.V. Mills (trans.) *JMBRAS.*, VIII, Pt. 1 (1930), p. 23.
14. *Report of Governor Balthasar Bort on Malacca, 1678*, M.J. Bremmer, (trans.) *JMBRAS.*, V, Pt. 1 (1927), p. 53.
15. Logan, *Orang Binua of Johore*, J.I.A. Vol. I (1847), p. 256 et seq.
16. Hon. Martin Lister, *The Negri Sembilan and Their Constitution*, *JSBRAS.*, No. 19, (1887). p. 36.
17. Hon. D.F.A. Hervey, *The Mentra Traditions*, *JSBRAS.*, No. 10, (1882), pp. 191-3.
18. Hon. D.F.A. Hervey, *Rembau*, *JSBRAS.*, No. 13, (1884), p. 242.
19. R.O. Winstedt, *A History of Johore (1365-1895 A.D.)*, *JMBRAS.*, X, Pt. 3, (1932), pp. 135-41.
20. *Ibid.*, p. 10.
21. See R.J. Wilkinson, *The Malacca Sultanate*, *JMBRAS.*, XIII, Pt. 2, (1935) p. 59, on Tun Perak's dates.
22. Daghregister, quoted by Winstedt *Johore*, op. cit. p. 10 and Leonard Y. Andaya, *The Kingdom of Johor 1641-1728: Economic and Political Developments*, Kuala Lumpur, Oxford University Press, 1975, p. 60.

23. R.O. Winstedt, *Negri Sembilan, The History, Polity and Beliefs of the Nine States*, *JMBRAS.*, XII, Pt. 3, (1934), p. 42.
24. Wilkinson (ed.) *Papers on Malay Subjects* (First Series), *op. cit.*, History, Pt. 1, p. 21.
25. *Ibid.*, p. 21.
26. Tomé Pires, *Suma Oriental*, Hakluyt Society, (1944), Vol. I pp. 233-235.
27. Afonso d'Albuquerque, *The Commentaries*, Hakyluyt Society, (1880), Vol. III pp. 74-75.
28. Wilkinson suggests a derivation from *Besisi*, or *Sisi*, *Laut*: P.M.S. *Aboriginal Tribes*, p. 25. Another is from *selat*, straits.
29. *Commentaries*. Vol. III p. 76.
30. *Op. cit.* Vol. II Plate XXIX opposite p. 240.
31. Map Sheet Malacca 1963 1:63,360 published under the direction of the Surveyor General Federation of Malaya.
32. Report of Governor Balthasar Bort on Malacca 1678 (Trans. M.J. Bremner). *JMBRAS.*, Vol. V Pt. 1, (August 1927), p. 50.
33. C.H. Wake, in *Melaka in the XVth Century, Melaka the Transformation etc.* Vol. I Chap. 5, p. 142.
34. R.J. Wilkinson, *The Malacca Sultanate*, *JMBRAS.*, Vol. XIII Pt. 2, (1935), p. 29.
35. *Commentaries*, Vol. III p. 76.
36. *Ibid.*, p. 84. A Portuguese league was 3.2 English miles.
37. *Suma Oriental*, Vol. I p. 260.
38. *Commentaries*, Vol. III p. 106.

39. *Ibid*, p. 99.
40. *Ibid*, p. 127.
41. R.J. Wilkinson, *The Fall of Malacca*, *JMBRAS.*, XIII, Pt. 2, (1935), p. 68.
42. W. Linahan, *Some Discoveries on the Tembeling*, *JMBRAS.*, VI, Pt. 4, (1928) pp. 70-2.
43. Wilkinson (PMS History Part I p. 29) says that d'Albuquerque retired after the attack on 24th July and attacked again next day to find all organised resistance over, but according to the *Commentaries* the military operations consisted of a battle patrol to test the defences and manner of Malay reaction (p. 97), then a few days later on 24th July an attack on the bridge (pp. 102-5) with a second and main assault when d'Albuquerque took prefabricated defences with him (p. 125) and his forces fell back to the strongpoint on the bridge for the night - after which "...the moors dared not appear in the streets...."
44. *Ibid*, p. 124.
45. *Ibid*, p. 124.
46. *Ibid*, p. 113.
47. *The Book of Duarte Barbosa*, Vol. II p. 175.
48. *Suma Oriental*, Vol. II p. 285.
49. *Commentaries*, Vol. III p. 100.
50. *Malacca Harbour*, reprint of an article in Singapore Free Press, 1884, with a note by W.G. Maxwell, in *JSBRAS.*, No. 52 (1909) pp. 111-115 that it was written by D.F.A. Hervey: Editorial Note *JSBRAS.*, No. 53 (1909), p. 176.
51. *Commentaries*, Vol. III p. 83.
52. *Suma Oriental*. Vol. I p. 265.

53. *Commentaries*, Vol. III p. 85.
54. *Ibid*, p. 85.
55. *Ibid*.
56. *Suma Oriental*, Vol II p. 233.
57. *Ibid*, p. 260. If the dusuns averaged ten acres they totalled eighteen square miles.
58. de Eredia, *Declaracam de Malaca e India Meridional*, (1613). (Trans. J.V. Mills) *JMBRAS.*, Vol. VIII, Pt. 1 (1930), p. 21.
59. *Ibid*, p. 111.
60. *Ibid*, facing p. 207.
61. Near Kampung Ladang, Kuala Sungai Baru mukim.
62. *The Sejarah Melavu, or Malay Annals*, C.C. Brown (trans.) *JMBRAS.*, XXV, Pts. 2 & 3 (1952), p. 166.
63. *Suma Oriental*, Vol. II p. 260.
64. M.D. Sherwin, *A New Reconstruction of the Palace of Sultan Mansur Shah of Malacca*, *JMBRAS.*, LIV, Pt. 1 (1981), pp. 1-6.
65. On reasons why it fell, see R.W. McRoberts, *The Examination of the Fall of Malacca in 1511*, *JMBRAS.*, LVII, Pt. 1 (1984), pp. 26-39. The present writer differs from him on the number of troops actually put into battle by the Sultan.
66. *Suma Oriental*, Vol. II p. 280. Winstedt says Batu Hampar: *JMBRAS.*, Vol XIII Pt. 1 (1935), p. 13 shows on d'Eredia's map at about the same distance from the town but on the eastern bank of the river. d'Albuquerque (Vol. III p. 130) gives no place name but says it was about a day's journey.
67. The Bendahara, buried at Lubok Batu (Winstedt *JMBRAS.*, Vol. X Pt. 3 (1932), p. 131), seems not to have been with his Sultan when

Malacca fell.

68. *Commentaries*, Vol. III p. 130.
69. "They shaped their journey for the Kingdom of Pao through a region desert and marshy, mounted on their elephants with their wives and children, taking with them fifty men whom they forced to accompany them in their flight": *Commentaries*, Vol. III p. 131.
70. e.g. Winstedt, *A History of Johore*. *JMBRAS*, Vol. X Pt. 3 (1932) p. 13.
71. On a mukim inspection in Melaka Pindah in 1947/8 the writer asked the Penghulu and a Sidang why the place had its name, and the Sidang said that he had heard from his ancestors (*Kata nenek moyang*) that it was where the Sultan of Malacca came when the Portuguese conquered his city. This was in conversation while walking, and there was no opportunity of crossquestioning or seeking corroborative tradition from others. This does not conform with the derivation and story given to Mr. Vincent Dias (see Rev. Fr. R. Cardon, *A Malay Tradition*, *JMBRAS.*, Vol. XVIII Pt. 2 (1940) p. 108) that the name derives from Portuguese refugees from Dutch persecution from 1646. The stories are not, however, mutually exclusive.

Chapter 2

The Portuguese Era

1. *Suma Oriental*, Vol. I p. lxxvii and xxv.
2. *Commentaries*, Vol. III p. 87.
3. He was back in Cochin, after being shipwrecked, on 20th August 1512: *Commentaries*, Vol. III pp. 205-207.
4. *Malayan Peninsula*, p. 50.
5. *Five Days in Nanning*, J.I.A. Vol. III (1849), p. 32.
6. *British Settlements in the Straits of Malacca*, Vol. I p. 243.
7. *Suma Oriental*, Vol. II p. 281.
8. *Commentaries*, Vol. III p. 150.
9. *Ibid*, p. 144.
10. *Suma Oriental*, Vol. II p. 280.
11. *Commentaries*, Vol. III p. 165.
12. *Suma Oriental*, Vol. II p. 286.
13. *Commentaries*, Vol. IV p. 90.
14. *Ibid*, Vol. III p. 162.
15. The list of ships (*Commentaries*, Vol. III p. 208) gives Jorge son of Joao d'Albuquerque as commanding the *Nazare* and Pero (stated in the *Commentaries* to be his son) as commanding the *Bastiana*. But see I.A. Macgregor, *Notes on the Portuguese in Malaya*, *JMBRAS.*, XXVIII, Pt. 2 (1955), pp. 17-18 on relationships.
16. *Commentaries*, Vol. IV p. 129, 131.

17. *Suma Oriental*. Vol. II p. 287. de Faria y Souza says that he was superseded for corruption and committed suicide spectacularly on a public funeral pyre: E. Koek, *History of Malacca from Portuguese Sources, JSBRAS.*, No 17 (1886), p. 133.
18. *Ibid*, p. 288 n.
19. Brown, *op. cit.*, p. 173.
20. *Suma Oriental*, Vol. II p. 288. De Barros and Castanheda said he was satisfactory: p. 285 n.
21. Quoted in *JSBRAS.*, No. 17, pp. 133-4.
22. *Op. cit. JMBRAS.*, VIII Pt. 1 (1930), p. 20.
23. W. George Maxwell, *Barretto de Resende's Account of Malacca, JSBRAS.*, No. 60 (1911) p. 5.
24. Appendix A.
25. Koek. *Op. cit. JSBRAS.*, No. 17 p. 132. Derived from de Faria y Souza.
26. *Ibid*, p. 135.
27. *Ibid*, P. 142.
28. *Ibid*, p. 142.
29. *The Malay Annals, JMBRAS.*, Vol. XXV Pt. 2 (1952), p. 199.
30. Winstedt, *Johore, JMBRAS.*, Vol. X Pt. 3 (1932), p. 18.
31. de Castro Trans. Wyche quoted by B.S. Mee, *An Incident in the History of Malacca under Portuguese Rule, JMBRAS.*, VI Pt. 4 (1928), p. 59.
32. *Ibid*, pp. 60-1.
33. Winstedt, *Johore, JMBRAS.*, Vol. X Pt. 3 (1932), p. 21. 34. *Ibid*, p. 21.

35. *JSBRAS.*, No. 17 p. 144.
36. de Faria y Souza, *JSBRAS.*, No. 17 p. 146.
37. Diogo da Couto: *de Asia*: Dec. X Liv. VII cap. XIV quoted by Rev. Fr. R. Cardon, *A Malay Tradition, JMBRAS.*, XVIII Pt. 2 (1940), p. 110.
38. *Ibid*, p. 110 n.
39. *Ibid*, p. 111.
40. Cardon (*ibid*, p. 111) thinks that this was at Pengkalan Naning, six or seven (Portuguese) leagues from Malacca. Pengkalan Naning was the river port for Naning trade with Malacca and was served by tracks to Naning villages. The four-day jungle march suggests a landing-place further down river, perhaps at Bort's 'Pengkalan Aur'.
41. *Ibid*, pp. 112-3.
42. Winstedt: *Johore, JMBRAS.*, Vol. X Pt. 3 (1932), p. 24.
43. *Ibid*, p. 25.
44. Hale *Adventures of John Smith*, (Leyden) p. 165.
45. *Valentyn's Account of Malacca*, Hon. D.F.A. Hervey (contr.), *JSBRAS.*, No. 13 (1884), pp. 178-9.
46. *Ibid*, p. 129.
47. *Ibid*, p. 138.
48. Quoted in full by Bort, *JMBRAS.*, Vol. V Pt. 1(1927), pp. 10-12.
49. Valentyn, *loc. cit.* p. 134.
50. *Ibid*, p. 138.

51. Quoted by Cardon, *JMBRAS.*, Vol. XVIII Pt. 2 (1940), p. 114. Winstedt (*Johore, JMBRAS.*, Vol. X Pt. 3 (1932), p. 27) says that Raja Bongsu had 50 galleys and 3000 men ready.
52. Cardon, loc. cit. p. 114.
53. Valentyn, loc. cit. p. 134.
54. Winstedt, *Johore*, p. 31.
55. *Ibid*, p. 32.
56. *Ibid*, p. 35.
57. Introduction p. lxx *Suma Oriental*, Vol. I.
58. Quoted by Cortesao, *ibid*, p. xxviii.
59. *Ibid*, Vol. I p. lxxv.
60. Vol. II p. 260.
61. This league was about 3.2 English miles.
62. Vol. I p. 164.
63. *Ibid*, p. 245.
64. Vol. II p. 285.
65. *The Book of Duarte Barbosa* (trans. M.L. Dames), Hakluyt Society (1918-1921) Nos. 44 (Vol. I) and 49 (Vol. II).
66. *Ibid*, Vol. II p. 179.
67. Vol. II pp. 185-6.
68. *Ibid*, p. 177.
69. *Ibid*, p. 179.

70. *Commentaries*. Vol. IV p. 211: when the son was present at the reburial of his father's bones, brought from Goa.
71. For the full list, see Macgregor *JMBRAS.*, XXVIII Pt. 2 (1955).
72. *Commentaries*, Vol. III p. 88.
73. e.g. on the *Genos* of Laos and Shan: "In the interior towards China there is a heathen Kingdom subject to Anseam, wherein when anyone dies his kinsmen and friends eat him roasted in this manner. They build a great fire in an open space, they set up three logs in the fashion of gallows. In the midst of this they hang an iron chain with two iron hooks on which they hang the dead body by the back of the knees, and there his kinfolk and children roast him making a great lamentation; and when he is well roasted, with many bowls and cups of wine they begin to carve and eat the body, drinking and wailing, and the nearest kinsman makes the first cut, and there they finish burning and reduce to ashes; they say they do this only to their kinfolk, for they can find no better burial place for their own flesh than in their own bodies": Vol. II p. 167.
74. *Decadas* I Bk IX Chap. 1 f 176 Vol. II p. 243.
75. Pinto described how he was approached by Pires' daughter in *Sempitay*, China: Cogan's translation p. 191. Linschoten derived his information on Malacca from Dirck Gerritz van Afhuysen, who had spent fourteen months there, and enthused Linschoten into devoting a separate chapter to the durian: *Hakluyt Soc.* No: 71 Vol. II p. 51.
76. Quoted by Cardon, *JMBRAS.*, Vol. XVIII Pt. 2 (1940), p. 111.
77. *JMBRAS.*, Vol. VIII Pt. 1 (1930), p. 55.
78. "Among the miraculous roots is the 'cobra wood' of Malacca, which has such virtue and excellence that it makes the serpent do obeisance at the mere sight of it; as happened in Malacca; by the river was a serpent or cobra 12 fathoms in length, which came down from the jungle to drink at the river after having swallowed a deer which it had crushed to death at the foot of a tree: on its return it met a Maliao carrying this 'cobra wood' root, when it bent its head in motionless obeisance: then some Monancabos came up, beat it to death and

- took it to the Governor at the Fortress; 35 sailors carried it on a 'pinga' [carrying pole]: that was in the year 1560". Mills' translation, *JMBRAS.*, Vol. VIII Pt. 1 (1930), p. 48.
79. *Ibid.*, p. 72.
80. *Ibid.*
81. "I always regarded this as a worthless fairy tale until Affonso Vicente, Ambassador to Achem, assured me that he personally heard these voices saying 'suda' (i.e. Finished?) and 'bolon' (i.e. Not yet)...when he went to this place...for the sole purpose of observing this most curious occurrence in the year 1595": *ibid.*, p. 237.
82. Opposite p. 207, *JMBRAS.*, Vol. VIII Pt. 1 (1930).
83. Cf. Mills: *ibid.*, p. 206.
84. *The Regiam de Banuas* was a place to avoid: "In the forests of that District live the Banuas, a race as wild as the satyrs of Pliny, Book I Chapter 2. These Banuas are soothsayers like the soothsayers of Thuscia and live on the mountain called Gunoledan, where dwelt the Queen Putry, a magician and enchantress like the Thessalian Erictho, who by the medicinal virtues of herbs and plants, turned women into the shapes of tigers and other animals and birds"; MB VIII 1 p. 23. These were—tigers came to Malacca town at night and killed unresisting women and children, until their depredations were ended by Bishop Jorge de Sta Lucia in 1560 by public excommunication: "his virtues should always be exalted": *ibid.*, p. 41.
85. *Ibid.*, p. 22.
86. *Ibid.*, p. 22.
87. *Ibid.*, p. 23.
88. Bocarro, quoted by Cardon, *JMBRAS.*, Vol. XVIII Pt. 2 (1940), p. 115.

89. Manoel Xavier: *Victorias do Governador Nuna Alvarez Botelho*, quoted by Cardon, loc. cit. p. 117.
90. See Bort loc. cit. p. 50.
91. Ibid, p. 28.
92. Ibid, p. 51.
93. During a mukim inspection in Krubong (across the river from Guadeloupe) in 1952 the Penghulu mentioned mukim custom, on which I commented 'But that is the Adat Naning', to which a Sidang replied 'Yes, we follow some of that Adat here'. I cannot remember context or detail.
94. W. George Maxwell, *Barretto de Resende's Account of Malacca*. *JBRAS.*, No. 60 (1911), p. 2.
95. Cardon, *JMBRAS.*, Vol. XVIII Pt. 2 p. 117 n.
96. *JBRAS.*, No. 60 p. 5. Maxwell in his gloss (p. 14) suggests that *Rindo* must be Endau, but it must be Rembau from the context.
97. Mills Bort, *JMBRAS.*, Vol. V Pt. 1 (1927), p. 57.
98. P.A. Leupe. *The Seige and Capture of Malacca from the Portuguese in 1640-1641*, *JMBRAS.*, Vol. XIV Pt. 1 (1936), p. 13.
99. Op. cit. p. 20.
100. Ibid, p. 12.
101. Ibid, p. 15.
102. Ibid, p. 17.
103. Ibid, p. 18.
104. Adriaen Antonisz to Batavia, *ibid*, p. 25.
105. ditto 20th October 1640, *ibid*, pp. 33-35.

106. Leupe, op. cit. p. 57.
107. Fr. R. Cardon, *The Old Church on Malacca Hill, JMBRAS.*, XX, Pt. 1 (1947), p. 218., but see Macgregor on men-at-arms, *Notes on the Portuguese in Malaya, JMBRAS.*, Vol. XXVIII Pt. 2 (1955), p. 8.
108. Macgregor states that over 14 months in 1519-20 the maximum was 348, the minimum 29 and the average under 200.
109. Schouten in his report said 260: *JMBRAS.*, Vol. XIV Pt. 1 (1936), p. 87.
110. Leupe, op. cit. p. 26.
111. The soldiers "who receive their pay on shore at rare intervals embark with much goodwill because when they put in at...Pera and other ports...(they) can earn a quartel from the merchants. They are not discharged from the Fortress when they thus go to sea, neither do they lose their pay; but while away from the Fortress they are masters. But for this no soldier would remain in the Fortress...." de Resende *JSBRAS.*, No. 60 (1911) p. 7.
112. Appendix A.
113. Mills, *JMBRAS.*, Vol. VIII Pt. 1 (1930), p. 21.
114. *Ibid.*, p. 20.
115. *Ibid.*, p. 230.
116. However, Macgregor after examining Portuguese records stated that there were 38 married settlers in 1525 and 114 in 1626: of these 62 lived outside the city walls: *JMBRAS.*, Vol. Pt. 2 (1955), p. 12.
117. p. 4. *JSBRAS.*, No. 60 (1911), p. 4.
118. *Ibid.*, p. 5.
119. Leupe, op. cit. p. 128.
120. Macgregor: op. cit. p. 128.

121. Mills, *JMBRAS.*, Vol. V Pt. 1 (1927), pp. 182-186.
122. Possession of a Portuguese surname is not absolute proof either way: grandee names may have been taken on baptism or by custom as some American blacks have the surname Washington.
123. *JMBRAS.*, Vol. V Pt. 1 p. 60.
124. Perhaps commemorated by *Dusun Ferringhi* east of Tampin.
125. *JMBRAS.*, Vol. V Pt. 1 p. 53. Cardon thought (*JMBRAS.*, Vol. XVIII Pt. 2, p. 113) that there were Malaccan settlers up as far as Pengkalan Naning, but the evidence has yet to be adduced.

Chapter 3

The Dutch East India Company

1. Leupe, op. cit. p. 67.
2. Ibid, p. 67.
3. Ibid, p. 144.
4. Ibid, p. 73.
5. Ibid.
6. Ibid, p. 73. Cardon (*JMBRAS.*, Vol. XVIII Pt. 2 pp. 120-3) seems to have thought that Renggek was Minangkabau, but Schouten and Bort distinguished between *Manicabers* and *Malays*.
7. This equally 3¹/₂ statute miles.
8. Leupe, op. cit. pp. 88-89.
9. Presumably Kendong.
10. Leupe, op. cit. p. 89.
11. Ibid, p. 117.
12. Ibid, p. 133.
13. Ibid, p. 134.
14. Ibid, p. 130.
15. Ibid, p. 132.
16. Ibid, p. 92. The Alfandega was the Customs Office.
17. Ibid, p. 132.
18. Cardon (*JMBRAS.*, Vol. XVIII Pt. 2 p. 120) considers it was

destroyed by Minangkabaus during the 1641 seige if not earlier, and this view can hardly be disputed.

