

PALAWAN

BALABAC

BALAMBANGAN

BANGGI

MULIANGIN

MALAWALI

Tg. Sempang Mengayau

P. SPIRAK

CAGAYAN SULU

Bengkok

TAGABU

Marudu

BILIAN

TEGAYPIL

USUKAN

Pandasan

ABAI

Tempasuk

Ambong

Sulaman

SAPANGAR

Tuaran

GAYA

Mengkabong

Paitan

Sugut

Bongaya

LABUK BAY

BAGUAN

TAGANAC

MEMIANG

P. TIGA

Papar

Berani

Kimanis

Sandakan

Atai

Kinabatangan

Tg. Ursang

LABUAN

Mempoekul

Tungku

DARVEL BAY

GAYA

MANTABUAN

Semborne

OMADAL

SI AMIL

DINAWAN

Kalabakan

Tawau

Batu Tinajat

MABOL

KAPALAI

SEBATIK

Sibuko

NANUKAN

TARAKAN

Bulungan

Berau

MARATUA



SULU AND SABAH

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A study of British policy towards
the Philippines and North Borneo from
the late eighteenth century

NICHOLAS TARLING



KUALA LUMPUR

OXFORD UNIVERSITY PRESS

OXFORD NEW YORK MELBOURNE

1978

Oxford University Press
OXFORD LONDON GLASGOW
NEW YORK TORONTO MELBOURNE WELLINGTON
IBADAN NAIROBI DAR ES SALAAM LUSAKA CAPE TOWN
KUALA LUMPUR SINGAPORE JAKARTA HONG KONG TOKYO
DELHI BOMBAY CALCUTTA MADRAS KARACHI

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ISBN 0 19 580337 X

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*Printed in Malaysia by Art Printing Works Sdn. Bhd., Kuala Lumpur
Published by Oxford University Press,
3, Jalan 13/3, Petaling Jaya, Selangor, Malaysia*

- 7 JUL 1979
Perpustakaan Negara
Malaysia

for Harry Hinsley

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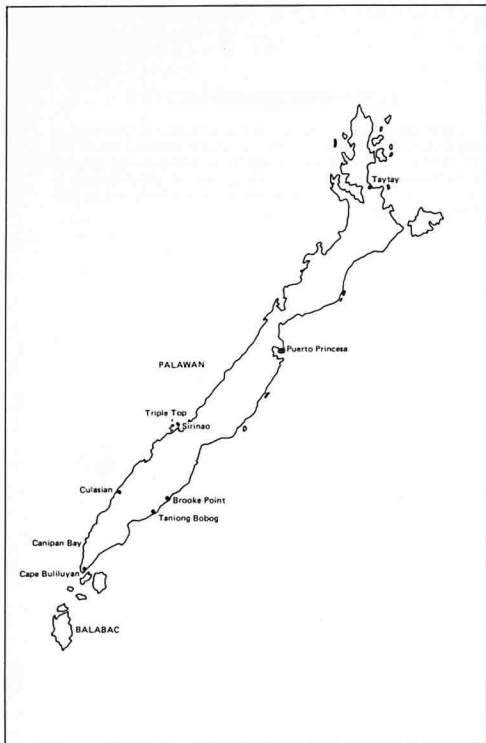
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ACKNOWLEDGEMENTS

I would like to acknowledge the financial support of the New Zealand University Grants Committee and the University of Auckland; and the help afforded by Miss Olive Johnson and Mrs Meme Churton, by the staff of the Public Record Office, London, and of the University of Auckland Library, by the secretaries of the History Department at that University, and by other friends and colleagues.



1. PALAWAN



2. SANDAKAN AND THE TURTLE ISLANDS

1

THE DALRYMPLE CESSIONS

Sulu, Brunei and the Spaniards

THE Sulu archipelago is now part of the southern Philippines, lying between the great island of Mindanao and the Sabah state of East Malaysia. This statement, apparently so simple, tends to conceal as much as it reveals. Like other parts of South-East Asia, the area is inhabited by range of peoples of varying cultures: they include pagan tribes in the interior, Bajaus or seamen on the coast, Samales, who are probably acculturated Bajaus, and the Muslim Tausugs, or Sulus, the ruling group in the archipelago. Nor do these peoples or their interests neatly confine themselves to the boundaries created in the eighteenth and nineteenth centuries, which have been inherited by the post-colonial states of the twentieth century. Historical, political, religious, commercial links tie the inhabitants of the Sulu archipelago to other territories besides the Philippines, in particular to Sabah. The region is marked by customs evasion and piracy, by religious strife, by conflicting frontier claims.

This study is, however, concerned primarily with the making of British policy towards the Sulu-Sabah region, and it is based primarily on British official documents. The subject has an intrinsic interest. By focusing on one particular region, it illustrates continuities and discontinuities in British policy in South-East Asia in general through the later colonial period. It throws some light on the attitudes of the British to the other Europeans and to the indigenous states in South-East Asia, and even perhaps on broader issues in imperial history. Only to a rather lesser extent may it help in understanding the nature of the sultanate of Sulu and the reaction of its rulers to long-continued contacts with the Europeans in the area, though certainly that reaction in itself helped to shape the working-out of British policies.

The subject may nevertheless have a more direct contemporary value. Though Sulu's contacts with Spain lasted for three centuries, British policy in the later nineteenth century was decisive in determining its fate. But some problems were not completely resolved. One was the claim to the Sabah territories which now form part of Malaysia. The other was the relationship of

Sulu with the rest of the Philippines. The latter had been an enduring theme in its history, as in that of the other Muslim or Moro territories. That it continued to be so was in part at least the result of Britain's determination at the height of its power not to overturn Spanish rule in the Philippines, and its failure to present a sustained challenge to the Spanish claim over the greater part of the Sulu sultanate. The problems of the present are not simply the creation of the colonial past: but the shape they have is partly its work.

The sultanate of Sulu certainly pre-dated the arrival of the Spaniards. But it had to come to terms with a pre-existing non-Islamic culture. In his study of Sulu, C. A. Majul has stressed that the sultanate was not absolute and despotic in orthodox Muslim style; nor, on the other hand, was the Sulu sultan 'invariably a mere rubber stamp of the principal *datus*' or chiefs. 'A great deal of pre-Islamic institutions persisted alongside with Islamic ones, yet it was precisely these pre-Islamic elements that prevented or obstructed the full implementation of those prerogatives and powers normally associated with the sultanate in the more orthodox centres of Islam....' The Sulu sultanate developed as a compound of the pre-Islamic social structure and 'the classical institution of the Sultanate'.¹

In theory the whole land belonged to the sultan, and he was considered the highest political authority. He was represented in the various islands by one or more Tausug or Samal *panglimas* or governors, and under them were subordinate officials. But the *panglimas* could not perform their official duties without the cooperation of the *datus*. These were chiefs whose ancestors were possibly pre-Islamic, and whose power rested on their followers (*amba*), their regular and debt slaves, their property. In theory they paid tribute to the sultan. In practice a strong *datu* might disobey or refuse tribute with impunity, though kinship ties, custom and tradition moderated such opposition.² The *ruma bichara*, a council which advised the sultan, was 'normally composed of the most powerful and richest *datus*'. With it the sultan had to discuss important decisions, and theoretically no piratical or raiding expedition was allowed without its permission.³ The sultan's power ultimately depended, like that of the *datus*, on his followers and slaves, his wealth and property, and not on an Islamic despotism. His power also depended on his capacity for leadership and his ability to coordinate resistance to invaders. He was 'a vital force protecting Sulu for Islam and the *datu's* independence from foreign invasion....' On such occasions he could rely on the *datus'* loyalty. But loyalty was likely to waver if he made peace treaties with the state's opponents, particularly if such treaties prohibited piratical raids that provided slaves and booty.⁴

A more recent attempt to describe Sulu finds the Majul explanation in some ways too rigid, too schematic. Thomas Kiefer prefers to characterize this loosely structured sultanate as a 'segmentary' state. He distinguishes the ascribed title of *datu*, given to the aristocracy, and the religious title of *salip*, from the achieved titles of headmanship, *datu*, *imam*, *salip*, *panglima*. In the latter case a leader would secure 'influence and political power in a community

or region through a combination of legal competence, wisdom, wealth, a deft manipulation of alliance, and perhaps military competence....' Then the sultan would legitimize the acquisition of power by conferring a title which might also restrain 'potentially recalcitrant leaders' and give them a stake in the sultanate. Kiefer also criticizes Majul's account of the ruma bichara: it was really 'a very loose advisory assembly....' Over warfare and piracy, Kiefer and Majul are more in agreement. The sultan's control in time of invasion would be more substantial than in cases of piracy. Headmen, *datus*, factions of young men, could mount raids for slaves and booty without the sultan's permission. The sultan had at least to appear to stand off, though he possibly profited indirectly as the holder of rights over market fees when spoils were sold. He could use influence against piracy. But he could rarely command a monopoly of force in external relations.⁵

Possibly some of the differences in interpretation arise from the lack of data and the practice of describing a 'classic' or 'traditional' polity that almost certainly was in the process of continual change, even before the nineteenth century. In the 1840s Commodore Wilkes, an American visitor, wrote:

The influence of the individual chiefs depends chiefly upon the number of their retainers or slaves, and the force they can bring into their service when they require. These are purchased from the pirates, who bring them to Sulu and its dependencies for sale....

...the slaves of Sulu are invariably better off than the untitled freemen, who are at all times the prey of the hereditary *datus*, even of those who hold no official stations....the consequence is, the lower class of freemen are obliged to put themselves under the protection of some particular *datu*, which guards them from the encroachment of others. The chief to whom they thus attach themselves, is induced to treat them well, in order to retain their services, and attach them to his person, that he may, in case of need, be enabled to defend himself from depredations, and the violence of his neighbours....⁶

Much of this description no doubt applies to earlier periods. But there may have been changes, large or small, even subtle or scarcely noticed, for instance in the role of piracy.

Certainly for the greater part of its history, that is, from the later sixteenth century onwards, the Sulu sultanate was profoundly affected by the activities of the European powers. This is not to suggest that internal dynamics of change did not operate. Undeniably, however, the Europeans affected Sulu indirectly, by affecting the fate of its neighbours and of other areas with which Sulu traded. They affected it directly, too, by outright conflict and invasion. In my earlier book, *Piracy and Politics in the Malay World*, there are a number of references to the decay of the sultan's authority and to the disruption of the Sulu polity.⁷ For seeing them as the result of European activities and the source of piracy and marauding, I have been criticized.⁸ They are really again eighteenth and early nineteenth century references. Even before the eighteenth century, however, the sultanate of Sulu had surely already been affected by Spanish advance. But it could indeed be somewhat more convincing to argue

that Sulu's character was influenced by frustration more than decline. It was a state unable to realize its potential for expansion, organized for war, unable to win: a loose structure, in which sultan and datus agreed on war and on little else, a state with an ethic of violence and adventure. This characterization might seem to presuppose an ideal form of state towards which Sulu would otherwise have advanced, and to be as objectionable as a characterization which presupposed decline. Perhaps one can only suggest that success might have made for a more stable realm, less piratical, more centralized. As it was, the sultan had difficulty in organizing for peace: to blame unruly vassals was hardly a satisfactory reply to those who expected him to be responsible for his subjects and to be able to enforce a treaty or suppress piracy.

Sulu certainly expanded in one particular way. Majul notes that, at the beginning of the eighteenth century, the sultan's domain extended not only over the Sulu archipelago, but also over southern Palawan and territory in northern Borneo or Sabah.⁹ The latter, in fact, had in part been acquired as the result of a dynastic struggle within the neighbouring sultanate of Brunei. The accounts of the struggle, and of the role of the Sulus in it, vary. It is clear that it centred over the rivalry of a claimant to the sultanate in Brunei and another on Pulau Cheremin, and that the results included the destruction of the latter party and the cession of the Brunei territories north of Kimanis to the Sulus. It is not clear, however, which party (if either) called in the Sulus, nor how much they assisted (if at all). The date is obscure: in the 1660s, implies a nineteenth century despatch of Hugh Low's; about 1704, suggests Alexander Dalrymple.¹⁰ Possibly the answer to the problem is related to the next: how much of this territory did the Sulus already possess? Majul considers they were already established on the east coast.¹¹ On the other hand they faced difficulties on the west coast rivers north of Kimanis, territories that appertained to the *pulau rajas* or supporters of the Pulau Cheremin claimant.¹²

In a recent book, *Britain, the Brookes and Brunei*,¹³ I attempted to compare Sulu and Brunei. In Brunei the sultan was not represented in the various parts of the state by governors, even to the extent that this was so in Sulu: the rivers were held by *pengirans* or nobles, some as appanages of high office, some as private hereditary property. The sultanate, by the late eighteenth century, was a congeries of rivers. Like Sulu it was held together in part by accidents of property-holding, by calculations of marriage, by diplomacy. Unlike Sulu it was not an organization for war or piracy. It was also more diversely populated than Sulu: downstream there were Malay and Islamized peoples, upstream a range of tribes. Sulu was more archipelagic. Yet there was an exception to this rule that made for exceptions to the other rules also: the acquisition of the Borneo territories had given Sulu something Brunei still regarded substantially as its own, something, too, that resembled Brunei territory in its social and political structure and its complexity.

Yet to talk of acquisition and of territorial control is perhaps to Europeanize what occurred. It is, as Kiefer says, a European myth that a state

should be defined in terms of specific territory, and that differences between states should correspond to differences in language and culture. 'Strictly speaking, the sultanate of Sulu was a multi-ethnic group state which did not have any recognised boundaries. Territorial sovereignty was recognised however, but only in relation to a center. Authority was always stronger at the center than at the peripheries. At the further edge these might be only a verbal or ritual hegemony.... The further a subordinate was from the center, the more likely would he be able to shift his allegiance from one superordinate authority to another....'¹⁴ Subject peoples were said to be "'owned" by the sultan, more broadly by his kinsmen and the various datus'. In practice specific datus exercised apparently inherited rights over specific Samal islands, and attempted to exert jural authority, possibly through the sultan's panglima, and to demand tribute. In return they would provide protection from other Tausug.¹⁵ In North Borneo, a somewhat similar situation apparently prevailed, modified by the peculiar features of the territory and of its demographic pattern.

Much of this again can be fully explained only in the context of European activity that influenced Brunei as well as Sulu. Both were under external pressures, besides those they exerted on each other: indeed the latter were affected by the former. For instance their international trade was affected both by the Spanish occupation to the north and by the Dutch search for monopoly to the south. Chinese junks still visited Sulu in the eighteenth and early nineteenth centuries, and it traded with the Moluccas.¹⁶ But Brunei had been changed more profoundly, and the change in Sulu's position partly resulted from changes in Brunei's. There were, moreover, more direct ways in which the Europeans affected the sultanates, though neither of them lost its political independence.

Once Brunei had itself been more an imperial and archipelagic than a merely riverine state. Brunei, rather than Sulu, was the great 'Philippine' power of the pre-Philippine period.¹⁷ But the scope of Brunei's expansion was limited by Spanish penetration into the Philippines. The ships of Magellan, touching at Brunei in 1521, found a magnificent court.¹⁸ The Muslim trader whom the Spaniards met off Cebu in 1565 was a factor of the Sultan of Brunei,¹⁹ and the power of Brunei extended into the Sulu archipelago, which Sultan Bulkeiah had allegedly conquered.²⁰ Establishing themselves in the Philippines, the Spaniards sought to trade to the Moluccas and to China, and the 'Moro', or Muslim, sultanates, chief of them being Brunei, provided formidable opposition.

In an expedition which he led in 1578, the Governor and Captain-General of the Philippines, Dr Francisco de Sande, declared that he had taken possession of Brunei town 'and of all the island of Borneo with the intention to hold and defend it in the name of his Majesty [Philip II] from whomsoever might try to oppose him....'²¹ But this was followed neither by occupation nor by a treaty with the sultan. In 1579 a new expedition sought to obtain the sultan's admission of vassalage, but in vain. Its leader reported to Sande: 'In

my opinion, if we effect a colony in Borneo, the Spaniards must live where the king and the Moros are, in order to keep them under control. In any other way they will be always unmanageable....²² But these expeditions, and still more the success of the Spaniards in establishing themselves in Luzon and the Visayas, helped to destroy the greatness of Brunei. In a sense it was Spain that made Brunei predominantly riverine by cutting off its archipelagic empire. The Sulu sultanate, aggressive and archipelagic, developed both in the wake of Brunei's retreat and in opposition to the Spanish advance. The major focus of the struggle between Moro and Christian shifted to Sulu and its other neighbour, Mindanao.

The Spaniards had already sought to bring Sulu under control. In 1578 it was under Brunei, and from the latter Captain Estevan Rodrigues de Figueroa was sent to 'the islands of Jolo [Sulu], where you shall endeavour to reduce that chief and his people to the obedience of his Majesty. You shall bargain with them as to what tribute they shall pay, which shall be in pearls, as they are wont to give to the king of Borneo....' The Sulus 'must trade with us from now on; ... every year Castilians will go to their lands with cloths and merchandise from China, of whatever they shall declare that they may need....'²³ In June the Brunei pengiran 'who calls himself king of Jolo, surrendered himself as a vassal to his Majesty... for himself and his descendants... in virtue of an act of war....' Figueroa was involved in two military engagements with the Sulus. 'Having conquered them, just as he was about to enter their fort the said king of Jolo came out peacefully and rendered obedience to his Majesty....'²⁴ But this did not bring peace. On the contrary Sulu, while progressively freeing itself of Brunei control, was better adapted to fighting back against the Spaniards with plundering and 'pirating' expeditions to Luzon and the Visayas. These events thus helped to confirm the character of the Sulu sultanate as well as that of Brunei. In the eighteenth century Thomas Forrest was to comment: 'The Borneans have the character of a sensible, steady people, and are said to have much primitive strictness and simplicity of manners: they detest the Sulus, who are gay and agreeable in private life, but restless as a state, and stick at nothing to promote their ambition.'²⁵

In the 1630s the Spaniards had made a real attempt to control Mindanao and Sulu. In 1634 Governor Salamanca began to build a fort at Zamboanga, 'a fort which should be a check to the Mindanaos and the Joloans, who came past that place when they sailed forth on plundering expeditions....'²⁶ From this new base, moreover, the Spaniards attacked the Moro sultanates. In 1638 Governor Corcuera established a stronghold on the island of Sulu itself.²⁷ A second expedition followed in 1639,²⁸ but an accommodation ensued in the 1640s. A new Governor, Diego Fajardo, made a treaty with the Sultan of Mindanao in 1645, and he ordered the withdrawal of the Spanish garrisons from Sulu and the demolition of the Spanish forts there.²⁹ A treaty was made with Sulu in 1646. Under this Spain recognized as belonging to Sulu the islands from Tawi-Tawi to Tuptup, and Balabac, and Sulu recognized as Spain's the islands of Balanini, Tapul, Siassi, and Panguturan; the sultan, as a

sign of vassalage, had to deliver a tribute of rice at Zamboanga; Jesuits were to be allowed to preach in Sulu dominions; and the sultan agreed to try to check pirates in the Visayas.³⁰

This last was more than he could achieve, willing or otherwise. No real peace ensued. Harassment of the Visayas continued.³¹ It was difficult for the sultan to maintain friendly relations with Spain owing 'to the resentment of his chiefs and captains, who derived much more profit from hostile raids than from trade and peace....' 'The distrust which was felt regarding the maintenance of peace by the King of Jolo perhaps occasioned anger that he had not prevented these injuries'; but he made amends, sending an embassy to the Governor and promising to chastise the pirates.³² Spain was in any case in no position to retaliate. Indeed in 1663 Zamboanga was evacuated mainly in order to provide for the defence of Luzon against the Chinese adventurer Koxinga.³³ With this the Sulus gained new opportunities. Was it also part of the background to their intervention in Brunei and acquisition of territory in Borneo and Palawan?

In the Spanish literature there are many references to Camucones, the Bajaus or sea-nomads. In the sixteenth century and for most of the seventeenth, they are depicted as owing allegiance to Brunei. 'The Camucones are a nation inhabiting some islands subject to the King of Brunei', ran one seventeenth-century report. 'Sometimes alone, and sometimes in company with the Borneans, they have infested our seas with their fleets, pillaging our islands, capturing many Indians, and killing all the Spaniards whom they took....'³⁴ Corcuera had told Philip IV in 1637 that he hoped 'even to bring down from his lofty stronghold the king of Jolo, and reduce him to obedience to your Majesty. And I will try to send an expedition... against the King of Brunei, who shelters and favors the Camucones, who by themselves and alone are of no account....'³⁵ Another account dating from the late 1630s shows them at odds with the Sulus: thirty *coracoros* from Sulu attacked fifteen *coracoros* of Camucones returning to Brunei after marauding in the Visayas.³⁶ Some years later, on the other hand, a Spanish expedition went to north-east Borneo 'to punish its people for aiding the Joloans in their raids....'³⁷ It may be that, as Sulu's fortunes prospered, its control over the Bajaus increased; and to some extent this would fit in with D.E. Brown's speculation over their shift of allegiance. He suggests that, as Brunei's trade declined, they sought a substitute by harassing the Philippines, at first as agents of Brunei, then as agents of others who did not make peace with Manila.³⁸ But possibly Brunei's peace with the Spaniards was a result rather than a cause. The intervention in Brunei was perhaps a further step in Sulu's bringing the Bajaus under its control. The Brunei negotiations with Spain, which included an exchange of ambassadors and the cession of Palawan,³⁹ may have been a diplomatic counterblast. So far as Spain was concerned, diplomacy was also the order of the day. There are scattered references to a Spanish settlement in north Borneo.⁴⁰ There is also reference to missionary activity there after the expedition of the late 1640s.⁴¹ Presumably these ventures were abandoned in

the 1660s, if not earlier.

The fluctuation of Spain's fortunes in the Moro regions was partly caused by the Dutch. The Dutch thus affected the sultanate of Sulu in two indirect ways: both by their attempted monopoly in the Moluccas and by their pressure on Spain. As their power declined, Spain's authority revived: Governor Bustamante re-established Zamboanga in 1718.⁴² But if the Spaniards had established themselves in north Borneo before, they did not do so again. The claim to Sabah seems thus to emerge not only from the dynastic struggles in Brunei and the ambitions of Sulu. It emerges also from the rivalry of the Spaniards and the Dutch and the impact they and that rivalry had upon the fortunes, the relative strength, the character of the sultanates.

The restraint of the Spaniards in the Moro regions in the 1620s partly resulted from Dutch pressure on their stronghold in Luzon. Their virtual withdrawal in the 1640s was also partly prompted by the Dutch. In 1645 the son of the sultan of Sulu had gone to seek Dutch aid: 'the latter sent some armed vessels, which cannonaded the Spanish fort at Jolo for three days, but finally were obliged to depart without having accomplished anything....'⁴³ But they increased Fajardo's apprehension and he recalled the Spanish garrisons. In 1648 Spain and the Netherlands concluded the Treaty of Münster: 'the Spaniards shall keep their Navigation to the East Indies in the same manner they hold it at present, without being at liberty to go further; And the Inhabitants of these Low Countries shall not frequent the places which the Castilians have in the East Indies.'⁴⁴ No doubt, however, it was partly as a result of Dutch activity, and not merely because of Koxinga's threat, that the Spaniards withdrew from the Moluccas in the 1660s at the same time as they withdrew from Zamboanga.