19. Leupe, op. cit. p. 118.
20. Ibid, p. 59.
21. Ibid, p. 46.
22. Cardon, *JMBRAS* XV op. cit. p. 123 n.
23. Leupe, op. cit. 1 p. 116.
24. **Bort**, *JMBRAS.*, Vol. V Pt. 1 p. 33.
25. Ibid, p. 52.
26. P.J. Begbie, *The Malayan Peninsula*, Madras, 1834, reprint Kuala Lumpur, Oxford University Press, 1967, p. 51.
27. Begbie Vol. II p. 51. Newbold gives the same reason: T.J. Newbold, *British Settlements in the Straits of Malacca*, 2 vols., London 1839, reprint, Kuala Lumpur, Oxford University Press, 1971, p. 200.
28. Wilkinson: 'An old Sumatran title borne by Chiefs or Headmen: cf. *tiada raja melainkan merah-merah jua pada tempat-nya*: there were no kings but only merah, each a headman in his own domain': Bustan al-Salatin ii. 150.
29. Both were what three centuries later were called **collaborators** by French and Dutch, and the Dutch had a Quisling, Diogo Keesioi Trigo: (Leupe, op. cit. pp. 158, 77, 116).
30. Ibid, p. 98.
31. *JMBRAS.*, Vol. I, pp. 56-60.
32. Presumably the senior Dutch official. Leupe, op. cit. p. 118: "The Collector Anthony Hurdt...has the second place which in the ordinary way should have been occupied by the Fiscal or the Senior Merchant. His work is so very limited that he can be missed. After

the present Governor this post need not be filled". Hurdts was one of the signatories of the Agreement.

33. M. Macdonald, (*Notes on the Translation of Bort's Report on Malacca, JMBRAS.*, XII Pt. 2 (1934), p. 25) suggests that the clause applied to vessels coming down to Pengkalan and did not apply to traffic up-river as duty would already have been paid. The clause however does not mention duty.
34. Wilkinson: An ancient Sumatran title associated with Pasai Tumasek and early Malacca.
35. Blagden (*Bort op. cit. p. 225*) leaves it open.
36. Vol. I p. 207.
37. *Bort, op. cit. p. 60.*
38. Winstedt, *Negri Sembilan, JMBRAS.*, Vol. XII Pt. 3 p. 48.
39. Cooper to Batavia: Leupe, *op. cit. p. 35.*
40. van Twist to Batavia: *ibid, p. 51.*
41. Schouten: *ibid, p. 77.*
42. *Ibid, p. 119.*
43. *Ibid, p. 167-8.*
44. *Ibid, p. 43.*
45. Governor's Diary: *Ibid, p. 65.*
46. Winstedt, *Negri Sembilan, op. cit. p. 49.* 47. *Ibid, p. 49.*
48. *Bort, op. cit. p. 208.*
49. Winstedt, *Negri Sembilan, op. cit. p. 49.* 50. *Bort, op. cit. p. 208.*
51. Newbold, Vol. I p. 200.

52. Winstedt, *JMBRAS* XII 3 p. 49.
53. Begbie, p. 52.
54. Newbold, Vol. I p. 200.
55. Begbie, p. 52.
56. Valentyn, with some suspension of belief, noted of him that he 'asserted that he saw a woman 150 years old in 1643': *JSBRAS.*, No. 13 p. 57.
57. Leupe, op. cit. p. 44.
58. *Bort*, op. cit. p. 60.
59. Begbie, p. 53; Newbold, Vol. i. p. 201 et seq.
60. The tone is Begbie's but both he and Newbold had access to the documents, now not available.
61. Possibly by giving him a signet ring: a resigning Penghulu returned this seal of office in 1703; Newbold, Vol. I p. 217.
62. Wilkinson: 'The common Indian meaning of sailor is not found in Malay'.
63. Vol. I p. 207.
64. *Ibid.*
65. By which there was escheat of the estates of unmarried, and fines of 10% on the estates of married, Minangkabaus.
66. Begbie, p. 55.
67. Winstedt, *Negri Sembilan* op. cit. p. 51.
68. *Bort*, op. cit. p. 66.
69. *Ibid.*, p. 61.

70. Ibid.
71. Leupe, op. cit. p. 118.
72. Ibid, p. 117.
73. Newbold, from the *Daghregister*: Vol. I p. 211.
74. Ibid, p. 209.
75. Andaya: *Johore*, from the *Daghregister* p. 65; Winstedt *Nagri Sembilan*, p. 50.
76. Winstedt, *ibid*, p. 51.
77. Vol. II p. 78.
78. Winstedt, *Johore*, *JMBRAS.*, Vol X Pt. 3 pp. 37, 133.
79. *Bort*, op. cit. p. 61.
80. Begbie, p. 58.
81. *Bort*, op. cit. pp. 61-62.
82. Ibid, p. 62.
83. Ibid, p. 63.
84. Ibid, p. 64.
85. Ibid.
86. Of Rembau.
87. *Bort*, op. cit. p. 66.
88. OED: 'a narrow close-woven ribbon or braid'.
89. *Bort*, op. cit. pp. 65-67.

90. "Three Orang Kayas from Naning are confined in said Slavenburgh in separate quarters over whom good watch must be kept and a close guard always maintained so that they do not escape for they are dangerous and seditious men who cannot agree with their countrymen and must not go back to them, unless they have first been reconciled and have their peace with the others". *Bort*, MB V 1 p. 94.
91. Vol. II p. 77.
92. C.W.C. Parr and W.H. Mackray, *Rembau, One of the Nine States: Its History, Constitution, and Customs*, JSBRAS., No. 56 (1910) p. 2.
93. Winstedt, *Negri Sembilan*, op. cit. p. 44.
94. By Sheppard and Chandran (supra. p. 1 n. 5) and by J.M. Gullick, *Sungei Ujong*, JMBRAS., XXII Pt. 2 (1949), pp. 55-6; and see J.G. de Casparis, *Ahmat Majanu's Tombstone at Pengkalan Kempas and its Kawi Inscription*, JMBRAS., LIII Pt. 1 (1980) p. 5.
95. His *Malaya: A Cultural History* thirteen years later is less categorical: pp. 47, 73.
96. *Ibid*, p. 20. He gives no reference and the present writer has found none. Pires' reference to 'heathen' Minangkabau referred to Sumatra and not the Peninsula.
97. R.J. Wilkinson, *Law*, Pt. 1, Introductory Sketch, Papers on Malay Subjects. Govt. Printer K.L. (1922) p. 9.
98. *History - Part I*. Papers on Malay Subjects. Govt. Printer K.L. p. 56.
99. J.E. Nathan & R.O. Winstedt, *Papers on Malay Subjects (Second Series)*. *Johol, Inas, Ulu Muar, Jempul, Gunong Pasir and Trachi, their History and Constitution*. Calcutta, Baptist Mission Press, (1920), p. 45.
100. Appendix B.
101. A suggested derivation given in Naning is that inhabitants:

returning after dispersion after the Naning War, when asked their tribe, said 'Malacca People'. But population figures show no great exodus, and if there is one thing every Naning man knows, it is his *suku*.

102. Newbold, Vol. I p. 207.
103. Winstedt, *Negeri Sembilan*. MB XIII 3 p. 51.
104. Wilkinson: *The Arab turban only, not the Malay headcloth*.
105. White was the ruler's colour, yellow that of his kin: *Sejarah Melayu*: see Shellabear (1909) p. 63.
106. Appendix C.
107. *The Hikayat Abdullah*, A.H. Hill (trans.), *JMBRAS.*, XXVIII Pt. 3 (1955) p. 228.
108. R.O. Winstedt, Malay Titles, *JMBRAS.*, XVIII Pt. 2 (1940), p. 147.
109. *Negeri Sembilan*, *JMBRAS.*, Vol. XII Pt. 3 (1934), p. 43.
110. *Ibid.*, p. 51.
111. Abdullah Munshi said that three Portuguese - Mendes, da Souza and Pingero - were sent by the Dutch in 1642 to arrange for the appointment of a ruler, and the Naning people asked for Raja Merah: *JMBRAS.*, Vol. XVIII Pt. 3 (1955) p. 288. But the 1641 Agreement had already been made, and citing him in it as 'raja Merah Perpatch sa-batang' might have been an attempt to bestow on his head the majesty of legendary Minangkabau, as Blagden thought possible (*JMBRAS*, Vol. V Pt. 1 (1927) p. 225.)
112. Valentyn: *JSBRAS.*, No. 13 (1884) pp. 56-60.
113. *Historical Guide of Malacca*. The gravestones are still there.
114. J.M. Bort, *op. cit.* p. 68.
115. *Ibid.*

116. Ibid, p. 78.
117. About 360 lbs.
118. *Bort*, op. cit. p. 68.
119. Ibid, p. 68.
120. Flowered chintz: *ibid*, p. 228.
121. Newbold, Vol. I pp. 213-4.
122. Begbie, p. 58.
123. Ibid.
124. Not in Valentyn's list in *JSBRAS.*, No. 13 (1884).
125. Begbie, p. 51.
126. Newbold, loc. cit. Winstedt commented on the name and its possible relevance to the Johore Bendahara's family: *Negri Sembilan, JMBRAS.*, Vol. XIII Pt. 3 (1935), p. 51 and *Johore, JMBRAS.*, Vol. X Pt. 3 (1932), p. 142.
127. Newbold, loc. cit.
128. *Bort*, loc. cit, p. 68.
129. Ibid, p. 75.
130. Ibid, p. 77.
131. Ibid, p. 69.
132. Ibid, p. 68.
133. Or, 'whose ancestors had possessed the country of Malacca'. *vide* C.P. Hoynck van Papendrecht *The Malay Peninsula and Europe in the Past. JSBRAS.*, No. 67 (1914), p. 74 - the more likely claim as heir to the Sultans.

134. Quoted by Winstedt, *Johore*: op. cit. p. 44.
135. cf. Raffles' inspection of the King of Siam's letter: MB XXVIII. Hill, *Hikayat Abdullah, JMBRAS.*, Vol. XVIII Pt. 3 (1955), pp. 163, 309.
136. *Bort*, loc. cit. p. 70.
137. See Revd. Fr. R. Cardon, *Old Malacca - Tranqueira and Gajah Perang, JMBRAS.*, XXI Pt. 1 (1948), p. 111, on the decay of the Portuguese tranqueira or rampart from which the suburb got its name.
138. *Bort*, p. 70.
139. *Ibid*, p. 51.
140. *Ibid*, p. 44.
141. *Ibid*, p. 73.
142. He ranked equal with Junior Merchants, Book-keepers, Sick Visitors and Lieutenants at 4 dollars 48 stivers and rations of 4 pots of wine and 120 lbs of rice monthly: *Bort*, p. 33.
143. *Ibid*.
144. *Ibid*, p. 29.
145. *Ibid*, pp. 35, 38, 186.
146. *Ibid*, p. 124.
147. Apparently for gain; not politics: he escaped to Pahang with his booty: Winstedt, *Johore*, op. cit. p. 44.
148. *Daghregister*, quoted by Hoynk van Papendrecht, op. cit. p. 74.
149. *Ibid*.
150. Quoted by Winstedt, *Negri Sembilan*, p. 55.

151. Ibid.
152. Begbie, p. 59.
153. Ibid.
154. *Bort* MB V 1 p. 49.
155. Ibid, p. 76.
156. Ibid, p. 49.
157. Ibid, p. 50.
158. Ibid, p. 43.
159. Ibid, pp. 36-7.
160. Begbie, p. 60.
161. Wilkinson: *Junjongan* 'that which is borne on the head...one who is obeyed...a term applied to a sovereign'. *Limau* is more difficult: it means 'lime' and allied fruits, but as the 'lime' is used in ceremonial bathing - cf. *berlimau* - there may be a connexion.
162. Begbie, p. 60.
163. Newbold, op. cit. Vol. I p. 60.
164. Wilkinson: 'swaying from side to side....A mild swagger was cultivated even by heroes of romance, the various "rolls" having special names....'
165. Begbie, p. 61.
166. Newbold, Vol. I p. 222; Abdullah op. cit. p. 228.
167. Abdullah, *ibid.*
168. Newbold, *ibid.*

169. Begbie, p. 61.
170. Wilkinson: 'Quarter; section; tribe....Among the Minangkabau Malays a Suku is made up of a number of uterine families each under its own headman but all recognising the higher authority of the tribal headman....'
171. Translation attached by Lewis to his letter of 6 January 1829: SSR Malacca Diary, Vol. 169 p. 29.
172. I have not myself heard it in Naning, and the usage was 'Dato', e.g. 'Dato' Andika', or 'Orang Kaya' or, more rarely, 'Lembaga'.
173. Begbie, p. 61.
174. A. Caldecott, *Papers on Malay Subjects* (Second Series), *Jelebu, its History and Constitution*, Kuala Lumpur, FMS Government Press, (1912), p. 45.
175. *JMBRAS.*, Vol. V Pt. 1 (1929). p. 68.
176. Begbie, p. 61.
177. *Ibid.*
178. *Malacca in the Eighteenth Century; two Dutch Governors*, Brian Harrison (trans.) *JMBRAS.*, XXVII Pt. 1 (May 1954), p. 26.
179. Winstedt, *History of Johore*, *JMBRAS.*, vol. X Pt. 3 (1932) p. 56.
180. *Ibid.*, pp. 60-61.
181. Winstedt, *Negri Sembilan, The History, Polity and Beliefs of the Nine States*, *JMBRAS.*, Vol. XII Pt. 3 (1934), p. 56.
182. *Ibid.*, p. 64 and see Parr and Mackray *Rembau*, *JSBRAS.*, No. 56 (1910), p. 16.
183. Winstedt, *Johore* op. cit. p. 62.
184. Winstedt, *Negri Sembilan*, op. cit. p. 57.

185. Winstedt, *Johore* op. cit. pp. 61-62.
186. Begbie, p. 64.
187. Quoted by Fullerton. SSR Vol. 169 Malacca diary, p. 45.
188. Fullerton, loc. cit.
189. Begbie, p.
190. Harrison, op. cit. *JMBRAS.*, Vol. XXVII Pt. 1 p. 33.
191. Begbie, p. 61.
192. *Daghregister* quoted by W.E. Maxwell, *Raja Haji*, *JSBRAS.*, No. 22 (1890), p. 189.
193. Ibid, p. 193.
194. Ibid, p. 202 and see P.C. Hoyneck van Papendrecht *Some Old Private Papers from the Cape, Batavia, and Malacca (1778 - 1788)*, *JMBRAS.*, II Pt. 1 (1923), p. 22.
195. Maxwell, loc. cit. *JSBRAS.*, No. 22 (1980), pp. 177-187.
196. Begbie, (p. 61) says the Dutch gave this to Juara Megat.
197. Translation from the Dutch Records submitted by Lewis to Fullerton: SSR Vol. 169 Malacca Diary, p. 45.
198. Grant & Temperley *Europe in the XIXth and XXth Centuries*, p. 75.
199. Deposition of Campodonico, Graham Irwin, *Governor Couperus and the Surrender of Malacca, 1795*, *JMBRAS.*, XXIX Pt. 3 (1956), p. 90.
200. Riau followed Malacca three weeks later: *ibid*, p. 90.
201. *Daghregister*, quoted by Maxwell *JSBRAS.*, No. 22 (1890) p. 88.

202. The total was 95: of these 22 were "sick and unfit for duty because of age": Irwin, loc. cit. p. 144.
203. Ibid, p. 116.
204. Ibid, p. 112.
205. Ibid, pp. 131-132.
206. The rank given him by Captain Walter Caulfield Lennon, *Journal of a Voyage through the Straits of Malacca on an Expedition to the Molucca Islands, JSBRAS.*, No. 7 (1881), p. 58.
207. Deposition of Braune: Irwin, loc. cit. p. 95. 208. Ibid, p. 104.
209. Lennon, op. cit. p. 59.
210. Irwin, loc. cit. p. 129.
211. Lennon, loc. cit. p. 68.
212. Ibid, p. 64.
213. Ibid, pp. 68-69.
214. Ibid, p. 66.
215. Ibid.
216. Ibid, p. 62.
217. The names of the first three in the list are probably not personal names: *Tua* is the headman of a subdivision of a tribe, *Ganti* means 'substitute' or 'replacement', and *Daing* is a variant of *Daeng*, a Bugis title.
218. Described later.
219. Appendix E.
220. Irwin, quoting the Deposition of Braune. Irwin, op. cit. p. 96.

Bellemond/Bellemont had been interpreter for the English and went with Couperous to Tranquebar.

221. *Badariang* = *Bellemont* =
223. C.O. Blagden (trans.) *Malay Documents Relating to the Naning War*. Appendix to L.A. Mills *History of British Malaya 1824-1867*, *JMBRAS.*, Vol. III Pt. 2 (1925), p. 319.
224. SSR Vol. 172 Malacca Diary, p. 171. He signed as *Bellemont*.
225. Newbold, Vol. I p. 223.
226. The Malay text edited by Blagden is at *JMBRAS.*, Vol. III Pt. 2 (1925), p. 297.
227. 'Master, Lord': a reference to Taylor himself.
228. Blagden's Malay text at loc. cit.
229. Sir C. Aitchison, *Collection of Treaties, Engagements and Summons*, (Calcutta, 1909) Vol. II p. 465.
230. Malay Version in Blagden, op. cit. p. 299 *et. seq.*
231. 1641, Clauses 3 & 4.
232. *Ibid*, Clauses 6 & 7.
233. *Ibid*, Clauses 8, 9 & 11.
234. *Ibid*, Clause 20.
235. *Ibid*, Clause 19; 1801 Clause 4.
236. Blagden, loc. cit. pp. 299-302, repeated at Appendix F.
237. SSR Vol. 168 Council 30 June p. 55.
238. Translation by the present writer.

239. He 'signed' this and other documents with a mark, and 'listened carefully' (*terdengar*) to a letter from Garling in 1829: Blagden, op. cit. p. 316. And see Church's Report, Appendix H, para. 31.
240. Lewis to R.C. Malacca: SSR Vol. 167 Malacca Diary, p. 553.
241. Appendix F.
242. P.C. Hoyneck van Papendrecht: *The Malay Peninsula and Europe in the Past*, JSBRAS., No. 67 (1914), p. 79.
243. T. Braddell, *The Naning War*, J.I.A. (N.S.) Vol. I (1858), p. 206, repeated by Winstedt, *History of Malaya*, JMBRAS., Vol. XIII Pt. 1 (1938), p. 209.
244. These last two are not tribal offices: *Makhдум* seems to have been an adviser on religious law.
245. Newbold, Vol. I p. 236. Only a Sultan could spill blood. 246. Ibid, p. 235.
247. Discussed later.
248. Newbold, Vol. I p. 140, but see Patrick Morrah *The History of the Malayan Police*. JMBRAS., XXXVI Pt. 2 (1963), p. 29, who says that during this time Dutch law (administered by the Dutch Council of Justice and Burgher Guard) ordained crucifixion and breaking on the wheel.
249. Newbold, Vol. I p. 225.
250. Ibid.
251. Winstedt, *History of Malaya*, JMBRAS., XIII Pt. 1 (1938), p. 137.
252. Newbold, ibid. Lewis forwarded a copy of the Proclamation to the Resident Councillor Malacca but did not give the date: SSR Vol. 168 p. 253.

Chapter 4

The Establishment of British Rule

1. Blagden, op. cit. p. 303.
2. Ibid, pp. 303-305.
3. B. Pol. 126/4. Proceedings of 23rd October 1829.
4. Blagden, op. cit. Malay Document V *JMBRAS* Vol. III pp. 305-308.
5. *sudah menjadi rayat negeri Inggeris sa-upama kita juga*: Ibid, p. 306.
6. e.g. the Governor of Bombay, contemporary with Bort, on a Tuesday sentenced a man to be hanged and he was: the Governor, changing his mind, ordered that the man should be brought before the Court on the Friday; or the Judge who fined a man everything he owned and £1,000 in addition, and ordered him to pay for his keep in prison: Philip Woodruff, *The Men Who Ruled India, The Founders*, (Cape, 1953), pp. justice, ibid, pp. 166-167.
7. For a good account see L.A. Mills, *British Malaya, JMBRAS.*, Vol. XXXIII Pt. 3 (1960), pp. 118-136, a revision of *JMBRAS.*, Vol. III Pt. 2 but without the Naning documents.
8. For examples see Appendix G.
9. Woodruff, *The Founders* pp. 184-195.
10. Mills called him 'able' *JMBRAS* XXXIII 3 p. 121.
11. Ibid, p. 140.
12. B. Pol. 126/4 23rd October 1829.
13. SSR Vol. 169 Malacca Diary 10th November 1829, pp. 57, 59.
14. Mills, *JMBRAS.*, Vol. XXXIII Pt. 3 (1960), p. 102.
15. C.M. Turnbull, *The Straits Settlements 1826-1867*. Singapore, Oxford University Press (1953), p. 266.

16. C.A. Gibson-Hill, *The Singapore Chronicle, 1824-1837, JMBRAS.*, XXVI Pt. 1 (July 1953), p. 190.
17. Appendix G.
18. Gibson-Hill, *ibid.*
19. SSR Vol. 169 Malacca Diary p. 276.
20. SSR Vol. 170 Malacca Diary p. 5.
21. SSR Vol. 169 Malacca Diary p. 59.
22. Mills, *ibid.*, p. 114.
23. SSR Vol. 168 Malacca Diary p. 180.
24. Appendix G.
25. Mills, *op. cit.* p. 114.
26. SSR Vol. 169 Malacca Diary p. 69.
27. SSR Vol. 168 Malacca Diary: 28th April 1828, p. 248.
28. SSR Vol. 167 Malacca Diary p. 44.
29. SSR Vol. 167 Malacca Diary.
30. SSR Vol. 168 Malacca Diary p. 22. He was reimbursed \$248 $\frac{1}{2}$ for a feast for 1,100 people who worked on it.
31. *Ibid.*, p. 90.
32. *Ibid.*, p. 353. Three bungalows cost \$770.60 in all, and the caretakers were paid \$3 $\frac{1}{2}$ a month.
33. *Ibid.* Malacca Diary 26th August 1828.
34. *Ibid.* Malacca Diary 31st January 1828 p. 102.

35. Bengal Sec Pol. 362. Letter of 27th August 1830.
36. *J.I.A.* Vol. II (1848), p. 267.
37. Begbie, p. 364.
38. B. Pol. 126/4 23rd October 1829.
39. Favre, *J.I.A.* Vol. II (1848), p. 267.
40. As in the matter of the letter from Sri Menanti, mentioned below.
41. Patrick Morrah, *The History of the Malayan Police. JMBRAS.*, Vol. XXXVI Pt. 2 (1963), p. 31.
42. *Ibid.*
43. A.H. Dickinson, *The History of the Creation of the Malacca Police, JMBRAS.*, XIX Pt. 2 (1941), p. 257.
44. C.M. Turnbull *Straits Settlements 1826-1867*, p. 78. 45. *Ibid.*
46. H. Eric Miller, *Extract from the Letters of Col. Nahuijs, JMBRAS.*, XIX Pt. 2 (1941), p. 176.
47. Ferrier, *J.I.A.* Vol. V (1851), p. 651. Lewis sold it to Salmond, who planted cinnamon.
48. Turnbull, *op. cit.* p. 54.
49. "Robert Ibbetson, High Sheriff of Prince of Wales Island and Paymaster of Government, has never since his appointment...honoured His Majesty's Court with his presence, either...at the opening of terms...nor has he ever been present on any occasion at any part of the proceedings of the Court, nor has the Recorder ever seen him in Court or elsewhere since his appointment as High Sheriff": Sir Edmond Stanley's Report, 14th November 1816: Morrah, *op. cit.* p. 27.

Chapter 5

The Land Revenue Question

1. Begbie, Vol. II p. 39.
2. SSR Vol. 166 Malacca Diary p. 20.
3. Blagden, *Malay Document VIII* op. cit. p. 309. This letter is not mentioned in the Malacca Diary, nor is there any reference to a visit by Lewis at the time.
4. SSR Vol. 166 Malacca Diary p. 312.
5. Ibid, p. 148.
6. Ibid, pp. 166-173.
7. SSR Vol. 167 Malacca Diary p. 55.
8. Ibid, p. 317.
9. Ibid, p. 364.
10. *Malacca Observer*, 27th February, reprinted *J.I.A.* VI (1852), p. 369 et seq. Gray died twenty-three days later: Newbold Vol. I p. 138.
11. Blagden, op. cit. p. 308: *Malay Document VI*.
12. Lewis's report, SSR Vol. 167 Malacca Diary p. 553 et seq.
13. SSR Vol. 167 Malacca Diary p. 521.
14. Ibid, p. 531.
15. Blagden, op. cit. p. 309.
16. SSR Vol. 167 p. 553 et seq: B. Pol. 126/4 Consultation 23rd October 1829.
17. The marginal note reads: Semelengang Tago Battoo Mongeah Anak Malacca.

18. 1 coyang = 40 pikuls; 1 pikul = 133 $\frac{1}{3}$ lbs, so 40 pikuls = 47.6 cwt. If 5 coyangs were $\frac{1}{2}\%$, 100% = 1,000 coyangs or 47,600 cwt. or 2,380 tons. The figure of 864 households was already in the Malacca records.
19. Blagden, loc. cit. *Malay Document VIII* p. 310.
20. Blagden, loc. cit. *Malay Document VIII* pp. 310-311 MB III 2.
21. 'Ta' dapat tiada' - 'it cannot happen not'.
22. SSR Vol. 172 Malacca Diary p. 216.
23. SSR 167, Council, p. 11 Translation by Lewis.
24. SSR 167 Council p. 11.
25. SSR Vol. 167 Malacca Diary p. 3.
26. Appendix G.
27. Appendix E.
28. SSR Vol. 168, Council, 30th January p. 42 et seq.
29. The claim to Alor Gajah and Seberang Gajah in Naning was either abandoned or rejected; neither appears in any later list or valuation.
30. SSR Vol. 167 Malacca Diary p. 132.
31. Ibid.
32. Ibid, p. 53.
33. B. Pol. 126/4 Consultation 23rd October 1829.
34. e.g. Mohamed Suffran bin Hashim *An Introduction to the Constitution of Malaysia*, Government Printer (1972), p. 120. The Boundaries have not been changed since 1833.
35. B. Pol. 127/23 4th September Item 19.

36. Nowadays 1 gantang = 5 lbs. approx. *Federation of Malaya, Annual Report 1954*, p. 501.
37. Newbold, Vol. I p. 263; Garling, B. Pol. 127/23 loc. cit. These were both admittedly after the Naning War, with its dislocation, dereliction of dams etc. Garling then said that sixty per cent of the total crop was dry soil rice.
38. e.g. *Federation of Malaya, Annual Report, 1954*. Kuala Lumpur, Government Printer (1955), p. 137.
39. SSR Vol. 167 p. 243. Letter of 11th December. 40. SSR Vol. 168, Council of 30th January, p. 42 et seq. 41. Ibid, p. 42.
42. Ibid, p. 65.
43. Ibid. Council of 29th January p. 102 et seq.
44. "Mr. Lewis is now acting upon the draught of a Regulation framed by the Hon'ble Governor for Singapore....Leases similar to those operating in Singapore and in fact copied verbatim are now preparing...." Garling to Secretary to Government, 28th November 1828: SSR Vol. 168.
45. SSR Vol. 168 p. 74.

Chapter 6

The Question of Jurisdiction

1. SSR Vol. 168, Council, p. 79 et seq.
2. Ibid. Council of 28th January pp. 102-4.
3. Ibid. Diary p. 127.
4. Ibid, p. 144.
5. Ibid, p. 42.
6. This is a revision upwards: the total crop would therefore be 3,352 tons, or 3.85 tons a house.
7. SSR Vol. 168 p. 44.
8. SSR Vol. 169 p. 29.
9. SSR Vol. 168 p. 269.
10. Ibid. Diary 11th November.
11. B. Pol. 126/4 23rd October 1829.
12. SSR Vol. 168 p. 382.
13. Ibid, p. 384.
14. B. Pol. 126/4 23rd October 1829.
15. So stated in the record: presumably she made her mark.
16. SSR Vol. 168 p. 411.
17. Ibid.
18. Ibid, p. 412.

19. Ibid. Diary p. 27.
20. e.g. Mills *JMBRAS.*, Vol. III Pt. 2 p. 120 and vol. XXXIII Pt. 3 p. 143, and Winstedt (who italicises and adds an exclamation mark) *JMBRAS.*, Vol. XII Pt. 3 p. 65.
21. SSR Vol. 169 p. 29 et seq.
22. The Council of March 1829 approved Rappa as Translator of the Dutch records from 1643 at a salary of Rs. 150 a month, which he 'shares because he knows little English': SSR Vol. 169 p. 27.
23. Supra.
24. SSR Vol. 169 Diary p. 41.
25. SSR Vol. 169 Diary p. 76.
26. Ibid, p. 38.
27. Ibid, p. 92.
28. Ibid.
29. A.C. Baker *Anglo-Dutch Relations in the East at the Beginning of the 19th Century*, *JSBRAS.*, No. 64 (1913), p. 45.
30. Mills, op. cit. *JMBRAS.*, Vol. XXXIII Pt. 3 pp. 41-42.
31. SSR Vol. 169 pp. 90-94.
32. Ibid, p. 100.
33. Ibid, p. 77.
34. It was this Regulation which was declared ultra vires by the Recorder in 1835.
35. Inserted: not in the record.
36. B. Pol. 126/4 23rd October 1829.

37. Garling seems to have been broadly correct. Lewis in his 1827 Report (paragraph 27) said that every house sent one gantang of Padi and two coconuts to his tribal Chief, which Lewis thought was supposedly for the tribute. Church, in August 1829, (Appendix H, paragraph 29) said that the contributions, in the quantities stated above, were made to the Sukes, again allegedly for the tribute. It may be that the contribution originated in the *mas kemana'an* made for the *Keadilan* (in the XVIIth century the Sultan of Johore); Newbold, Vol. II p. 80; Lister *JSBRAS.*, No. 19 p. 45; Parr & Mackray *JSBRAS.*, No. 56 p. 61; from Rembau: all these quote the contribution as one gantang of padi and two coconuts, and money. With Johore's abdication from the position of *Keadilan* by the Treaty of 1757 (if not earlier) the payments would have stopped, leaving the contributions in the hands of the Penghulu and Sukes. If this were the origin and known to the Chiefs, it would explain their preparedness to increase the tribute four fold-fold in their letter to Lewis.
38. *Tanda*: Wilkinson: 'sign, token, emblem'; in this case an indication, usually by tufted spear, that the emissaries came with the Dato's knowledge and authority.
39. SSR Vol. 169 Diary p. 72.
40. Fullerton had ordered that they should come, bringing the 1801 Agreement with them so that he could see it. Lewis reported in his letter that he had found a Malay version.
41. SSR Vol. 168, Council, p. 53.
42. *Ibid.*, p. 45 et seq.
43. Underlined in the records.
44. SSR Vol. 169 Diary p. 59.
45. SSR Vol. 169 Diary p. 11.
46. *Ibid.* Diary p. 11 et seq.
47. *Ibid.* Diary 24th April p. 59.

48. Ibid, pp. 19, 57.
49. Ibid. Diary 23rd May.
50. Here a quarter (of a rupiah).
51. *melainkan ma' alum-lah ka-Tuan ada-nya* 'however, that is already known to the Tuan'.
52. SSR Vol. 169 p. 143.
53. See Appendix G.
54. For the Malay version, see Blagden, op. cit. *Malay Document XIII* pp. 312-314: it was long and fairly mild in tone and in part couched in questions.
55. SSR Vol. 168 Diary p. 173.
56. SSR Vol. 168 Diary p. 169.
57. Ibid, p. 186.
58. Ibid, pp. 178-180.
59. Discussed by C.A. Gibson-Hill *The Singapore Chronicle, 1824-37, JMBRAS.*, Vol. XXVI Pt. 1 (1953), pp. 189-191.
60. SSR Vol. 169 p. 277.
61. Gibson-Hill loc. cit.
62. SSR Vol. 169 p. 279.
63. Ibid, p. 363.
64. Ibid. Council, p. 10.
65. Ibid.
66. Gibson-Hill, op. cit. pp. 187, 190.

67. SSR Vol. 169 p. 202.
68. Ibid, p. 205.
69. Ibid, p. 231 et seq., repeated at Appendix H.
70. Ibid, p. 246.
71. This shows that the Malay letters printed by Blagden, *op. cit.* were copied from Land Office files and not handed over by the Dato' Naning.
72. Both Begbie (P. 157) and Newbold (P. 221) say that the pensions were offered (Newbold says by Lewis), but the documents do not support this. It is not unlikely - confidentially being as lax as it was in Malacca, - that the idea reached the Chiefs; but if it did it is in their favour that they did not start bargaining for them.
73. SSR Vol. 169 p. 248.
74. Ibid, p. 295.
75. B. Pol. Range 126/4 Consultation 23rd October 1829. 76. B. Pol. Range 126/4 23rd October 1829.
77. SSR Vol. 169 Council 3 Vov. p. 38.
78. SSR Vol. 169 Diary 12th December p. 9.
79. SSR Vol. 171 p. 82.

Chapter 7

The War

1. B. Pol. 126/22 January 1831.
2. Ibid.
3. The Recorder had resigned and no successor had been appointed, and the Court did not sit.
4. B. Pol. Range 126/22 loc. cit.
5. The record reads 'restored'.
6. Malay version at Blagden, op. cit. p. 314, *Malay Document XIV*. It contained the sentence *dari hal tanah itu atau tanah-tanah Naning sa-kali-pun melainkan Penghulu mengetahui jua tanah Government Maharaja Ingggris yang empunya itu ada pun Penghulu mendapat perintah itu juga* - 'Concerning that land or any Naning land the Penghulu is informed that the Government of the English Ruler owns it and the Penghulu gets orders from that Government'.
8. B. Pol. Range 126/22: letter dated 7th October. 9. B. Pol. Range 126/22.
10. Blagden, op. cit. p. 315, *Malay Document XV*.
11. Wilkinson: *Duku*: *Lansium domesticum*: oval, sweet, small pips.
12. By the writer: Blagden's summary loc. cit. is nearer to this than to that by Lewis.
13. Or possibly 'and governed by the Penghulu etc': the relative pronoun *yang* can refer to 'the Company' or to 'the land'.
14. This could mean 'police peon' but there were as yet no police posts in or near Naning, and is more likely to be 'Penghulu's Assistant' - cf. Garling's description, *supra*, after his first meeting with the Grantees.

15. Possibly, even probably, a requirement for a solemn oath - in the case of a Chinese by cutting the throat of a cockerel or breaking a plate - accepted as compurgation in the absence of witnesses or evidence as to the goods.
16. B. Pol. Range 126/22.
17. Ibid.
18. Ibid.
19. Ibid.
20. Blagden, loc. cit. p. 317 *Document XVII*.
21. B. Pol. loc. cit. Begbie (P. 158) states that Fullerton stood down an expeditionary force, and is imprecise as to the date; Braddell (JIA NS p. 199) says that a force to protect Lewis was stood down in December 1828; both drew the conclusion that this encouraged Dol Said to resist. Begbie may have had knowledge of contemporary garrison orders, and Braddell access to records which no longer exist; but it should be noted that the India Office records make no mention of a force standing to, or standing down, at any time between Church's mission and the first campaign in 1831.
22. Malay version at Blagden, op. cit. p. 316, *Document XVIII*.
23. "...kita sahaja yang boleh menuntutkan siapa yang empunya hak itu ada-pun di-atas keperiksaan Government telah benar-lah dusun itu sudah di-pulangkan kapada Inche Surin...."
24. Malay version at Blagden p. 319 *Document XIX* translated by the writer.
25. Printed as *Kreja*, p. 319.
26. Depending on which meaning is given to *mengaku*: Blagden gave it as 'claim' but stated the difficulty. If Surin had stated, whether by complaint or consent, that the land was in Naning, it could not have been a former Dutch Grant.

27. *Tanah Tebusan*, normally applied e.g. in Negri Sembilan to land allegedly bought from the 'Biduanda' by Minangkabau settlers, but inapplicable in Naning. Here it must mean lands resumed by Government in consideration of paying the annuities.
28. *zaman Pusaka yang dahulu: Pesaka/pusaka* is difficult to translate in this sentence: it has the sense of 'birthright' and 'ancestral customs and polity' far wider than Blagden's 'it was the Penghulu's by inheritance'.
29. The translation put up to Garling and forwarded to Bengal reads (as copied from the record: (B. Pol. 126/22)):

"This letter from the Dattoo Panghooloo of Nanning who sends his compliments etc with the help of God etc addressed to Samuel Garling Esq Resident at Malacca etc

The Dattoo Panghooloo informs the Resident, in answer to the enquiries which he ordered the Panghooloo to make regarding the boundaries of Nanning lands which divide it from Parit Melana.

From time immemorial the boundaries of the Nanning lands on the right hand side going inland or upstream is Pankallan Sompit, Durian SaBatang, Lesong Battoo, and Bookit Ber Durie, Dooson Lansat, Baking Chandong, Pundor, Makan Tahoo Damar and Battoo Ber Karoot -

On the left side going inland is Bookit Grayjah, Teetecan Akkar, Kappanoodah Butting, Bookit Kaya Arrang stretching to Bookit Panbagean, Ooloo Ayer Beeting to the mouth of the Ramuan China Besar River. These are the boundaries.

With respect to Intye Sourin's recent claims in the Nanning lands and with regard to the Dookoos, they are not in the 'Tannah Taboosan' (lands granted to individuals) - With regard to the former letter which was brought by Osman in which was stated that the Dattoo Panghooloo of Nanning was broke on account of the affair of the Dookoos

As from time immemorial these were the boundaries between the

lands of Nanning and those of Tannah Taboosan and the Dattoo will never give up the Dookoo lands to Intye Sourin. It is under the Government of the Dattoo of Nanning and is part of the inheritance of his ancestors in the time of the former Kings of England". (The record incidentally disposes of Blagden's problem over *di-Saman* in his transliteration).

It will be observed that (a) Lewis made no reference to the inspection by the Penghulu of Durian Tunggal and so the context makes it the Dato' Naning who was ordered to inspect, and (more importantly) (b) the Dato's declaration that he had never given the land to Surin - '*sa-kali-kali Dato' Penghulu tiada memberikan tanah duku itu kapada Inche Surin*' - was converted into a declaration that he would never do so.

30. Op. cit. p. 161.
31. *J.I.A. (N.S.)* I (1856), p. 205.
32. SSR Vol. 166 p. 317.
33. SSR Vol. 168 p. 63: 16th February.
34. Ibid. Council, p. 42.
35. Ibid, p. 116.
36. Ibid. Council, pp. 18.-20.
37. The spelling is as in B. Pol. 126/22.
38. "Abdul Sayed, convinced that the Governor's vacillation was due to fear, seized the fruit of certain trees claimed by Surin, a Malay Proprietor in Malacca Territory": Winstedt, *Negri Sembilan, JMBRAS.*, Vol. XII Pt. 3 (1934), p. 65; "Openly flouting the Company,...he seized the fruit of certain trees claimed by Inche Surin...who had recently transferred his holding (which was) outside the boundaries of Naning": Mills, *JMBRAS.*, Vol. XXXIII Pt. 3 p. 147.
39. Map I: published in 1837.

40. *J.J.A. (N.S.)* Vol. I (1856), p. 296.
41. A possibility pointed out by Blagden, op. cit. p. 295. He was too sharp on Garling's 'hectoring tone', which was Fullerton's.
42. At Appendix E.
43. B. Pol. 126/22 Consultation 17th January 1831. 44. Ibid.
45. Underlined in the record.
46. B. Pol. Range 126/27: Consultation 2nd April 1831.
47. B. Pol. 126/31 Consultation 20th July 1831 Item 10.
48. Ibid. Consultation 14th October 1831.
49. Gibson-Hill, *JMBRAS.*, Vol. XXVIII Pt. 3 (1955), p. 227.
50. p. 165.
51. Army slang, politely rendered as 'Grand Military Foul Up'.
52. Blagden, op. cit. Malay Document XX p. 320.
53. *murka*.
54. p. 170.
55. Head of the Tiga Batu tribe.
56. A title not now found.
57. In this report of 19th August Ibbetson quoted Wyllie on the expedition: "Captain Wyllie speaks of the steadiness and coolness of both officers and men in the highest possible terms, adding 'Where all have done so well, it is impossible to single out an individual in preference to another'". B. Sec. Pol. 362.
58. Blagden, op. cit. Malay Document XXI p. 321. Translated by the writer.

59. B. Sec. Pol. 362: Consultation 14th October.
60. *pusaka orang-orang dahulu*.
61. B. Sec. Pol. 362: Consultation 14th October.
62. Ibid.
63. B. Sec. Pol. *ibid*: no Malay version in Blagden.
64. Wilkinson: *Hulubalang*: military officer.
65. B. Sec. Pol. 362: 15th October.
66. Newbold, II p. 89.
67. p. 162.
68. Blagden, *op. cit. Malay Document XXV* p. 324. 69. The first of the series at Appendix I.
70. B. Sec. Pol. 362: Consultation 14th October.
71. 'hoards' in the record.
72. B. Sec. Pol. *ibid*.
73. B. Sec. Pol. *ibid*.
74. B. Sec. Pol. 363: Consultation 23rd December 1831 Item 24.
75. Described by Begbie (P. 199): he says there were eight tribal Chiefs (Sukus), and Raja Ali's mother was his 'chatty dame'.
76. See e.g. Abdullah Munshi, Gibson-Hill *JMBRAS XXVIII* 3 p. 230.
77. Begbie, p. 191.
78. B. Sec. Pol. 362.
79. At Rembia.