The objects of the Dutch, pursued by marine warfare and the conclusion of contracts and treaties with local rulers, included a monopoly of the trade in fine spices and pepper and canalization of the commerce with China. Their moves against the Spaniards were designed to eliminate them in the Moluccas and to secure Manila as an entrepôt for the China traffic. In the first object they succeeded, in the latter they failed; and though they contrived to weaken the Spanish position in 'Moroland', they did not substitute their own control. Then, as Dutch power in the Archipelago in general ebbed with the shift in the character of Euro-Asian trade from the late seventeenth century—the decreased importance of fine spices, the increased importance of Bengal piece goods and China tea—not only did Spain partially revive but a new challenge was presented by the Bugis people of Celebes. These built a wide-spreading politico-commercial imperium without formalizing it politically. One of its foci was the east coast of Borneo and the trade of the Moluccan seas.

Furthermore, the eighteenth century saw the advent of effective British power in maritime South-East Asia. The English had played a small role in the Archipelago during the seventeenth century, the period of Dutch predominance. In 1667 they came to an understanding with Spain on the lines of the Treaty of Münster.⁴⁵ According to the late seventeenth century voyager

William Dampier the Mindanaos wanted an English settlement: 'they do not find the *English* so incroaching as the *Dutch* or *Spanish*....'⁴⁶ But a factory was ruled out because it seemed likely to cause trouble with those powers.⁴⁷ The English fell back on the west coast of Sumatra. A later effort at Bandjermasin, a source of pepper for the China market, was foiled by the Dutch.⁴⁸

Though unsuccessful, this attempt reflected not only the inadequacy of the British settlements in West Sumatra, but also the expansion of British influence in Asia and of the East India Company's hold on the textile and tea trades. The tea trade, however, presented a problem. Tea was in demand in Europe, but European manufactures were not wanted in China. The Archipelago was seen no longer as a source of pepper and fine spices which the Dutch sought to monopolize; it was rather a source of goods in demand in the Celestial Empire which, sold in Canton, might help to relieve the drain on European sources of specie caused by the demand for tea.

The new British interest in the Archipelago was, as the eighteenth century advanced, more and more combined with a new strength, derived from industrialization, from empire in India, from command of the sea. But Britain's Asian policy was affected by European considerations, above all by the fear of encouraging French dominance of the continent; and the complication was interlinked with a tension between the Company and His Majesty's Government which increased as the Indian dominion expanded. Even though its strength increased, Britain was unwilling openly to do much to challenge Dutch treaties and contracts with the Malaysian/Indonesian rulers, lest this destroyed its alliance with the Dutch Republic; unwilling also to challenge Spanish claims in the southern Philippines, lest this consolidated the Bourbon Family Compact. If Britain was to interest itself in island South-East Asia it must in general still look to areas where the other European powers had no direct influence. The Sulu-Borneo region seemed to offer possibilities. Its traffic with China might afford additional access to the Manchu empire besides the limited opening at Canton. The region, moreover, flanked the eastern route to China, which, discovered by H.C.S. Pitt in 1759, enabled ships to reach Canton even when the adverse monsoon was far advanced.⁴⁹ But, if Brunei was free of European claims, though itself apparently falling apart, the position of Sulu was less clear; and if European claims could in fact be neglected there, there were still the Sulus to deal with, warlike, independent-minded, hydra-headed.

Furthermore, though the reason is obscure, the region seemed in the eighteenth century to be subject to even greater disruption than before. The long-term effect of the impact of the Europeans and the rivalries of the local sultanates are no doubt relevant factors. There may be others, not, perhaps, unrelated. In discussing Brunei, Dr Pringle speaks of the restlessness of the Iban and of Arab adventurers.⁵⁰ In a sense yet further state-building may have been in progress: the connexion between such groups and the 'established' authorities varied, hostile, friendly, ambivalent. Something similar may perhaps be said of Mindanao and the Ilanuns. The latter seem not to have

been piratical in Dampier's day, though his statement is somewhat ambiguous: 'They have little or no commerce by Sea, yet they have Proe's that row with 12 or 14 oars apiece....'⁵¹ By Forrest's time they clearly were piratical: and they ranged widely. 'The people of Magindanao and their neighbours, known commonly by the name of Oran Illanon,... are very piratically inclined. Neither can the Sultan of Magindanao restrain his subjects from fitting out vessels, which go among the Philippines, to Mangaio, that is, cruise against the Spaniards: much less can be restrained the Illanos, being under a government more aristocratic....'⁵² Clearly Mindanao was changing, even if the change cannot with certainty be described as decay.

May anything more certain be said of Sulu in the eighteenth century? In a number of ways the sultanate strengthened itself. It continued to consolidate, if not extend, its control in north-eastern Borneo. It also took steps to develop the junk trade with China, to which indeed the Borneo dependencies, sources of birds' nests, tortoiseshell, camphor, contributed:⁵³ whether or not they were related to the re-establishment of Zamboanga, a number of missions were sent to the Manchus between the 1720s and 1750s.⁵⁴ Such measures could, as A.L. Reber suggests, co-exist with piracy, which was not necessarily a sign of decay. Much of the additional disruption of the later eighteenth century, moreover, emanates from Mindanao. Ilanuns, as Forrest says, were dispersed to Sulu and to Tempasuk and Tuaran in north-western Borneo. This he ascribes to the effects of a volcanic eruption.⁵⁵ But may it not also have been symptomatic of a further stage in Sulu's development? If it did not indicate decay, it may have indicated the failure of the reconstruction of the earlier eighteenth century. The emergence of the piratical community of the Balanini in the 1820s⁵⁶ may again indicate at least that some characteristics of the sultanate were becoming predominant, others less so. Certainly, as Sulu became a source of wide-ranging piracy, wider conflict with European powers became more likely. And while the sultan's assertions that he could not control it were true, and even from a Sulu point of view, reasonable, they became less acceptable as piracy became more wide-ranging, and as Europeans came to expect more of sovereign governments, their own and others.

At the same time Britain was again interesting itself in the region. Ultimately Britain was stronger than Spain or the Dutch Republic. But its policy was complicated by European considerations and by domestic inhibitions. As a result of a long process, stretching from the late eighteenth century through the nineteenth, an elaborate series of compromises was formulated under its general sanction. Brunei was partitioned; Sulu also. In my last book the former process was examined. The present is concerned with the second. But the two are related: the history of the region threads unity with division.

A'zim-ud-Din I and the British Capture of Manila

After the restoration of the port of Zamboanga in 1718, there were several

sharp encounters between the Spanish forces and the Sulus.⁵⁷ Sultan Badar-ud-Din I hoped, however, to develop Sulu's trade with Manila, as well as enhance that with China. A treaty of peace was arranged in 1725-6: this provided that Sulu could trade freely in Manila and Spaniards in Sulu; by it the sultan agreed to return the island of Basilan, which lies between Sulu and Zamboanga, to Spain.⁵⁸ But hostilities continued.⁵⁹ A new sultan, A'zim-ud-Din I, took over in 1735. An embassy he sent to Manila secured another treaty. The two parties expressed their intention to preserve a permanent peace and to settle future differences amicably. Each would aid the other if attacked; but an exception was made in the case of a European attack upon Sulu, the Manila government declaring that it had no independent authority to declare war upon European powers. The treaty, concluded in 1737, was ratified in Madrid in 1742.⁶⁰ It was a treaty between two independent states: as Philip V put it in 1744, a treaty of peace, armistice and good correspondence.⁶¹ In these years the Sulus were busy 'subjecting the coastal peoples in the recently acquired territory in North Borneo'.⁶² Perhaps not unwillingly A'zim-ud-Din joined the Spaniards 'in a punitive expedition against the Orang Tedong of the North Borneo coast and off-shore islands', the Tirones or Camucones of Spanish accounts,⁶³ or Bajaus.

In recounting these events, Professor de la Costa suggests that A'zim-ud-Din sought to strengthen his government 'against the turbulent and unruly aristocracy of Sulu'. The treaty of 1737 gave him 'time'.⁶⁴ He may have hoped, not only for Spanish assistance against aristocratic opposition, which he received on one occasion at least; but also for the peaceful development of commerce, which might in the long run provide a substitute for the warlike propensities of the datus and their followers. On the Spanish side, no claim was made to sovereignty or supremacy. But it was no doubt felt that there were advantages in strengthening the Sultan, who might bring the aristocracy under control, and thus be better able to check piracy and raiding. Too close an association between Spain and the Sultan, however, risked the success of the policy of both by provoking opposition from the datus, not only on personal, but also on politico-religious grounds.

The Sultan's decision to admit the Jesuits brought the affair to a crisis. In 1747 a special commission presented A'zim-ud-Din with a letter from Philip V, requesting that they be granted permission to preach the Catholic religion in Sulu. A'zim-ud-Din was assured 'that under no pretext whatsoever will your Highness or your chief vassals be troubled in their possessions or government by my troops or subjects, but that you and they will by all means continue to enjoy complete and absolute sovereignty [autoridad] in the same manner and form that you now enjoy it....'⁶⁵ The Spanish King's request was granted: A'zim-ud-Din even permitted his son, Muhammad Israel, to receive religious instruction from the missionaries. The latter were instructed by the Philippines government to try to persuade the Sultan and datus to send their sons to Manila to learn the Spanish language. The Sultan was to be invited to Manila too. Philip V, they could say, was prepared to make common cause

with the Sultan against a common enemy, whether it be one of the nations close at hand or a European power.⁶⁶ Presumably the Spaniards hoped for the peaceful acquisition of Sulu through the spread of their culture. But they were also offering a political undertaking that significantly extended their commitment beyond the limits of the treaty of 1737.

In 1748 the new mission was set up. Already, however, the Sultan was meeting a formidable opposition from the datus, led by his younger brother Bantilan. In an affray A'zim-ud-Din was wounded. He decided to leave the sultanate. The datus accepted a regency including Bantilan, and A'zim-ud-Din departed under apparently friendly auspices. But soon after Bantilan dissolved the regency and proclaimed himself Sultan Muiz-ud-Din.⁶⁷

Perhaps A'zim-ud-Din, who had gone to Basilan, had hoped to return when the Jesuits left. But, though they had been turned out, he now had no alternative but to seek Spanish assistance, first at Zamboanga, and then at Manila. While his petition for aid was being considered by the government, he asked for Christian baptism. There was some doubt, not surprisingly, about his sincerity. But in April 1749 he was baptized Fernando, and Manila went wild with joy. Sultan Muiz-ud-Din, however, insisted that the quarrel was a domestic affair, and not a matter for Spanish interference; nor should the Spaniards blame the Sulus for the endeavours of the Orang Tidong to avenge themselves or punish the Sulus for raids on the Visayas launched from Basilan. The resumption of hostilities by Muiz-ud-Din no doubt hastened the preparation of a Spanish expedition to restore A'zim-ud-Din. In June 1751 troops were landed in Sulu and the datus finally agreed to receive him back as their Sultan. On his way back, A'zim-ud-Din had meanwhile reached Zamboanga. There, however, the suspicions of the Governor were aroused by a letter which A'zim-ud-Din had written to the Sultan of Mindanao and which had been intercepted. The arrival of an emissary from the Sulu datus, and the discovery of concealed weapons, confirmed the suspicions. Governor-General Ovando ordered the imprisonment of Sultan A'zim-ud-Din, the laying waste of his country, the enslavement of his datus in Sulu, Basilan, Tawi-Tawi, Dongon, Kuran, the killing of his subjects. An inconclusive war ensued. Peace negotiations under the next Governor-General, Arandia, failed. But the royal prisoner, back in Manila, was treated with greater leniency.⁶⁸

Bantilan disclaimed responsibility for Basilan without denying that it was part of the Sulu realm. Perhaps A'zim-ud-Din had gone there because he felt sure of local support; perhaps that was the reason Bantilan invited the Spaniards' attention to it. The island, though mentioned in the 1725 treaty, had not apparently come under their effective control. Presumably they hoped their growing influence over Sulu at the centre would be a substitute. The collapse of this policy led them to look to the surrounding islands and also to renew their contacts with Brunei. The Spaniards had claims to Balabac, though it is not clear if they derived from Sulu or Brunei.⁶⁹ On Palawan they had a fort at Taytay in the north, serving as a check on the Moors, according to a British commentator.⁷⁰ Palawan had been involved in earlier negotiations

with Brunei. Ovando despatched a new mission to the Sultan there, 'informing him of the arrest of the King of Sulu for his inveterate faithlessness, and pressing him to continue our long standing friendship and to form a new alliance against the said King as a usurper of part of his dominions, and against all his enemies, and to cede to your Majesty [Philip V] the Island of Balabac and the territory of Palawan, for the purpose of better waging war against the Sulus, Tirones and Camucones....' The cession was secured, the Captain-General reported, and he 'found it necessary to use the new rights acquired by the cession referred to....' The Spanish fleet took possession, but no new settlements were created.⁷¹ Though Spain made no promise to give it north Borneo Brunei was no doubt ready to make this deal, since its claim to the islands was already compromised by the cession to Sulu. The Philippines government's interest in encircling Sulu was no doubt a result of its failure to establish influence in Sulu itself: but its new venture enjoyed little success, meeting ill health as well as Sulu opposition.⁷² Spain and Sulu remained at odds: their conflict unresolved. Piracy increased.

The nineteenth century was to witness the creation of a new colonial order in South-East Asia. In some areas it was to mean direct European rule; in others something more indirect. In Sulu, since the issue was undecided at the end of the eighteenth century, the establishment of a colonial order might mean rule through the sultanate or its displacement. But there was another dimension to the struggle. In part the outcome depended on the strength of the Europeans as well as their disposition to use it. But it also depended on their rivalry. So far only the Dutch had intervened in the Sulu/Spain struggle; and only in a limited way. The most significant of the nineteenth-century powers was Britain. Its attitude was conditioned by European as well as other interests. But perhaps it is also important that it appeared on the Sulu scene when A'zim-ud-Din's imprisonment had illustrated the shift in Spanish policy back to a traditional hostility, and when Brunei's weakness had been illustrated by the cessions of the seventeenth and eighteenth centuries.

In April 1759 Lord Pigot, the Governor of the British East India Company's factory at Madras, despatched Alexander Dalrymple on 'some secret service' in the *Cudaalore*. The objects were to discover a new route to China, by way of the Moluccas and New Guinea, that might be useful in the event of war in the Straits of Malacca, and to open trade at Sulu.⁷³ Possibly Sultan Bantilan wished to find an ally against the Spaniards.⁷⁴ The Sultan claimed, however, that he wanted peace with Spain, since 'guarding against them prevented him from reducing to obedience the Borneans and opposing the Magindanaos'.⁷⁵ At all events he was ready to make an agreement with the Company, and in January 1761 he and Dalrymple signed a treaty of alliance and commerce. In this the English were granted leave to choose a site for a factory, and free trade in the Sultan's dominions except in articles prohibited by the Sultan. The Sultan engaged 'to admit no other European but the English to any Trade in his Dominions'. 'The English shall be assistant to the Sulus if attacked and the Sultan engages to protect the English from all

enemies.⁷⁶ The treaty was subsequently ratified by the datus of Sulu, and in November even signed by A'zim-ud-Din in Manila.⁷⁷

Dalrymple called at Makasar during the voyage of the *Cuddalore* and learned of opposition to the Dutch on the part of the Bugis states of Boni and Goa in Celebes.⁷⁸ Sulu maintained contact with the Moluccas through the Bugis, and when Dalrymple was sent back to Sulu in the *London* in 1762, his instructions suggested 'such a provisional treaty as at Sulu with the Bugis princes or any others, taking always care previously to enquire whether they are under any and what engagements with other Europeans....' Through the Bugis he might obtain spice plants. As there was also a chance of 'a beneficial commerce to Sulu', he was to consider where a factory might be set up, possibly on the northern end of Borneo or Banggi. 'The absolute cession of some spot to us...appears to be the most effectual measure to prevent pretensions of other powers and to secure the advantages of the Sulu Commerce to the Company....' In any communications with other powers Dalrymple was to

act with the utmost circumspection that they may not be enabled to take advantage of any unguarded expression or by discovering all the circumstances of our alliance to invalidate or call in question our pretensions by vamping up others of an earlier date. The general rule for your conduct is to assure them that on your first arrival the Sulus declared themselves free from all Engagements with other States and therefore to put them to the proof of their claims which may be turned to advantage hereafter....⁷⁹

The Spaniards were no doubt in mind, but Dalrymple had evidence also of Dutch interest. A 'Javan Chinese' was at Sulu in 1761, Han Koplo from Surabaya.⁸⁰

On the way to Sulu in the *London* Dalrymple visited the west coast of north Borneo and made an engagement with 'Modin Orantuan' of Tempasuk and Abdul Bendahara of Abai. They granted the Company the island of Usukan and 'the part of Borneo to the Northward of Abai River called Birabirahan with what more Land the English may want hereafter for Plantation of Pepper or other Uses.... It is mutually agreed to assist each other against all Enemies and in every other respect.'⁸¹ Presumably the chiefs were, as a result of the dispute between the sultanates, virtually independent of either Brunei or Sulu: the area had also recently been settled by Ilanuns. By securing Usukan, Dalrymple was perhaps taking out insurance against disappointment at Sulu itself. But there Bantilan and the ruma bichara made a grant of the island of Balambangan, which had also been visited *en route*, and in January 1763 Dalrymple took possession of it.⁸²

The Javan Chinese returned to Sulu.⁸³ On a third voyage, in the *Neptune*, 'finding the Dutch were endeavouring to cultivate an alliance with the Sulus', Dalrymple 'thought it a Measure highly necessary for the Company's interest to obtain a Cession of the Southern part of Palawan and Northern part of Borneo with all the intermediate islands, as commanding the Navigation of those Seas....'⁸⁴ The cession was made by the son of the now dead Bantilan, A'zim-ud-Din II, and was also signed by Raja Muda Israel, Muhammad

Sharaf-ud-Din and others. It covered Palawan 'from the Point of Canneepaan to the Point of Booleelahuyen and on the Borneo side from the Point of Sampang Mangio to the Point of Seepeelac....' The object was 'to prevent all other European nations from passing or coming without the License' of the English Company, and the Sultan made the grant 'on condition that those who are antiently my Vassals and Tributaries and white people who may come as Ambassadors or for other purpose directly to this kingdom shall on no account be impeded....'⁸⁵ With this clause the Sulus sought to retain political contacts with other Europeans and control of the trade with their tributaries. Nor did the cession include many of their north Borneo territories. 'Seepeelac' is on the east side of Marudu Bay, and the cession was in effect confined to that bay. It did not include the rivers Sulu claimed on the west coast, nor Sandakan, nor the east coast. There indeed the Sulus were shortly to make both Kuran and Berau tributary.⁸⁶

In October 1763 Dalrymple went up to Manila, now in British hands: indeed Israel, A'zim-ud-Din's son, had been sent back to Sulu by a British escort.⁸⁷ In the course of the Seven Years War, the British had indeed determined to strike a blow at the Spanish allies of the French. The Family Compact existed: Spanish territory could be attacked. The Directors of the Company agreed to cooperate, 'but Manila being an object of infinite importance to the Spanish Nation, the Company can hardly flatter themselves with holding it when Peace takes place....'⁸⁸ They hoped in fact to use the seizure of Manila as the occasion for securing a settlement on Mindanao, which there were better hopes of keeping after the war.⁸⁹ An expedition under William Draper took Manila, and all the 'subordinate' islands were 'ceded to his Britannick Majesty who must be acknowledg'd sovereign till the fate of these islands is decided by a peace between the two kings. Their religion, goods, liberties and properties and commerce shall be preserved to the inhabitants of these islands who are subjects of Spain....'⁹⁰ In the event the British forces were insufficient to do much outside central Luzon.⁹¹ As the Court expected, moreover, the peace treaty returned Manila to Spain. News of the cessation of arms reached Manila in July 1763 and of the preliminary treaty in August, though the definitive treaty did not arrive till March 1764.⁹²

Before the British conquest, Manila had been visited by an embassy from Bantilan, the despatch of which indeed was not inconsistent with the remarks the latter made to Dalrymple. It came, the acting Governor, Archbishop Rojo, wrote, 'with propositions of peace....many advantages would accrue to our side, and the hostility of the Moros be kept in check.' Rojo received the embassy with the consent of Sultan Fernando (A'zim-ud-Din I), who was obliged by the Archbishop's attentions: he had been given 'a house and a carriage within the city'. The envoy induced Fernando 'to petition and repeat his writings to the archbishop, so that his cause which had been so long delayed might be reviewed....' After consulting the Audiencia, Rojo fixed the journey of Fernando and Israel back to Jolo for November 1762: 'the preliminaries of peace were given and concluded, and the new and voluntary

proposition of the said king and his son, signed by both. In it they conceded that the Spaniards could have a settlement and build their fort in their principal island of Jolo.' Meanwhile the chief fortress would be surrendered to the Spaniards, 'as a mark of the confidence they had in them and of the love which they professed to so good a king as the Catholic Monarch....' The Spaniards would also be permitted to build a fort in Basilan; other islands were ceded to them; and no nation beside Spain was to settle in Sulu without Spanish permission. An embassy from Mindanao, arriving about the same time, also offered a cession, but negotiations had not been concluded when Britain seized Manila. The Spanish settlement in Jolo, which would have 'annulled' the British arrangements with Bantilan, was prevented.⁹³

The Company's interest in Mindanao guided its Governor Dawsonne Drake and his Council in their dealings with the ambassador who was still in Manila at the time of its capture.

The Ambassador from Mindanao having intimated to the Governor that the Sultan his master would gladly enter into an Alliance with the English Nation the Board consider the many Advantages that may arise from such an Alliance whenever it may be found expedient to take possession of Zamboanga, or any other Settlement on that Island which is so happily situated adjacent to the Celebes and the Spice Islands.... The Council resolved in January 1763 to treat him with respect. So also the 'King of Sulu', A'zim-ud-Din I, who now offered the Company 'part of his Dominions in the Islands of Sulu and Borneo': an offer which the Council deferred accepting pending the arrival of Dalrymple, 'lest it might interfere with the Plan laid down by him' and adopted in Madras.⁹⁴ At first Fernando had helped the Spaniards during the siege of Manila. He retired before its fall, and communicated with Anda, leader of the anti-British resistance in Pampanga, who declined to allow him to return to Sulu. Fernando turned to the British, declaring he was a prisoner, and had changed his religion through fear.⁹⁵ Anda himself maintained that Fernando had been captured by the British.⁹⁶ Certainly, as Drake hesitated over making an agreement, Fernando became impatient, and he smuggled a letter to Anda, declaring he had been captured. Whatever arrangements he made with the British, he added, would be 'null and void, since I have not yet taken possession of my throne'.⁹⁷

A British attempt to secure Zamboanga with the help of the Mindanaos failed.⁹⁸ But the Sulu project went further. In February Drake agreed to conversations with A'zim-ud-Din I. The Sultan told the Council late that month 'that some time since an ambassador arrived with a letter from his Brother the usurper, and the Nobles at Sulu, inviting him or son Prince Israel to come to take possession of the Kingdom, which he lays before the Board, and that if they will permit him with a conveyance he proposes immediately returning thither'. He offered to cede to the Company 'such part of his own Dominions on Sulu or Borneo, as they may chuse to erect Forts or Factories upon for the security of their Trade', to confirm Bantilan's treaty of alliance and commerce of 1761, 'to give the English the exclusive Priviledge of trading free of all Customs, and to enter into an alliance Offensive and Defensive for

the mutual protection of their Possessions'. 'If the King of Sulu should be attacked', article 6 of the agreement ran, 'the English shall assist him with such Force as the situation of their affairs will admit. If the English in case of their continuance at Manila or any other Place shall [require] the assistance of the Suluans the King shall grant them such a number of men as he can spare, and the Enemies of the one, shall be considered as Enemies to the other....' Deciding now that it could only 'confirm' Dalrymple's plans, Drake and his Council formally accepted A'zim-ud-Din I's proposals; but 'as affairs may not take so favourable a turn, as they expected', they recommended him to send Israel south to prepare the way.⁹⁹

Archbishop Rojo protested against the treaty in what he himself called 'a very strong and expressive letter'.¹⁰⁰ The Philippine islands, he claimed, should be maintained as they were found, since they were a 'Pawn...taken from the Catholick King my master by way of a deposit' until their ultimate disposition was decided, and the British had no 'power to innovate'. By the capitulation, too, the British undertook to preserve the life and liberty of the Spanish king's subjects and the Catholic religion,

and 'tis certain that to stirr up the moors would be to occasion, the Destruction of all and raise inquietudes and disturbances in all the Islands....