80. The record, with a copyist's error, has 'mud' here.
81. B. Sec. Pol. 365.
82. B. Sec. Pol. 363.
83. Ibid.
84. B. Sec. Pol. 365.
85. Begbie, p. 193.
86. Ibid, p. 201.
87. Garling to Ibbetson, 14th December 1832: B. Sec. Pol. 371: 28th January 1833.
88. B. Sec. Pol. 365: Consultation 20th February 1832.
89. The Japanese cleared all undergrowth to a depth of fifty yards from some main roads during their Occupation, and the same was done again during the Emergency 1948-1953.
90. Begbie, (p.207) says 80 yards on either side.
91. J.T. Thompson, *Translation of Abdullah Munshi*, (King, London 1874), p. 264 attributed the risk to another enemy: "Bass and Alsopp will have much to account for in future years....I have always found beer drinkers prostrated by a little exertion, and would vote that the beverage be abolished from the Indian army. The officers are brave, but they should always be in a condition to undertake hardships without flagging or being prostrated by the diseases which the use of malt liquor nourishes".
92. B. Sec. Pol. 365.
93. Begbie, pp. 202-203.
94. 12th April 1832, to Garling. B. Sec. Pol 366: Consultation 4th June.
95. Ibid.

96. Ibid.
97. Ensign Walker was killed in the attack and was buried within the curtilage of the new stockade: Begbie, p. 231. "A handsome monument, designed by Lieutenant Smythe, Engineers, has been erected to the memory, and over the remains, of Mr. Walker by his brother officers of the 5th". It is on the fringe of the garden of the District Officer's quarters.
98. Begbie, p. 229.
99. Ibid, p. 224.
100. Ibid, p. 248.
101. Ibbetson was critical: "Our present method of proceeding has proved itself defective in more ways than one. Pent up in the jungle, which gives cover to the enemy, we open a space around us, and present a fair mark for every hidden marksman without ever a chance of returning the compliment to the unseen foe. The Malay method of warfare has already been exemplified by Syed Shabban on the 3rd instant, when he issued from camp at night, burnt 19 houses and brought in 2 prisoners, but by progressing in the slow manner we have hitherto done, the enemy knows exactly where we will arrive tomorrow and next day, and prepares accordingly their hidden defences from which, on our approach, they fire a few volleys and retreat, doing probably as much mischief in five minutes as we should have received in the whole march to Tabow": B. Sec. Pol. 367: Consultation 9th July.
102. B. Sec. Pol. 368: Consultation 9th July.
103. They had been spiked on being abandoned in the first campaign.
104. Begbie, p. 150.
105. *J.I.A. (N.S.)* I (1856), p. 208.
106. p. 175.

107. p. 214.

108. Newbold, Vol. II p. 209.

109. Caltraps.

110. B. Sec. Pol. 365: Consultation 14th October 1831.

111. B. Sec. Pol. 366. Letter dated 31st May 1832.

112. "Our troops were absolutely at a stand, when (SyedShaaban)... with a drum borrowed of Colonel Herbert, having good information as to the state of the Enemy's Stockades, sallied out and captured 8 stockades. He was thereby the immediate means, under Providence, of enabling our Troops to advance": Garling to Murchison, 27th June 1835: B. Pol. 127/29. "At the outset there were 12 followers (of Syed Shaabang), the number increased at a late period to 35 and I actually received back from them so many muskets" Westerhout to Garling, 9th November 1832: B. Sec. Pol. 371.

Chapter 8

The Post-War Settlement

1. B. Sec. Pol. 369: 19th November.
2. B. Sec. Pol. 371: Consultation 28th January 1833.
3. "It is evident to me that neither Mr. Lewis nor any of his clerks will venture much beyond the town to superintend the land department and how the revenue is ultimately to be collected...remains doubtful..." B. Sec. Pol. 362: 14th October 1831, Item 17.
4. B. Sec. Pol. 371: letter dated 27th October 1832.
5. Newbold, Vol. II p. 232. The list is at Appendix J. It will be noted that all were from various *suku* and *perut*. Bilal Munji, 'the Nanningite of some importance', was one of them. Abdullah Munshi (Gibson-Hill op. cit. 3 p. 229; J.T. Thompson, whose translation of his variant script says that Bonham was Governor) stated that Garling went up to instal them, but this seems doubtful.
6. B. Pub. 136 Vol. 58, Item 18.
7. Panglima Besar - described as 'Jumah Panghooloo Besar' - died as the *Caledonia* reached Calcutta: the rest were paid subsistence of 2 annas a day each while in India: B. Pol. 126/58.
8. B. Sec. Pol. 371: Letter dated 24th October to Garling.
9. Stamps, seals.
10. B. Sec. Pol. 371: Letter 1st November 1832 in Consultation 12th February 1833.
11. B. Pol. 126 Vol. 23 Consultation 12th February 1833.
12. Letter dated 21st December 1832: B. Pol. 126 Vol. 23: Consultation 12th February 1833.
13. B. Pol. 126/25, 3rd April 1833.
14. B. Pol. 126/25.

15. B. Pol. 126/65.
16. Ibid. Chief Secretary to Governor, 3rd April 1833.
17. B. Pol. 127/13, Item 55. Bonham acted until Murchison arrived.
18. B. Pol. 127/13: Consultation 3rd April 1834, Item 55.
19. Ibid.
20. B. Pub. Range 13 Vol. 15. It seems to have been bought from Westerhout: *ibid.* Murchison to Chief Secretary 12th November 1835.
21. B. Pub. 13/8.
22. Ibbetson had in fact suggested that 'an intelligent covenanted servant with a suitable establishment similar to that at present entertained at Province Wellesley is absolutely necessary' to collect the tithes over Malacca generally: B. Sec. 371: Consultation 28th January 1833.
23. B. Pol. 127/1: Consultation of 10th July 1834.
24. Underlined in the record.
25. B. Pol. 127/18.
26. B. Pol. 127/28.
27. Ibid.
28. B. Pol. 127/28, Item 19: letter of 9th July.
29. B. Pol. 127/29.
30. Ibid.
31. In his letter he gave the total number of planters in Naning as 1,454.
32. B. Pol. 127/29.

- 33 Ibid.
34. B. Pol. 127/32.
35. B. Pol. 127/32.
36. B. Rev. 62/63.
37. B. Rev. 62/63.
38. Ibid.
39. *Notices, etc.* p. 248.
40. Vol. I p. 182.
41. Ibid, p. 240.
42. O.E.D.: *Telegu*: a carriage, buggy or cart, used in India.
43. Vol. I. pp. 194-5.
44. Ibid, pp. 191-2.
45. Wilkinson: *Tokak*: a skin disease, *saccharomysis hominis*.
46. Possibly *tawan*, taking captive.
47. Introduced in Penang in 1837: B Pub Z/P/606.
48. Vol. I pp. 196-7.
49. Vol. I p. 244 et seq. Like *Snoecq* two centuries before, he discovered a centenarian.
50. p. 246.
51. p. 154.

Chapter 9

The English East India Company's Administration

1. Board's Collection Vol. 1904.
2. Grant was then Deputy Secretary to the Government of India, and had been to the Straits to examine the land records among other documents.
3. Bonham had made, and Lushington was to make, the same suggestion in 1845, after serving briefly at Malacca: B. Pub. Range 13 Vol. 64 Consultation 2nd June 1847; and so did Sir Shenton Thomas (if memory serves) in his report to the Colonial Office after the fall of Malaya and Singapore to the Japanese.
4. Regulation IX of 1830, held to have been *ultra vires* in consequence of the decision by Malkin in *Sally Sassoom v. Wingrove (Sheriff)* delivered 17th July 1834: B. Pub. 13/11.
5. By Adriaen Koek, Acting Governor, *supra*.
6. Member, with Shakespear, of the Governor-General's Council.
7. Board's Collection Vol 1904: Prinsep, Secretary to Government, to Young, No: 218 dated 24th May 1837.
8. Governor Bonham to Calcutta, 8th May 1838: B. Pub. Range 13 Vol. 27.
9. Vol. 1904, Letter 21A dated 11th September 1837.
10. Christian Neubronner, of whom more below.
11. Garling's letter dated 25th October gave the following: "Average of four years under Mr. Westerhout's management.

	Rs.	A.	P.
Damar and Wood oil	-		
Timbers, firewood and charcoal	63		1
	6		

Lignum Aloes	26	6	4
Wax	-		
Ivory	-		
White earth	-		
Venison	-		
Canes and Rattan	78	8	7
Bark	16	1	10
Ebony	2	4	10
Tin	102	6	8
Lapang Wood	9	10	2
Total	295	7	11"

12. Ibid. Letter No: 271 dated 19th September 1837.
13. Wilkinson: *orlong*: a measure of common occurrence in old Penang titles...the 'square orlong of about 1½ acres. The linear orlong was 240 feet. *Jumba* = *jemba*: a measure of length equal to eight cubits (*hasta*) or about 12 feet.
14. Dated 4th December 1837: Vol. 1904: X Reports from Commissioner.
15. Ibid. Letter No: 731 dated 27th June 1838.
16. Letter No: 16 dated 2nd October 1837.
17. Letter dated 26th October 1837.
18. Report of 31st December 1838, paragraph 43.
19. Court's Letter dated 1st September 1841, paragraph 12.
20. This seems to be the Act referred to as the 'Malacca Lands Act' by R.D. Hill: *Rice in Malaya. A Study in Historical Geography*, Kuala Lumpur, Oxford University Press (1977), p. 124.
21. Letter No: 213 dated 24th May 1837, paragraph 17.
22. Letter from Public Department, Court, dated 23rd January 1833: it was changed in 1841 by the Court's letter of 1st September.

23. Board's Collections: Vol. 1905: dated 24th July 1838.
24. *Ibid.* Vol. 1903: India to Directors (Legislative Department) 21st October 1839.
25. SSR Vol. 168 Malacca Diary p. 163.
26. In his report for 1833/34.
27. Secretary to Government to Young, *ibid.* Letter 731 dated 27th June 1838.
28. Letter No: 19 in Public Department dated 1st September 1841.
29. B. Pub. 13/42 Consultation 26th April 1843, Resolution paragraph 11.
30. Board's Collection 1904 Vol. X: Reports from Commissioner, 8th December 1837.
31. Resident Councillor Malacca to Governor, 21st August 1840. B. Pub. Range 13 Vol. 44 Consultation 30th October 1843, Item 11.
32. Appendix D. to Young's Report dated 31st December 1838, *ibid.* There may be faulty copying, but the translation is very garbled — and needs some knowledge of Malay to guess what the translation was supposed to mean.
33. Appendix B to that Report.
34. *Notes on Malacca J.I.A. (N.S.)* 1 (1856), p. 58.
35. Enclosed with Young's letter No: 13 dated 2nd October 1838 to India.
36. *Ibid.*
37. Report dated 31st December 1838, paragraph 11.
38. Return by Superintendent of Lands B. Pub. Range 13 Vol. 44 Consultation 30th October 1843, Item 11.

39. B. Pub. Range 13 Vol. 36: Letter from Resident Councillor Malacca dated 7th November 1840 *re Ponachie v. East India Coy.*
40. Report dated 31st December 1838, paragraphs 9, 10 & 13. 41. *Ibid*, paragraph 14.
42. B. Pub. Range 13 Vol. 44: Consultation 30th October 1843, Item 11.
43. He had also referred to the 1829 case of *Mohammed Latiff* when he sat with the Recorder, and the terms of customary tenure.
44. Report dated 31st December 1838, paragraph 6. 45. B. Pub. Range 13 Vol. 42, Item 38.
46. B. Pub. Range 13 Vol. 42: Consultation 25th January 1843, Item 1. Enclosure 5.
47. Titular Sultan of Singapore and Johore, whose vague rights were bought out by Temenggong Ibrahim of Johore: Winstedt, *Johore*, loc. cit. pp.92-3.
48. Syed Shaaban received Rs 100 a month from November 1837 for 'services rendered in the Naning War' (B. Pub. 13/50, Consultation 30th October 1844) until he died in 1872, when the pension was Rs 200 p.m.: CO 275/14 Ex Co 1873.
49. Letter of 9th July: B. Pub. Range 13 Vol. 50. Consultation 30th October 1844.
50. The totals in the first and second columns are incorrect, and the total of 'Leases' would be 11, 352 if the number of Malacca leases had been correctly added up to make 2,852.
51. Letter 24th June 1842: B. Pub. Range 13 Vol. 42: Item 38.
52. See e.g. Administration Report 1893 quoting District Officer Jasin (Blagden) CO 275/45.
53. B. Pub. 13/44 Consultation 30th October 1843, Item 11.

54. *Ibid.* Letter dated 31st July 1843.
55. The marginal note showed a 'fixed' establishment of 1 clerk, 2 Native Writers, 5 peons, and an 'Extra Contingent' or 'unestablished' 1 Native Writer and 2 peons.
56. Young in his Report dated 31st December 1838 made a marginal note to his paragraph 33: "It appears from the evidence taken by me that under the old system a tax varying in rate from 5 to 10 per cent. was in many, probably all, of the districts levied on every transference of landed property. This tax is levied to this day by some of the Impropropriators who have retained their privileges but there is certainly no authority for its exaction in the original grants. Restrictions of a very vexatious character were moreover sometimes imposed upon the cultivators by the tithe-owners in regard to the sale of agricultural produce. Mr. Westerhout mentioned to me one instance in which an Impropropriator, Mr. de Wind, after having transferred his privileges to the Government continued still to enforce a monopoly which he had previously established in the district over which his privileges extended. The character of the proceedings was this: the people selling deal planks for the use of the towns, supply of which was chiefly obtained from this particular district, were compelled to dispose of them to Mr. de Wind alone, who gave a fixed rate of \$1 for 11 of them, and who afterwards sold them in the town at the rate of 4 or 5 per Dollar. Mr. Westerhout, on discovering... this... informed the people that they were not bound to sell their goods to any one person (they seem to have entertained no doubt as to the power of the late tithe owners to impose the restraint) and the practice has now ceased. The result has been that the country people now take their planks to Malacca and sell them there at a rate ordinarily of 8 per Dollar, both the producer and the consumer thus gaining by the suppression of an arbitrary interference...."
- Westerhout may be supposed to have known what he was talking about: his mother was a de Wind: R/9/20/2.
57. Presumably a reference to *Ponachie v. E.I. Company and Westerhout*, below.
58. The judgment in *Mohamed Latiff v. Mohamed Meera Lebe and Fullerton's Minute* on it. Salmond took this too far in stating that it

- sanctioned ejectment for non-payment in money.
59. Dated 27th July 1843: B. Pol. 13/44 Consultation 30th October 1843.
 60. *Tax on air. 'tax in the wind'*.
 61. Blundell took over as Acting Governor from Garling until the substantive Governor Butterworth arrived.
 62. Alai and Ayer Molek, both in Central District.
 63. The tenths had been collected at the tollhouses and when Young passed on the Supreme Government's instruction to abolish them, Garling raised the question of firewood and timber from unalienated as well as alienated land, (Letter 271, 19th September 1837) and suggested licences. Young thought these would be unduly expensive to administer as well as being, in effect, a town tax: 4th December 1837: Vol. X Reports of Commissioner.
 64. B. Pub. 13/44: Consultation 30th October 1843, Item 11. Letter dated 23rd September 1843, para. 12.
 65. *J.J.A.* Vol. II (1848), p. 741.
 66. Vol. X: Reports: Letter dated 4th September 1837, para. 24.
 67. Board's Collection 1904: Vol X: Reports from Commissioner, report dated 31st December 1838.
 68. Balhetchet was a Law Agent who had come out to Penang and was by 1834 working in the Land Office there: B. Pub. Z/P/605: "Reporting the records of the office...at Penang in a state of almost inextricable confusion and that there is no-one at either of the Settlements equal to the undertaking of adjustment excepting Mr. Balhetchet". In 1837 he was asked to become Assistant Resident, and was also given an allowance of Rs 400 p.m. as Young's assistant at Penang: B. Pub. 13/24. As Assistant Resident he was also Superintendent of Police. In September 1838 the troop transporter *Star* was dismantled in a squall soon after leaving Penang, and the Madras Native Infantry aboard vowed to make sacrifices if they

reached land. Back in Penang they paraded on a Sunday, the Muslims to go to mosque and the Hindus to go in procession to a temple. The Hindus beat a drum: a police peon stopped them and asked if they had a permit for 'tomtoming'. They had not, and had ceased beating the drum when Balhetchet arrived in his buggy and rode at them striking with his whip; he ordered them to the Police station and seized the sword carried ceremonially in procession. The men fell in and dressed in ranks to await the Officer of the Day, then in church. At this Balhetchet ordered the European constable and eight police peons to arrest the ringleaders, and they were taken off in custody. They happened to be the senior NCOs, controlling the men in what might have been an ugly affair. The officers of the garrison were outraged and to force the issue held a formal Court of Enquiry (President: Captain P.J. Begbie) which in effect found Balhetchet had behaved unwarrantably and had then lied in his explanations. The Court's findings were sent to the Governor: B. Pub. 13/28. Balhetchet left Government service and, later, in Singapore, and Logan succeeded to his practice: *JSBRAS.*, No. 8 p. 76.

69. LP&J/3/1015 Letter N; 19 in Public Department, dated 1st September 1841.
70. E/4/790 Board's Collections: Despatch 33 of 14th October 1846.
71. Board's Collection: Commissioner's Enquiries, Letter No: 78, dated 18th November 1838.
72. Z/P/604.
73. B. Pub. Range 13 Vol. 44 Consultation 9th October 1843. Item 3.
74. B. Pub. Range 13 Vol. 27 Minute enclosed with letter dated 23rd October 1837.
75. B. Pub. Range 13 Vol. 37 Consultation 18th November 1841.
76. B. Pub. Range 13 Vol. 50 Consultation 16th October 1844.
77. B. Pub. Range 13 Vol. 52 Consultation 27th February 1845.

78. B. Pub. Range 13 Vol. 61 Consultation 25th November 1846.
79. B. Pub. 13/61 Consultation 25th November 1846.
80. B. Pub. 13/69 Consultation 3rd May 1848, Item 2.
81. Board's Collection Vol. 1904 Appendix: List of Establishments.
82. Letter No: 181 of 1838/9 dated 24th September 1838.
83. Letter No: 78 dated 18th November 1838, Governor to Calcutta. Volume of Current Proceedings, Commissioner's Enquiries.
84. Ibid.
85. B. Pub. 13/64 Consultation 2nd June 1847, Letter dated 27th February 1847.
86. B. Pub. 13/36.
87. Logan: *Notes on Malacca, J.J.A. (N.S.)* (1856) 1.
88. As 82.
89. Vol. E/4/790.
90. All the papers quoted are in B. Pub. 13/36.
91. Katas, old enemy of Syed Shaaban. The account is in Vol. E/4/790, Court's despatch No: 33 dated 14th October 1846 to India and its supporting papers.
92. Then acting after Salmond's suspension before Lushington arrived.
93. B. Pub. 13/52 Consultation 26th March 1845. 94. 'Native Writer', next senior in the office to the clerk.
95. B. Pub. 13/64 Consultation 2nd June 1847.
96. This had been retained by the Supreme Government in its file.

98. B. Pub. 13/78.
99. B. Pub. 13/78: Letter dated 27th April 1849.
100. Penghulu's assistant.
101. *Five Days in Naning: J.I.A. III* (1849), p. 284.
102. *The Tin Mines of Malacca: J.I.A. VIII* (1854), pp. 113-133.
103. J.I.A. II (1848) p. 745.
104. B. Pub. Range 13 Vol. 59: Consultation of 29th July 1846. Butterworth thought this might "afford the only dawn of hope of the Malacca territory ever proving aught but a useless encumbrance" and recommended a lease for ninety-nine years. The scheme came to nothing, but there is nothing in the records to suggest that this was because the applicants argued that under the 1828 agreement the Government could not give indefeasible title for that period. The Government files raised the point for internal consideration.

Chapter 10

The India Office

1. *Reminiscences of an Indian Official*, p. 262. He wrote somewhat vaingloriously nearly twenty years later, and had forgotten the excursions of Lewis and Westerhout, the wells of Ibbetson and the roads which had so inspired the petitioners who wished to keep Blundell in 1849.
2. CO 275/1 Annual Report 1855-6 p. 12. Blundell as Resident Councillor convened and presided over the first meeting before receiving Butterworth's offer to appoint him President: B. Pub. 13/69: Letter 30th October 1848.
3. CO 275/1 Annual Report 1857-8, p. 71.
4. The separation into Municipality and Rural Board came in 1908.
5. India: Range 188 Vol. 71 Proceedings of July 1865.
6. Then in the immediate vicinity of, and now well within, the town itself.
7. Contrast progressive Singapore: "The big event of 1864 is the introduction of gas into Singapore. The formal lighting took place on Her Majesty's Birthday, when a large company was invited to the new works and the gas was turned on by His Honour the Governor": A.R. 188/71.
8. CO 275/1: A.R. 1857-8 p. 53.
9. *Ibid.* A.R. 1860-1 p. 3.
10. *Ibid.* A.R. 1864 p. 21.
11. The total was 648 in 1865 and dropped slowly as convicts from India (though not Ceylon) were sent elsewhere.
12. CO 275/1 A.R. p. 9.