I also acquaint you that a preliminary treaty of peace & a voluntary cession both of the Sultan and his son towards an establishment of the Spaniards both in Sulu and Basilan with other priviledges in those Islands, have been made beforehand, preserving always those in which his Catholick Majesty had over them these many years past, as the Sultan and the Prince can tell....

The Board dismissed Rojo's protest, and insisted on its right to make the treaty, as Sulu

never was included among the Philippines, besides at all Events while the Oidore Anda in open violation of the said Articles continues raising and fomenting Troubles in the Country Self Preservation will induce them to make Alliances with any people who have it in their power and will assist them and whatever bad consequences may arise therefrom must be laid to the charge of Mr Anda and those Fryers who have been so active in Exciting the Indians to take up Arms....¹⁰¹

In May the Council received a letter from Bantilan offering an alliance. 'The Board with great pleasure observe the good intentions of the Suluans towards the English and hope it will induce them quietly to settle Prince Israel in the Government of the Country....'¹⁰² In July it was learned that Bantilan was dead, and Israel was governing with his sons.¹⁰³ His chop indeed appeared on the cession of September 1763.

By this time, however, news of the preliminary peace had arrived from Europe. The prospective return of Manila to the Spaniards added to the importance of Dalrymple's scheme. But the arrangements the Board had made with A'zim-ud-Din I had dangerous implications, and Dalrymple and he agreed that they should be abrogated. Rojo's protest had shown that Spain had claims, and Dalrymple had sought information about them on his arrival in Manila. A'zim-ud-Din 'gave me a Letter from the Archbishop expressing

very great Concessions. He had received particularly a Promise of Sulu, Basilan, Paragua [Palawan], and all the Towns on Borneo. The Sultan alledged that this was more than he had actually granted but that the whole was an Act of necessity not Choice however he acknowledged enough to make me think some measures necessary to supersede the Spanish Pretensions.' If Drake had not made a treaty with A'zim-ud-Din, it would have been sufficient merely to insist that only treaties by the reigning prince were valid; 'but as this treaty might be construed as an Acknowledgement to the contrary, other Measures were requisite since the Spaniards might justifiably alledge that their Treaties were antecedent to ours with him and no reason could be given why he was less under Compulsion with us than with the Spaniards.' Though Dalrymple believed that a treaty signed by the Sultan without the advice of his councillors was unconstitutional, he proposed to A'zim-ud-Din 'that a Convention of the Estates should declare by a public Act that no Treaty concluded by him in his Absence should be in force...and that his acceding to this Edict should be insisted on previous to his assuming the Government which he assented to....' A declaration was drafted and sent south, by which A'zim-ud-Din II, Bantilan's son, the *datus*, *orang-kayas*, officers and chiefs, 'zealous to preserve the Liberty and Independence of our Country and the Preservation of our Religion', stated that before the restoration of A'zim-ud-Din I, he should agree 'that no alteration shall be attempted in the established Religion', and that all treaties made by him since he left 'and before' should be void.¹⁰⁴

The declaration was designed to invalidate the agreement A'zim-ud-Din I had made with the Archbishop. It also invalidated that of 1737, and gave the Sulu chiefs an additional motive for acceptance, the guarantee of Islam. What the motives of the Sulus were in sending an ambassador to invite back A'zim-ud-Din or his son is not clear. Possibly the move resulted from factional struggles. One observer suggests that Bantilan's following had dwindled: he had 'but a very small party in the Island and but few attendants, and commonly walks through the Streets unnoticed...he'll pimp for, or cheat, any man living....'¹⁰⁵ The guarantee of Islam, and of independence, might turn the balance in A'zim-ud-Din I's favour. The intervention of the British at this juncture no doubt helped to bring about such a conclusion. Had the trend not been in this direction, it is true, the British might have had less reason to take the line they did: Dalrymple could obtain all he wanted from the government in Sulu; and the Drake treaty was superfluous. But there was also, of course, the Spanish factor: if A'zim-ud-Din had been ignored altogether, the Spaniards could subsequently have intervened on his side. Their opportunity would be foreclosed if he returned to Sulu and the parties there were reconciled on the basis of independence and Islam. On the other hand he must not turn too strongly against the Spaniards. Some people, Dalrymple noted, doubted A'zim-ud-Din's attachment to the British. Indeed he recognized that A'zim-ud-Din was himself 'uncertain how far we are to be depended on for Protection and as a Man of Experience is desirous to avoid exposing himself to

the resentment of the Spaniards.... I have always recommended him to keep on a plausible footing with the Spaniards as the most eligible step to prevent Difficulty to his affairs.' Presumably it was felt that the Spaniards would once more turn against him if he too openly sided with the independent-minded at Sulu: he would be back where he started. Dalrymple had no intention of positively backing A'zim-ud-Din I and so bringing the whole realm under British influence. Perhaps he did not believe in such a policy; perhaps he thought the Company would not support it; perhaps he thought it would provoke both the Spaniards and the Sulus to oppose what he did want. The Drake treaty went too far: it engaged to support A'zim-ud-Din I and Israel on the throne 'which would restrain us from standing neuter or supporting the opposite Party should it be found most for the Company's interest....' Nor was its offer of a fort on Sulu itself advantageous, Dalrymple maintained, though his 1761 treaty had included such a clause: 'the Island itself produced no Article for Commerce of Consequence and...the Natives would be disgusted in the highest degree whereas by an Establishment at Balambangan there is no objection on their part and every Advantage on ours'.¹⁰⁶ Backing one party or the other too strongly, intervening decisively at the centre of the sultanate, would produce only negative results, such as those the Spaniards had themselves experienced; and they would oppose also. Thus Dalrymple sought stability at Sulu, discouraging factious dispute, avoiding Spanish intervention by avoiding British. If need be the British might support the 'opposite Party'. But preferably they should not be deeply involved.

On the other hand, they might build up their interests in Borneo.

As a further Security to the Company's Privileges I propos'd a Distribution of his [A'zim-ud-Din I's] Dominions which he readily assented to that is by appointing Sharaf-ud-Din his eldest son (tho' by a Concubine) to the Jurisdiction of the Borneo Dominions and Paragua, as this Person is not only of very great Capacity, Moderation and Application but I am well convinced (from many instances) of great Integrity. The Advantage to the Company's affairs from hence should they resolve on an Establishment in this Quarter would be infinite as their support to his Government join'd to his own Disposition and Capacity would in a few years make him the most considerable Prince in the Eastern Parts and connect under his authority the greater part of Borneo which is equally rich and populous his inclination to Navigation and Commerce, the general esteem and respect of the Natives would without doubt place affairs in this Quarter very shortly in a condition much to be desired. I mean if the Conduct of your [the Company's] Representative cooperated....¹⁰⁷

If it were possible formally to preserve Sulu from Spain, so much the better, of course. Dalrymple adumbrated a deal which in fact would make most of it independent of both Britain and Spain. The English Company, he thought, had an ancient claim to Palawan. Perhaps this could be waived if the Spaniards waived their claim to the island south of 10° N, 'by which the Company would in some measure obtain the Guaranty for their Acquisitions'. The English Company could also drop any connexion with Mindanao if the Spaniards waived all their pretensions to Borneo. 'And as a Barrier

between the two Powers...the Sulu Empire (with due exception to the Borneo partition) should continue independent under the Guaranty of both....' The Sulus, Dalrymple continued, might assist in putting down the Mindanao 'Rovers'. He even recommended that the Jesuits, already operating in the southern Philippines, might operate also among the non-Muslim tribes of inland Borneo 'as the forerunner of commerce and the light of science which will infallibly dispel the clouds of superstition....'¹⁰⁸

Soon after Dalrymple had thus explained his schemes in a despatch to the Company's Secret Committee in London, the definitive treaty of peace reached Manila. Replacing Drake as governor, Dalrymple handed Manila over to Anda on 1 April and set off for Sulu.¹⁰⁹ Dalrymple had found that the grant of 1763 was defective.

My application was for a Cession of the S^o point of Palawan and N^o point of Borneo with *all the intermediate Islands*. But this tho implyd is not clearly expressed. Besides there is an exception in favour of Europeans bound to Sulu which would in good measure overturn the intentions of the Cession. The people who sign it are not properly the officers who ought to have confirmed it, if any did, they who sign are the Sultan's Brother and except the first in no office and He in an honorary one only....¹¹⁰

Presumably these remarks help to explain why that agreement was not merely confirmed but re-negotiated on the arrival of Dalrymple and A'zim-ud-Din I in Sulu. But there were other reasons also.

The party reached Sulu on 17 May 1764. On 8 June the old Sultan 'was by the Natives reinstated in the Government', and on 29 June he

agreed to cede to the Company by way of Sale, the Sulu Districts in Borneo from Towson Abai to Kimanis, with all the Islands to the Northward, observing that was *sold* was *irredeemable*; This Cession or alienation was made in consequence of difficulties which arose in the proposed mode of *partition*, whereby it appeared that no other means could preclude any claim of the Sulus to these Districts in time to come or pretensions arising from treaties with Sulu in times past. The view of this Cession was to exclude all other Europeans from any Establishment in the neighbourhood of Balambangan and to secure to this Nation the Dominion of the Strait between Borneo and Palawan. However it was understood and intended that the Government should be vested in Sharaf-ud-Din.

The Sultan wrote out the cession on 2 July, and it was signed also by other datus. On 30 July Dalrymple gave Sharaf-ud-Din a commission, investing him with the government on behalf of the Company, countersigned by the Sultan.¹¹¹ In the cession deed, the Sultan acknowledged

to have sold to the English Company my right in the part of Borneo from Towson Abai to Kimanis, the Island of Palawan and all the other islands to the northward of Borneo. In return for the benefits I have received from the said Company I give up to them all my pretensions and right and those of my successors to these Lands and Islands and all that belong to them. And ratify to the said Company the full possession of Balambangan the said Company may give the Government of these Lands and Islands to any of my Sons and-Relations if the said Company think proper....¹¹²

The price paid does not appear. It seems likely that there was none, but that

the agreement adopted a form of words designed to preclude claims to this territory on the part of other powers, particularly the Spaniards, possibly the Dutch too: it dropped the provision in the 1763 agreement for the access of 'white' ambassadors to Sulu. Dalrymple also wished to preclude a Sulu claim that might arise from shifts in the political situation in the sultanate. At the same time he must not alienate those Sulus who wished to preserve its independence. The new grant, moreover, while by no means transferring all the Sulu claims to Borneo, was of greater extent than the earlier one; it covered the west coast north of Kimanis, and it included Sandakan.¹¹³ Dalrymple needed to make it palatable to the Sulus. This was another reason for making the grant a sale, and for giving the government to Sharaf-ud-Din.

Reconciliation of the factions in Sulu, non-interference by the Europeans, the cession of Balambangan and, by way of guarantee, of the neighbouring territory, these were interlinked parts of Dalrymple's scheme. Could it survive the return of the Spaniards to Manila? Would they or the Dutch interfere in Sulu again and so help to revive the faction struggles that were the cause and effect of interference? Would Dalrymple's cessions outlast the threats such changes would present? All this was uncertain. It was not even certain that his scheme would survive Britain's concern over Spain's claims in the southern Philippines, linked, as it was, to considerations of European policy. Dalrymple had hoped to make some sort of a deal with Spain that would underpin his local arrangements. But the attitude of Spain made that unlikely. It was doubtful if Britain would go far without it. It was doubtful, too, if any venture undertaken notwithstanding would survive without it.

In a treaty of 'Friendship and Commerce' made in September 1764 with A'zim-ud-Din I and 'the Datus Orangkayas and others of Sulu', Dalrymple went rather further, both by way of demands and concessions, than he had suggested was wise in his criticism of the Drake treaty in February. One article provided for the purchase of a factory in Sulu. The Sulus engaged 'not to admit any other Europeans but the English to a Commerce in these Dominions nor to form any Treaty with Europeans inconsistent with this Treaty and promise in good Faith to communicate all applications from other Europeans and Correspondence held with them to the English Chief who shall also communicate to the Sultan every thing coming to his knowledge regarding the interest of Sulu....' The two parties 'mutually' engaged to be 'assistant to each other in case of either being attacked....' The English were not to purchase birds' nests at the outposts. Apart from respecting this monopoly—important for Sulu's China trade¹¹⁴—they could 'send what Vessells they chuse to all parts of the Sulu Dominions without Interruption or Impost....' Three years were allowed for ratification.¹¹⁵

The Directors had been interested in Mindanao during the war. Dalrymple had now elaborated the Madras scheme, and he had to persuade the superior authorities to adopt it, at least in essence, in the circumstances following the peace. In his attempts, he, not surprisingly, put no emphasis on a factory at Sulu. Nor did he make much more of the Usukan cession, which he

presumably saw as subsumed by his Sulu arrangements. His emphasis was on Balambangan. That would provide a range of commercial opportunities, including a connexion with the Bugis, as desired by Madras and supported by a treaty already made at Sulu with an envoy from Goa.¹¹⁶

Felicia

Even before the 1764 cession had been made, the Spaniards had put in a further protest. In April Governor Francisco de la Torre wrote to the Madras government, complaining that Dalrymple had carried off Don Fernando I. 'I understand that your Lordships intend entering into an alliance with the said King of Jolo and to establish a Factory in one of the Ports of his dominions for the Protection of a Commerce to be carried on between his vassals and the servants of the Company....' But this would be contrary to the treaty of 1763 and to the earlier treaties of 1648 and 1667.

The Island [of Sulu] is included in the number of the Philippines, being situated within their limits. The King of it is an Ally and a Tributary to the King my Master. He is entered into a Treaty of Alliance & Friendship offensive and Defensive with this Government during the administration of my predecessor, for which reason anything which has been agreed to contrary thereto must be null and void.¹¹⁷

The Madras government replied that the protest was

rather premature, as you could have no certain intelligence of our intention of establishing a Settlement there Your Excellency may be assured that before we think of establishing a Settlement in any place, we shall take care to be first well convinced of our right thereto, and it shall be our constant study at all times to avoid any action which may be deemed an infringement of the Treaties subsisting between our respective Sovereigns.¹¹⁸

The next important decision had to be taken in London.

In relation to a factory at Sulu itself, the Company authorities in London had been thinking along the same lines as Dalrymple, though not entirely for the same reasons. In 1763 the Directors had doubted if the trade would warrant a substantial establishment there, if it warranted any at all.¹¹⁹ By 1765 they were still more dismissive over Sulu itself. Dalrymple's plans for a settlement in Palawan or Borneo were also impracticable, owing to the Company's heavy commitments in southern India. But the various treaties and grants should be preserved in case it should 'ever happen that the situation of affairs and circumstances will afford opportunities of extending our trade to those parts'.¹²⁰ In 1766 the Court told the Madras government that the Sulu trade might be profitable, if resumed 'on a very different plan such as at this time cannot with convenience be undertaken'. No rights which the Company might derive from the Sultan's grants were to be renounced in the meantime; and if possible the Madras government was to cultivate his friendship, 'avoiding however as much as possible any steps that may give umbrage to the Spaniards, for altho we do not acquiesce under the claim which they set up to Sulu ... yet this is not the proper time to assert our pretensions'.¹²¹ By this time

Dalrymple was back in England. Clearly he might find it easier to persuade the Court of the value of a factory at Balambangan than of that of one at Sulu, which he himself doubted. The next problem would be to persuade it of the propriety of settling there, which involved matters of right and policy, as well as questions of timing and commercial advantage.

Some arguments for Balambangan he had already forwarded from Manila in February 1764 in a memorandum grandiosely, but perhaps significantly, entitled 'Enquiry into the most advantageous Place for a Capital to the Oriental Polynesia'. Such a centre, he believed, would have great commercial advantages, assisting in distributing British and Indian manufactures, supporting the China trade, facilitating the remittance of Indian revenues to Britain. More particularly, it would extend trade into more remote areas, such as Papua, the Aru islands, and New Holland (Australia). It would attract the Bugis, who were at present distributing piece goods through Pasir, often clandestinely to the Moluccas, and thus also secure a share in the spice trade. It would attract Chinese from ports outside Canton, including Amoy and others to the north, who would prefer it to Batavia and to Brunei. Dalrymple favoured an island situation, healthy, easily defended. But he also spoke of his centre as a colony, where the chief must have wider powers than in a free state, because abroad 'there are so many opposite interests and jarring Dispositions', and vast distance precluded consultation. In such a colony the main elements would be Chinese and *Idaan* (?Dusuns). It would be valuable, he thought, to attach the latter to British interests, and to introduce among them a taste for European manufactures, 'though it appears a much more eligible measure to have Borneo under the Dominion of some Person joined in Interest with us than under our own Jurisdiction. The want of Language and the little confidence to be placed in Interpreters will always show our Governmt. in a bad light when extended over a large Country and numerous People....' The time was ripe: 'Spain depressed and the Dutch fully employed. Celebes struggling to get free, Java in Arms, Borneo open to us and Sulu united in Interest.' The Chinese, weary of Manchu oppression and 'ripe for revolt', would come to Balambangan. Some indeed might be used as spies to collect information of trade in China and to dive into 'the Secrets of State'. Indeed a European could be sent on one of the frequent Sulu embassies to Peking: 'as there are precedents in China of Europeans being employed by them in that Capacity there is no room for the Chinese to take Offence'. The Chinese, Dalrymple alleged, feared a European establishment in Formosa, 'as their dominion on that Island would not only be then insecure but their Empire itself constantly exposed to an invasion from this Quarter': they might concede commercial privileges in return for the relinquishing of such a scheme. Through the Liu-chiu islands, trade might be opened with Korea and Japan.¹²²

No doubt, in seeking to persuade the Company to take up his plan for Balambangan, Dalrymple tried to show that a colony there would answer its problems without committing it politically. Dalrymple's plan was not,

however, quite confined to an island settlement. He envisaged some sort of indirect rule in northern Borneo, in Felicia, as he hopefully called it. That it must be indirect was certain, in view of the limitations British policy was likely to impose, and in view of the Sulus' concern to maintain their independence and their link with northern Borneo. Whether, but for such matters of expediency, Dalrymple would have preferred a wider and more definite dominion is not clear. Certainly he believed in a slow process of attachment to British interests.

The Directors were finding it difficult to remit Bengal revenues in order to satisfy the demand for dividends in Britain. This problem in particular now interested them in Dalrymple's plan, whereas previously the political situation in India had restrained them.¹²³ The plan became linked also with a scheme to open up southern Vietnam or Cochin China, which Dalrymple had in fact visited in the *Cuddalore*.¹²⁴ In August he conferred with a committee of the Court 'on the measures for conducting the Plan for opening up Trade with the Islands of the Eastern Archipelago and the Coast of Cochin China by means of a settlement at Balambangan....' This would attract Chinese settlers and divert the junk trade; encourage the resort of the Bugis and others; countervail the drain of silver from Bengal by encouraging the export of piece goods and opium, at present supplied to the Manila and Bugis traders by the Dutch; acquire tin and other articles for China 'to lessen the great quantity of Bullion that Trade demands, and for the acquisition of Raw Silk and other commodities which an intercourse with Cochin China will furnish....' The meeting discussed the terms on which Dalrymple might lead an expedition to establish the settlement.¹²⁵ A fortnight later the Court resolved to direct the Madras Presidency to take possession of Balambangan, and decided to communicate this resolution to the King's Government.¹²⁶ No appropriate vessel was available in Madras,¹²⁷ and in November the Court directed the Bombay government to occupy Balambangan under the grant of 1764, which, it instructed, should be confirmed. If other Europeans were already there, there should be no aggressive measures, but some other area included in the grant might be occupied instead.¹²⁸

Dalrymple seems to have persuaded the Company that the local political hazards were small. He doubted if the Dutch would attack a settlement if one were made.

But if the Dutch can only be suspected to make underhand Attempts to molest us, it must be allowed we are at liberty to retalliate And whoever considers how much easier it is to wound an extensive Dominion over many discontented Countries, than an infant Establishment, which is neither an object of jealousy or Fear to the Natives, must see that the Dutch will be no gainers by this plan if Balambangan be made an Arsenal to supply the inhabitants of the Eastern Islands with Arms and Ammunition....

How far the Dutch could act in an underhand manner also depended, it was true, on the political situation in the neighbourhood of Balambangan. Mindanao was far off, and in any case the natives were 'too much engaged in piratical excursions against the Spanish Islands, to enter into a barren war, in

which they must be as little, politically, interested as the Crim Tartar....' Brunei, Dalrymple concluded, was the only channel for

Dutch machinations.

...altho' the Dutch have never had any Establishment there, it is natural enough to suppose the Natives would be glad of an Alliance with them, as a support against any Attack, being natural Foes to Sulu, and dreading their resentment, having some years ago treacherously assassinated an Ambassador and all his Attendants. But altho' the apprehension of our uniting with the Sulus to attack them might induce them to look on us with a jealous eye, it is not at all probable they would admit the Dutch with an armed Force, merely from such an Apprehension, as they would be exposing themselves immediately to worse consequence by way of precaution....

Without Dutch support, the Bruneis need cause no apprehension, 'as nothing can be more apparent than that Sulu is more than a match for Borneo proper [Brunei] by having enjoyed for above half a Century, Countries some hundred Miles distant from Sulu, and but a few Miles from the Capital of Borneo proper....' In any case Brunei was 'in a state of Civil war and confusion'; there was nothing to fear in that quarter.¹²⁹ Besides these explicit statements Dalrymple made two implicit assumptions: that Spain was not a factor; and that, whether or not Spain should be involved, the Sulus would remain friendly now as in the early 1760s.

So far as Spain was concerned, there were for Britain's policy-makers European, as well as local, considerations. These became apparent in the Company's discussions with the King's Government. In October 1768 the Court explained why it had given orders 'for possession to be taken of the small uninhabited Island of Balambangan....' It wished to attract Chinese junks; to extend trade with Cochin China; to open a market for Bengal manufactures; and 'to extend the Company's Trade into the unfrequented Parts of Asia'. The Directors hoped for the King's protection and support.¹³⁰ The reply was discouraging. King George III, according to Lord Weymouth, Secretary of State, was pleased to see the Company concerned to extend its trade;

but considering it in a political Light. ... His Majesty is extremely surprized to find the East India Company desire his protection with regard to a measure upon which he has never been consulted, and to hear for the first time, that they have ordered their Servants to take possession of an Island, without the least information of any other Right, upon which that measure is founded except that of utility, nor any account by which His Majesty might judge whether it can interfere with the subsidiary Treaties with other States, or give umbrage to those Powers, with which he is upon terms of amity and Friendship....

If the Company were 'apprehensive that any Objections may be made from any European Power to the measure,...or that it be considered as an infringement of the Rights of any Powers in India', it should send the King full information, so that he might consider if he could afford protection and support.¹³¹

The Court forwarded two of the Sulu treaties. Balambangan, it was

explained, lay outside the limits ascribed to Spain by Pope Alexander VI, 'by which Limits the Spaniards have by many Solemn Treaties since entered into with European Powers, particularly the Treaty of Münster in 1648, and that of Utrecht in 1714, agreed to be concluded and bound....' The Dutch had apparently neither claims nor rights.¹³² All the Court obtained from the Government, however, was a rather lukewarm instruction to Sir John Lindsay. This recommended the affairs of Balambangan to his protection, 'if the Company's title to that Island shall appear as well founded as it is represented by the Directors...; and if the undertaking does not (as it is hoped it does not) interfere with the rights of any other power....' But 'as the commercial advantages which may arise from such a Settlement may be very great, not only to the Company, but to the Nation', the Directors should give Lindsay all the information they could.¹³³

In these years Company/Government relations were complicated by the acquisition of dominion in India. The Court, it has been argued, was in a weak position; it was anxious for Government support, while the Government was anxious for a share in policy.¹³⁴ But, so far as Balambangan was concerned, it rather looks as if the Government were prepared to let the Company go ahead, and see what happened, while itself holding aloof and minimizing the risk of a clash with Spain.

The Court, however, hesitated to take further steps. Dalrymple publicized his activities and his hopes.¹³⁵ He urged action on the Court itself, too. The Dutch, he repeated, had no direct claim, but they might act in an underhand manner through Brunei. He was now more concerned than before over the Sulus. British intercourse with them had been broken off, and the Dutch might exert themselves. The sloop sent from Bombay to take possession of Balambangan—which Dalrymple had in any case already done—might only arouse suspicion. The British 'never can make Balambangan a port for the Bugis Trade whilst we have the Sulus in Enmity; as the Bugis Praus from the Eastern Islands must pass through the Sulu Dominions....'¹³⁶ The Court was already considering consulting the Attorney General.¹³⁷ Though, as his publications suggested, he was rather at odds with the Court, Dalrymple's aid was employed in an attempt to persuade the King's Government to take a more favourable stance by putting a legal case and securing an opinion. But the opinion that resulted referred the Court back to the Government.

The case discussed the Spain/Sulu treaty of 1646. Under this, it was argued, the Spaniards had in effect withdrawn from Sulu, and subsequently they had acknowledged its independence. De la Torre's protest itself referred to relations of alliance and friendship, which seemed hardly compatible with a suzerain-vassal relationship, and it was doubtful if the Sultan, in Manila and a Christian, could properly have signed it in any case. The treaty of Münster operated against the Spaniards' claim too: it confined them for the future to their navigation at the time of its conclusion, and that, it was argued, excluded Sulu. The case concluded by reciting the Dalrymple treaties and asking if the Company could continue their occupation of Balambangan. But the legal

opinion given by the Attorney General and his colleagues merely stated that, as the question depended upon the construction of the treaty of Münster, and as the Governor of Manila had protested that a settlement would infringe it, 'we cannot take upon ourselves to say, that the India Company may continue their Possession of the said Island, or proceed to carry into Execution the Treaties stated in this Case, without communicating the matter to his Majesty's Ministers, and taking their sense thereupon'.¹³⁸

In a letter of 10 February 1770, the Chairman and the Deputy Chairman specifically asked if the Government would approve the Balambangan undertaking.¹³⁹ A conversation ensued but, as the Court was told in March, nothing was to be considered to have passed at it, and no answer was to be made to the letter. The Court asked if there was an objection to the settlement.¹⁴⁰ Weymouth expressed surprise at this, as he had over the actions of 1768. Even then, however, Lindsay had been told to encourage the undertaking, although the explanations as to the rights of other powers were 'not so full and perfect as could be wished'. Why now the question?¹⁴¹ The Chairs agreed that the March letter was the work in part of inattention, still more of misapprehension. Neither of the letters should be considered to have passed.¹⁴² This rather obscure correspondence, or non-correspondence, seems to sustain the view that the Government would not openly support the venture, more particularly during the Falklands crisis with Spain; but did not wish to discourage it either.¹⁴³

The Court did, however, make a final bid for Government support early in 1771: the Chairman asked for a letter from the King recommending the Company to the Sultan of Sulu. 'The Company having ready for Execution a new Settlement in the Islands, for regaining and extending a very valuable Branch of Commerce in those Parts, makes the Application necessary at this Time....'¹⁴⁴ But again the Directors were unsuccessful. They were told that the King was 'not sufficiently informed of the Rights of the Sultan of Sulu and the Objections which may be made by other Powers to the Settlement of Balambangan, and therefore for prudential Reasons does not think it proper to make it his own Act by writing such a Letter....' The Company should also tell its officers 'not to offer any Violence to the Spaniards settled in Palawan', where they may have had a footing in 1648, 'and likewise that they abstain from giving Assistance to the Sultan of Mindanao in the War which he is represented actually to carry on against the Spaniards who might justly look on such Assistance as an Act of Hostility to the Crown of Spain....'¹⁴⁵ The King's Government had now emerged from the Falklands crisis peacefully and not altogether discredibly, and had no wish for another crisis that might consolidate the Family Compact: rather it hoped to see it weakened, since France had not helped Spain over the Falklands.¹⁴⁶

In June the Court incorporated the government's injunctions in instructions sent to Bombay for occupying Balambangan or, if that were impossible, some other point in the Borneo cession or an adjacent island. Because of the uncertainty over the position of the Sultan of Sulu, 'and of the

Stipulation that Prince may be bound to perform with any other European powers previous to our intercourse with him', and because such powers might object, all aggression was to be avoided.¹⁴⁷ Perhaps acknowledging the agreed non-agreement of 1770, the Court thus went ahead: the King could disavow its act if that act caused trouble. Meanwhile it was hoped that it would not. After all the decision for Balambangan was for an island; if larger influence were contemplated, it would be based on Felicia. No greater challenge to Spain was intended, nor a deal. But there was a risk, of course, that neither grant nor partition would hold good without a challenge or a deal or both.

By this time the Court had learned the result of the instructions earlier sent to Bombay. Captain Hall of the cruiser *Viper* had hoisted the flag at Balambangan on 25 October 1769.¹⁴⁸ But he had been anticipated by Captain Savage Trotter of the *Success* on 12 September. After fixing lasting memorials on the shore of the island, Trotter had gone on to Sulu itself. There, he reported, he was well received, and found the Sultan 'extremely ready to renew the Grant he had already made, and very Solicitous' to have the Company's factors residing 'in his neighbourhood'. Indeed he offered a factory at Sulu, the object being 'a Balance against the Power of either the Dutch or Spaniards....' Trotter in fact asked for something else, granted only reluctantly. The Sultan's grant of 1764, he explained, only put the Company in possession of certain lands and islands,

without restraining him from yielding the Grants of other parts of his Dominions to any European Power, which might be greatly detrimental to, if not subversive of all their hopes from the intended Settlement at Balambangan. To avoid all future disputes, and to prevent all Nations whatsoever from interfering with the interests of my Employers in those Parts, I insisted upon and with great difficulty at length obtained the important privilege of an exclusive right of Trade thro' the Sulu Dominions and all its Dependencies investing the Hönble Company with the Sole right of an unlimited Commerce, and the whole Pearl Fishery, thro' those Seas for ever....

The Sultan also offered to go to the ceded islands or send an envoy 'to bring their respective People under due subjection to the aforesaid Company'. The cession as now defined included Balambangan, Balabac, Banggi, and the whole of Palawan. On the north of the last of these, Trotter noted, the Spaniards had a settlement, which they might relinquish. Trotter had written to the Sultan of Mindanao, offering protection in return for an exclusive trade in spices. 'The Dutch auxiliaries', he assured the Court, 'do not extend so far as any of the Lands ceded to the Company, nor have they ever had any traffic or Settlements on the North end of Borneo....'¹⁴⁹

The Court had been concerned about European claims and European intervention. Trotter sought to dispose of the one and avert the other, so far as Borneo and the ceded islands were concerned. But the intervention of Spain was likely to be indirect, and via Sulu, rather as Dalrymple had expected Dutch intervention to be indirect, but via Brunei. In Sulu A'zim-ud-Din I had found that Spanish intervention had initially possibly helped, but ultimately certainly harmed his attempt to strengthen the sultanate: those unwilling to

accept his authority had an additional motive to challenge it and raiding in the Philippines became a duty as well as a means of advancement. Then the British intervened in search of a settlement. Dalrymple foresaw the risk of further Spanish intervention and therefore arranged a sort of partition—one, however, that involved an influential datu and so appeased the patriots—and envisaged a sort of neutrality for Sulu itself which would also help to guarantee stability within the sultanate. In addition he hoped for a larger deal with Spain. But none was attempted. Indeed several years passed before the Company took steps to establish its settlement. No doubt there was always a risk that this would provoke Sulu suspicion, on which the Spaniards might seek to capitalize. The extra demands Trotter made were perhaps likely to increase the chance of what he sought to provide against: and he did not renew the alliance with the grant. But if Spain enjoyed success, it was unlikely to be lasting. If the Sulus were unleashed on the British, that would not mean their submission to the Spaniards. Indeed the Moro problem had worsened, and in the 1760s Spain could do little about it.¹⁵⁰

Early in 1773 the Bengal government reported that a 'Revolution' at Sulu had put Israel in power, and that he seemed 'rather to shew a jealousy of so near an English Establishment as that of Balambangan'.¹⁵¹ Indeed he welcomed a Spanish emissary, Manuel Alvarez.¹⁵² The Company and Dalrymple had finally fallen out.¹⁵³ John Herbert, who now led the expedition, reached Balambangan, via Pasir and Sulu, at the end of 1773.¹⁵⁴ His instructions were extensive: China junks, spices, the Bugis, all figured; so also the creation of an emporium, temporarily a free port.¹⁵⁵ The settlement he established did not, however, last long. It seems doubtful that this was the result of Spanish intrigue. Indeed a new Spanish envoy, Cencelly, only created suspicion at Sulu and weakened the cause of Sultan Israel and the pro-Spanish party.¹⁵⁶ A further mission, led by Saavedra, may perhaps have redeemed the situation: he was told that the Sulus regretted the cession.¹⁵⁷ In any case soon after this Balambangan was attacked by a party of Sulus led by Datu Teteng, a cousin of the Sultan's, friendly to the Spaniards, and said to be indebted for goods delivered on credit by Herbert.¹⁵⁸ Even Sharaf-ud-Din shared in the booty. But the Sultan protested his innocence, and appealed for Spanish aid under the treaty of 1737. He was told that it did not promise aid against Europeans. But when H.M.S. *Dolphin* arrived, and Sir John Clerke demanded reparations, only a derisory sum was offered.¹⁵⁹ Moreover Teteng attacked Zamboanga and in 1776 and 1777 other Sulus ravaged the Visayas.¹⁶⁰ The Spaniards had needed to do little to secure the departure of the British: they did not gain much beyond that. Possibly the Dutch played a role: a Dutch envoy had been at Sulu during Herbert's visit.¹⁶¹ But no doubt the chief issue was the Sulus' resentment of the settlement at Balambangan, which had been made without the caution and safeguards Dalrymple had recommended.

In a sense the British reacted as the Spaniards had done earlier: frustrated in Sulu, they turned to Brunei. In June 1774 Herbert had written to the Sultan of Brunei seeking alliance, and the Sultan had despatched an envoy to ask for an

English settlement. John Jesse had been sent to open intercourse with the Bruneis. He found them anxious to cultivate friendship and alliance, above all seeking 'protection from their Piratical *Neighbours*, the *Sulus* and *Mindanaos*, and others, who make continual depredations on their Coast, by taking advantage of their natural timidity....' In a treaty Jesse stipulated, in return for protection, a monopoly of the trade in pepper, which was cultivated by Chinese and so far sold to the junks.¹⁶² It was to Brunei that Herbert fled on the sack of Balambangan, and he began to form a new settlement on Labuan.¹⁶³ But, though they had been prepared to occupy somewhere else if Balambangan had proved to be occupied, the Directors had already sent instructions prohibiting a second attempt should the first collapse.¹⁶⁴

The Court had also disapproved of 'overtures for an intercourse on our behalf with Mindanao as a Philippine Island....'¹⁶⁵ The chief result of these was Forrest's famous voyage to New Guinea and the Moluccas. But nothing, of course, came of the cession of the island of Bunwoot which he secured from the rulers of Mindanao.¹⁶⁶

My book on Brunei suggested that the views the British took of the sultanates in this period were politically negative.¹⁶⁷ Yet, as David Bassett suggests, Forrest at least did not condemn the Mindanaos.¹⁶⁸ It may be that at this period Europeans saw themselves as more equal with these Muslim states than they did later. Perhaps Dalrymple was ultimately more concerned with dominion than Harlow implies.¹⁶⁹ Yet with him, as with Forrest and Jesse, there is a realism, even a Machiavellianism, that suggests contention with equals. By contrast it required a consciousness of superiority to talk of reforming and restoring the sultanates, though that superiority might also prompt men to talk instead of their replacement. The phase of 'reform' is particularly associated with the advent of James Brooke, but it appears earlier with Stamford Raffles, even with Robert Farquhar. This shift in motivation meant that at times policy differed from past policies, at times it seemed to coincide with them. It suggested, for instance, the 'reform' of Sulu, an approach to the centre, not unlike one of the approaches the Spaniards had tried in their dealings with A'zim-ud-Din I. But whole-hearted adoption of such a policy by the British, who disposed of the power to carry it out, was inhibited by imperial and European as well as local considerations.

The Return to Balambangan

One of the advantages of the Dalrymple cessions was their apparent freedom from Dutch claims or rights. During the 1760s there had been other British attempts to secure a better access to the Archipelago. With the onset of the War of American Independence, more vigorous action seemed possible. In 1780 the Government planned an expedition to Spanish America, taking a Philippine island and a spot in New Zealand en route. The Company wanted settlements on Mindanao and Celebes. The plan was abandoned.¹⁷⁰ But the declaration of war on the Dutch offered other opportunities. Several Dutch

settlements in India were taken; temporarily Trincomali, too; and also Padang, the neighbour of the Company's settlements on the west coast of Sumatra.¹⁷¹ In the peace negotiations, the Dutch reluctantly assented to 'the Right of free navigation' in 'the Eastern Seas'. This, the British Company saw, would add to the security of the trade to China. But it could also be interpreted as facilitating access to spice islands where the Dutch were not established.¹⁷²

Of this the Dutch were well aware, and when the pro-English Stadhoudarian régime was restored in 1787, it sought at once to eliminate this article. The British had other ideas. Henry Dundas, who dominated the India Board set up to control the affairs of the Company, placed less importance than the Directors on the spice trade, and was prepared to guarantee it to the Dutch. In return he wanted Riau, south of the Singapore Straits, as a commercial entrepôt.¹⁷³ This had for long been a centre for traffic between Country Traders and Bugis, but just when the Bengal government had sent Forrest to settle there, the Dutch had intervened, and a settlement had finally been made on the periphery of the archipelago at Penang in 1786.¹⁷⁴ No progress was made in the Anglo-Dutch negotiations. Even a friendly Dutch régime could not accept Dundas's terms.¹⁷⁵

The failure of these negotiations helped to account for the success of the French revolutionary armies in overturning the government in the Dutch Republic. A 'Batavian Republic' was created, allied with France after 1795. This at once pointed up the opportunity, even necessity, of British action against the Dutch empire in the East. Among the Dutch settlements secured in 1795 were those in Sumatra, Malacca in the Straits, Ambon and Banda in the Moluccas. The Dutch were left at Ternate, though at odds with a would-be Sultan of Tidore, Nuku, who appealed to the British at Ambon to restore him and turn out his uncle, the reigning Sultan, ally of the Dutch. The British planned an expedition to take Manila, and perhaps also Batavia, following a Spanish declaration of war. But it was relinquished when news arrived of the preliminary peace treaty between France and the Holy Roman Empire, which was expected to lead either to a general peace or to a new French effort in India. The peace of 1801-2 provided for the restoration of all the eastern conquests except Dutch Ceylon.¹⁷⁶

In the East there had been further attempts to break into the spice trade. The Court had not lost its interest either in this or in the eastern route. In 1786 the Governor-General was told that

the great importance of the China trade, the necessity of extending by commercial means the resources for our investment from that country, as well as the good policy of awing the Dutch to prevent a rupture with them, or in case of its taking place, to be able to avail of it advantageously, to break effectually their spice monopoly, make us look with sanguine expectations to the benefit of an establishment somewhere near the Pitts Straits....¹⁷⁷

A new voyage of discovery, headed by John McCluer, ensued. He visited the Pellew islands and New Guinea. He also called at Sulu and found Sharaf-ud-Din Sultan. An old datu assured him that Sharaf-ud-Din had no part in

sacking Balambangan, and the Sultan gave McCluer a letter 'begging the Company to renew their former friendship, and enter an alliance with him'.¹⁷⁸ The *Albion*, visiting Sulu in June 1795, reported again on his friendly disposition. Dalrymple had urged Dundas to take the opportunity of opening relations with 'a Man of the greatest worth and honour I have known in any Country'.¹⁷⁹ But the war led the Company back to the Moluccas.

The Directors were interested in two islands, Fau and Gebe, occupied by McCluer late in 1794.¹⁸⁰ Anticipating the return of peace in 1801 they ordered the Madras government to ensure a title by purchasing Gebe and the adjacent islands from Nuku, now established in the Tidor lands. But Robert Farquhar, the Resident in the Moluccas, secured the surrender of the Dutch in Ternate, and the Sultan of Bachian offered him the island of Obi, which might provide spices and refreshment for vessels using the eastern route to China, and could be retained when Ternate and its dependencies were returned to the Dutch. Farquhar's successor, Oliver, agreed: the Dutch treaties had been dissolved by the conquest. Moreover, he found Nuku unwilling to grant Gebe and Fau.¹⁸¹

The Court had assumed, it seems, that an island could be secured during the war by purchase, and retained even though the Dutch settlements themselves might be returned at the end of the war: the idea perhaps recalls Dalrymple's 'purchase' of northern Borneo. Oliver believed that, if the Dutch treaty arrangements remained in force, such could not take place: but he thought that the treaties had been dissolved. The Madras government did not even accept Oliver's view. The Dutch had never acknowledged the independence of Bachian or Tidor nor Nuku's claims. The retention of grants from native rulers depending on the Dutch settlements in the Moluccas might be incompatible with the return of those settlements; and in any case the value of the islands had been further reduced by the expansion of spice cultivation elsewhere.¹⁸² With these views Governor-General Wellesley agreed, and he swung the Company's policy back to Sulu. Instead of occupying a new acquisition in the Moluccas, he determined upon the reoccupation of Balambangan: it offered all that Gebe offered and more.

Situated between the Molucca and the Philippine Islands and in the track of navigation between China and Malacca and possessing the advantage of a safe and commodious harbour, the Island of Balambangan would afford shelter and supplies of provisions to British ships navigating the Eastern Seas: a British establishment in that Island would enable us to obtain constant information with regard to the proceedings of any European power possessing establishments in that quarter of the Globe, and to maintain a desirable political influence and communication with the native powers in the circumjacent territories. It would facilitate Military and Naval operations against the possessions or the maritime force of any power in those extensive Islands with which we may eventually be engaged in war, while the commercial resources of the Island in Pepper, Diamonds, Pearls, Gold dust, and other valuable products added to the local situation of the Island would materially contribute to the extension and improvement of the British commerce in the eastern Seas.

The facilities afforded to commerce in those Seas by our possession of that Island would occasion an increased demand for opium and piece goods, the produce and

manufacture of these provinces, and for the productions of Europe and the augmented influx of the products of the Eastern Islands into the ports of China might be expected to improve the pecuniary resources of the British establishment at Canton and to promote the commercial interests of the Honble Company in that quarter of the Globe.

Altho the Island of Balambangan has tacitly reverted to the dominion of Sulu the claim of the Honble Company to the possession has never been formally renounced and may therefore be considered to be still in force. The Sultan of Sulu is acknowledged by both the Dutch and by the Spaniards to be an independent sovereign and consequently to possess the right of alienating any portion of his Territory, neither of those powers therefore could reasonably object to the occupation of Balambangan by the British Government....¹⁸³

Farquhar was chosen to found the new settlement. He was instructed to communicate with the Sultan of Sulu before going to Balambangan. It was thought that he would welcome the reoccupation. But if necessary Farquhar could allow him concessions in return—though no right to concession was admitted—'provided that they be not such as may eventually involve us in disputes and hostilities with the neighbouring states....'¹⁸⁴ The elements of defensive alliance in earlier treaties were thus ignored. Possibly Wellesley was operating on the basis of the Trotter grant, though his letter to the Sultan confusingly referred to a grant made to Herbert in 1767.¹⁸⁵ Farquhar founded the new settlement on the site of the old.

With respect to the regulation of commerce in an infant settlement like Balambangan, which should steadily look up to be an emporium to rival the trade of the Dutch and Spaniards in that quarter, independent of all the vicissitudes of Peace, or war, of conquests and restitutions, I presume to state my opinion that the exact opposite principle to that which has been acted upon by the nations we wish to rival, namely a self-destructive monopoly of every branch of trade, should be adopted and persevered in with steadiness in spite of all temporary or partial inconveniences, and that a perfect freedom of exchange, and an exemption from all kinds of duties, however trivial, during the first years of possession, appear to me to offer the only means of obtaining in due time great advantages to the governing as well as to the governed....