13. CO 275/1 A.R. 1861-2 p. 14.
14. *Ibid.* A.R. 1859-60.
15. *Huay*: secret association of Chinese.
16. *Reminiscences*, p. 261.
17. CO 275/1 A.R. 1861-2 p. 1.
18. *Ibid.* A.R. 1863-4 p. 1.
19. He described the fascination of the Malays when he unshipped his ceremonial artificial leg and put on his wooden stump for getting about rough country: *Reminiscences*, p. 262.
20. *Ibid.*, p. 262.
21. Indian Revenue Proceedings Range 193 Vol 46: 14th June 1861.
22. CO 275/3 Proceedings of Government January 1866, Item 12.
23. A.R. 1855-56 Appendix 7.
24. India, Range 188 Vol. 71 Proceedings, p. 793.
25. CO 275/2 A.R. 1857-8 p. 58. A Public Works official was appointed by 1864: A.R. 1864-5, p. 52.
26. A.R. 1857-8, p. 51.
27. A.R. 1860-1 Appendix VI. The Government Surveyor at Malacca, assistant to Quinton, died in 1865 and was not replaced: A.R. 1864-5, Survey, para. 1.
28. A.R. 1861-1, p. 21.
29. A.R. 1857, p. 4.
30. *Prescription* was the term used by the Company and India Office, as has been seen: it came to be examined in *Sahrip v. Mitchell & Endain*

in 1870, noticed below.

31. B. Pub. 13/33.
32. A.R. p. 24.
33. A.R. 1862-3, p. 12.
34. All details from Dewar: *Memorandum on Introduction of Registration of Title in Malacca* (1946) SG 319/46.
35. India Public Z/P/1816B.
36. Op. cit. *JMBRAS.*, Vol. XXXII Pt. 3 (1960) pp. 118-151, reprinting *JMBRAS.*, Vol. III Pt. 2 (1925) pp. 99-127.
37. *JMBRAS.*, Vol. XXXIII Pt. 3 p. 130.
38. Ibid, p. 136.
39. W.E. Maxwell *The Law and Customs of the Malays with reference to the Tenure of Land.* *JSBRAS.*, No. 13 (1884), p. 159.
40. Straits Settlements A.R. 1884 Land Department Report, para. 18.
41. "The old administration...under India, though it did not bear comparison in financial results with the Colonial Government...was nevertheless in some respects...more consonant with native ideas and habits than the present system...." CO 275/28 p. 194.
42. *JMBRAS.*, Vol. XXXIII Pt. 2 p. 132.
43. *J.L.A.* Vol. II p. 740 et seq.
44. SSR Vol. 169 Council of 11th March p. 33, Section III Clauses 1-7.
45. Gibson-Hill: *JMBRAS* XXVI 1 p. 191.
46. 16th February 1832, quoted by Rice, op. cit. p. 124.

47. Vol. I p. 261.
48. Auckland's Minute of 9th February 1837 paragraph 46.
49. A.R. 1864-5 pp. 38, 55.
50. Braddell's journey 'by palenquin' was not to Ayer Panas in Gadek mukim (marked on his map) but to Ayer Panas near Kesang via Ayer Molek, also marked: *J.I.A. VII Journey to Interior of Malacca*.
51. Propounded by Hill *Rice in Malaya*, p. 124.
52. B. Pub. 13/42 Consultation 25th January 1843, Item 1.
53. *J.I.A. (N.S.)* I (1856), opposite p. 296.
54. *Reminiscences*, p. 264.

Chapter 11

The Early Years under the Colonial Office

1. CO 275/4 Executive Council: Straits Settlements Estimates.
2. CO 275/7 Executive Council.
3. CO 275/13 Appendix H. 22 p. 75.
4. CO 275/13 Legislative Council Appendix 17, 17th September 1871 p. 100 et seq.
5. CO 275/18 Legislative Council Appendix 11.
6. Blue Book 1874.
7. CO 275/29 Administration Report 1883 (Hervey) Appendix 28 C. 266, 279. The increase was from 796 to 1,437.
8. CO 275/14 Executive Council, 17th July 1873.
9. CO 275/18 Appendix 11 A.R. Malacca.
10. CO 277/4 Blue Book 1870 pp. 4-5.
11. CO 275/27 Appendix 26. The 1881 Census gave the following figures for those employed in agriculture:

	Malays		Chinese	
	Male	Female	Male	Female
Market gardeners	504	508	643	7
Labourers	3,351	1,574	2,082	3
Padi Planters	2,810	3,371	702	13

(CO 275/29 Appendix 29)

12. CO 275/23 Legislative Council Appendix 21 p. cxxxviii.
13. CO 275/24 Appendix 1: Letter dated 8th January 1880 to Secretary of State.

14. CO 275/22 Appendix 36.
15. CO 275/23 Appendix 21.
16. CO 275/24 Appendix 25, p. 128.
17. CO 275/25.
18. CO 275/27 Appendix 26 para. 35.
19. CO 275/24: Colonial Engineer's letter dated 26th August 1880 to Colonial Secretary.
20. CO 277/5: Blue Book Z4 and Z5.
21. CO 275/12: Shorthand Report, 25th July.
22. Reported in full by his son, W.E. Maxwell: *JSBRAS* 13 pp. 205-211. For an account of Sir Benson Maxwell and his earlier attitude to what he thought was oppression see Turnbull, *JMBRAS.*, vol. XXX Pt. 1 (1957), p. 137 et seq.
23. CO 275/28 Appendix 38 para. 45.
24. CO 275/15 Appendix 26 para. 3.
25. CO 275/19 Papers put before Legislative Council, 29th January 1876.
26. CO 274/2.
27. *Ibid.*
28. So stated by him in his Report for 1881: CO 275/27 Appendix 26.
29. *Ibid.*
30. As Resident Councillor and not Lieutenant-Governor, following a revision of the establishment of the Civil Service: CO 275/24 Appendix 42.

31. CO 275/28 Appendix 46 (Administration Report) para. 37.
32. CO 275/28 Appendix 15, 12th April 1883, para. 198.

Chapter 12

The Winds of Change

1. D.N.B.
2. *Ibid.*
3. Concise D.N.B. 1901-1950.
4. R.O. Winstedt and R.J. Wilkinson, *A History of Perak, JMBRAS.*, XII, Pt. 1 (1934), p. 96.
5. *Ibid.*, p. 116.
6. CO 275/46 p. C 168.
7. Winstedt & Wilkinson, *op. cit.* p. 117.
8. CO 275/27 verbatim Record, 7th March 1882.
9. *J.I.A. (N.S.)* I. (1856) p. 43 et seq.
10. CO 275/27.
11. B. Pub. 13/33, Consultation 14th March 1840, above.
12. *Sahrip v. Mitchell and Endain*, *supra*.
13. Then Governor of South Australia.
14. CO 275/24: Letter dated 26th August 1880.
15. *Ibid.*
16. *Ibid.* Letter dated 15th December 1880
17. CO 275/27: verbatim Record, 7th March 1882.
18. CO 275/27: Verbatim Record.

19. Ibid.
20. CO 275/27: Verbatim Record, 4th May.
21. CO 275/28 Papers laid before Legislative Council, No: 18 p. 167.
22. Ibid, p. 196.
23. Ibid, p. 184.
24. Ibid, pp. 190-4.
25. Ibid, p. 197.
26. Ibid, pp. 172-4.
27. Lands near Malacca Town, the tithe on which had not been redeemed and which was then collected by Syed Mohd. Hussein als. Wan Chillay.
28. Irving's footnote stated that in general the Penghulu took three fourths of this and the Mata-mata one fourth.
29. CO 275/28: Address to Legislative Council, p. 385.
30. CO 275/27: Verbatim Record, p. 68.
31. CO 277/5: Blue Book.
32. Harold E. Wilson, *The Evolution of Land Administration in the Malay States*, *JMBRAS.*, XLvIII, Pt. 1 (1975), p. 121.
33. CO 275/5.
34. Op. cit. *JSBRAS.*, No. 13 (1884), p. 169.
35. Lim Teck Ghee *The Origins of a Colonial Land Policy, The Development of Perak Land Legislation, 1874-1897* Paper No: 44, International Conference on Asian History (1968) p. 2. Quoted by Wilson loc. cit.

36. CO 275/56: Proceedings 17th February.
37. CO 275/28 Appendix 15 p. 81.
38. *Ibid*, para. 159.
39. *Ibid*, para. 164.
40. *Ibid*, paras. 169, 170.
41. By Ceylon Ordinances 8/1863 and 5/1877, but not yet in force.
42. Appendix 15, para. 174.
43. *Ibid*, paras. 177, 178.
44. *Ibid*, para. 183.
45. CO 275/28 Paper No: 30.
46. *Ibid*. Appendix 38, tabled 20th August. It had 109 paragraphs.

Chapter 13

The Reforming Legislation

1. CO 275/28: verbatim Record, p. 112.
2. Ibid, p. 130.
3. 'manager of the Borneo Company and resident in the Colony some years': Weld to Secretary of State, 13th March 1881. CO 273/108.
4. So stated by Maxwell to Select Committee on Boundaries Bill: CO 275/29.
5. CO 275/29 B. pp. 40-42.
6. Ibid. B. p. 44.
7. Ibid. B. p. 58 et seq.
8. CO 275/29 B. pp. 136, 137.
9. CO 275/31: Verbatim Report B. p. 126.
10. Ibid, p. 132.
11. Ibid, p. 138.
12. Section III: Declaration that prescriptive holders were liable to payment of the tenth, in kind or commuted.
Section IV: Power for the Governor to commute the tenth, whether in kind or money, and fix a payment of premium and annual quit rent.
Section V: Power for the Governor to grant in perpetuity or for a term of years waste or forest land in Malacca or Naning on payment of premium and no rent.
Section VI: Bar on future acquisition of 'prescriptive rights'.
13. *JSBRAS.*, No. 13 (1884), p. 204.
14. CO 275/31 B. p. 35.

15. Ibid.
16. Ibid. B. p. 49.
17. Ibid. B. p. 55.
18. See e.g. R.D. Hill, *Rice in Malaya* etc. p. 124.
19. CO 275/28 Appendix 30, p. 392 (noticed above).
20. CO 275/31 B. p. 56.
21. CO 275/31 Appendix 35 C p. 565.
22. CO 275/31 B. p. 165.
23. Apparently quoted by R.D. Hill, *Rice, etc* p. 124.
24. South east of Malacca not far from the Muar boundary.
25. CO 275/32 p. 191.
26. CO 275/35.
27. By Section 118 and the Fifth Schedule of the National Land Code (Penang and Malacca Titles) Act No: 2 of 1963 when it came into force in Malacca.
28. CO 275/31 C. p. 581, approved by Despatch 22616 received 14th December.
29. By an Ordinance of the same title, No. 47 of 1940: it made an arrear of any payment not made by 1st April when due on 1st January in any year, and proceeded straight to the sale of the land, omitting attachment of chattels and crops. The procedure however remained the same.
30. CO 275/32 p. 435 et seq.

Chapter 14

The District Administration

1. CO 275/36 p. 493. Innes was shown as 'Cadet attached to the Land office' in the list of Malacca jurors.
2. CO 275/30 p. 263 para. 47.
3. CO 275/28 Appendix 16, p. 147.
4. CO 275/31 C p. 537 para. 62.
5. Ibid, para. 51.
6. Ibid, para. 54.
7. CO 275/33.
8. CO 276 Gazette Notification 216 dated 1st November 1889.
9. CO 275/39 B. p. 31 et seq.
10. *surat kuasa*: Wilkinson: letter of authority, letters of administration.
11. CO 275/39 B p. 33.
12. Ibid. B. p. 41.
13. Ibid. B. p. 42.
14. Ibid. B. p. 39.
15. Ibid. B. p. 40.
16. CO 276 Gazette Notification No: 174 of 1890.
17. CO 275/32 PaPer No: 26, para. 15.
18. CO 275/55 p. 311 (Quoted in the Report for 1897).

19. Loc. cit. para. 3.
20. Wilkinson: *Demang* (Batav. from Sund.) District Headman under a Regent....In the Peninsula it occurs only in Malacca where it was introduced by Mr. Hervey as a title for a major headman.
21. CO 275/36 p. 494.
22. CO 275/40 p. 548 para. 38.
23. CO 275/49 p. 109.
24. CO 275/48: Papers laid before Council, No. 35, p. 3181.
25. Gazette Notification No: 491 dated 25th September.
26. CO 275/39 Administration Report (Isemonger) 1890, p. 548.
27. Appendix J. I am greatly indebted to Mrs. Judith Sihombing of the University of Hong Kong for the reference, photocopies and her help.
28. CO 275/47 pp. 86-90.
29. CO 275/31 B. p. 129.
30. CO 275/47 p. 78.
31. Only Sungei Baru Ulu and Melekek were Naning mukims.
32. CO 275/56 Malacca Annual Report pp. 376-77. 33. CO 275/63 B. p. 14.
34. Ibid, pp. 13-14.
35. Ibid.
36. CO 275/47 p. 78.
37. Annual Reports: CO 275/53 p. 254 and CO 275/59 p. 42.

38. CO 275/47 p. 78 para. 21.
39. CO 275/49 Administration Report (Kynnersley) p. 110.
40. CO 275/47 p. 181.
41. CO 275/31 p. 532.
42. CO 275/35 Malacca Administration Report Para. 20 et seq.
43. In Selangor there was no tax on tapioca or Liberian coffee: CO 275/41 C. p. 55.
44. CO 275/47 Annual Report 1893, p. 87.
45. Ibid.
46. Ibid, p. 256.
47. CO 275/61 p. 346.
48. CO 275/45 Malacca Report 1892: p. 577.
49. CO 275/53 p. 254 Malacca Report.
50. Ibid. Annual Report, p. 19.
51. CO 275/68 p. 117.
52. CO 275/65 B. pp. 157, 167, 173.
53. CO 275/55 Annual Report 1897, p. 310.
55. CO 275/53 p. 260
56. P.R.O. MPG 880: dated 15th August 1893.
57. CO 275/47 p. 114.
58. CO 275/36 p. 492.
59. CO 275/55 p. 315. \$40,700 in 1893 had been reduced to \$26,550 by 1896.

60. CO 275/57 pp. 381-2.
61. CO 276/59: percentages added in Paper No: 1 Appendix 1 CO 275/67.
62. Ibid. Paper No: 1 p. 34.
63. CO 275/42 p. 329.
64. CO 275/36 p. 491.
65. CO 275/57 p. 387.
66. CO 275/59 p. 118.
67. CO 275/49 p. 110: para. 45.
68. CO 275/57 p. 95.
69. CO 275/49 p. 11.
70. CO 275/39 B. p. 103.
71. CO 275/61 p. 350.
72. CO 275/33: Paper No: 33.
73. CO 275/47 p. 28.
74. Ibid, p. 115 paras. 92-95.
75. CO 276/38 G.N. 291 of 14th April 1899.
76. Ibid G.N. 562 of 15th July 1899.
77. CO 275/49 p. 110.
78. CO 275/64 p. 132.
79. CO 275/53 p. 260.

80. CO 275/59 p. 112.

81. CO 275/57 p. 280.

82. CO 275/59 p. 134.

Chapter 15

'Prosperity and Peace in this Fertile Corner'

1. CO 275/61 p. 346.
2. CO 275/91 p. 188.
3. CO 275/61 p. 365.
4. CO 275/66 p. 122.
5. CO 275/70 p. 156.
6. The export figures include supplies from Negri Sembilan. All values quoted henceforth are in Straits dollars.
7. CO 275/81 p. 306.
8. CO 275/84 p. 163.
9. Ibid. p. 162.
10. CO 275/74 p. 37.
11. CO 275/94 p. 173.
12. CO 275/98 p. 70.
13. CO 275/70 p. 166.
14. CO 275/72 p. 107.
15. CO 275/81 p. 305.
16. CO 275/84 p. 162.
17. CO 275/47 p. 78.
18. CO 275/52 p. 2588.

19. CO 275/73: verbatim Record B. p. 201.
20. Ibid, pp. 211-213.
21. Ibid, p. 213.
22. Ibid, p. 225 et seq.
23. Ibid, p. 228.
24. Maxwell, *Malay Land Tenure, JSBRAS*, No. 13 (1884)passim.
25. See G.A. de Moubray, *Matriarchy in the Malay Peninsula and Neighbouring Countries*, London, George Routledge & Sons Ltd., (1931), p. 32 for comparison with the Hindu castes of Malabar.
26. Federation of Malaya Agreement 1948 Clause 124 (3) (b).
27. CO 275/74 B. p. 227.
28. Ibid. B. p. 214.
29. See R.H. Hickling, *An Overview of Constitutional Changes in Malaysia: 1957-1977*, in *The Constitution of Malaysia, Its Development, 1957-1977*, Tun Mohammed Suffian, H.P. Lee, F.A. Trindade (eds.), Kuala Lumpur, Oxford University Press 1978, pp. 18-19.
30. Published as Gazette Notification 12601 on 10th October 1913.
31. CO 275/70.
32. CO 275/98.
33. CO 275/57 p. 389 and /59 p. 121.
34. Ordinance IV of 1880.
35. Gazette Notification No: 27 of 11th January 1900.
36. CO 275/84 p. 162. Annual Report, Malacca.

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37. CO 275/87 p. 386.
38. CO 275/91 p. 189.
39. Ibid, p. 437.
40. CO 275/88: Verbatim Record B. p. 135.
41. Ibid, p. 199.
42. CO 275/96 p. 246.
43. CO 275/105 p. 666.
44. CO 275/94 p. 184.
45. Destroyed in late 1914 by *H.M.A.S. Sydnev* off North Keeling.
46. A purification festival in the second Muslim month, previously treated by Malacca Malays as a festival by the sea or, less often, rivers and discouraged by orthodox Muslim leaders.
47. CO 275/96 p. 259.
48. CO 275/67 C p. 153.
49. CO 275/72 p. 116.
50. CO 275/74 pp. 41, 44.
51. CO 275/81 p. 307.
52. CO 275/84 p. 159.
53. Ibid, p. 165.
54. CO 275/91 p. 192.
55. CO 275/88 B. p. 135.
56. Head 29, Item 3.

57. CO 275/66 p. 129.
58. CO 275/68 p. 124.
59. CO 275/72 1905 A.R. p. 125.
60. CO 275/105 p. 338.
61. CO 275/96 p. 255.
62. CO 275/87 pp. 393, 387.
63. *Ibid*, 390.
64. CO 275/91 p. 195.
65. 57 in 1904: CO 275/84 p. 166.
66. CO 275/84 p. 166.
67. CO 275/94 pp. 173, 176.
68. CO 275/96 p. 242.
69. CO 275/91 p. 203.
70. CO 275/87 p. 387.
71. Known as 'Dato' Arab' because the Arab shirt held with the regalia fitted him and no other candidate.
72. I am indebted for this information to Dato' Mohammed Shah, the present Dato'.
73. When he was appointed Kathi of Alor Gajah as well as Naning: CO 275/79 p. 137.
74. CO 275/105 p. 294.
75. CO 273/499. Letter to Colonial Office dated 19th April 1920. The Resident Councillor did not again become a member of Legislative

Council *ex officio*, but he was appointed as an official member. This was to avoid an alteration to the Royal Instrument, to enable them to discontinue the arrangement if the next Government wished for another change, and to avoid having to appoint a balancing Unofficial: File 25265.

76. CO 275/105 p. 353.
77. R.J.F. Curtis, *The Revival of the Title of Dato Naning in 1921*, *JMBRAS.*, LIII Pt. 2 (1980), p. 98.
78. R. Bird Esq: private letters to Tan Sri Mubin Sheppard dated 18th April and 29th May 1967, which Tan Sri Mubin brought to my grateful attention.
79. *Ibid.*

Chapter 16

Depression, Restriction, War, Emergency and Independence

1. Census 1921, Tables VIII, LXII and LXIII. The Census Report contained much recondite information (e.g. that five of the eight 'freethinkers and atheists' in the Colony lived in Butterworth) but did not show Malacca population by mukims.
2. CO 275/91 p. 189.
3. CO 275/107 p. 621.
4. CO 275/105 p. 342.
5. W.L. Blythe, *Historical Sketch of Chinese Labour in Malaya*, *JMBRAS.*, XX Pt. 1 (1947), p. 75.
6. Literally, 'new guest', but soon derogatory, 'novice'. 7. GN 27 of 11th January 1910.
8. Blythe, op. cit. p. 87.
9. C.M. Turnbull, *Melaka under British Colonial Rule*; Chapter 9 in *Melaka The Transformation of a Malay Capital* ed. Kernial Singh Sadhu and Paul Wheatley, Kuala Lumpur, Oxford University Press (1983) p. 275.
10. Tjoo Hock Guan, *Social and Political Ideas of Datok Sir Tan Cheng Lock*, Chapter 38 in *Melaka, etc* ibid, p. 314.
11. CO 275/105 p. 353.
12. CO 275/107 p. 610-11.
13. Ibid.
14. CO 275/110 p. 256.
15. CO 275/112 p. 161.

16. CO 272/107 p. 610; /110 p. 236.
17. See P.T. Bauer, *The Rubber Industry*, Longmans Green, London (1948), p. 12 and Turnbull op. cit. p. 275.
18. Bauer, loc. cit.
19. CO 275/119 p. 133.
20. CO 275/121 p. 392.
21. CO 275/105 p. 350.
22. CO 275/107 p. 612.
23. CO 275/107 p. 612.
24. Ibid, p. 610.
25. CO 275/121 p. 409.
26. CO 275/126 p. 95. 13¹/₄ c. with the \$ at 2/4d meant 3.71d a lb.
27. CO 275/131 p. 625.
28. The new Governor, Sir Cecil Clementi, went to Java that August for discussions. The Report noted that 'the journeys both ways were made by aeroplane': CO 275/126 p. 83.
29. CO 275/142 p. 893.
- * 30. CO 275/136: Survey Report p. 64.
31. Ibid: Colonial Secretary's Report, p. 640. The ecological disadvantages of this in a tropical rain forest area were not then realised: see Bauer, op. cit. pp. 257-60.
32. Bauer, op. cit. p. 208.
33. CO 275/136 p. 639; /142 p. 968; /148 p. 965.

34. CO 275/134 p. 422.
35. Bauer, op. cit. p. 18.
36. Ibid, p. 19.
37. CO 275/134 p. 404.
38. CO 275/150 p. 351; Bauer, pp. 177-8.
39. CO 275/106 Legislative Council Proceedings B. p. 210. 40. CO 275 106 C. 143.
41. CO 275/131 pp. 395-7.
42. CO 275/105 p. 349.
43. CO 275/142 p. 965.
44. Discussed by Gullick, *History of Malaysia*, Benn (1969), pp. 243-4.
45. CO 275/131 p. 369.
46. Ibid, p. 380.
47. CO 275/136 p. 640.
48. CO 275/148 p. 966.
49. Ibid, p. 969.
50. *Federation of Malaya Annual Report 1954* p. 393.
51. CO 275/142 pp. 421-4.
52. On this society, see Tan Sri Dato Mubin Sheppard, *Taman Burliman: Memoirs of an Unorthodox Civil Servant*, Kuala Lumpur, Heinemann Educational Books (Asia) Ltd., (1979) pp. 79-80. It is truer to say that payments under adat were restricted partly by the agency of adat officials.

53. CO 275/142 loc. cit.
54. By Cap. 125 Section 31, added to the 1886 Ordinance in 1890: it empowered the Resident to recognise an applicant for a Grant as a customary landholder instead.
55. Cap. 113 Section 19; by 1934 no 'village sites' had been gazetted for Malacca. (Eleven for Singapore, three for Penang, two for Province Wellesley).
56. CO 275/106 Proceedings of Legislative Council B. p. 38.
57. *In re Tiambi*, quoted in and discussed by E.N. Taylor, *The Customary Law of Rembau, JMBRAS.*, VII Pt. 1 (1929), p. 57.
58. There were many Lots of E.M.R. land built on in Pulau Sebang in 1947-9 and in Pengkalan Rama and Bachang (Malacca) 1950-3, but the writer (as then CLR in the two Districts) cannot recall that the amending sections were ever invoked.
59. CO 275/134 p. 45.
60. CO 275/106 Proceedings of Legislative Council B p. 118.
61. Dewar, *Memorandum on the Introduction of Registration into Malacca*, p. 7: SG 319/46.
62. CO 275/110 p. 241.
63. CO 275/112 p. 160; /117 p. 85; /126 p. 113.
64. CO 275/119 p. 157.
65. CO 275/142 p. 338. This, interrupted by the Japanese Occupation and loss of records, was not completed until 1954.
66. Dewar, op. cit. p. 12 para. 55.
67. CO 275/142 p. 338.
68. *Supra*, and CO 275/39 B. p. 32.

69. Section 27 Cap. 57 in the 1935 Revision.
70. Begbie mentioned that when a century earlier the Chiefs of Rembau met Ibbetson, one was a boy but nevertheless treated with deference.
71. CO 275/107 p. 612.
72. Discussed below.
73. Curtis, op. cit. p. 99 and Sheppard op. cit. pp. 75-88, passim.
74. Khoo Khay Kim & Others: *Melaka's Malay Society in Modern Times* Chapter 29 in *Melaka, Transformation etc.* p. 85.
75. Curtis, op. cit. p. 100.
76. Yoji Akashi, *The Japanese Occupation of Melaka, January 1942-August 1945*, Chapter II in *Melaka, the Transformation etc.* (a valuable and objective account) p. 354.
77. 'Elephants charge each other and the mousedeer gets killed in the middle'.
78. See e.g. Yoji Akashi, op. cit. p. 316.
79. Ibid, p. 323.
80. Ibid, p. 319 (including an interview with Watanabe).
81. Information to the writer in 1946.
82. CO 944/1 p. 15. Both may of course have been 'sleepers' sent to await the event, but they were obviously not administrators with recent experience.
83. Yoji Akashi, op. cit. p. 324. In 1946 at a well in Tanjong Kling the writer was told that over 150 bodies had been thrown into it in 1942.
84. Ibid, p. 342.
85. Ibid, p. 329.

86. Ibid, p. 333.
87. CO 944/1 p. 44.
88. Reported to me in 1946 by the then Chief Clerk.
89. Zalfan: *Melaka* quoted by Yoji Akashi, op. cit. p. 322. This account was based on an examination of the appointment of penghulus and sidangs in Sungei Udang, Tangga Batu and Bukit Lintang, all non-Naning mukims, but the chain of command was the same in all Malacca mukims.
90. Yoji Akashi, op. cit. p. 322, 323.
91. CO 944/1 Veterinary Report, p. 56.
92. Yoji Akashi, op. cit. p. 345.
93. CO 944/1 p. 15.
94. Yoji Akashi, p. 329. A Malacca merchant told the writer in 1946 that he and his neighbours kept their rice in safes and notes in sacks outside.
95. Yoji Akashi pp. 329-331.
96. CO 944/1 p. 15.
97. Ibid, p. 5.
98. Ibid, p. 57.
99. CO 944/1 p. 44. This officer was a European with no cause to be dispassionate about the Japanese, but the report was contemporaneous and reasonably objective.
100. Khoo Kay Kim, op. cit. p. 70.
101. Yoji Akashi, op. cit. pp. 348-9.
102. Ibid, p. 347.

103. Ibid, pp. 350-4.
104. Several penghulus and sidangs spoke of the Jikeidan to the writer in 1946-8, with distaste as crude and ill-contrived, but not as perpetrating licensed violence.
105. His death at the hands of a firing squad was not known until after the Surrender. It is possible that the Japanese thought that announcing his death and obtaining the selection of an acceptable successor would have stirred up more feeling than it was worth.
106. See e.g. Gullick, *Malaysia* p. 99 et seq.
107. CO 944/2 p. 7.
108. 'If astray at the end of the path go back to its beginning' - quoted to the writer when he asked the reason for the change in rules of succession in 1945-6.
109. 'Rotation', described later.
111. The writer came across an area in Bukit Lintang in Malacca in 1952 of about 160 acres under TOL to a colony of Javanese who had planted rubber on peat soil so long before that the peat had shrunk with drainage and the Javanese tapped the exposed roots.
112. The 1931 Census (Vlieland) enumerated Alor Gajah by five compartments without distinguishing mukims.
113. Census Report 1947 (del Tufo), Table 5.
114. '*Report on a Visit to the Rubber Growing Smallholdings of Malaya, July - September 1946*'. Signed on 16th October 1946, it was published by HMSO in 1948 as Colonial Research Publication No: 1. Professor Bauer visited several mukims in Alor Gajah District, but none of these was in Naning.
115. Ibid, p. 88.
116. The District Officer Alor Gajah put his comments to the Resident Commissioner in verse of a sort, beginning:

Budded stock is good
But clonal seed is better;
We therefore think we should
Insist upon the latter.
When this country gets merdeka
In another generation,
It's the latex yield per acre
Will finance the new nation....

117. CO 944/1 Report p. 8. Hedge planting, reputedly first developed in French Indo-China, was an intensive cultivation of trees close together in the rows, with rows 60 feet apart.
118. Blythe, *op. cit.* pp. 109-110.
119. CO 944/1 Annual Reports, p. 8.
120. The Malayan Communist Party's representative at the 1945 International Congress in Calcutta was a Malay, Rashid bin Maidin, whom the writer knew as a detainee in 1950-1, a man of intelligence, some education, rational conviction, personal integrity and, perhaps, a friend.
121. For the surrender of Abu Noh, see Sheppard *op. cit.* pp. 197200.
122. The order affecting Naning, Gazette Notification 3, was dated 20th January 1949.
123. Including at various times the Scots Guards, Dragoons of the Household Cavalry, British line regiments, East African Rifles, a battalion from Fiji, and of course Gurkhas, all doing tours on duty.
124. G.N. 186.
125. So called to avoid any insurance problems which might have arisen from declaring a state of hostilities.
126. Based on 4% of the capital value for 30 years, 8% for 60 and 12% for 90, averaged through the length of the lease.
127. The four corner posts were reinforced concrete on a pattern devised

- by the then D.O. Jasin and later improved and manufactured in quantity. A Malacca firm cast them in hundreds and the firm's owner of his own wish supplied them at cost foregoing profit.
128. Gullick, op. cit. p. 115.
 129. e.g. Controlled Areas Orders: G.N. 71 of 12th April - Nyalas; G.Ns. 14, 17 and 18 - Machap, Melaka Pindah, Pegoh, Pulau Sebang, Gadek, Padang Sebang, Kemuning.
 130. G.N. 260. Through non-stop vehicular traffic on the main roads to Pulau Sebang and Kendong was excepted.
 131. Clearance (Alor Gajah District) Order No: 2: G.N. 92.
 132. Tan Sri Datu Mohd. Salleh bin Abas, *Federalism in Malaysia - Changes in the First Twenty Years*, in *The Constitution of Malaysia*, op. cit., p. 166. On the two attempts by Penang to secede, see p. 167.
 133. On these see Suffian, *Introduction to Malaysian Constitution* (1972) pp. 7-9.
 134. Gullick, *History of Malaysia* p. 106.
 135. CO 944/1 Report for 1949 p. 20.
 136. Not only in Malacca and Naning: see Gullick, op. cit. p. 126.
 137. The writer in the course of five years in Malacca Districts did not receive notice of any meeting of a Mukim Council (of which he was an ex officio member) nor see nor hear of any formal decisions: all decisions were probably reached very informally. But the Rules (31 & 32) did not require any formalities, and certainly gave no right of audience to anak buah.
 138. CO 944/2: Verbatim Record pp. 3-5.
 139. By 1954 Executive Council consisted of three ex-officio Members (Chief Secretary, Attorney-General and Financial Secretary) eleven officials (3 European, 4 Malays, 2 Chinese and 2 Indians/Ceylonese) and 2 Unofficials: Year Book pp. 440-6.

140. Gullick, op. cit. p. 129.
141. G.N. 185 dated 21st June: the electoral wards gazetted 10th May.
142. Gullick, op. cit. p. 127: 'The MCA was led by successful business men without a flair for politics' and was 'a loose coalition of local Associations'.
143. *Negara*: a courtly form of *negri*, common in poetry (Wilkinson).
144. Gullick, p. 93. R.J. Ratnam, *Communalism and the Political Process in Malaya*, Kuala Lumpur, University of Malay Press, (1965), p. 159. "Parti Negara had based its programme on establishing Malay Supremacy" "(It) has never succeeded in winning popular support...sandwiched between...PMIP and...UMNO".
145. Yaacob Hussain Merican, *Developments in the Law concerning Elections in Malaysia*, in *The Constitution of Malaysia*, op. cit. p. 21.
146. By Federal Ordinance No: 48.
147. Including \$4 million on Loan Account in 1953: Federation of Malaya Year Book 1954, p. 91.
148. Wilkinson: *Kutu*: II 'specifically a group who combine and pay instalments into a common fund. Every month lots are drawn and the winner draws the entire amount for that month'.
149. Federation of Malaya Annual Report 1954 pp. 195-7. 150. Ibid, pp. 197-202.
151. Ibid, p. 195.
152. Suggested to the writer by two Naning Malays and two non-Malays in Malacca. The Dato's own comment, years later, was that Dato' Onn's ideas were ahead of their time.
153. Annual Report, F of M 1954 p. 442.

154. For whatever reason: a feeling that the Dato' Naning should be outside party politics; or dissociation from a source of influence competing with that of the Adat hierarchy; or on personal grounds after the speeches in State Council.
155. For a fuller discussion of the Malay concept of loyalty, see Chandra Muzaffar, *Melaka, the Transformation etc* Vol II Chap. 28 pp.47-60 and M.C. Puthucheary, *Ministerial Responsibility in Malaysia*, in *The Constitution of Malaysia, op. cit.*, pp. 131-2.
156. Wilkinson: 'Pledge. Espec. of a Malay system of mortgage in which the creditor enjoys the possession and usufruct of the pledged property in lieu of interest.
157. Prompted in part by *Sapian's* case, below.
158. Gullick, *op. cit.* p. 135.
159. G.N. 68 (New Series) dated 15th November 1957.
161. MNR 1386/56.
162. In July 1957: Willard A. Hanna, *Sequel to Colonialism: 1957-60 Foundations of Malaya* (American Universities Field Staff Inc.)
163. *Ibid.*, p. 198.
164. *Ibid.*, p. 203. Dato' Mohammed Shah once told the writer that he had studied the Adat since he was sixteen, and that would have been over thirty years at the time of Merdeka: he saw himself as guardian (and not supplanter).
165. HMSO Colonial No: 330.
166. *Ibid.*, pp. 106-8.
167. *Ibid.*, p. 88 et seq.
168. So stated by Dato' Mohammed Shah to the writer. The papers CO 889 Pieces 1 to 9 are still closed under the thirty year rule.

169. Comd 210 of 1957.
170. The mukims mentioned on p. 1 except Machap.
171. O.E.D. Wilayah: district or dominion. Wilkinson does not include the word.
172. Suffian *Introduction to the Constitution* p. 32 pp. 122-3.
173. This has never happened and Dato' Mohammed Shah (not unexpectedly) holds that the Chiefs do not have the power.

BOOK TWO THE CUSTOM

Chapter 1

The Literary Approach

1. Article 34.
2. S.S. Laws Cap. 125. See 5.
3. But see A.B. Ramsay, *Notes on Kampong Officials in the Alor Gajah District of Malacca 1932-35*, *JMBRAS.*, XXIII Pt. 3 (1950), p. 67n.
4. Op. cit. p. 134.
5. Op. cit. pp. 235, 238-240.
6. Ibid, p. 126.
7. D.F.A. Hervey, *Rembau*, *JSBRAS.*, No. 13 (1884), p. 241.
8. Not traced.
9. Martin Lister, *The Negri Sembilan: their Origin and Constitution*, *JSBRAS.*, No. 19 (1881), p. 42.
10. Ibid, p. 35.
11. Hon. Martin Lister, *Malay Law in Negri Sembilan*, *JSBRAS.*, No. 22 (1890), p. 295.
12. It was written as an Appendix to his Annual Report, and published by order of the then Governor of the Straits Settlements.
13. Ibid, p. 319.
14. Not then general: Hervey as editor of the Straits Branch Journal entered a footnote to Lister's first paper (P. 43) on the origin of

semenda 'perhaps from uterine cousins marrying', which shows that he did not examine the effect of matrilineal exogamy.

15. *JSBRAS.*, No. 22 pp. 308-9.
16. R.N. Bland, *Aturan Sungei Ujong*, *JSBRAS.*, No. 28 (1895), p. 53.
17. *Ibid.*, p. 59.
18. Winstedt, *Johore.*, *JMBRAS.*, Vol. X Pt. 3 (1932), p. 134, also *Corrigenda*, *JMBRAS.*, Vol. XI Pt. 2 (1933), p. 59.
19. Winstedt: *Negri Sembilan*, *JMBRAS.*, Vol. XII Pt. 3 (1934), p. 59.
20. *Supra.*
21. A.J. Hale, *Folk-Lore and the Menangkabau Code in the Negri Sembilan*, *JSBRAS.*, No. 31 (1898), p. 43.
22. *Op. cit.* p. 45.
23. Papers on Malays Subjects (PMS): Law, Introductory (1908).
24. *Rembau: History, Customs and Constitution*, *JSBRAS.*, No. 56 (1910).
25. *Op. cit.* pp. 5-6, 8-34.
26. *Op. cit.* pp. 13-14.
27. *Op. cit.* p. 15.
28. *JSBRAS.*, No. 56 pp. 1-157.
29. *Ibid.*, pp. 98-117.
30. The corpus of works in Dutch on Minangkabau is greater and (so far as the writer can tell) more varied in its approach.
31. J.L. Humphreys, *A Collection of Malay Proverbs*, *JSBRAS.*, No. 67 (1914), pp. 95-143.

32. Repeated at Appendix K.
33. J.L. Humphreys *A Naning Wedding Speech*, JSBRAS., No. 72 (1916), pp. 25-33.
34. J.L. Humphreys, *A Naning Recital*, JSBRAS., No. 83 (1921), pp. 1-29.
35. Paper on Malay Subjects, published 1912.
36. Wilkinson: *teromba*: 'history embodied in traditional sayings'.
37. A. Caldecott, *Jebebu Customary Songs and Sayings*, JSBRAS., No. 78 (1918), pp. 1-41.
38. *Negri Sembilan*, JMBRAS., Vol. XII Pt. 3, p. 78.
39. This is a narrower and more literal translation than Caldecott at op. cit. p. 15.
40. Only three from Humphreys' list of proverbs and five (two being rearranged) from Parr and Mackray's Appendix I appear in Caldecott's version.
41. JSBRAS., No. 83 (1921), p. 1.
42. A. Hyde, *A Naning Terumba*, JMBRAS., Vol. I Pt. 4 (1928), pp. 49-53.
43. Hyde's translation says 'will be devoured by magic steel'. a literal rendering of *di-makan besi dawi*. Wilkinson makes *besi* in this context mean *bisa*, poison, and *besi dawi* 'the legendary power which destroys those who change the Custom' - which takes any translator little further.
44. JSBRAS., No. 83 p. 28.
45. *Ibid*, pp. 27-29.
46. JSBRAS., No. 72 p. 25.

47. *JSBRAS.*, No. 83 p. 1.
48. *Ibid.*, pp. 27-29.
49. *JSBRAS.*, No. 65 p. 100 No: IV.
50. *Supra.*
51. *JMBRAS.*, Vol. VI Pt. 4 (1928), p. 51.
52. Leonard V. Andaya, *Raja Kechil and the Minangkabau Conquest of Johor in 1718*, *JMBRAS.*, XLV Pt. 2 (1973), p. 73.
53. as well as in Sumatra: see Winstedt's Note on Caldecott *JSBRAS.*, No. 78.
54. *JMBRAS.*, Vol. VI Pt. 4 p. 51.
55. 'with mothers in Naning, with a visible pendant in Jelebu'.
56. *JMBRAS.*, vol. VII Pt. 1 (1929).
57. *Ibid.*, p. 3.
58. *Ibid.*, pp. 1, 3, 5, 7.
59. and E.N. Taylor, *Inheritance in Negri Sembilan*, *JMBRAS.*, XXI Pt. 2 (1948), discussed below.
60. e.g. See M.B. Hooker, *The Personal Laws of Malaysia*, Kuala Lumpur, Oxford University Press (1976).
61. *JMBRAS.*, vol. VII Pt. 3 pp. 6-47.
62. C.O. Blagden, *Notes on the Minangkabau Custom in Malacca*, *JMBRAS.*, VIII Pt. 2 (1930), pp. 307-313.
63. Routledge & Co., (1931).
64. *JMBRAS.*, XII Pt. 3 pp. 77-94.

65. Mildly stated by Hooker, *Personal Laws*, p. 99.
66. with previous service as a penghulu.
67. *Matriarchy, etc.*, Appendix XXXI pp. 259-260.
68. R.O. Winstedt, *Review: Matriarchy in the Malay Peninsula*, *JMBRAS.*, IX Pt. 1 (1931), p. 158-159.
69. e.g. on Biduanda p. 81 and (dis)unity of the States, p. 94.
70. Taylor, *JMBRAS.*, Vol. XXI Pt. 2 (1946), pp. 43-140.
71. (1939) FMS Law Reports 73: 9 MLJ 110.
72. *Kutai v. Ta'ensah* (1934) FMS LR 94.
73. *Re Teriah*, *JMBRAS.*, XXI Pt. 3 p. 90; *Re Imah dec'd* (1937) FMS LR 89.
74. Read in association with Sec. 184 Probate Enactment and Sec. 2 Distribution Enactment.
75. Section 173 (f).
76. *JMBRAS.*, Pt. 2 p. 48.
77. Quoted at *ibid*, p. 9.
78. *Ibid*, p. 82.
79. *Ibid*, pp. 52-53.
80. *Ibid*, p. 77.
81. *Ibid*, pp. 127-129.
82. M.B. Hooker, *Adat laws in Modern Malaya; Land Tenure, Traditional Government, and Religion*, Kuala Lumpur, Oxford University Press 1972: *Personal Laws*, pp. 71-77.