Dalrymple's policy had at least ostensibly been an entrepôt policy also. In 1794 he had urged that relations with Sulu should be revived, and in 1796 he had suggested a forward policy that included founding a number of settlements along the China route—one on the Straits of Alas, one in New Guinea, one at Gebe, one at Tourane—with a capital at Balambangan, and perhaps another between Balambangan and Penang. Farquhar also recommended a forward policy as well as an entrepôt, but, perhaps characteristically, it had a different emphasis; he advocated the conclusion of treaties with all the rajas between Balambangan and Penang.¹⁸⁶

At this time, Farquhar declared, the Sulus and Bruneis were at war. 'Sulu people say' that it 'originated in the unprovoked murder of some of their Ambassadors to the Sultan of Brunei, and the Borneons, on the other hand, alledge that the Northern parts of Borneo and the Circumjacent Islands are their right and have been treacherously snatched from them by the Sulus, and

that they are now endeavouring to recover those territories....' The war, Farquhar thought, would 'keep both powers in greater awe of us from the fear of our eventually joining either party'. Normally he would be neutral; but, if necessary, one could be used to chastise the other. In Sulu itself the Sultan—Sharaf-ud-Din?—was in his dotage, and several pretenders were ready, including Datu Matellan, son of Sultan Israel. The datu offered Sulu to the English, but though his claims were just and his grandfather had made the Borneo grant, Farquhar felt that he could not be responsible for accepting it. The Sultan, too, spontaneously sent his concurrence in the reoccupation of Balambangan by the British, no doubt fearing that they might avenge an attack on the British ship *Ruby* or join Datu Matellan. All this encouraged and enabled Farquhar to re-establish the settlement on Balambangan 'without reference either at Borneo or Sulu on the sole Claim of our former Grant....'¹⁸⁷

More fertile than Balambangan, Marudu Bay might have been a better site for a settlement, Farquhar wrote, but it would have been less convenient for ships proceeding eastward. To obtain supplies, an outpost was, however, set up at Bengkoka, where Dalrymple had earlier suggested the inhabitants would grow pepper. The people there, Farquhar said, were still pagan, and the Muslims who controlled them were 'jealous to a degree of their familiar Communication with Europeans....' They wanted a British post established in order to obtain security against 'the tyranny of the Native Chiefs in the Vicinity....'¹⁸⁸ Indeed John Eales, whom Farquhar left in charge when going to report in Calcutta, was soon remonstrating with the Sulu chiefs at Banggi, who had forbidden the mainlanders to supply Balambangan. Ill-health, however, forced the withdrawal of the Bengkoka detachment, and Balambangan was supplied, not by subjects of Sulu, but by Borneons on the west coast. Indeed the Sultan of Brunei sent an ambassador to urge the English to move their settlement nearer, to Labuan, or P. Tiga, or P. Gaya.¹⁸⁹

The Bengal government was cautious over extending settlements in the area, and accepted Farquhar's own recommendation to decline the offer of Labuan, and also an offer from Mindanao, in view of the need to concentrate effort and to avoid a clash with the Dutch.¹⁹⁰ But his diplomatic plans were taken up. The government referred to the effect of piracy on British trade in the Archipelago, and to acts of 'atrocious cruelty' originating in disputes between Malay and British traders

which might have been amicably adjusted if any general rules for the Conduct of the parties had been previously established by mutual Consent between the British Government and the Several Malay Chieftains exercising authority in the Ports and Harbours usually frequented by British Trading Vessels.

With the view of preventing the recurrence of similar acts in future and of Establishing on a footing of permanent advantage a branch of Commerce which promises to be extensively beneficial to the public interest the Lt. Governor of Prince of Wales Island [Penang] has been authorised to negotiate Separate engagements with the Several Native Powers from Balambangan to Prince of Wales Island for the

establishment of a general Arrangement by which the Subjects of the contracting Powers shall be prohibited from seeking redress for real or Supposed injuries without reference to Superior authority, and their Ships and trading Vessels shall be received in each others Ports on terms of reciprocal friendship and good will....

Farquhar, made Governor of Penang, was given 'general Powers of direction and Control over all the British Possessions in that quarter' except Bencoolen.¹⁹¹ The treaties, on a Sulu model he had projected, were to provide for peace and friendship. But provision for mutual aid in emergency might 'prove embarrassing', the Bengal government thought, 'as obliging interference in petty quarrels between states', to more than one of which it might be committed. Other articles provided for a free trade, for most-favoured-nation customs duties, for the severe punishment of piracy, and for prompt assistance to the shipwrecked. Such treaties, and Farquhar's overall superintendence, would bring to an end the impositions said to be practised by British subjects and the Malays' retaliation, and 'augment our power, influence and Consideration among the Eastern States....'¹⁹²

Nothing came of this 'Malaysian' scheme. A year later, Farquhar commented on British indifference to piracy and loss to the eastward.¹⁹³ His policy had not been carried out. Indeed, war had recommenced, and the Court believed that Balambangan should be abandoned, since a force to defend it 'could ill be spared, under the probable circumstance of our again taking possession of the Islands belonging to the Dutch....'¹⁹⁴ In November 1805 withdrawal ensued.¹⁹⁵

'Some Spanish ships trade at Borneo and the Sulu Seas for pepper, camphor, etc....'¹⁹⁶ But the Spaniards were able to do little about piracy in the 1790s. Governor Aguilar had for fear of the British to concentrate on the defence of Manila. He attempted negotiations with the Moro sultans, but to little effect, 'the piracies still continuing'.¹⁹⁷ Late in 1805, the Governor of Zamboanga made a treaty of peace with the Sultan of Sulu. In this Sultan A'zim-ud-Din III agreed that no foreign resident would be permitted in Sulu without Spanish consent. In case of a war between Spain and a foreign country his ports would be closed against Spain's enemies.¹⁹⁸ This was hardly an arrangement between sovereign and vassal: it was more like a desperate attempt of the Spaniards to secure themselves against the British. They also made a treaty with Mindanao in 1805.¹⁹⁹ Though the repossession of Balambangan in the event sounded a false alarm in Spanish ears, both Sulu and Mindanao figured in Raffles's plans for the Archipelago.

Raffles and the Dutch

The instructions for the withdrawal from Balambangan suggested that the reopening of the European war would again lead to the conquest of Dutch possessions. This was delayed by several factors, above all by the need to concentrate British forces in India. The Moluccas were, however, taken in 1810, and in 1811 at last the turn of Java came. A British administration was

set up under Stamford Raffles, who had prepared the diplomatic ground from Malacca. The return of the Dutch was likely to ensue upon the return of peace. Raffles, who believed that the British should retain an empire in the Archipelago postwar, looked to those areas where the Dutch position was weakest: there the British should acquire possessions they should not relinquish on the peace. In his plans there was something of Farquhar: but they were shaped in a grander, more 'imperial', manner.

Borneo and Sulu formed one focus of Raffles's interest. The Sulus, he wrote in 1811, had ceded to the English the district from Kimanis, 'the boundary of Borneo Proper', to Towson Abai, a district well suited to commerce, though the history of the Balambangan settlements might suggest the contrary: 'all the gentlemen who were engaged in the last attempt, were convinced that the bottom of the great Marudu bay would have been infinitely preferable as a settlement in every respect....' Balambangan, like Penang, must exist, 'if it exists at all, by commerce solely', while Marudu admitted of territorial expansion. Raffles was certain, too, 'that no settlement is likely to succeed in that quarter, which is founded on a commercial, instead of a territorial basis....' But a settlement at Marudu, though territorial, would 'speedily attain commercial importance'. The contraband trade in spices was now unimportant. But other earlier commercial aims were still relevant, 'especially those which related to Cochin-China, Champa and Cambodia....'

Raffles's plans for Borneo and Sulu were only a part of a larger scheme. While in occupation of Java, the British should examine the contracts of the Dutch with the Malayo-Muslim states and 'form the most intimate connections, by treaty, with those which have indisputable pretensions to independence....' If Java and the other Dutch possessions were returned, the British would still retain an empire in the Archipelago, based on posts in Bangka, Bali, Celebes, and Gilolo, on the settlement in Borneo, and on a liberal system of political relations with the Malayo-Muslim states. The latter would be prepared to ally with Britain to escape 'civil commotions and the oppression of foreigners, without being deprived of all their natural advantages as under the Dutch domination....' They might recognize the Governor-General of India as 'Batara', or Lord Protector, a title once held, Raffles said, by the emperor of Majapahit.

This would give a general right of superintendence over, and interference with, all the Malay States, which might be acted upon when circumstances should render it necessary; and might be so limited by treaty as to remove all occasion of suspicion from the native powers. It is important, however, that this should appear to be the spontaneous and voluntary act of the Malay chieftains, as by this means it would be less liable to modification in the event of any treaty which may be concluded in Europe with the enemy....

The objects of this superintendence would include limiting both the commercial monopoly and political ascendancy of the Chinese, and the special privileges of 'Arab' adventurers, who frequently gained the favour of Malay chiefs, but were involved in piracy and the slave trade. It would also be

necessary to limit the arms traffic of the Americans, who had strengthened their position during the war. The methods of British superintendence would resemble Dutch methods, though it would differ in motivation. 'One feature of Dutch policy to the eastward seems to have been the entire exclusion of all other powers, whether native or European, excepting at certain specified ports, under their own immediate influence or control...' This had a commercial, but also, more relevantly, a political purpose:

for in an Archipelago of such an unparalleled extent, inhabited by tribes of such various character, formidable in a high degree from their very want of civilization, it was necessary to bring forward some of the most powerful and favourably situated of these numerous states, and to hold them answerable for the proceedings of the smaller districts under their influence. This policy gave rise to the establishment of certain regular and determined trading-posts, and the vigilant suppression of all attempts at competition and independence in the inferior states....

The British should follow this policy, but in a more liberal spirit. They should support legitimate authority, introduce 'a well-defined and generally acknowledged system of law', and control succession. Piracy, which supported slavery and was encouraged by Islam, was to be 'put down by the strong hand; though precautions against its recurrence may be taken in the system which shall be adopted with regard to the Malay states, by rendering every chieftain answerable for his own territory, and punishing in an exemplary manner refractory chiefs....'²⁰⁰

These recommendations clearly owed something to Farquhar. They reflected, too, a consciousness of the growth of British power and humanitarian obligation. Raffles's plans were broader in scope than Farquhar's, just as his were broader than Dalrymple's. They envisaged an extensive protectorate over the Malayo-Muslim states and a substantial degree of intervention in them. Raffles's scheme was also less limited in area than Farquhar's, more clearly a challenge to the Dutch; and indeed this was to prove its downfall. But northern Borneo played an important role in Raffles's scheme—the 'territorial' element there, only implicit in Dalrymple's plans, now became explicit—and though Raffles saw it as the base for a larger British venture, which indeed might not survive Dutch opposition, it was also true that the claims the Dutch on their return could put forward in that particular region were weak or non-existent.

Both this interest in northern Borneo and his concern about piracy turned Raffles's attention to Sulu and Mindanao. Raffles indeed laid great stress on the suppression of piracy, which, perhaps influenced by his knowledge of Johore, he attributed to the breakdown of the sultanates. Sulu, he said, had never acknowledged Spanish authority. About fifty years before, he maintained, the Sulus were devoted to commerce; but a commercial resident there had to be withdrawn, for 'the government was too weak to yield any efficient protection....' Since then Sulu had been 'subject to constant civil commotions, and the breaking down of the government has covered the Sulu seas with fleets of formidable pirates'. The island of Mindanao was the home

of the Ilanuns. Its most powerful state had repeatedly 'attempted to open an amicable intercourse with the English....' It was at present 'torn with factions', but Raffles believed that the Governor-General's 'countenance' extended to the Sultan 'would, without much trouble, give it tranquillity and stability, and prevent the Ilanuns and pirates being augmented by the whole force of Mindanao, which must be the inevitable consequence of the breaking up of this state. Some explanation... may possibly be due to the Spanish government of Manila....'²⁰¹

As Reber has pointed out, Raffles's views on Sulu represented a distinct foreshortening of its history, possibly reflecting a new, more Europe-centred outlook on the states of the Archipelago.²⁰² Aware of his lack of accurate information, Raffles turned to John Hunt, who had traded in the region.

Hunt's report on Borneo, which dated from 1812, and also a later report on Sulu, suggest that Brunei had recaptured control of much of the north-west coast. The division with Sulu now seemed to be at Marudu. There the settlement at Bengkoka, near which Eales stockade had been established, traded with Brunei, while Sungei Besar sent its produce to Sulu. The west coast, 'though claimed by the Sulus', actually acknowledged Brunei supremacy; trade was with Sulu only at the 'pirate ports' like Tempasuk and Tuaran; 'and I believe it was never properly subjected to their Government....' On the east coast Sandakan was completely under Sulu control: 'the present Sultan [Shakirullah] during the lifetime of his royal father, was chief of the district'; and the *datus*, expressly settled to collect birds' nests, were jealous of others. Hunt extended the cessions made to Dalrymple by the Sulus to include the Tirun districts: they ran from Kimanis to Kaniungan, he declared. Bulongan was governed by a Sulu chief; Berau was in alliance with Sulu, Kuran subject to it.²⁰³

Among the missions Raffles sent out was one to Brunei, offering to cooperate against piracy.²⁰⁴ Hunt was sent to Mindanao and Sulu early in 1814 to warn the Sultans against encouraging piracy and to arrange to reside at Sulu as a British agent who would open commercial intercourse with neighbouring islands. The Sultan of Mindanao accepted an appropriate treaty more readily than the Sultan of Sulu accepted a renewal of the Dalrymple treaty of 1763 (?1764).²⁰⁵

In his report on Sulu, Hunt laid much emphasis on piracy, though perhaps not merely because of Raffles's interest in it, nor his own frustration. He stressed the powerlessness of the Sultan vis-à-vis the *ruma bichara*. The power of the chiefs depended on wealth, retainers, and slaves purchased from pirate praus. Yet he implied that the Sultan was now well disposed to piracy. Possibly he meant that the Sultan was opposed to a British connexion, for he linked the two issues. The Sultan and his brothers, he declared, were 'the most obnoxious' to an arrangement with the British 'or to any alteration from the present piratical pursuits....' Sulu was 'the grand entrepot' for the produce of the Ilanuns, 'a race of men living solely by piracy....' There were piratical Ilanuns on the island of Sulu itself, and on other islands, including Palawan

and Basilan. There were other pirates on Celebes and Mindanao, 'intimately connected with the Sulu Government, sharing their spoils, disposing of their booty, refitting and obtaining their supplies from the Sulu Datus....' Sulu was 'the nucleus of all the piratical hordes in these seas, the heart's blood that nourishes the whole and sets in motion its most distant members; so that if the extirpation of piracy should be considered a desideratum by the British Government the blow must be struck here, the subordinate establishments burnt, and the Ilanuns dispersed....'

Raffles had informed the Spanish Captain-General of the Hunt mission and sought cooperation in the suppression of piracy. According to Hunt, he 'express no surprise or dissatisfaction at the English settling at Sulu; on the contrary he expressed his wish, had his funds been sufficient to have cooperated with the English in the extirpation of piracy in those seas....' In fact this was not the bearing of the correspondence at all. The Governor told Raffles that the Spaniards had sent many expeditions against the pirates and that there was no call for Raffles to send any.²⁰⁶

From this episode it seems clear that neither Raffles nor Hunt had any doubt of the continued validity of the Dalrymple cessions. They also wished to establish a closer connexion with Sulu itself, perhaps in the framework of a Rafflesian treaty and of the suppression of piracy. This would require a substantial British commitment. Though the interests of Spain were clearly involved, it was alleged that they offered no obstacle in Sulu. But such a commitment still had to win the endorsement of the superior authorities, and it was perhaps for this reason that the suppression of piracy was emphasized. Those authorities were generally reluctant to build a British empire in the Archipelago, and were particularly concerned to avoid a clash with the Dutch, whom they determined, as expected, to restore. It would seem indeed that relations with the Dutch affected their handling of the question of Sabah and even of Sulu itself, even though no direct Dutch claim came under consideration.

The Anglo-Dutch convention of 1814 restored the Netherlands possessions, taken in the Napoleonic war. The British Government also ruled out the retention of the political connexions Raffles had established with Malayo-Muslim states in the Archipelago. 'We are decidedly of opinion', the Secret Committee of the Court wrote early in 1815, 'that such engagements are impolitic and injudicious; that they are calculated to involve the British Government in the internal concerns of those States, and the perpetual contests which they are carrying on with each other....'²⁰⁷

The schemes Raffles had put forward while in Java offered too great a challenge to the Dutch for his superiors. He did not abandon them when he left the Archipelago. In his *History of Java*, published in London in 1817, he repeated the outlines of his programme.²⁰⁸ The restored Dutch, he urged, would seek to exclude British trade, and the British should sign precautionary treaties with the Malayo-Muslim states, and obtain a port adapted for communication with them and for the protection of British commerce.²⁰⁹

Back in the Archipelago, as Lieutenant-Governor of Bencoolen from 1818, he sought to carry out his own recommendations.²¹⁰

His argument that the returning Dutch would obstruct British trade made some impression on his superiors in Bengal, supported as it was by representations from Penang. Lord Hastings, the Governor-General, became highly suspicious of the Dutch and their plans for the Archipelago. The islands distributed opium and furnished China with supplies, and 'it is through the Seas in which they are situated that our China ships whether outward or homeward bound must pass. This last consideration is most important in the present juncture....' The Dutch would hold the Straits of Malacca and the Straits of Sunda: 'not only our trade with the Eastern Islands, but our Commerce with China is thus at their mercy.'²¹¹ Raffles, visiting Bengal, obtained authority to make a settlement in the Riau region. This he used to found Singapore early in 1819.²¹²

In London, the India Board believed that a negotiation might remove the difficulties between the British and the Dutch. It accepted that the major objective was free passage for the China ships. Other objectives were provision for British trade in the Archipelago and for Anglo-Dutch cooperation against the pirates. The Secret Committee was still opposed to extended political connexions with the Malayo-Muslim states, and deplored 'the extension in any degree to the Eastern Islands of that system of subsidiary alliance which has prevailed perhaps too widely in India....' News of the acquisition of Singapore led the Committee to insist that the proper means of protecting the Straits route was by negotiation. It was not desirable 'either greatly to multiply the number or essentially to change the nature of our Stations in the Eastern Seas....'²¹³

Upon what principles, then, should Britain negotiate? To insist upon general rights under the Law of Nations, an India Board memorandum suggested, might only invite other powers to challenge the Dutch by doing the same. To try to achieve British objectives by challenging particular Dutch claims was also-hazardous. The negotiation must be on the basis of mutual concession. Perhaps Bencoolen could be offered in exchange for a position in the Straits, such as Bangka or Singapore, which might suffice both for the purpose of navigation, and commercially also. Otherwise it would be necessary to consider areas where the Dutch had treaty rights that they might abandon, or which were independent. A possible stipulation was that the Dutch should form no new engagement, 'especially in the Island of Borneo, where the probability of an opening for us is the greatest', though again it might invite other powers to intervene. It was in any case necessary to know the extent of the Dutch claims. Charles Assey, apparently expressing Raffles's views, stated that the Dutch had

arrogated to themselves the whole Island, but that if their pretensions are so modified as to embrace only the places with which they have immediate connexion, British establishments might be usefully formed upon the North West Coast of Borneo, and upon the Sulu Islands. If it is true that establishments in this situation would give us the

commercial facilities which we desire, it may certainly be desirable to remove out of our way, the obstacles, if any, which now prevent their formation, though it is very doubtful whether it would be politic to form them....

The object was an entrepôt for the exchange of British and Indian goods for Archipelago goods intended to be sent to China. Did it merit peremptory demands on the Dutch or purchase 'by the sacrifice of something already possessed by us'?²¹⁴ About the same time as this memorandum was written, another was prepared dealing with the Balambangan settlements and the plans for Gebe and Fau.²¹⁵

In the event the Anglo-Dutch negotiations took a rather different course. In 1820 the Netherlands negotiators accepted various stipulations providing for British commerce with Indonesian states in treaty relationship with the Dutch, and there was tentative agreement on stipulations over trade with Dutch possessions and over cooperation against piracy. What chiefly remained in dispute was the settlement in the Straits: the British wanted to retain Singapore, or, if not, to acquire some alternative.²¹⁶ Meanwhile the Governor-General was asked if there were any spot in Borneo, or to the eastward, at which an establishment might be made if Singapore were abandoned; over Borneo, it was added, the Dutch disavowed any claim to general supremacy.²¹⁷ This probably affected the instructions given to John Crawfurd when he was sent on his mission to Bangkok and Hué: it was suggested that he might investigate 'the Sulu group of islands'. In fact he did not go there: the monsoon was against him.²¹⁸

The Anglo-Dutch negotiations were resumed when the Dutch resolved to give in over Singapore. Among the ideas put forward by A.R. Falck, the Dutch Colonial Minister, with a British withdrawal from Bencoolen and a Dutch withdrawal from India, was 'a notion of drawing a line, for instance the Equator, of which the Dutch should have their establishments to the South and the British to the North'. Subsequently Falck associated his line with the withdrawal of the Dutch claim to Singapore, and stretched it through the Straits of Malacca and Singapore. He disclaimed any desire to make it extend beyond Singapore: 'the measure would create a jealousy in other powers; and he objected to including Borneo; a line going through it would generate a probability of collision'. But it did not seem quite clear to T.P. Courtenay, Secretary to the India Board, 'whether he meant that the British should have the liberty of making settlements in Borneo or not'. Subsequently it was decided 'to effect what was agreed upon the way of specific exchange'; and by a provision against British establishments on Sumatra and Dutch on the Peninsula. 'Perhaps if the stipulation for free trade is strictly followed, and we retain Singapore, it is of no great importance whether the Dutch or we form any or what new settlements', Courtenay had written, but the extent of the line should be defined. Now it disappeared altogether, lest it provoke jealousy in other powers. 'The situation in which we and Dutch stand to each other is part only of our difficulty', Canning, one of the negotiators, wrote. 'That in which we both stand to the rest of the world as exclusive Lords of the East is one

more reason for terminating our relative difficulties as soon as we can.' What became article 12 in the final treaty of 1824 was designed to meet the difficulty that the now notional line traversed the dominions of the Sultan of Johore-Lingga: it specified as outside the sphere of possible British influence Karimun, Batam, Bentan, and 'any of the other islands south of the Straits of Singapore'. This article was clearly not intended to apply to Borneo or beyond.²¹⁹

What then did the treaty of 1824 mean in relation to that area? In discussing the 'line', Falck had objected to including Borneo, thus, he implied, dividing it. Though believing that the articles over free trade and the retention of Singapore adequately provided for British commerce and, presumably, that there was no need for even the sort of negative stipulation over Borneo contemplated before the negotiations began, Courtenay considered a definition desirable as a means of avoiding future dispute. But that was not attempted when the articles were reformulated. There was some justification for Falck's belief that the British were probably prepared at this stage to leave it to the Dutch. But he did not wish to provoke opposition in the British Parliament by staking a definite claim.²²⁰ The most the British Government had sought was a share in the commerce of the Archipelago and a station in the Straits. These aims seemed to be realized. The Archipelago could be safely left to the Dutch. That Crawford failed to achieve anything in the Sulu group mattered little for the same reason.

That area was, as by Wellesley, generally thought of as independent, but it was believed that the Dutch might have claims. The Bengal government had meanwhile displayed great caution over Sulu. In 1821, a country ship, the *Seaflower*, was attacked by a party of Sulus and Bajaus at Tawi-Tawi. W. Spiers, the captain, had contracted with a datu at Sulu 'for a large quantity of Eastern produce which he said he had collected at the Islands of which he was Raja....' There Datu Muluk, the Shahbandar of Sulu, came aboard, and at night led an attack in which several were killed on both sides. Back at Sulu the Sultan offered a verbal apology.²²¹ The Bengal government referred the matter to Penang in April 1822. It was 'not certain whether the Island of Sulu be an independent State, or whether it be subordinate to the Netherlands Government....' If the latter, representations should be made to Batavia; if the former, the Penang government should 'consider and report whether any and what measure can be expediently adopted with the view of obtaining satisfaction for the outrage in question, and of repressing such nefarious practices in future'.²²²

Concern over the Dutch was perhaps prompted by Spiers's reference to them in some notes he prepared for the Bengal government. In these he stressed the Sultan's weakness, 'every measure being carried by the will of the Datus who sometimes attack each other without consulting the Sultan upon the subject....' His revenue was insubstantial: he claimed only 5 per cent on imports on foreign ships, perhaps \$2000 p.a. in total. Doubtless little of what the datus levied in the islands reached 'the Public Treasury'. The other source

of revenue was exactions on the Chinese 'as the wants or inclination of the Sultan or Datus point out....' The fortifications of the capital were 'not very strong', its armaments weak. 'A single Boat might be fitted in such a way as to bid defiance to their whole Navy.' The Sultan owned no superior. Nominally he was at war with Brunei; but 'as there is no plunder to be got upon either side all active hostilities have long since ceased'. With the Dutch the Sulus were 'at present at peace, but there may be some doubts of its continuance, though the Government of Java lately sent a man of war brig to Sulu with presents to the Sultan and principal Datus....' This resulted, according to Spiers, from the return of a Dutch brig allegedly found at sea and made over by the Sultan to the Governor of Manila. The Dutch had thought they were under some obligation to Sulu as a result. But in fact those who visited Sulu in the man of war 'not only learned a different version of the case, but also heard that it was in consultation to cut them off....' With the Spaniards there was trade but also war. 'Ships from Manila by making certain presents and allowing some of the Datus to levy upon credit not to be paid are allowed to trade there for the Season and depart in safety at the end of it....' But the Sulus also sent 'a number of small Pirate Praus' to the Philippine coasts 'every now and then who prowl along it and seize every vessel or boat which they can surprize and master, they even sometimes land and carry away peaceful inhabitants from their Houses for the purpose of making them Slaves....'²²³

At Penang Governor W.E. Phillips felt certain that the Dutch had established no influence in Brunei or in the Sulu archipelago, 'and that the Sultan of Sulu is a perfectly independent Prince, too treacherous and powerful to enter into the Dutch system of vassalage and subsidiary relations....' Phillips recalled the descent on Balambangan in 1775 and various attacks on country ships. The *Seaflower* episode could not be ignored. 'But to despatch an armed Marine to Sulu, with orders to demand the delivery or punishment of the Datu and principal actors in the outrage...., would most probably prove a fruitless measure as the Sultan's authority over his Chiefs is almost nominal, and particularly over those who govern the smaller Islands....' The destruction of Sulu, 'even if judged expedient, would leave but a transient effect on the minds of this numerous race of Pirates. It is their *habits* that we must attack', supplying 'their minds with inducements to, and examples of industry, honesty, and hospitality....' This could be done by taking up Raffles's scheme 'to establish a settlement in the rich and fertile Country ceded to us in the north of Borneo, over which the Netherlands possess not the shadow of a right or claim, notwithstanding their pretensions....' All the gentlemen at Balambangan in 1803 thought Marudu preferable.²²⁴ The suggestion was rejected by the Supreme Government in September. 'The formation of a new settlement to the Eastward indeed as involving a material change of policy with relation both to the native states and to the government of the Netherlandish possessions could not be undertaken without the most careful and mature deliberation and the sanction of the authorities at home.'²²⁵ Phillips was at pains to show that he had not proposed a new

settlement, merely indicated, as requested, a possible way of striking at piracy.²²⁶ The treaty signed in London in 1824 could only enhance the reluctance of the authorities in Asia to undertake new ventures in the region.

Nor was there any response to the interest in Labuan displayed by Crawford as Resident at Singapore. Trade had been opened with Brunei, and agents of the Sultan had offered to cede the island.²²⁷

An article in the *Singapore Chronicle*, probably from Crawford's pen and also advocating a settlement at Labuan, no doubt owed something to these agents. In it the boundary with Sulu was put at Sandakan.²²⁸ Probably this reflected the agents' bias. But it may also suggest that Sulu was having difficulty in holding on to its territory at this point. It was indeed under pressure from Spain. As Crawford also mentioned, Spain had cut off trade between Sulu and China for several years. In 1824 Governor Martinez sent an expedition to Sulu, which laid waste the coasts of the island and of Basilan.²²⁹ According to a Manila source, the intention was to conquer Sulu: no vessels were allowed to go there to trade that year.²³⁰ A further expedition, sent by Ricafort in 1827, was 'kept off by the valor of the Joloans', but burned the settlements on the shores of Ilanun Bay.²³¹ Governor Enrile strengthened the Philippines marine in the 1830s and was able to drive the Moros from the coast of the Visayas.²³²

Crawford had dismissed Dalrymple's 'groundless fancy of establishing the capital of a grand Polynesian empire' in northern Borneo; 'an idle phantasy...with respect to any country of Polynesia, Java excepted, or possibly, two or three centuries hence, New Holland....'²³³ His own scheme, for a commercial centre at Labuan, for a time fared no better. But the Dalrymple grants were again to feature in British policy in the future, and in the 1840s James Brooke took up the Labuan scheme in a new context. His proceedings were to affect the Sulus, the Spaniards, and the Dutch.

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3. Majul, 7, 8.
4. Majul, 19-20; Reber, p. 66 ff.
5. Kiefer, pp. 31-2, 38, 53-4.
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 22. *ibid.*, 186-92, 215.
 23. *ibid.*, 174-5.
 24. *ibid.*, 218-19.
 25. Forrest, p. 384.
 26. Blair and Robertson, XXIX, 97.
 27. *ibid.*, XXVIII, 50-8.
 28. *ibid.*, XLI, 285.
 29. *ibid.*, 297.
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 32. Blair and Robertson, XLI, 317, 319.
 33. Montero, I, 250.
 34. Blair and Robertson, XXIX, 98.
 35. *ibid.*, XXVII, 357-8.
 36. *ibid.*, XXVII, 315-16.
 37. *ibid.*, XLI, 299.
 38. D.E. Brown, 'Brunei and the Bajau', *Borneo Research Bulletin*, III, 2 (December 1971), 57-8.
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SIR JAMES BROOKE'S TREATY

The Salazar Policy

THE year, 1827, that saw the vain Ricafort expedition to Sulu, saw also the writing of a memorandum by a Philippines official of long experience, Manuel Bernaldez Pizarro. This drew attention to the Moro attacks on coastal villages and interference with coastal trade which must ultimately 'compromise our secure possession of the islands.... Much more is this true because some ports of the islands, which are in the possession of those pirates, are already frequented by foreign vessels, which provide the pirates with military supplies and firearms....' He feared that 'later the foreigners will furnish them with plans, vessels, leaders, and other aids, like those which they have furnished to the disaffected peoples in the Americas, to wage steady war on the Spanish government....' He advocated the conquest of Sulu, the piratical headquarters, and its repopulation from northern islands.¹

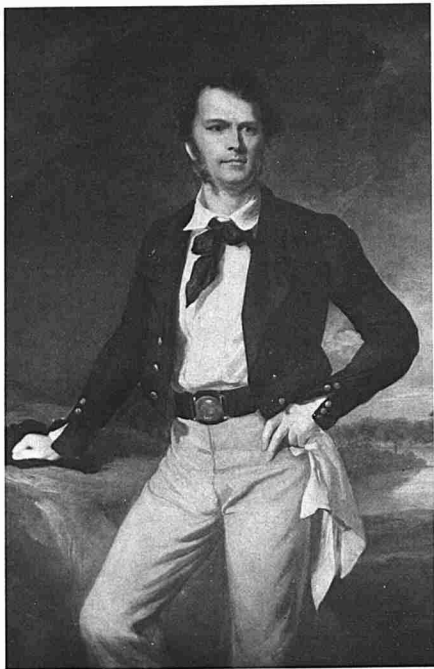
In the event a different policy was attempted in the mid-1830s, one that recalled earlier, more diplomatic policies. In July 1836, with Moroland in mind, Governor Salazar issued an edict for the enforcement of the laws against carrying gun-powder and firearms to the Indians and selling them in countries hostile to Spain.² In September, through Captain José M. Halcon, he made a treaty with Sultan Jamal-ul-Kiram I, grandson of Sultan Sharafud-Din of Sulu, in the hope that trade might develop and piracy decrease. In it the Captain-General assured the Sultan and datus of peace between the Spaniards and the natives subject to Spain on the one hand and the tributaries of the lands governed by the Sultan and datus on the other.

He offers the protection of his Government and the aid of fleets and soldiers for the wars which the Sultan shall find necessary to wage against enemies who shall attack him, or in order to accomplish the subjection of the peoples who rebel in all the confines of the islands which are found within Spanish jurisdiction, and which extend from the western part of Mindanao as far as Borneo and Palawan, except Sandakan and the other lands tributary to the Sultan on the coast of Borneo.

The Sultan, accepting Spanish friendship, bound himself 'to keep peace with



1 Alexander Dalrymple



2 James Brooke

all the vassals of her Catholic Majesty Isabel II, and to consider as his enemies the enemies of Spain, with the exception, as provided in the treaty of 1751, of Europeans. 'In accordance with the friendship and protection which unite Sulu with the Spanish provinces of the Philippines, the Sulu boats shall navigate and trade freely with the open ports of Manila and Zamboanga, and the Spanish vessels with Jolo', and there would be preferential duties. A Spanish factory would be set up in Sulu, 'in which there will be a resident Spanish agent'. The Spanish fleet would act against Samal and Ilanun pirates and the Sultan and datus pledged to work against them also. All Sulu vessels were to carry the Sultan's pass, otherwise their cargo would be liable to confiscation. The Governor of Zamboanga was to determine the procedure in regard to *vintas* from Basilan settlements friendly to Zamboanga.³

In sending this treaty back to Madrid late in 1836, Salazar enclosed Halcon's comments on the first article. He thought it was 'inexpedient' to extend Spanish protection to the lands the Sultan had 'lately acquired in Borneo' and to determine definitely the line of the boundary in Palawan, the title to which, as well as to Balabac and Balambangan, was very disputable, for Palawan and Balabac were ceded to Spain by Brunei in Ovando's time only after an earlier cession to Sulu, and no Spanish settlement had ensued. Sultan A'zim-ud-Din's cessions to Rojo were made when he was in Manila under duress. His cessions to the English of southern Palawan and the Straits of Balabac followed. 'Such are the antecedents which induced me to draw up the said article with such ambiguity that it may be construed to the advantage of the crown without giving occasion to embarrassing objections', Halcon declared.⁴

The treaty was indeed vague in several ways. Without actually asserting Spanish sovereignty—indeed the treaty spoke of peace and friendship as between equals—it referred to the limits of Spanish jurisdiction. Other powers—and especially the British—were in mind: hence ambiguity which could be turned to advantage if need be. But it does seem that there was no intention of establishing Spain's claims in Borneo: the ambiguous part of the article dealt with the islands, Balambangan, Balabac, Palawan; Sandakan and the north Borneo territories were definitely excluded from Spanish protection.

Salazar's aim seems to have been to build upon commercial contacts so as gradually to extend Spanish control over Sulu. His superiors in Spain wanted the protectorate 'carried out frankly and faithfully'. The factory should be set up 'in such a manner as not to cause distrust'. No garrison should be sent, but an adequate marine force should be kept in the area. A 'just and discreet policy—not crafty or artful—will accomplish most in withdrawing the Sultan from the side of the leaders of the pirates....' Piracy, indeed, should be suppressed in cooperation with the Sultan and by continuous maritime action; 'an unwise and useless war against Sulu' was to be avoided, since it might lead to 'the removal of the Sultan to some other point, which removal England and Holland might turn to great advantage against our trade....'⁵

Bernaldez had referred only in general terms to the interference of other

Europeans on the analogy of Spanish America: possibly he had the foundation of Singapore in mind; the conquest of Manila was always remembered. Salazar was also concerned about the Europeans. It may be that he found here some reason for acting against piracy. Raffles's proposal to cooperate against it was now, it is true, twenty years in the past. Moreover, though, after the foundation of Singapore, he had urged on his superiors in Calcutta the stationing of a cruiser which might operate against piracy on the north-west coast of Borneo,⁶ both the Company and the Royal Navy had been inactive beyond the Straits until well into the 1830s. The papers John Dalton published in the *Singapore Chronicle* attracted some attention.⁷ But his statements were seen as an inadequate basis for naval operations. Indeed it is possible that Dalton's major concern was to break Bugis commercial dominance on the coast of Borneo.⁸ But during 1836 the Governor-General, Lord Auckland, resolved on vigorous measures to suppress piracy in the Archipelago. Captain H.D. Chads and S.G. Bonham were appointed to a special commission, and a series of operations was mounted, including an attack on Galang in the Riau-Lingga archipelago which greatly concerned the Dutch authorities.⁹ The operations may also have impressed the Spanish authorities. But Salazar's scheme seems to have resulted primarily from complaints about the *datus'* commercial practices from traders at Sulu.¹⁰

The setting-up of the Chads/Bonham commission did, however, revive the question of British naval activity east of Singapore. The Commander-in-Chief received a request from the Bengal Chamber of Commerce that he should extend naval protection against piracy beyond the Straits.¹¹ As in regard to Riau-Lingga, the first step was to propose cooperation, as indeed Raffles had earlier. The *Raleigh* was sent off to Manila after its operations in the Straits to offer the government there assistance against the pirates. The Spanish reaction was not surprising. Salazar thanked Captain Quin,

but stated the Spanish Flotilla was amply sufficient to protect the Trade, that Piratical Praus were so scattered, that no precise point could be fixed upon to attack them in any force, that the Spanish Gun Boats were better calculated for such service than ships of War from their easier draught of water....

It may not be improper to remark that the Spaniards at Manila are remarkably jealous of Foreigners showing any desire to enquire into the localities of the Islands, as to Harbours, Produce, etc., more particularly as a report had got abroad that England had it in contemplation to occupy Manila, having a lien upon it since the days of Admiral Cornish and Sir William Draper, and the arrival of the 'Raleigh', I have reason to believe, was thought to be in connexion with such design....¹²

The pirates ranged beyond the Philippines. In May 1838, indeed, six Ilanun praus were engaged by British marine forces off Trengganu. These included the boats of Captain Stanley's sloop, the *Wolf*, and the Company's steamer *Diana*, and they destroyed one prau and inflicted much loss of life. Thirty captives were taken to Singapore. 'It appears', Stanley reported, 'that the Pirates are from the Sulu Islands and have been upon this coast about three months, during which time they acknowledge to have captured three boats

laden with rice which they took to Patani....'¹³ Eighteen prisoners were put on trial, Bonham, now Governor, told the Supreme Government, 'but no sentence has yet been passed, the Court considering that though guilty there is too much reason to apprehend that they were acting at least with the connivance if not under the immediate orders and direction of the Sultan of Sulu, whose country has from the earliest periods been notorious as the Port of outfit for Piratical Expeditions....' Bonham was at least satisfied 'that though the Pirates did not at the time of trial plead that they were acting under the orders of the Sultan of Sulu there is abundant proof to convict the Sultan with the Transaction and to form the grounds at least for calling on him to disavow all connexion with it'. He proposed to bring the matter before the Commander-in-Chief so that he might 'if he sees fit either send a ship to remonstrate with the suspected Sultan or a force competent to punish him should grounds be found on the spot to warrant the proceedings....' Unaware, of course, of the Halcon treaty, Bonham added that he did not think that Sulu was 'in any way politically connected with the Spanish Government at Manila'.¹⁴

In these comments Bonham asserted the direct responsibility of the Sultan for piratical expeditions. Clearly he was not well informed about the political structure of the sultanate. But he was also anxious, like Raffles, to make the sultans responsible for the actions of their subjects. This was indeed the policy he and Chads had pursued in the Straits two years earlier: chiefs were held responsible, remonstrated with, punished. The Supreme Government told Bonham that it would approve any measures concerted with the Commander-in-Chief 'for punishing the Sulu chief and preventing his again engaging in similar acts or giving any support or countenance to piratical vessels....'¹⁵

The Commander-in-Chief had meanwhile written to the Governor-General, pointing out the difficulty in 'getting at the Towns inhabited by the Rajas who equip these Piratical Fleets'; but adding that an act of British 'vengeance' would have a deterrent effect. The Governor-General thought that piracy could 'only be suppressed by the most vigorous measures directed, as were those of Captain Chads, against the harbors in which piratical vessels are fitted and against the Chiefs by which they are protected'. But he recognized the difficulty in sending an expedition 'to a place so strongly peopled as Sulu is in our books described to be, and situated at so great a distance... from the Straits....'¹⁶

Bonham admitted his lack of knowledge of Sulu. He, too, relied mostly on books, and referred the Admiral to Hunt's account, which seems indeed to have modified his own earlier statement. He now suggested that there was 'little doubt, that Sulu more or less has always been a place of profit for Pirates and a receptacle for the unhappy victims and property procured by acts of violence and bloodshed and moreover that the Sultan had at least connived at this nefarious system....' The pirates appeared to come from Balanini, allegedly under Sulu control. Hunt's view that the Sultan shared in the plunder seemed to be borne out by the depositions of the captives: certainly

pirate vessels resorted to Sulu. 'From all these circumstances, though it may be probably going too far to say that the Pirate Boats were the *bona fide* property of the Sultan, there can I think exist no reasonable doubt that he tacitly sanctions these proceedings of his subjects and gives indirect encouragement to the system by receiving certain portions of their ill-gotten plunder....'¹⁷ An expedition to Sulu could in fact gather information and then proceed by punishment or otherwise as seemed appropriate. He offered to join a force which might be sent there for the purpose of 'demanding a personal denial from the Sultan of all connexion with the nefarious system of which he is suspected or punishing [him] for what has passed [or] should it appear after local enquiries that there is sufficient grounds of forming a treaty with him binding him in future to cooperate with us in the suppression of piracy....' Bonham thought that a warship 'being sent over if only to threaten the Sultan could not but be attended with beneficial and gratifying results'.¹⁸

The Indian authorities were still prepared to leave the affair to the Commander-in-Chief. But they disapproved Bonham's suggestion of a treaty, alluding to the decision of 1822: a settlement in the Sulu region was then 'discountenanced'; and 'it would not be politic to attempt more for the suppression of piracy or punishment of offenders in so distant a quarter than might promptly be effected by the presence of a Ship of War'.¹⁹ Bonham's suggestion—a development of his practice in the Straits—was ruled out by the opposition to political measures even of this character in the Archipelago. In 1822 the opposition had been partly based on the nature of Anglo-Dutch relations: presumably it was so still.

Admiral Maitland determined to collect information at Manila.²⁰ Captain Blake of H.M.S. *Larne*, sent there, consulted two naval officers 'who have been employed for some years in watching and suppressing Piracy amongst the Southern group of the Philippine Islands and in the Sulu Sea', Halcon and Villavicenzio. From them he learned that the Ilanuns were a 'distinct race', inhabiting the coast of Ilanun bay, and using the lake behind it as their stronghold. 'It has been supposed that these Ilanuns are subject to and act under the directions of the Raja of Sulu', but Halcon, Villavicenzio, and also the Governor-General, Camba, assured Blake 'that such is not the case'. Halcon insisted that the Sultan 'had neither means, power, nor influence, over these Ilanuns; that they are a race purely piratical, of a distinct community of wild, ranging predatory habits, dependent on no one, and acknowledging no external authority....' It was true that they frequented the island of Sulu 'quite unmolested and without hindrance', as well as other islands, including Balanini, 'a principal resort for them'. Another resort was Basilan, where the inhabitants frequently identified themselves with the Ilanuns. Halcon considered their haunts inaccessible: they could not be annihilated. Blake's report referred to the Salazar treaty which he found was 'proverbially ridiculed at Manila, as having been made with an individual ignorant of the faith or meaning of a treaty, a mere cypher, nominally a Raja, but possessing no control with his subjects, who regard not his authority and yield him no

allegiance....²¹ Maitland decided 'that any attempt at routing out these nests of marauders by means of ships of war with their Boats would be attended with serious risk of loss without the possibility of ultimate success being such as to justify its being adopted'. Measures against the pirates were impossible. Measures against the Sultan himself were pointless.²²

The Manila authorities had for their part dropped the Salazar scheme. In reporting on his treaty Camba had declared that his policy of peace and alliance could give Spanish shipping and commerce no permanent or substantial advantage. He stressed 'the very weak authority of the Sultan over his subjects, and the scarcity of his means in the midst of datus or chieftains who, with their families and slaves, constitute distinct communities which are haughty, ambitious and dangerous to him...there is in Sulu no moral force on which to rely for the execution of a treaty, even should there be the best faith and good will on the part of the Sultan....' Nor was the trade worth much attention. The proper policy was to maintain an effective naval force, including steamers, 'ready to obtain at once satisfaction for any offence to our flag....'²³ Undoubtedly Salazar had not meant to rely merely on 'moral force': a treaty would have to be followed up (craftily or openly). His successor proposed to rely on naval force. Trade should be developed through Zamboanga, he later added, which in time would 'divert from Sulu the little transit business which remains....' A forward policy in Mindanao completed his recommendations for checking piracy.²⁴ Presumably he considered it might also check foreign intervention, and that was likely to be so particularly if the British authorities continued to be unenthusiastic. To this lack of enthusiasm both Salazar's treaty and Camba's own remarks to Blake contributed.

In London, however, the Directors belatedly supported action. Commenting on the 1838 episode early in 1841, they expressed the

opinion that an effort should at a convenient period be made to protect the navigation and commerce of these seas altogether from the serious grievances to which they have been so long exposed. The severe lessons administered during the last few years by the great exertions of Her Majesty's and the Company's vessels seem to have produced no adequate effect; notwithstanding the slaughter committed among the pirates the depredations of the survivors are little less frequent and daring than before, and it is evident that a much larger number of cruizers than could generally be spared for the purpose would be necessary to create such a belief in the certainty of punishment as would induce the Pirates to desist from their predatory courses. To put a stop to the evil, it must be arrested at its source, and with this view we would recommend that a suitable opportunity should be taken of despatching a ship of war to warn the chiefs of the piratical tribes against the consequences of a continuance of their present conduct, and every subsequent act of piracy should if possible be promptly followed by the punishment not merely of the parties immediately concerned, but also of any chief who should be discovered to have given countenance to the expedition, by permitting it to be fitted out, to take shelter, or to dispose of its plunder in his territories....²⁵

But the Court, on receiving Blake's report, concluded that the Ilanuns were

not under the Sultan of Sulu, nor any other recognized chief, so that their suggestion could not be applied. Perhaps, however, with Spanish consent and cooperation, it would be possible to break up the piratical headquarters in Mindanao.²⁶

Sir William Parker, the current Commander-in-Chief, thought, like his predecessor, that operations of this sort against the Ilanuns would involve a greater loss of life on both sides than was warranted even if 'impediments' were not presented by the 'jealousy of the Spaniards'. But he would enquire at Manila whether the Spaniards objected to the Court's proposal.²⁷ He was at the Philippines capital late in 1843.

The bare idea, however, of any operations by British Cruizers being attempted within the jurisdiction of the Philippine Islands appeared to excite so much uneasiness and jealous apprehension in the Parties with whom I communicated, that I treated the question as a mere cursory project, and did not think it advisable to touch on it with the Governor-General, Don Francisco Alcala; especially as I learnt from various quarters, that His Excellency had already determined on the adoption of vigorous measures against these Pirates by which I hope the object of the Court of Directors may be anticipated without assistance on our part....²⁸

By this time the intervention of other powers had given the Spaniards new reasons for distrust and new reasons for action. Sultan Jamal-ul-Kiram I had expressed a wish for American trade,²⁹ and Commodore Wilkes had visited Sulu in 1842. His principal aims, as he put them, 'were to ascertain the disposition and resources of the Sulus for trade, and to examine the Straits leading into the Sulu seas, in order to facilitate the communication with China, by avoiding on the one hand the eastern route, and on the other the dangers of the Palawan Passage....' He made a treaty in which the Sultan promised protection and most-favoured-nation treatment to U.S. vessels. Wilkes was aware that Sulu was a mart for the pirates and a source of their guns and powder, and that the Sultan and datus were 'more or less intimately connected with them....' But he thought that his treaty would 'soon put an end to all the dangers to be apprehended from them....'³⁰

The French, too, were interested in Sulu. It had connexions with China, of which Dalrymple had seen the importance. The partial opening of China, following the first Anglo-China war, underlined their significance for the Western powers that wished to rival the British, who occupied Hong Kong. The Spaniards were rightly apprehensive of foreign intervention and were likely to intervene more themselves as a result. But the Sulus were unlikely willingly to cede territories to others, even if they might secure help against the Spaniards.