83. This is not his general position: his *Challenge of Malay Adat Law in the Realm of Comparative Law* emphasises the importance in comparative jurisprudence of unwritten law.
84. Minattur, *Nature of Malay Customary Law*, Malayan Law Review, Vol. VI Pt. 2 (1964) pp. 327-352, is a graceful assimilation of Adat Melayu and particularly Adat Perpatih to the rules of jurisprudence, drawing on Caldecott's major *Teromba* and *Perbilangan* previously noted, and for that reason not further examined here.
85. *Adat Laws*, p. 3, *The Challenge of Malay Adat Law*, p. 512; but in both he aims to see the subject 'from the viewpoint of the Malay landowner peasant and the facts of Malay peasant life'.

Chapter 2

Village Authority: the Family and Clan, their Possessions and Inheritance

1. *Matriarchal* with its sense of rule, *archos*, is too strong for the circumstances as they usually were.
2. Caldecott, *JSBRAS* 78 p. 37. 'The married man goes because he is ordered, stops because he is forbidden'.
3. The term *Dato' Aki* was in Naning an honorific for the old and (religiously) learned, and *buapa adat* and *buapa hukum* and *oning* were not in general use: contrast Negri Sembilan (Hooker, *Adat Laws*. pp. 17, 18, quoting Swift on Jelebu and Lewis on Inas). Wilkinson has *oning*₂ as 'remote descendants in the sixth or seventh generation'. Naning used the word for both an unspecified and remote ancestor and for a descendant more remote than *chichit* (great-grandchild) but less remote than *antah*₂.
4. As in parts of Rembau in 1966: Abdul Wahab Alwee, p. 21.
5. See Appendix B.
6. Abdul Rahman, *Dasar* 2 . p. 3; Norhalim bin H. Ibrahim, p. 140.
7. Ministry of Natural Resources Paper for National Land Council, MNR 0253/57/10.
8. i.e. that the more rigorous Emergency Regulations such as curfew and food control had been suspended.
9. 'a frog under a coconut shell' thinking it to be the universe'.
10. *Supra*.
11. CO 275/47 pp. 86-90; *JMBRAS.*, Vol. VII Pt. 2 p. 307.
12. Wilkinson: *Solok*: II (Rembau, Naning). An offshoot of the main sawah i.e. ricefields along a tributary of the main stream of irrigation'. In Malacca it comprised the kampong area of the catchment

as well as the sawah, and the number of 'Sidangs' was determined by the number of *solok*. There could be more, or less, than four 'Sidangs', though that number was common: see Hooker, *Adat Laws*, p. 99. There was no rotation for penghulus round the solok of a mukim in Malacca Central District.

13. Cap. 125 Section 6 (c).
14. *Ibid*, Section 38 (f).
15. Angkatan Pemuda Insaf ('movement of youth for justice'), a Sumatran-influenced body mentioned below.
16. There were exceptions: the Bukit Rambai Irrigation Area near Malacca Town had a tradition of doing the work punctually and well.
17. Malacca Gazette, 19th February 1948: No. 9.
18. The writer was transferred before harvest, but was told that the crop was light, and double-cropping was abandoned.
19. Wilkinson: 'a building that is not a mosque of general assembly but is otherwise devoted to religious or quasi-religious (i.e. charitable) purposes....It serves also as a rest-house and Koran-school'.
20. *burok di-baikki kusut di-selesaikan*.
21. 'Those who are installed can be dismissed'.
22. Informal legally: formal division into separate Lots required a cadastral survey, alteration of the Register, and issue of new Extracts.
23. 'What is heavy is shouldered together, what is light is dangled from the fingers together'.
24. 'The tribe cannot be shifted'.
25. 'Sitting we are equally short, standing we are equally tall'.
26. This method of accommodating rival claims is not exclusive to

Minangkabau Malays (*vide* the succession to the Sultanates of Kedah and Perak, and major Chiefs of Perak) and provided a neat solution as to who should be Head of State in independent Malaya in 1957, but it is more pervasive in Naning and Negri Sembilan than elsewhere.

27. Discussed by Willink, de Moubray and Josselin de Jong, among others.
28. Taylor, *Inheritance in N.S.*, *JMBRAS.*, Vol. XXI Pt. 2 p. 122.
29. *kata*, 'saying', *kata pesaka* 'traditional sayings'.
30. e.g. AGLC 87/1961 Re Junus bin Mahat.
31. Wilkinson: 'Misfortune, calamity. In two senses: (i) any misfortune....(ii) specifically a misfortune due to a curse for presumption....'
32. 'suspended (or dangling) inheritance': see Taylor, *Rembau*, p.35.
33. e.g. AGLC 252/1961.
34. Dato' Mohammed Shah, the present Dato' Naning, described it to the writer as *wakaf dzuriat*: Wilkinson: *wakaf* 'mortmain; in mosque ownership for religious objects', *dzuriat* 'seed, offspring'.
35. and in Humphrey's day, for religious education in Kelantan: Parr & Mackray *JSBRAS* 56 p. 74, but this had ceased.
36. *Supra*, Book One. Chap. 7.
37. *JMBRAS.*, Vol. VIII Pt. 2 p. 308.
38. *JSBRAS.*, No. 67 (1914). p. 105.
39. *JMBRAS.*, Vol. VII Pt. 1 p. 12.
40. *Matriarchy*, pp. 97-115.

Chapter 3

Marriage and Marital Possessions

1. e.g. by Caldecott, *JSBRAS.*, No. 78 p. 30.
2. Parr & Mackray, *JSBRAS.*, No. 56 p. 77; Hooker, *Adat Laws*, pp. 172-173.
3. Betrothal emblem, literally 'sign of liking'. The term *menghan-tar chinchin* is used in Naning as in Rembau (cf. Abdul Wahab Alwee, Rembau, p. 23) but the description *chinchin tali seluar* was not used: instead the ring was called *chinchin bertanya* - 'the ring asking the question.
4. The Maningkabau variant of *mentri* 'official' or here 'delegate'.
5. See e.g. *Administration of Muslim Law (Malacca) Enactment*, No. 1 of 1958 which came into effect 1st May 1960.
6. See e.g. Taylor, *Inheritance in Negri Sembilan, JMBRAS.*, vol. XXI Pt. 2 p. 47; Hooker, *Personal Laws*, p. 30.
7. *JSBRAS.*, No. 56 p. 83n.
8. See Appendix L, Item I. The writer could obtain no confirmation of the statement (Ahmad bin Mohd. Ibrahim, *Customary Law in Malavsia*) that in Naning the sum was \$60 for virgins and \$40 for others. The bridegroom can add to the standard rate if he wishes.
9. See e.g. Sheppard, *Taman Budiman*, pp. 79-80.
10. See Appendix L, Part I.
11. 'red eggs', the dyed boiled eggs given to guests as they left.
12. 'saffron rice'. This and the eggs were ceremonial essentials in a Malay wedding feast - cf. the wedding cake in the West.
13. 'King for a day'. dressed in traditional coronet and robes (hired

for the day).

14. *Wedding Recital, JSBRAS.*, No. 72 p. 25.
15. The distinction was that at a *ronggeng* the girls sang *pantuns* while at a *joget* there was no singing.
16. *JSBRAS.*, No. 56 p. 79, where they stated that another ring was sent to seal the contract, usually on the seventh but always by the fourteenth day.
17. Contrast the earlier more complicated requirement in Rembau: Parr & Mackray, Appendix I, XXIX: *JSBRAS.*, No. 56 p. 109.
18. Cf. de Moubray, p. 148.
19. This, in the ordinary Naning house, ran across the front of the house and, when unshuttered, was open to view of passers-by.
20. 'to sit on the verandah'.
21. of tin, conventionalised at \$14.40.
22. *JSBRAS.*, No. 56 pp. 82-85.
23. 'shut in, inside'.
24. *JSBRAS.*, No. 56 p. 85n. The phrase is known in Naning but little used.
25. *JSBRAS.*, No. 67 p. 110.
26. cf. Parr & Mackray *JSBRAS.*, No. 56 p. 86n. and contrast the then Rembau formula (*ibid*, p. 85) with no restriction to one *talak*.
27. 'to make the woman run off'.
28. The fact that the bride was not a virgin was not a ground.
29. cf. Parr & Mackray *JSBRAS.*, No. 76 p. 81, where dropsy and haemorrhoids were stated as valid grounds but low birth or a taint

- on family and *suku* were not (as being matters of public knowledge).
30. Detail which the writer has not come across elsewhere, but see Parr & Mackray *JSBRAS.*, No 56 p. 78n., with reference to the legend of a man and woman drowned in baskets in the river near the mosque at Pulau Sebang.
 31. In 1979 the writer recalled this incident to a friend, who remembered the scandal well and of R. (who had moved away) said 'To the Custom, he is dead'.
 32. Wilkinson; *langau* 'biting fly of the stable-fly type'.
 33. In one case known to the writer, the wife repeatedly threw the husband's pillow and sleeping-mat out of the house for all the neighbours to see, until he could stand it no longer and pronounced the triple *talak*.
 34. Parr & Mackray *JSBRAS.*, No. 56 p. 88n. Taylor, *JMBRAS.*, Vol. VII Pt. 1 p. 19 stated that in 1928 \$40 was considered 'a fair fee' in Rembau.
 35. 'that which is brought', 'property which is brought'.
 36. *bujang* means unmarried, either before any marriage or after a previous marriage.
 37. *In Re. Lieut. Omar dec' d*, in 1947, a motorcycle was stated, without dispute, to be *pencharian*.
 38. Cap. 125 Section 19 required 'every person acquiring possession of customary land' to give notice, upon pain of fine, but the writer knows of no prosecution in these circumstances. The *anak buah* would have regarded proceedings as harsh and oppressive, and indeed the exception by Section 5 may have proved a good defence.
 39. *In Re Tiambi* (1904), Innes p. 285: *Kiah v. Som* (1935), MLJ 82.

Chapter 4

Dissolution of Marriage

1. 'the husband dead, it remains to the wife; wife dead, it remains to the husband'.
2. The Naning variant of *jemput*, 'to invite'.
3. Literally 'a substitute (or replacement) sleeping mat'.
4. Surprisingly, de Moubray makes no comment on this custom and has only one oblique reference to it in connexion with adoption: p. 248. But clearly it existed: Taylor, *Rembau, JMBRAS.*, Vol. VII Pt. 1 pp. 8, 29.
5. Wilkinson: '...Luck in the ordinary way of things...mendapat untong to get some return on one's work of capital'. The word is nowadays used for interest e.g. on Government stock or on loans (in itself against the stricter tenets of Islam) but the primary sense is the basis of the Naning theory.
6. *JMBRAS.*, No. 56 p. 90: 'If there be issue of the marriage, the joint earnings of the marriage are not divided but are retained by the wife to support the issue'.
7. A constituent of *pembawa*, as noticed above.
8. The earnings of an unmarried man.
9. Op. cit. Appendix XXXI p. 259.
10. More properly the Pemangku (Regent) Arshad, who acted while Dato' Osman bin Kring was a minor: Curtis op. cit. p. 99.
11. Op. cit. p. 183n.
12. 'to make certain'. See Taylor *JMBRAS.*, Vol. VII Pt. 1 p. 26 on the same practice, under a different statutory procedure, in Rembau.
13. Before the writer. The file was not traced.

14. After the hearing the writer told W. that his sympathies were with her, but that the Adat had to be obeyed: *Biar mati anak jangan mati adat*, 'Let the child die but do not let the Custom die'. She replied *Betul, betul* ('Quite right') and hustled her expostulating sons out of the office. The appeal, prepared by a son working in Singapore, failed.
15. Matrimonial Causes Act 1973 Section 1.
16. *Idem*. Sections 25 and 26 (since amended by Matrimonial and Family Proceedings Act 1984).
17. The English solicitor in family practice becomes despondently aware how often divorced parents consciously or unconsciously use the children as levers against the other ex-spouse, brainwashing them into making access difficult and citing their needs to claim for increased maintenance, sometimes years after the original orders were made. If the husband later married a wife who earns, her income is in effect mulcted.

Chapter 5

Clan Membership and Adoption

1. 'The suku cannot be changed'.
2. *Op. cit.* pp. 262, 259 and 260.
3. Taylor, *JMBRAS.*, Vol. VII Pt. 2 p. 42 citing a common example of 'a woman who takes a relative to live with and cherish her... in consideration of...giving ascertained property' calls this 'limited adoption'; but it seems wiser to avoid a term which might lead Lincoln's Inn-trained lawyers astray.
4. As in Rembau: cf. Taylor, *JMBRAS.*, Vol. VII Pt. 2 p. 41.
5. Literally, 'shroud', but applied to a portion of land appropriated by someone to provide for her old age and burial expenses.
6. 'The stranger finds a tribe as a boat an anchorage': Parr & Mackray, *JSBRAS.*, No. 56 p. 98. More literally, 'the resident alien has a precise place, as a boat is tied up'.
7. *Supra* p. 67.
8. There was no *Dato' Dagang*, 'Chief of Foreigners' in Naning; contrast Rembau Parr & Mackray *JSBRAS.*, No. 56 Appendix III p. 119.
9. The same was true in Rembau: *Re Kek Sian dec'd.*, Taylor, *JMBRAS.*, Vol. VII Pt. 1 p. 242.
10. Two cases are known to the writer.
11. The man from half a mile this side of Kendong was equally a foreigner in Rembau.
12. Hooker, *Adat Laws*, p. 136.
13. *Op. cit.* pp. 259, 260.
14. *Op. cit.* pp. 187-188; Taylor, *JMBRAS.*, Vol. VII Pt. 1 pp. 4147.

15. Dato' Arshad said it was used only at the adoption of foreign Malays: de Moubray, p. 262.
16. Op. cit. p. 180.
17. Demang Haji Abdul Latib told de Moubray in 1926 that in Jasin she ranked below the natural daughters: op. cit. p. 260, but that does not seem to be the present position.
18. This had the effect of encouraging adoptive parents to provide land or other property for the adopted daughter in the parents' lifetime from their *Pencharian*.
19. Wilkinson: 'requital, reply', here 'repayment of a life' or 'living repayment'.
20. The writer's (somewhat limited) enquiries failed to arouse any memory of such a case over about the last fifty years.

Chapter 6

The Hierarchy, its Jurisdiction and the Gap between Customary and Statute Law

1. Dato' Mohammed Shah, Dato' Naning, is emphatic that 'Sidang' is not a rank and that the word is meaningless in itself; it should be 'sidang meshuarat', member of an assembly.
2. The *Tua* received a *sijil* or certificate signed by the Resident Commissioner, and this was considered important: non-issue thus meant non-recognition. For influence, as distinct from power, see Shepard, *Taman Budiman*, p.81.
3. *JMBRAS.*, Vol. XXIII Pt. 3 pp. 98-99.
4. which was on pillars, in usual Malay style.
5. 'playground, compound'.
6. An M.P., member of a British Parliamentary delegation, criticised this method as not being a secret ballot, and reproved the writer for saying that the secret ballot in England went no further back than Gladstone (Ballot Act 1868).
7. The writer came across only one (unproved) allegation of it.
8. For a fuller discussion see Gullick, *Sungei Ujong*. *JMBRAS.*, Vol. XXII Pt. 2 (1949), p. 25. and more generally K.O.L. Burridge, *Managerial Influences in a Johore village*, *JMBRAS.*, Vol. XXX Pt. 1 (1957), p. 93
9. 'Dappled father, speckled child'.
10. Wilkinson: *sandarkan* '...giving bail or security; mortgaging; pledging'.
11. cf. Ramsay, *JMBRAS.*, Vol. XXXIII Pt. 3 p. 100.
12. *Supra* Book One, Chap. 14.

13. There were two others in Alor Gajah District, one for the southern inland (non-Naning) mukims and one for the coastal mukims.
14. See Appendix B.
15. Wilkinson: *balai*: 'public building...an unwallled or low-walled building where people met, public business was transacted, and strangers spent the night....Later specialised according to the uses to which it was put. A further distinction is now drawn between royal buildings (*istana*) and the offices of non-Royal Chiefs'. The Negri Sembilan and Naning *balai* had the pre-eminence of the Palace of Westminster in medieval England.
16. *op. cit.* p. 51. de Josselin de Yong *Minangkabau and Negri Sembilan*, derives the sub-tribe's name from Sumatra.
17. Newbold called them 'mantri (ministers), privy counsellors to the Penghulu' and says there were two, Maulana Hakim and Gempar, who fled with Doll Syed to Miko.
18. At the 1805 trial of the Kedah Malay 'Sali' the judges included all four *Tiang Balai* and two other major Chiefs, but no member of the *Isi Balai*. Nor did the latter put their marks to the 'Treaty' of 1801, or to the Oath of Allegiance in 1825, as all the *Suku* Chiefs did, so the *Isi Balai* may be a comparatively late addition to the supreme Council.
19. A distinction made by the present Dato' to the writer. Hooker, *Adat Laws*, pp. 95, 97, appears to have been misinformed.
21. Wilkinson: 'headman, superintendent: from *hulu* (head)'.
22. Parr & Mackray *JSBRAS.*, No. 56 p. 99 et seq; Caldecott, *JSBRAS.*, No. 78 pp. 6, 20, 22, 28. The point was also made to the writer by Dato' Mohammed Shah.
23. OED: 'chief officer of police for a city or town in India, a native town magistrate'.

24. Op. cit. p. 134.
25. Op. cit. p. 235.
26. Op. cit. p. 90.
27. *Adat Laws*, p. 95.
28. *Supra*, p. 60.
29. Curtis, op. cit. p. 97.
30. Described also by Ramsay, op. cit. p. 98 where the lineages are reversed. The present account was given to the writer by the then Chief of Mungkar, Orang Kaya Angkai Kechil.
31. 'The difference between Semelenggang Tabah and Semelenggang Naning is like that between the white of the eye and the pupil'.
32. Curtis, op. cit. p. 97.
33. A point made by Dato' Mohammed Shah himself: cf. Hooker, *Adat Laws*, p. 96.
34. See the table at Appendix B.
35. *JSBRAS.*, No. 56 pp. 38-39.
36. *Idem*, pp. 46-47.
37. Cf. Parr & Mackray *JSBRAS.*, Vol. 56 p. 110 and Caldecott *JSBRAS.*, Vol. 78 p. 30. Their lists differ in detail but the general effect is the same.
38. Op. cit. p. 135.
39. *Idem*, p. 157. This is difficult to understand since the context deals with Naning and not the other Minangkabau States.
40. Op. cit. Vol. I p. 239.

41. *Supra*, p. 101.
42. The 40-*rupiah bhara* was equated to \$14.40, but the 1801 Agreement by Farquhar fixed the price of a *bhara* of tin at 44 Rix Dollars (Appendix E, Article 5: the rix dollar was worth less than the Spanish dollar: *JMBRAS.*, Vol. 1 p. 226); and Newbold in his description of the 1805 execution put it then at \$24.30.
43. *JSBRAS.*, Vol. 56 p. 34.
44. Recounted to the writer by Dato' Mohammed Shah, the present Dato' Naning.
45. *Op. cit.* p. 57.
46. *Op. cit.* p. 122n.
47. They had failed to set marriage proceedings in train forthwith and so made it possible for the woman's parents to send her away. The penalty imposed on the Penghulu was twice that on the Demang, because of the different 'steps' below the Dato' Naning himself.
48. *JSBRAS.*, No. 67 p. 106.
49. In Pegoh mukim the writer's team discovered one very sick man hidden in undergrowth in a corner of the house compound: this may have been intended as 'isolation' but was an attempt to evade the Health Department's treatment.
50. 'work about the kampong' on her own land or that of others: for a fuller description see Al Wahab Alwee *op. cit.* p. 5.
51. This is paralleled in English civil law in those cases where the maxim *Res ipse loquitur*, the things speaks for itself, applies but these are comparatively rare.
52. *JSBRAS.*, No. 78 p. 26. The very literal translation is the writer's.
54. *JMBRAS.*, Vol. XXIII Pt. 3 p. 100.

55. *Supra*, p. 406.
56. If memory is accurate, some at the University of the Toilers of Asia at Tashkent: it is difficult to think of a more romantically named *alma mater*.
57. To the writer.
58. Wilkinson: 'Pardon. Of a royal or divine superior showing mercy: forgiveness between equals is *ma'af*'.
59. 1978 Edition, Vol. IV pp. 1115-1128. There is no Naning case on return of goods or declarations of inheritance of personal property.
60. *Kysshe*, 4 Ky 248, quoted by Maxwell, *JSBRAS.*, No. 13 p. 204. It was heard by Garling sitting with Recorder Claridge.
61. *JSBRAS.*, No. 13 p. 205.
62. *Adat Laws*, pp. 100-102, 108-109; *Personal Laws*, pp. 72-77.
63. Cf. Garling's views fifty years earlier, *supra*. 64. Cap. 57 (1936 Edition S.S. Ordinances) Section 27.
65. The title did not change to Malacca Lands Customary Rights Ordinance until 1923.
66. Proceedings, Legislative Council, SS, 1886 B 30, 46 et seq.
67. Proceedings, Legislative Council, SS, 1890 B p. 31.
68. Consolidated in Cap. 125 Section 18.
69. To assess compensation for damage by mining or public works, in the original; to order communal works to be done when an individual defaulted in 1890; Sec. 7; to re-enter in the name of the Crown for disregard of regulations on planting rubber in 1921: Sec. 8; or when land had been abandoned (in 1880); and of course to assess the produce of the land for payment in lieu of tithe, by the original Ordinance and Rules thereunder.