Consul Farren and Basilan

The opening of Manila to foreign commerce had by this time given British interest in the Philippines a new dimension: British merchants developed a substantial export trade from the Spanish-held islands. Measures for lowering

British duties on sugar not slave-grown led to the appointment of a consul in Manila in 1844.³¹ This was J.W. Farren.³² He worked to expand the opportunities for British commerce in the Philippines in general, and he was to take much credit for the opening in 1855 of Sual and Iloilo.³³ Indeed British merchants gained a vested interest in the islands under Spanish rule. This sometimes affected the recommendations made by Farren and his successors about Sulu and the other islands where Spanish rule was not established. Certainly it was another factor in the making of British policy towards Sulu. Farren for example commented at length on French activities there in the 1840s and their implications for Britain, Spain, and the Philippines. In the event, however, he did not have much influence, and those of his successors who appeared 'pro-Spanish' were to lack influence also.

The early 1840s saw a dramatic break in relations between China and Britain, the two great powers of East and South-East Asia. Their subsequent compromise was represented by the acquisition of Hong Kong and the treaty of Nanking and the system of 'unequal treaties' and extraterritorial jurisdiction that it inaugurated. Not only was this something of a pattern for dealing with other Asian states. It invited emulation by other Western powers, including the French. The Sultan of Sulu appears to have sent letters to the French King in 1838,³⁴ about the same time as he appealed to the Americans. A commercial treaty was made early in 1843.³⁵ But the French wanted more. The French fleet in East Asia was increased that year, and Guizot ordered the negotiation of a treaty with China on the British model, and the acquisition of a foothold in the vicinity as a naval station and commercial entrepôt. In particular the envoy Lagrené's attention was directed to the Sulu archipelago, said to be independent, and especially to the island of Basilan. This was said to be inhabited by Ilanuns, who contested the control of the Sultan of Sulu. An establishment there would stand at a gateway to the Pacific and could rival Singapore. Lagrené might negotiate a treaty of cession with the chiefs, if they were independent, or with their sovereign, if they were not.³⁶

In October 1844 the French corvette *La Sabine*, Captain Guérin, reconnoitred the island, and a boat's crew was attacked at Maluso. At Zamboanga, some Spaniards 'intimately connected with these scourges of the ocean', the pirates, regained three of the captives they had taken.³⁷ Farren became aware of the episode. The Captain-General of the Philippines, Claveria, told him that he had sent gunboats to the area; but, the Consul thought, 'if these pirates find that they can attack and enslave the crews of European men of war with impunity and obtain large sums for their redemption, it will require a much greater force than this Government possesses, to preserve the Archipelago from such outrages....'³⁸

Late in February 1845 Farren reported the rumours in Manila that the French had taken possession of Basilan, despite protests by the Governor of Zamboanga that it was part of the Philippines. Basilan, Farren believed, had long before been garrisoned by Spain, but it was now 'a nest of pirates, who acknowledge a subjection to the Sultan of Sulu'. He, too, Farren considered,

was now independent of Spain as a result of the Salazar treaty.

The limits of the Spanish Philippine possessions, containing as they nominally do, a very great number of small islands in which the Government has no establishments, are, I believe, not very definable... but whether Basilan can, or cannot, be claimed as a Spanish settlement, is less perhaps, as regards the place itself, a consideration of solicitude to the Spanish Government, as the establishment of the French in any point adjacent to these possession would be a cause of the most lively inquietude.

Basilan itself is unpossessed of any resources; but if the French should form a position there, the unsettled state of the surrounding coasts would furnish opportunities for transferring or extending it to a more advantageous situation—and there are many causes in the state of Spain, and of these Islands, to make the neighbourhood of such a power, as France, undesirable.³⁹

In another letter Farren suggested the positional advantages of the area, a gateway between the Pacific and the China Seas. A settlement by France need not

cause much inquietude to the separate interests of England: tho' on a comparison of progressive results I can anticipate much more disadvantage and certainly more inquietude to us, and our relations, than otherwise; and if it be a fundamental point of policy not to encourage in these regions the establishment of other European influence than our own, and that existing here, the rule would perhaps especially apply to that one which is composed of such restless and insubordinate elements as France.

To Spain however, and to Holland, the introduction of French colonies and policy in the Indian Archipelago would cause very great uneasiness. Here it would most sensitively be felt: for the local Government is conscious that its influence depends less on its actual power, and on any aid it could derive from Spain, than on moral prestige, and the isolation of these possessions from foreign encirclement....

The Sultan of Sulu, Farren repeated, was independent, and his supremacy widely acknowledged in the archipelago and on the coasts of Borneo and Celebes, 'tho' his actual power is local....' An Englishman, William Wyndham, was influential at Sulu, and official position bestowed on him—he could be made agent under the Consul at Manila—would facilitate the suppression of piracy and the extension of commerce. 'The first part of this letter is on the reported occupation by the French of Basilan—the last on an official relation with Sulu—Each is a subject of distinct interest, but there is also a connection between them.'⁴⁰ The Consul seemed to be hinting at some British reinsurance with Sulu against a French challenge to Spain in the Philippines.

After visiting Zamboanga, Guérin went to Sulu to ask for satisfaction for those killed, 'with the intention of ascertaining how far the power of this prince extended over Basilan....' The Sultan 'declared that Basilan had long emancipated itself from his sovereignty'; he could not punish the offenders, but would join any friendly power against them. The *Sabine* then went to Basilan with the *Victorieuse*, and in a bloody conflict took Yusuf, the offending chief, prisoner.⁴¹ Then Lagrené arrived in the *Cléopâtre*. But at first no further attack ensued: instead the French opened negotiations with other

chiefs, opposed to Yusuf, encouraging them to say that Spain had no claim over the Sulu archipelago.⁴² A further visit to Sulu followed, in order to demand that the Sultan either make reparation 'or at once give up all claim upon a country in which his authority was scarcely recognised....'⁴³

A British surveying ship, the *Samarang*, Captain Sir Edward Belcher, was in the area. Visiting Sulu in early February, he found the three French ships there. The French admiral, Cécille, Belcher learned, had wanted the Sultan to interfere in the Basilan affair. An earlier mediation might indeed have proved 'important' and saved money. But the Sultan had no power and declared that the people, though nominally tributary, 'set him at defiance'. The French therefore assumed the people of Basilan to be pirates, and on the plea of ridding that island of them and settling there, endeavoured to persuade the Sultan to cede Basilan. The Sultan finally agreed: the French were, on paying 100,000 dollars, to 'govern' Basilan for 100 years. Belcher had used 'strenuous exertions to delay or frustrate' the transfer. The French had indeed to ratify the agreement within six months, and this he thought they would find it difficult to do, though Farren feared the clause would precipitate their approval. The Sultan had also insisted that Basilan should be granted or leased rather than ceded. The unofficial French account does not mention Belcher's intervention in the negotiations, though it notes that the *Samarang* appeared 'accidentally'. It attributes the development of the negotiations to 'a sort of Malay Ulysses', who asserted the Sultan's claims to Basilan but said he could not punish the rebels. Let France punish them; fix a price for Basilan; and if the Sultan's relations with his Basilan subjects were unchanged at the end of six months, 50,000 piastres would buy it.⁴⁴ Their dealings with Dalrymple indeed suggested that the Sulus were unwilling to cede territory and capable of quite as much subtlety as Belcher.

A new French attack on Maluso followed in late February. Then Cécille called a meeting of datus at Balactasan. They denied any treaty connexion with Spain and accepted French protection. The tricolor was raised at P. Bandar. But the Spanish brig *Esperanza* arrived, and Brigadier-general Bocalan claimed the area on the ground of a cession from a Mindanao datu. The matter was referred to the superior French and Spanish authorities.⁴⁵

After Belcher's arrival in Manila, Farren saw the Captain-General. He said he had discussed Basilan when Lagrené had visited Manila earlier. Spain had settled on the island previously, he had argued, for instance in Corcuera's time. It was divided among various tribes one of which—the one responsible for the attack on the French sailors—indeed paid tribute to Sulu; but another paid tribute to the Sultan of Mindanao, who was under Spain, and yet others in the north had recently applied for and been accorded Spanish protection. Lagrené had denied any designs on Basilan, and the Captain-General was now very indignant at his want of candour. The French had apparently declined the offer Claveria made to punish the pirates when he asserted Spanish rights: they stated 'that it would be more consistent with the honor of the French flag, that it should itself redress an outrage committed on it, by an acknowledged

body of pirates'. Claveria had said that they were at liberty to punish the tribes of Maluso, 'but not to found on doing so any act of territorial acquisition....'⁴⁶

Farren now looked at Spain-Sulu relations again, as defined by the treaty of 1836, and somewhat shifted his ground over Basilan. According to the first article, Sulu accepted Spanish 'protection': but the meaning thereof was not explained, 'and whether it imply any further dependence on Spain, which foreign states in their relations with Sulu, are bound by international principle to respect, is a question which might be mooted, were there to arise from the recent engagements any misunderstanding between France and Sulu'. Generally the document implied, as he had suggested earlier, the independence of Sulu. The aid that Spain was bound to give the Sultan 'within the limits of Spanish sovereignty', extending from Borneo and Palawan to Mindanao, did not, Farren thought, convey a recognition of Spanish sovereignty over the whole area, but rather excluded from Spain's promise the territories claimed by Sulu in Borneo. Another article, however, specifically referred to Basilan, and gave the Governor of Zamboanga surveillance over its boats. That certainly seemed to imply some sort of Spanish rights, and cast doubt on Sulu's ability to cede the island. France's engagement with Sulu was, Farren thought, 'exposed to very strong legal, and reasonable objections, on the part of Spain'.⁴⁷ The Consul's conclusion was that Sulu was independent, but that Spain had claims over Basilan: a conclusion not unsatisfactory to Great Britain.

Farren speculated about the future of Luzon and the Visayas if the French should establish themselves in Basilan. If they made it a free port, smuggling would commence, and Farren would use this forecast to urge on Claveria the 'counteracting' system of a liberal commercial policy. Politically, the French might acquire a party 'through the provincial clergy, and the disaffected among the Spanish colonists, and natives', and Manila's defences were weak. Indeed, throughout the islands 'the power of the Government is founded much more on moral, than on physical influence. The laws are mild, and peculiarly favourable to the natives. The people are indolent, temperate, superstitious. The Government is conciliatory and respectable in its character and appearance', and the clergy managed 'the native character' 'with great tact'. But the British capture of Manila in 1762 had, Farren thought, proved 'that a foreign power may find local cooperation here'. The local Spaniards were restlessly partisan; the natives 'with their submission to Spanish rule retain impressions of original character and cast'; and the mestizos and the Chinese, 'who are in deep hostility with the natives', might be 'successfully worked upon'. The recent insurrection in Tayabas showed that disaffection could be aroused. In a crisis, Spain could render no effective aid, and it could be seen 'that however tranquil, efficient and progressing may be the general state of the population, government, and resources of these possessions, they derive great advantage from being removed from the action of foreign influence, and might be greatly damaged by its introduction'.

Both in the Pacific and in the China Sea, Britain had great interests: the Australian colonies on the one hand, and the colony of Hong Kong, and 'a great commercial interest', on the other. 'Between them the relations at present are trifling', Farren continued, 'but within a few years...New South Wales has formed a very important commercial relation with these possessions, which are intermediate', and Britain could not be indifferent to 'the establishment of a foreign post on the line of intercourse....' If the French established themselves at Basilan, the British should consider 'the expediency of selecting from the archipelago of Islands which separate our possessions and interests in the Pacific and China Seas, some position calculated to connect and to support them....'⁴⁸

In fact Guizot's anxiety to cultivate Spanish friendship—it was the time of the famous marriage proposals—led him to drop the plan to occupy Basilan. The other argument against it was that its value to France would not compensate the effort required to conquer the natives, overcome climatic difficulties, and suppress piracy.⁴⁹ The French consul at Singapore declared that 'there is no chance...of the retention of Basilan...the large naval force it would be requisite to maintain there, as a guard against the nest of hornets with whom they would be surrounded, coupled with the necessary outlay for buildings and fortifications would amount to such an enormous sum that even la gloire de la France would never induce the Chambers to grant it....'⁵⁰

Not merely the Moro depredations, but also the interference of other European powers, led to further Spanish activity in the Sulu seas. A new fort was erected in northern Basilan, resulting, as Belcher put it, 'from the late attempt of the French to obtain possession of Maluso'.⁵¹ Further anti-pirate expeditions were sent out. In February 1845 one had gone to Balanini to punish pirates who had descended upon the Luzon coasts in 1844.⁵² In 1846, however, pirates reached the neighbourhood of Manila, 'and actually engaged in a hand to hand fight with the Naval authorities at the Corregidor station....'⁵³ In 1847 Farren reported that the Captain-General intended to lead an expedition against Sulu 'and the principal ports in the neighbouring archipelago', using three war steamers lately arrived from England.⁵⁴ A despatch of early 1848 gave the Foreign Office more details of the proposed attack. The Captain-General was expected to go to Zamboanga, and

to require the presence there of the Sultan of Sulu and the Chiefs of the principal maritime and Piratical tribes of Mindanao and the Archipelago, and regulate measures to check the Piracy and enslaving annually committed on the coast of these Possessions....

It is generally believed here that the object of this expedition is to take Sulu, but at present there is no fixed intention even to attack, though events may arise to induce the Captain-General to do so.

His purpose is to attack some of the inferior piratical positions, extend the Spanish authority in Mindanao, where it is at present very limited, intimidate and weaken the Piratical League in the Archipelago, and acquaint himself and his Government with the state and administration of the southern islands of the Philippines.

The authority of the government in Madrid was awaited before a substantial expedition was mounted against Sulu itself.⁵⁵

In the event the expedition attacked the island of Balanini, and overpowered its forts, including the strongest, Sipak.⁵⁶ According to Crawford, this was 'the most signal punishment ever inflicted on Malayan pirates by an European power'.⁵⁷ Farren thought it would intimidate the pirates,

but unless the large praus, or native Vessels of the Archipelago are subjected to some police regulations, enforced, and overlooked, by a small maritime force stationed in those parts, time will efface the present moral effect of this attack, and piracy and enslaving will be gradually renewed.

Balanini is close to Sulu, on which it depends and it is at Sulu that all the piratical expeditions are combined; but as the Sultan and Datus or Chiefs, have no maritime force belonging to the Island, and are not therefore ostensibly engaged in the piracy, they deny with plausibility their participation.

It is probable that if hereafter another expedition should be undertaken, or the Spanish Government at Madrid enlarge its views of maritime or colonial policy in these parts, they will take possession of Sulu, though it would cause them some difficulty to retain it....⁵⁸

In fact the Dutch were the next power to communicate with the Sultan of Sulu. They had resolved to make representations to him about piracies in their territories, to demand the delivery of captured Netherlands subjects including the brother of the Sultan of Bachian, and to make him answerable for depredations by his subjects on Bangka and in Borneo. With two brigs commanded by Van Braam Houckgeest, a commissioner, Gronovius, was sent to deliver a letter to the Sultan. He replied that he had little control over the Balanini, but promised to search for the Moluccan prince. Negotiations went no further. Both Dutch ships finally opened fire, and part of the town was burned, including a house belonging to Wyndham. But the brigs themselves were damaged by fire from the Sulu forts.⁵⁹

'My friends the Spaniards gave the pirates on one side a thrashing, and now, on the other, they have got it from the Dutch', wrote Farren.

The Captain General tells me that the Sultan of Sulu does not know how it is that his father and grandfather lived in peace with his neighbours, while carrying on their little kidnapping affairs, and he is no sooner out of the hands of one than he is maltreated by another, and is looking forward to a coup de grace from a third—ourselves. The General expects a mission from him claiming execution of the offensive and defensive treaty between Sulu and the Philippines.—The reply will be, I fancy, to mend his ways, and to keep peace with the neighbours. I suppose the place will fall at last into our hands—There is a man at Sulu an Englishman named Wyndham who might be useful. He ought to thoroughly understand the people he has been among so many years.⁶⁰

At the end of the year, Claveria told Farren that he had heard from the Batavian government that it intended to send a second, and more serious, expedition to Sulu. In his reply, the Captain-General said, 'he had stated that the Suluese merited castigation, for their participation in piracy and enslaving, but that it would be his duty to protest against any attack having for its object

to establish a possession of Sulu'. Claveria applied the same remark to rumours of a British expedition to the Sulu Seas, and added that 'Spain regarded herself in the relation of protectress to the Sulu Archipelago'. Farren did not argue the point. He could have suggested, he wrote, that, 'if such a relation could be internationally validated, there might arise from it an inconvenient demand on Spain from foreign powers,... to maintain that sea from the piracy and outrages on humanity, for which the islands it protects there are notorious....' The Captain-General, too, had earlier argued that the treaty of 1837 was concerned with protection from 'native powers only', and had told the Sultan this when he applied for help in the event of an English attack. 'On the ground of contiguous interest, Great Britain might perhaps question the exclusiveness of the [Spanish] pretension, having a colony at Labuan, whose situation, and southeastern relations, and prospects, are in vicinage to the Sulu group....' Moreover, Britain had 'a dormant possession' of northern Borneo between Kimanis and Marudu, as well as Balambangan, and was more interested than Spain in the Sulu Seas 'as a maritime and commercial thoroughfare'. But Farren saw no immediate purpose in discussing such questions, which might only reawaken Spanish suspicion of British designs on the Philippines. They were bound, however, ultimately to require solution.⁶¹

Farren's remarks on British interests in the area, particularly his references to communications with Australia, were to be echoed in the discussion in later decades over the future of Sulu and Sabah. He was wrong in his long-term prophecy that Sulu would end up in British hands. His short-term plan for establishing a colony in the region was not accepted. But his proposal to appoint Wyndham as British agent did arouse some interest in the Foreign Office,⁶² and Britain's move to establish a colony at Labuan, though it was undertaken substantially in connexion with its relations with Brunei, did indicate a new concern over the Archipelago as a whole, especially vis-à-vis the Dutch, and did as Farren recognized imply a new involvement with Sulu. There were rumours in Manila of a British expedition to Sulu. The next British approach to Sulu was in fact by Sir James Brooke, Commissioner and Consul-General to the Sultan and Independent Chiefs in Borneo. In 1849 he made a treaty with the Sultan. Its fate was influenced by the Basilan affair.

The Raja of Sarawak

In the late 1830s and early 1840s the British Government had reconsidered its attitude to the territorial extension of the Dutch and to the future of Borneo. One element in this was discontent with Dutch treatment of British commerce in Java and Sumatra. There were other reasons for a more active policy in Borneo: it flanked the route to China, it had coal, its pirates had to be suppressed. But it was concern over the Dutch that led the Foreign Office, at first fainthearted, to become more interested. It offered some support to the activities of James Brooke; after reconsidering Balambangan, it secured

Labuan for a colony; and it gave Brooke something of the status in the Archipelago that the British Superintendent of Trade had in China following the end of the Company's monopoly. These moves affected British policy towards Sulu. Indeed they form a context for the proceedings of the Spaniards, who were not merely concerned about the French, and of the Dutch, who were not merely concerned about the depredations of pirates from the Sulu archipelago.

Brooke's major sphere of activity indeed came to be Sarawak and Brunei. But his initial focus was elsewhere. One of the arguments of the 1820s for a settlement in northern Australia was that it would gain access to the Bugis trade in the eastern parts of the Archipelago. Williams Barns, a local trader responsible for the suggestion, also recommended a settlement at Balambangan or Banggi.⁶² The settlement made at Port Essington in 1838 the young adventurer James Brooke again linked with the idea of a forward policy in the Archipelago. In the prospectus for his voyage prepared that year for the Royal Geographical Society, he argued that Port Essington should be complemented at the other extreme of the Archipelago by a settlement at Marudu, a British possession. At present, he believed, the British were ignorant of the Archipelago and neglected it. 'I have considered that individual exertions may be usefully applied to rouse the zeal of slumbering philanthropy and lead the way to an increased knowledge of the Indian Archipelago....'⁶³ Brooke had indeed been collecting 'every known particular of the various islands of the Archipelago',⁶⁴ and Marudu was a suggestion of Raffles, in turn derived from Farquhar.

At Singapore Brooke's attention was attracted rather to Brunei than to Marudu. He became Raja of Sarawak in 1841, and planned to reform and restore the sultanate of Brunei by lending the Bendahara, Raja Muda Hassim, his support, and by acquiring that of Great Britain. During 1843 and 1844 he was assisted by the Straits Government and, more importantly, by naval commanders like Belcher and Henry Keppel, who acted against the piracy of the Ibans and Ilanuns. In London at this juncture the prime minister and the Admiralty were more interested than the Foreign Office in Brooke's venture.⁶⁵ But late in 1844 the Government appointed him its agent in Brunei, with a view to facilitating the suppression of piracy and the extension of British trade. A naval station and harbour of refuge was sought. Labuan came under consideration.⁶⁶

Labuan, which the Sultan and Hassim were induced to offer the British,⁶⁷ Brooke saw in the context of his own scheme for Brunei.

A post like Labuan, or Balambangan, would beyond doubt give an impetus to trade merely from the freedom from all restrictions, and the absence of all exactions which the natives would enjoy, and (Piracy being checked) countries which now lie fallow, would from its proximity be induced to bring their produce into market.

This limited expansion is however of little moment when compared with the beneficial results which must attend our exerting a beneficial influence over the Native Governments, for the purposes of affording protection to the poorer classes, ensuring

safety to the trader, and (without any guarantee) opening a field for the planter or the miner....⁶⁸

For a time, however, it seemed that after all Britain would not occupy the island the Bruneis had offered. The naval expert sent to report on the whole preferred a settlement at Balambangan, which was already British, and was better placed as an advanced position for the suppression of piracy.⁶⁹ Brooke's agent, Henry Wise, who hoped to work coal in the vicinity of Brunei, cleverly pointed out the difficulty over Balambangan involved in Spanish claims, and forwarded to the Foreign Office the legal opinion of 1770 which, as he put it, rather took the Spanish view.⁷⁰ The Foreign Office sought more information on the transactions of the 1760s from the India Board.⁷¹ But at the Colonial Office Lord Stanley was concerned to find that a colony was envisaged and not merely a naval station, and his successor, Gladstone, opposed it.⁷² There seemed to be some risk that the settlement would not be formed at Labuan, if it was formed at all. But two other factors led to the foundation of a colony on that island. The first was its involvement in the Foreign Office's unsatisfactory negotiations with the Dutch.