70. Or in Rembau: see *Bulat* of Negri Sembilan State Council 1899 when there was an only son: Parr & Mackray *JMBRAS.*, No. 58 p. 69.
71. *Op. cit.* Appendix XXXII p. 261.
72. *Idem*, Appendix XXX p. 258.
73. *Idem*, Appendix XXXI p. 259.
74. *JMBRAS.*, vol. VII Pt. 2 p. 308.
75. *Ibid*, p. 309.
76. Taylor, *JMBRAS.*, Vol. VII Pt. 1 p. 36; *re Siti* p. 226.
77. Rents and profits due or received outside the provisions of a contract (of lease or tenancy).
78. A point made by Hooker, *Personal Laws* p. 92.
79. See *re Dolah bin Salleh*, AGLC 126/65; *re Yunus bin Mahat*, (a case of *hasil sa-mentara hidop* but with a 'trustee' element, AGLC 86/61
80. The FMS Land Code forbade the registration of minors: Sect. 95; and provided for the registration of Trustees (Part XII) and caveats to protect the interests of minors (Part XIII) - though not by the Collector of his own volition.
81. A point not tested in the Courts.
82. *Adat Laws*, p. 109, *Personal Laws*, p. 77.
83. In view of Section 29 Cap. 125 and *Dato' Kamat v. Sopian* it is hard to see how 'constructive possession' e.g. by handing over the Extract could have been established.
84. *JMBRAS.*, Vol. XXI Pt. 2 p. 83.
85. Another point not tested in the Courts.
86. S.S. Cap. 57 (1936 Edition).

87. (1935) SSLR 366; (1936) MLJ 42.
88. It will be remembered that Tiga Nenek is not one of the four *suku*.
89. Another case of *tompang nama*.
90. i.e. that the land was *pesaka suku* to Tiga Nenek.
91. (1936) MLJ 44 reports the Judge as saying 'Sudah' - and both reports quote him as saying that the appeals were against the decision of the District Officer Jasin.
92. It is likely that the Penghulu spoke in Malay and used *harga Wilkinson*: 'price, money-value' not necessarily the purchase money.
93. (1938) m7 MLJ 111 (where she is printed as 'Sapain').
94. (1939) MLJ (116) p. 94.
95. The writer is indebted to Haji Nordin bin Haji Mohammed Som and through him to Dato' Sidang Haji Harun, *tua* of Mungkar, for the background information here given.
96. S.S. Gazette 30th March 1922, pp. 509-510.
97. (1938) 7 MLJ (SSR) p. 112.
98. RCO. CS 2293/23 (16).
99. Cf. Caldecott, Jelebu, *JSBRAS.*, No. 78 pp. 14-15: 'Squander not the children's birthright' or more literally 'Do not give away the children's portions'.
100. With some diffidence, since any later D.O. Alor Gajah becomes aware of the authority of the then Collector, Mr. Ramsay.
101. \$3,600 of which \$1,100 was costs.
102. (1939) MLJ pp. 94-96.

103. This is true, since the Ordinance nowhere mentioned nominees, though it mentioned 'duly accredited agents' who of course disclose their principals by producing their credentials.

104. 'Where the wrongs are equal the defendant's position is stronger' no doubt translated by various counsel to their clients, to the two women as a nod and a wink and to Dato' Kamat as a warning.

105. 1901 Amendment.

Chapter 7

The Naning Community

1. The Magistrate at Malacca, a Malay ex-Cambridge and the Inns of Court, said in the course of a judgment *circa* 1950 that in the particular circumstances the proverb '*Biar mati anak jangan mati adat*' should be reversed. The local Press reported it, and four separate elders raised it with me. I knew why the Magistrate, a friend of mine, had said this, and explained. The elders moderated their protests but retained their misgivings - no doubt extending them to me.
2. *Di-sandarkan ka-suku yang lain.*
3. Taylor, *JMBRAS.*, Vol. VII Pt. 1 pp. 4, 13; de Moubray, p. 5; Wilkinson: *Pio pilin tangkai jering adat Rembau* 'A tough old stalk is Rembau law: you can twist it as you please.
4. Wilkinson: 'professional bully, rough'.
5. On a short visit to Singapore, the writer in his car with its Malacca registration was twice recognised by policemen who had been back to Naning on leave - and once extricated from a one-way street against the traffic, which was halted.
6. Created as a separate mukim in 1946: Malacca Gazette No. 86 dated 26th May 1949.
7. Machap, then included, was left out of the list for the 1957 State Constitution: its two main villages were Chinese ('New') Villages, and most of the area was rubber estates and Forest Reserve.
8. 'Adat is the sinews of religious law: if Custom is strongly observed it does not conflict with religious law, and if religious law is strongly observed it does not conflict with Adat'.
9. The individual did not necessarily escape criticism for his grosser habits: see Ramsay, *JMBRAS.*, Vol. XXIII Pt. 3 p. 98.

10. 'The Vice-gerenty of God, in his State'.
11. Straits Settlements Gazette Notification No: 451 of 1922.
12. Sheppard, *Taman Budiman* p. 84, quoting the then Dato' on the appointment of Dato' Idas. Abdullah gives the new man's name as Safar, of Semelenggang: *JMBRAS.*, Vol. XXVIII Pt. 3 p. 229. They may of course have been the same man and the *suku* was certainly the same.
13. *Op. cit.* pp. 8, 138.
14. *JMBRAS.*, Vol. VII Pt. 1 pp. 126-131.
15. Cf. Ramsay, *JMBRAS.*, Vol. XXIII Pt. 3 p. 101.
16. Humphreys, *Naning Recital*, *JSBRAS.*, No. 83 p. 2.
17. Aristotle, *Politics* (trans. Jowett) OUP (1931). p. 120.

BOOK THREE

THE NEW INDEPENDENCE

Chapter 1

Political Currents

1. As in Kelemak, south of Alor Gajah village.
2. Both in February 1982. Good manners precluded craning to read the rest of the legend.
3. For one which went awry, see Datuk Mohd Salleh bin Abbas, *Federalism in Malaysia - Changes in the First Twenty Years*, in *The Constitution of Malaysia. Its Development 1957-1977*, ed. by Tun Mohamed Suffran and others, Kuala Lumpur, Oxford University Press (1978), p. 172.
4. Mahathir bin Mohamed, *The Malay Dilemma*, Singapore, Asia Pacific Press, (1970), p. 97.
5. Ahmad Ibrahim, *The Position of Islam in the Constitution of Malaysia*, in *The Constitution of Malaysia*, op. cit. p. 61.
6. Gullick, *Malaysia* p. 243.
7. Examined by Goh Cheng Teik *The May 13th Incident*, OUP KL (1971) and elsewhere.
8. Set up under the Incorporation (State Legislatures Competency Act) 1962.
9. Ginsberg, *Meaning of Modernisation in S.E. Asia*, in *Melaka, The Transformation or a Malay Capital*. Vol. II Chap. 37 pp. 294-295.
10. On the arguments for, and problems in, 'harmonising' the laws of the Federation and States see Tan Sri D.B.W. Good, *Problems of Harmonizing the Laws in the Malaysian Federation*, in *The Constitution of Malaysia*, op. cit. pp. 192-217 The advantages for many—Judges, advocates, commercial and administrative bodies

and even prison staff—are admirably set out. But the peasant proprietor is nowhere considered. .

11. On the arguments, see Ahmad Ibrahim, *op. cit. The Constitution of Malaysia* *op. cit.* pp. 48-50.
12. The maximum was raised to \$25,000 in 1974 (P.U. (B) 217/74) and to \$50,000 in 1977: Act A 399.
13. The Yang di-Pertuan Agong is head of the Muslim religion in Malacca by virtue of Article 3 of the Constitution; and a 'Governor' (or Yang di-Pertua Negri after August 1976) was distinguished from 'Ruler' in the Constitution.
14. *berpangkat*: with the rank of. Wilkinson: *Maulana*...a term used when addressing learned doctors of the law: *Hakim*: judge.
15. Wilkinson: Arabic: 'a commission from the Sultan'.
16. Section 53, reinforced by Section 38 (2) (a).
17. Section 45 (2).
18. National Land Code Sec. 320.
19. Sec. 321.
20. Sec. 323.
21. Sec. 205 (1).
22. Act No: 2 of 1963 Sec. 118 (3).
23. *Ibid*: from Government offices by Sec. 25 and from landholders by Sec. 9 (1) (b).
24. *Ibid*, Sec. 41.
25. *Ibid*, Sec. 24.
26. *Ibid*, Sec. 99 (1) and (2).

27. Ibid, Sec. 102 (2).
28. Sec. 99 Second proviso. There is a curiosity in that it refers to Sec. 53 in Part IV, stated by Sec. 24 to be not applicable to customary land.
29. N.L.C. Sec. 101 (5) (b).
30. 36%, high for the States of the Federation, Jean Currie, *The Economy of Melaka Today and Tomorrow, in Melaka, The Transformation of a Capital*, Vol. II Chap. 40 p. 354.
31. Ibid.
32. Malaysian Constitution, Part III Tenth Schedule.
33. Currie, op. cit. p. 351.
34. Figures from Tan Sri Dato' Abdullah bin Ayub, *Financial Provisions of the Malaysian Constitution and Their Operation in Practice, in The Constitution of Malaysia*, op. cit. p. 326.
35. Ibid, pp. 311-314. Six major causes are set out on p. 312.
36. James Osborn *Melaka in Malaysian National Development in Melaka, The Transformation etc.* Vol. II Chap. 44 p. 450.
37. Datuk Mohammed Salleh Bin Abbas, op. cit. p. 182.
38. M.C. Puthuchery, *Ministerial Responsibility in Malaysia in The Constitution of Malaysia*, op. cit. p. 129.
39. IPKM. A1/04857 Pt. 1 Vol. 4. The revised Scheme came into effect on 1st October 1979.

Chapter 2

The Custom and Change

1. Except for 'Dasar-Dasar Adat Perpatih': Abdul Rahman bin H. Mohammed (Penerbitan Pustaka Antara, K.L.), (1964), an almost lyrical exposition of the idealised Adat in Rembau, and apparently a school text book. It is a good guide to the Adat vocabulary.
2. *Minangkabau Malays of Negri-Sembilan: a Study of Socio-Cultural Change*, K.D. Lewis (Michigan, 1962).
3. For an account of its history, legends and early organisation, see Diane Lewis, *Inas, A Study of Local History*, *JMBRAS.*, Vol. XXXIII Pt. 1 (1960), pp. 65-94.
4. *Study of Socio-Cultural Change*, p. 4.
5. M.G. Swift: *Peasant Society in Jelebu* (Athlone Press, 1965). 6. op. cit. p. 51.
7. *Ibid*, p. 79.
8. *Ibid*, p. 78.
9. *Ibid*, p. 79.
10. *Ibid*, p. 80.
11. *Ibid*, p. 90.
12. Given emphasis in p. 127 et seq.
13. *Ibid*, pp. 96-101.
14. *Ibid*, p. 142.
15. *Rembau: a Study in Integration and Conflict in a Village in Negri Sembilan*, Abdul Wahab bin Alwee, (Univ. of Western Australia Nedlands Press) (Working Papers in Asian Studies No. 1) (1967).

16. Op. cit. pp. 1-5.
17. Ibid, pp. 15-32.
18. Ibid, p. 51.
19. pp. 35, 38, 39, 44.
20. *Social Change in Rembau*, Norhalim bin H. Ibrahim, *JMBRAS.*, Vol. L Pt. 2 pp. 136-149 (1977).
21. Op. cit. pp. 142-143.
22. Ibid, pp. 145-146.
23. Kernial Singh Sadhu, *Chinese Colonisation in Melaka*.
24. Ibid. *Indian Settlement in Melaka*, Chap. 33 in idem, pp. 200-201.
25. T. Shamsul Bahrin and Ors, *Land Development in Melaka: the Case of Kemendore*, Chap. 41 in idem, p. 382.
26. Stephen Chee, *Political Economy of Federal and State Relations in Melaka*, Chap. 43 in idem, p. 435.
27. James Osborn, op. cit. p. 450.
28. Jean Currie, op. cit. p. 361.
29. Norhalim bin H. Ibrahim, op. cit. p. 145. The handful of young men questioned by the writer all knew.
30. Currie, op. cit. p. 363.
31. The visitor to Malacca Town cannot avoid noticing ranks of astonishingly tall aerials on houses along the shore, intended to provide reception of Singapore programmes - not that these are notable for philosophical scepticism.
32. Abdul Wahab bin Alwee, op. cit. p. 46; Norhalim bin H. Ibrahim p. 146.

33. Norhalim, p. 146, by implication found Rembau chiefs ready to vary the adat. In Naning it seems more accurate to say that they can accommodate change.
34. A comment made to the writer by three separate people.
35. During a discussion in the State Secretariat on the Sidangs' Scheme, the comment was made to the writer that conflict could arise between Sidangs and Chairman JK KKK, though no instance was given.
36. By the then Assistant District Officer in 1982.
37. By the then District Officer.
38. A mukim elder to whom this was put agreed, though he doubted whether much recourse was made to the *Wakil Rakyat*.
39. Jean Currie, op. cit. p. 354.
40. Ibid, pp. 363, 358.
41. AGLC B7/66.
42. E.N. Taylor, *Customary Law of Rembau, JMBRAS.*, Vol. VII Pt. 1 (1929), pp. 1-289.
44. AGPK 14/79: land in Padang Sebang, Kemuning and Tanjung Rimau.
45. By the Land Office Chief Clerk.
46. 'hanging inheritance', 'inheritance suspended', mentioned in respect of Rembau by Taylor op. cit. p. 35 and de Moubray p. 131 following Parr & Mackray.
47. '(Offer to) sell and nobody dares buy, pledge and nobody dares redeem'.
48. 'Payment out of money'.

49. Wilkinson: 'condition, item, stipulation'.
50. This account repeats much of that in Part II supra: it is given because it comprises Dato' Mohammed Shah's statements to the writer in a discussion, almost a tutorial, at the Balai Nanning in February 1982 and is thus authoritative for the position at that date.
51. In the 1982 hearing of *In re Tomah* AGPK 6/79 the agreement dated 23rd May 1969 was executed before Dato' Gompo (dialect form of Gempar) who also signed.
52. The then A.D.O. stated in 1978 that there had been no increase in the number of titles endorsed.
54. Information from the then A.D.O.
55. The then A.D.O.
56. Swift, *op. cit.* pp. 90-101.
57. 'The ring to ask': the term *chinchin tali seluar* (Wahab Alwee *op. cit.* p. 23) is not used in Nanning.
58. 'Receive with one hand, push away with two'.
59. Appendix L.
60. The writer found no corroboration of the statement (Ahmad bin Ibrahim: *Customary Law in Malaysia*, 1962) that *mas kawin* in Nanning was \$60 for virgins and \$40 for others.
61. 'inaikan'.
62. Wahab Alwee, *op. cit.* p. 25.
63. *Tabir langit-langit*.
64. Appendix B.
65. Traditionally *joget* was performed by professional dancing girls who also sang *pantun* quatrains while in a ronggeng they did not sing.

Both were deplored by the religiously inclined.

66. This under Section 148 attracted imprisonment for up to three months and a fine not exceeding \$300.
67. Section 132.
68. Section 71.
69. This again repeats some of the account given earlier, but is based (other than the passage in brackets) on Dato' Mohammed Shah's statements in 1982.
70. Appendix B. Kalkati is in Melekek, and there is a well-known *keramat* or shrine there.
71. AGPK 6/79 *In re Tomah dec'd.*
72. The prescribed area within which a mosque is situated: Section 2 - in Naning almost always identical with the mukim.
73. Section 110.
74. Section 112 (2) and (3).
75. Again by Dato' Mohd. Shah to the writer in 1982.
76. Wilkinson: 'the realm has a King'.
77. By the then Assistant Registrar Supreme Court.
78. This is evidence only of what some in Malacca think of Naning and others in Naning think of Malacca.
79. The duty of the *suku* of a man who killed a man of another *suku* to replace the dead man as a member of the depleted *suku* and to make financial compensation.
80. There are exceptions for the creation of minor interests, the most important being a tenancy not exceeding three years (Sec. 223) or not exceeding one year under any other existing law.

81. Section 340 (3) proviso.
82. Sec. 383.
83. *Sadiyah v. Siakim and Hassan*, Taylor, *JMBRAS.*, Vol. VII Pt. 1 p. 65. has an example of land in Pahang being declared *pencharian* of a Jempol woman under Adat Perpatih and a registration accordingly, as far back as 1925.
84. N.L.C. First Schedule form 5 B.
85. N.L.C. Section 5. Wong, *Tenure and Dealings in the Malay States* (Singapore University Press, 1973) takes the opposite view: 'There is no reason why Section 320...may not be so construed as to empower the Collector to act on his own to give protection to customary land rights....' (p. 500), but he prefers endorsement, for Negri Sembilan.
86. Section 2 (2).
87. and see Sihombing, *National Land Code*, p. 50.
88. AGPK 6/79.
89. AGPK 8/79.
90. Wong, *op. cit.* p. 11.
91. AGLC 86/61.
92. as in *Re Tomah binte Mamat*.
93. see e.g., Sihombing, *National Land Code* Sec. 4 (2) p. 52.
94. Section 43.
95. as also in *Rembau: Re Abdul Hamid*, Taylor, *JMBRAS.*, Vol. VII Pt. 1 p. 86.
96. Summarised by Taylor, *JMBRAS.*, Vol. VII Pt. 1 p. 92.

97. MLJ (1940) p. 263. The land was at Klebang outside Naning, and the reference to Mohammedan law truncated the phrase 'Mohamedan law as varied by local custom' actually quoted by Terrell C.J.
98. Sec. 5; 'land includes...(d) all things attached to the earth or permanently fastened to anything attached to the earth....'
99. Adopted for the Federation by the Civil Law Act 1956.
100. The lembaga who thought in terms of *pencharian* and *untong* favoured a payment of \$60,000 by the wife's *waris* to the husband's *waris*, based on half the *untong*. That would be a great if not impossible burden to the ordinary *waris*.

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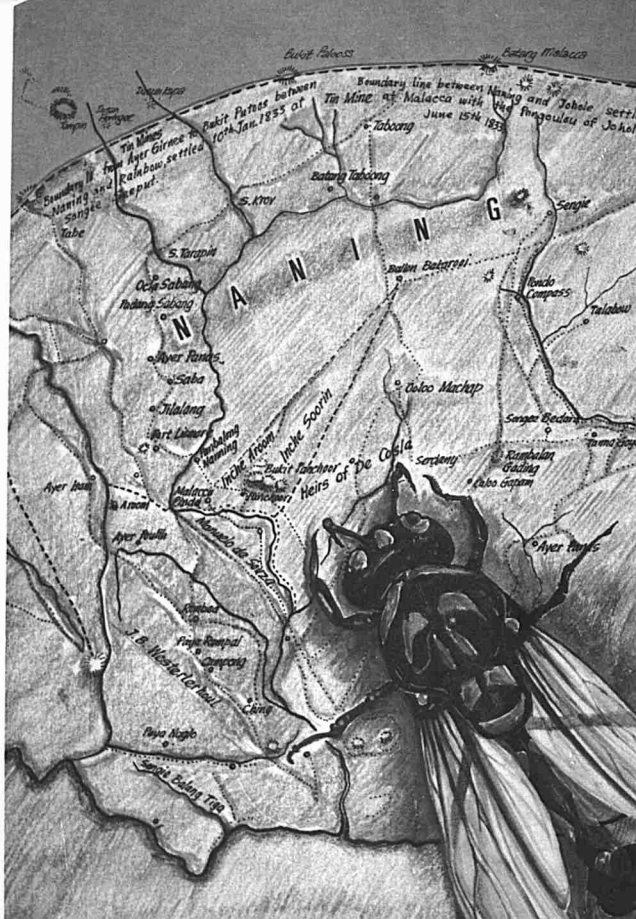
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Bukit Paloss

Batang Malacca

1855

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10th Jan. 1855 at

Boundary line between Nanning and Johore settled by Pangulu of Johore
June 15th 1855

Boundary line between Nanning and Johore settled by Pangulu of Johore
1855

Oca Sabang
Padang Sabang

Ayer Panas
Saba
Jilalang
Art Lianer

Ayer Panas

Ayer Panas

J. B. Westler Trail

Paya Nogie

Sungai Belang Tiga

Tabong

Batang Tabong

S. Kroy

S. Tarapin

Batim Batang

Pando Compass

Talabou

Coloo Machap

Sungei Bedang

Tameng

Serdang

Rumbulan Gasing

Coloo Gasing

Ayer Panas

Inche Arison
Inche Soorin
Bukit Tabong
Heirs of de Costa