The Dutch had not used opportunities open to them in the 1820s and 1830s to establish themselves in Brunei. They became seriously concerned when the British Government made the Raja of Sarawak its agent. In September 1845 Dedel, the Dutch envoy in London, had conversations which he described as satisfactory with the Foreign Secretary, Lord Aberdeen, over the scheme to occupy Labuan. But Brooke's appointment re-awakened his apprehensions. No doubt Britain did not intend, he remarked, to act south of the line mentioned in article 12 of the treaty of 1824; but an establishment even to the north of it would violate the spirit of the treaty, since it was designed to separate the possessions of the two powers and to avoid collision.⁷³ Thus the Netherlands sought to recall what seems to have been the 1824 understanding over Borneo. But in reply the Foreign Office denied, with reason, that article 12 applied to that island, and declared that the British had as much right to settle there as the Dutch. The actions of Brooke as agent and those of the British Navy were to be seen in the context of the new facilities for trade with China: 'it became an object of vital importance to extend to that Trade the additional protection of which it would stand in need against the increasing aggressions of the pirate communities on the Coast of Borneo....' A naval station seemed desirable, and the Sultan of Brunei had offered Labuan.⁷⁴ The Foreign Office thus claimed a right to settle in Borneo, but stressed that in practice its aims were limited to the suppression of piracy and the acquisition of Labuan as a naval station.

In a further note Dedel expressed satisfaction over the assurance but challenged the claim. Borneo was not specially mentioned in the 1824 treaty, it was true, but that was because it was not at that time a field for collision and conflict. The occupation of Labuan would not make it a field for collision and conflict: but the Dutch were bound to protest as Brooke's establishment in Sarawak took on a more permanent and even official character.⁷⁵ In its reply

the Foreign Office denied that the treaty established 'the principle that no settlement should in future be formed by either Power within those portions of the Eastern Archipelago, in any part of which the other Power should have previously established itself....' Sarawak was not a British colony, but the treaty afforded no obstacle to its becoming one. The Dutch themselves, the note added, had not adhered to the spirit of the treaty in their treatment of British commerce.⁷⁶

Falck had no doubt thought that the Dutch could assert their claim to Borneo when necessary. But this moment was a bad one. The Foreign Office brought it into its negotiations with the Dutch over commercial opportunity in Java and the rest of the Archipelago, hitherto unproductive. The prime minister and the Admiralty had so far been carrying the Foreign Office along with them in the Borneo venture: now it began itself to make use of it. In so doing it committed itself in some degree to Brooke and, whatever the reservations over Balambangan were, to Labuan.

The other factor in favour of Labuan was the revolution in Brunei in 1846. If Labuan meant a naval station or a colony for the British Government, and for Brooke a fulcrum of influence, for Raja Muda Hassim it had meant something else again. The earlier offers of Labuan—to Herbert, to Eales, to Crawford—were at least partly based on Brunei's desire for support against Sulu. A later British official suggested that this was a motive in 1844-5 also. Probably, W.H. Treacher wrote, the Sultan wanted aid in 'reasserting his authority' in northern and western portions of his dominions 'where the allegiance of the people had been transferred to the Sultan of Sulu and to Ilanun and Balanini piratical leaders....'⁷⁷ But there may have been still another dimension to Hassim's policy. He was the heir of the Pulau Rajas: to support him was to support a faction in Brunei to which the Bajaus owed a special allegiance.⁷⁸ Brooke's policy was bound to provoke opposition within Brunei: it helped to lead to Hassim's overthrow in 1846. This precipitated the creation of a colony at Labuan, though at the same time it delivered a great blow to Brooke's plans for Brunei.

Following the revolution, the Foreign Office received a number of memorials from commercial bodies, perhaps prompted by Wise, urging the occupation of Labuan. In the light of these, and of Dutch expansion in Bali and elsewhere, the Foreign Office asked the Admiralty what it proposed to do.⁷⁹ The reply was that it awaited instruction from Colonial or Foreign Office. It was felt, however, that, if any settlement were required, it should be at Balambangan, though a mobile force would be better.⁸⁰ A new First Lord had taken over, and the Admiralty had lost interest.⁸¹ But the Foreign Officer's view had also changed. In 1844 Aberdeen had been unenthusiastic over Borneo. Since then the occupation of Labuan had become involved in his diplomacy with the Dutch, and the challenge to the Borneo policy presented by the revolution in Brunei, coupled with pressure from the Chambers of Commerce, committed him further. The British had a title to Labuan, the Foreign Office told the Admiralty, and had told the Dutch that they intended

to occupy it.⁸² The Foreign Office also sought to persuade the Colonial Office that Labuan should be occupied. Recent events in Borneo and 'the re-establishment in power...of persons interested in the prosecution of Piracy' made it 'more than ever desirable' to carry out 'the intention of establishing a Naval Station and Harbour of Refuge' on the north-west coast of Borneo 'entertained...since October 1844....'⁸³

The Archives of the Foreign Office are crowded with representations of the injurious effects to British interests arising from the extension of Dutch influence and dominion in the Eastern Seas; and the consequent necessity for preventing the encroachments of that Power, by affording proper countenance and protection to the legitimate trade of native tribes with Her Majesty's subjects. The demands for protection against the pirate communities of Borneo have been equally numerous....

If Britain rejected Labuan, it might be occupied by the Dutch, or by the French, who had been seeking a foothold in the Sulu archipelago, or by the Americans, who had sent a frigate to Brunei in 1845. If occupied by Britain, as an island it would be free of 'the inconvenience inseparable from the defence of an extended and ill-defined line of Frontier, against immediately surrounding barbarous populations'. The alternative, Balambangan, might lead to disputes with Spain.⁸⁴

The Colonial Office was over-ruled and a colony created at Labuan. A treaty with Brunei followed in 1847. It provided for the extension of commerce and for cooperation against piracy, and its tenth article included a promise on the Sultan's part not to cede any part of his dominions to any other power or the subjects thereof without British consent. Though Brooke's original policy had collapsed, the British Government had shown its interest in the area and taken steps to keep it out of the hands of other powers.

Moreover, though it also hoped for a new agreement with the Dutch, the Foreign Office saw this treaty as a model for other treaties which Brooke might make with neighbouring states. Though concentrating on Brunei, the Raja of Sarawak had not over the years abandoned his larger ambitions. Late in 1843 he had been concerned about French activity in the Sulu seas.

The possession of Sulu by the French would materially interfere with any operations of the English on the coast of Borneo and cramp our trade, as well as limit our territorial extension when necessary. If, therefore, we act, we ought to act without unnecessary delay.—Take Sarawak and Labuan, or Labuan alone, and push our interest along the coast to Sulu, and from Sulu towards New Guinea, gaining an influence with such states (and acquiring dormant rights) as are clear of the Dutch on the one hand, and of the Spaniards on the other. Celebes should not be excluded, but we should foster Bugis trade, and protect it against Dutch exactions....⁸⁵

Brooke's support of Hassim itself led him to Marudu, an earlier objective, where the local Sharif, Usman, thought to be linked with his opponent in Brunei, but linked also with the Sulus, had been attacked in 1845.⁸⁶ After the revolution, and Admiral Cochrane's subsequent capture of Brunei, the Ilanun settlements at Tempasuk and Pandasan had been attacked.⁸⁷ By then

Brooke's hopes of restoring Brunei had been virtually destroyed. But his hopes of applying his policy to Sulu were increased by a new Government appointment and new instructions from the Foreign Office.

There had been another context for the Foreign Office's support of Brooke. Both the crisis in relations with the Dutch and the shift from Company authority in China had suggested the need to improve the superintendence of British interests in South-East Asia. G.W. Earl, who had earlier tried to trade on the west coast of Borneo, had pointed out that the East India Company could not be expected to 'go to any further expense in extending a commerce from which it derives no benefit'. The British Government must itself appoint a commissioner to visit native ports periodically and settle any disputes there.⁸⁸ In 1840 John Anderson, who had been a servant of the Penang Government twenty years earlier, had urged that the Indies required more attention than the Indian government gave them. 'The Government authority in that quarter should be more consolidated, and of a more locally responsible nature, in order that our political and commercial rights may be...firmly and consistently upheld against all encroachment by other European powers....' He suggested either a new Crown Colony between Ceylon and Australia, or 'at all events an efficient representative of the Sovereign of Great Britain' at Singapore, 'charged with full powers, and supported by an adequate marine force....'⁸⁹ The refashioning of the British relationship with China after the first Opium War seemed again to suggest its refashioning in the Archipelago. Anderson offered his services as commissioner should the British Government wish to begin by instituting enquiries or collecting information.⁹⁰

In fact the Government acted more informally by supporting Brooke, while Anderson aided Wise during his agitation in favour of Brooke.⁹¹ Dutch action in Bali and elsewhere, itself partly prompted by the activities of Brooke and others, led in turn to further protests. In December 1847 the Singapore merchants suggested

that authority should be given to the Governor of the British Settlements in the Straits of Malacca or other competent person, to exercise a general superintendence over British trade and interests in the European Archipelago—that such superintendent should be placed in direct correspondence with the Secretary of State for Foreign Affairs, and that a British man of war destined specially for the service, should as far as possible be placed under his direction and control....⁹²

The Foreign Office did not like the idea: 'it would not be possible to appoint a person not a Servant of the British Crown to perform such a duty, and...it would not be advisable to place in any Civil Officer a Power over Her Majesty's ships such as that which the Petitioners suggest.'⁹³ But in March 1847 Brooke, already agent at Brunei, was appointed Commissioner and Consul-General to the Sultan and Independent Chiefs of Borneo, and he was expected to fulfil some of the functions of the superintendent the merchants had been pressing for. When the London East India and China Association

again brought the proposal before Lord Palmerston, the Foreign Secretary, in mid-1849, he replied that Brooke had been appointed 'for the purpose of affording support and protection to British Commerce in the Eastern Archipelago....'⁹⁴

In February 1848 Brooke had been told that the purpose of his appointment, 'as regards the relations of Great Britain with the native and independent chiefs of Borneo', was 'to afford to British Commerce that support and protection, which though needed in all foreign Countries, is peculiarly required in the Indian Seas, in consequence of the prevalence of piracy..., and by reason of the encroachments of the Netherlands authorities....' Friendly relations should be developed between the British and 'the independent chiefs on the Mainland of Borneo, and in the neighbouring islands', and the Brunei treaty of 1847 was to be regarded as a model. Brooke was to report 'which are the Native Chiefs on the Mainland of Borneo, in the Sulu Islands, in the Celebes and New Guinea, and in any other Islands of the Indian Archipelago, who may be considered as still independent, and which are the Chiefs who have either entered into Treaties with the Dutch Government or have been reduced under Netherlands subjection....'⁹⁵ It was clear that the Government considered Sulu more in the Commissioner's sphere than in that of the Consul in Manila. But its views could still be influenced by the reports of the latter, which might reflect the views of the Spaniards, or of the British merchants in their capital.

In July 1848 Brooke sent Palmerston a preliminary report on Dutch relations with native princes. He was concerned, as were the Spaniards, over the Dutch expedition to Sulu, and suggested 'that these proceedings arose solely with a view to ulterior measures being taken to reduce Sulu into an acknowledgement of the Suzerainté of Holland, or failing in this object to afford a pretext to attack that place....'⁹⁶ Certainly in Borneo, as elsewhere, the Dutch had been strengthening their claims for fear of further intervention by the British or others. On the east coast they had been alarmed by the activities of Erskine Murray, an adventurer who had resolved to settle at Kutai, but met his death, supposedly as a result of Bugis incitement.⁹⁷ The Hague Government opposed any British punitive expedition, claiming Kutai as a dependency of Bandjermasin,⁹⁸ and sent A.L. Weddik to strengthen contacts with Kutai and Pasir.⁹⁹ But Murray's expedition did not provide the only reason for the Dutch to strengthen their position on the east coast of Borneo. Belcher had provided another.

One of the first matters Farren had reported upon was the affair of the *Premier*. This British ship had left Hong Kong for Bali in July 1844 in order to purchase rice, had touched at Zamboanga for provisions, and then struck a reef on the east coast of Borneo. Some of the survivors, in the ship's boats, were taken to Kuran. According to a letter from the master, the Sultan there divided the crew with the neighbouring Raja of Bulongan. Some of the Lascars were bought by a Sulu trader and ransomed at Sulu by Wyndham. Belcher was in Manila in late November and Farren gave him information

about the *Premier*. He left for Sulu and the east coast of Borneo.¹⁰⁰

At Sulu Belcher asked Sultan Muhammad Pulalun—clearly of some influence on the east coast—for his 'powerful assistance' in securing those still in captivity. The Sultan agreed to write and to send a *haji* and proper officers to accompany Belcher. He also agreed to enquire into the question of the ransom: was it purely a demand put forward by the *nakhoda* of the Sulu prau?¹⁰¹ At Kuran Belcher found the Dutch colours flying. The Sultan declared that a Dutch schooner-of-war had taken the Europeans from the *Premier* away, and also produced 'a gold-headed cane, and a flag presented to him' by the Dutch authorities at Bandjermasin. He had kept an account of what was taken from the wreck, claimed that he had not demanded ransom, and said that the Europeans had been troublesome, had leagued with his rebellious cousin, the Raja Muda at Sambaliung, and had virtually abandoned the Lascars to their fate. The Sultan was in fact well disposed and anxious for a British alliance. He denied 'any agreement with other nations which bound him to more than a friendly reception and permission to trade....' So Belcher 'drew up a Treaty', expressing the Sultan's wish to make a treaty of friendship and commerce when the Queen should send an authorized negotiator, and promising 'friendship and protection' to British subjects. He also offered to receive British subjects and to cede an island, for example Maratua. But no harbour could be found there.¹⁰²

Belcher was also well received at Bulongan. He secured a promise promptly to deliver up the remaining Lascars. He also made a 'treaty' along the Kuran lines and impressed the chiefs with 'the conviction, that Great Britain would severely punish the repetition of any such conduct....' But generally—and especially at Kuran—Belcher was 'inclined to think that our countrymen have been better treated than they would have been upon any other part of uncivilized Borneo....' Murray would have done better at Kuran or Bulongan than at Kutai. At Bulongan, 'the Sagais, the richest of the Idaan [Dayak] tribes, are brought immediately into contact with the traders, instead of, that bar to every improvement in this country, the intervention of the Malay, or more wily Bugis of Celebes....'¹⁰³

The *Premier* episode had prompted Dutch intervention. Van der Capellen, who had taken the Europeans away from Kuran, had made fresh treaties with that state, with Sambaliung, and with Bulongan, all of which, with the Tidong lands, formed part of old Berau. Over all, too, both the sultanates of Bandjermasin and of Sulu claimed sovereignty.¹⁰⁴ This gave the Dutch an additional motive for contact with Sulu, and Gronovius, in advocating a second expedition, also urged the annexation of north-east Borneo.¹⁰⁵ It was in turn the rumours of a second Dutch expedition to Sulu that led Commissioner Brooke to conclude a treaty with that sultanate in 1849.

The Negotiation of the Treaty

Sir Edward Belcher paid several visits to the Sultan of Sulu in the course of

his surveying voyage of 1844 and 1845. There he gained information about the sultanate and the pirates in the region, increased during his discussion in Manila with men like Villavicenzio,¹⁰⁶ whom Blake had met earlier. On his first visit to Sulu in April 1844 Belcher complained of the resort of Balanini pirates to the Sultan's ports and of the provision of facilities for the sale of slaves, and threatened retribution.

The Spaniards, and, I believe, the British Government also, still labour under the impression, that the Sultan of Sulu has power over, and acts in concert with, all these pirates. I have taken very great pains to arrive at the proof of any such fact and my conviction is, that he has not the *power*. He is too weak to oppose the interest of some of his Datus, or leading Chiefs, who exhibit much greater interest in the success of the pirates.

such as Datu Muluk Mandalaya, the 'Prime Minister', leader of 'the Court party'. 'The other party, headed by Datu Dacola, Datu Daniel, and their connexion', 'the east river party', was 'as anxious' for the suppression of piracy and the development of commerce. During Belcher's December visit, he was told that the Sulus had no connexion with the Balanini. But this he could not accept. The Balanini, he believed, should be punished. 'The honest party here would aid by giving information, and if the assertion of the Sultan and his party be sincere, that they have no interest or participation with pirates, their punishment, or expulsion, from the Island of Balanini, cannot but be satisfactory to him....'¹⁰⁷

The *Samarang* was back in February 1845. This visit became more intimate after the French had left. The Sultan's fear of France 'had induced him to look more narrowly into his relations to his old Ally, as he was pleased to call us'. Belcher praised Datu Daniel. 'I am sure that no one could wish greater prosperity to the Sulu nation than the elevation of this chief to the government, either as Sultan, or Prime Minister. He is warmly opposed to the piratical dispositions of some of his brother chiefs, as well as to the system of slavery which is its foundation....'¹⁰⁸

If there is a hint of Brooke in this comment of Belcher's, Brooke presumably drew on Belcher's information in his memorandum of March 1845. This referred to the Balanini as inhabiting 'a cluster of islands somewhere in the vicinity of Sulu'. It seemed that 'they are not dependent on Sulu, though it is probable they may be encouraged by some of the Rajas of that place, and that they find a slave market there'. More daring even than the Balanini were the Ilanuns: over them, like Maitland and Parker, Brooke advised caution. 'The first step requisite is to gain some information concerning them, to form an acquaintance with some of their better disposed chiefs, and subsequently we might act against them with a suitable force, but it would be rash and premature in the present state of our knowledge to come into contact with them in their own country....' 'The old-established Malay governments (such as Brunei and Sulu)', Brooke commented, 'weak and distracted, are probably without exception, participators or victims to piracy; and in many cases

both....' Indeed he would extend to the Sulu seas his Borneo policy of attacking major pirate strongholds, detaching recognized Malay governments from piratical connexions, 'joining conciliation with punishment', fostering 'those who abandon their evil habits', chastising those who adhered to them. 'The general principle ought to be—to encourage established governments, such as Brunei and Sulu, provided they will with all sincerity abandon piracy, and assist in its suppression; but at the same time, by supervision to convince ourselves of the fact, and keep them in the right path; for all treaties with these native states... are but so much waste paper unless we see them carried into execution....'¹⁰⁹

Brooke was looking towards a treaty with Sulu, as had Bonham. But he contemplated continuous action to back it up. In dealing with Sulu the Spaniards had at times touched on such a policy. Indeed they had oscillated between using and reforming the sultanate, as in their dealings with A'zim-uddin I, or perhaps in Salazar's case; and attacking, displacing, surrounding it. Neither course was definitively pursued. Both required more strength than the Spaniards had at their disposal, and perhaps more continuity of personnel. But these deficiencies tended to mean that the latter course was followed more than the former; and it made the former more difficult to follow. Even the second course, moreover, was followed in a spasmodic and unmethodical way whose very violence perhaps reflected Spanish weakness. The intervention of foreign powers made it more likely that Spain would resort to violence at the centre in order to secure the recognition, if not the practice, of its sovereignty, and to violence in the islands as a means of suppressing piracy. Such violence might indeed encourage the Sulus to turn to other powers; but the latter were likely to welcome at least the suppression of piracy, if not the extension of Spain's dominion, while the Sulus were unwilling to lose their independence to any power. If Brooke was to succeed, he would need to have the support of the British Government against Spanish claims. He would need to have more adequate forces available than the Spaniards had had. And he would need to persuade the Sulus that a British connexion would not destroy their independence. His Sulu policy was based on his Brunei policy. Hassim had been a sort of A'zim-ud-Din I. Now a Sulu counterpart was needed. Datu Daniel was a possibility. Indeed the Brunei and Sulu policies were more closely linked. The chief Sulu opponent of the British was the Raja Muda, Datu Boyak, whose sister had married Sharif Usman of Marudu.¹¹⁰ The destruction of Marudu, and later of Tempasuk and Pandasan, were in a sense part of Brooke's Sulu policy as well as part of his Brunei policy.

Indeed Thomas Church, the Resident Councillor at Singapore, thought that Admiral Cochrane might go on to Sulu, 'if not to chastise, to caution the Sultan whose subjects have for years been extensively engaged in piracy....'¹¹¹ But the Admiral, like his predecessors, believed that large forces would be required. 'If the British Government deem it essential to suppress Piracy in the Eastern Archipelago', he wrote early in 1847, 'the Sulu Islands will become the first object of their attention and the Service will have to be conducted on a

scale and methodized in a manner not hitherto contemplated.¹¹² The Straits Government was, as in the 1830s, anxious for some action, however. In March in a letter sent by Wyndham's ship, the *Velocipede*, Governor Butterworth asked the Sultan of Sulu to assist in putting down piracy, as did the Temenggong of Johore and the Sultans of Pahang and Trengganu.¹¹³ The appearance of a Balanini fleet from the Sulu region in the neighbourhood of Singapore in April added to Butterworth's determination. 'Sulu is the nucleus of Piracy now', declared Brooke, then in Singapore, residing with the Governor; 'but till we have a Settlement at Labuan it is next to useless taking any steps for its suppression.'¹¹⁴ 'Sulu, the great nucleus and slave market, must be detached or crushed....'¹¹⁵ Governor Butterworth seemed to prefer the latter course. He wrote to the new Commander-in-Chief, Admiral Inglefield, about 'the greatest nest of Pirates in these seas, and where they are covertly upheld, if not openly countenanced by the Sultan, to whom it is understood a share of the booty reverts amounting to from 20 to 25% on all captures'. He had written to the Sultan, and he thought a friendly visit from the British fleet might have a beneficial effect; 'but sooner or later I am satisfied that Force must be used to put down this Piratical stronghold before we can ever hope to root out these enemies of all mankind from the Indian Archipelago....' Inglefield replied, however, that even a peaceful visit required substantial forces, and these he could not at that time collect: meanwhile information should be collected so that action could follow when forces were available. The Admiral, impressed with the deficiency of his strength, communicated with the Dutch, but their cooperation was refused.¹¹⁶

A blow was, however, struck at the Balanini fleet as it returned home up the north-west coast of Borneo. Late in May, as Brooke was leaving Brunei after the signature of the treaty with the Sultan, some praus were seen chasing a boat, and the *Nemesis* and the boats of the *Columbine* in turn gave chase to them. After about two hours' firing, the boats engaged. Several praus were taken, many pirates killed or wounded. A number were later executed by the Sultan of Brunei.¹¹⁷ Church hoped that 'the Home Government will authorize the Admiral to proceed to Sulu, destroy all their Boats, and make a Treaty with the Sultan for the suppression of Piracy and the Slave Trade'.¹¹⁸

The following March the Resident Councillor heard a rumour that the Sulus were 'about to attack the Sultan [of Brunei] for having put so many of their countrymen to death in May or June last'. He doubted it. In any case, he added,

the Pirates will have employment nearer home, the Governor-General of Manila it is said is about to proceed to Sulu with three steamers, Brigs, Schooners, Gunboats, and 500 Soldiers, in the hope of extinguishing piracy and the Slave Trade; it is not thought His Excellency will succeed; to accomplish these important objects requires much energy and a formidable force for months; the British is the only Nation to do the work effectually.¹¹⁹

This was the expedition that attacked Balanini, including Sipak. Learning of its results, Church thought that the British should 'not be backward to extend

their powerful aid and perfect the good work; it is quite necessary to make a treaty with the Sultan for the suppression of Piracy and the Slave Trade and at the same time to keep a Steamer in the vicinity for a considerable period....'¹²⁰ In fact the Dutch, who had refused to cooperate with the British, were the next power to act, but they acted ineffectively. The *Straits Times* regretted that they had not sent 'a force sufficiently strong to have annihilated the stronghold of piracy in the Eastern Seas....' 'A most injudicious measure', Church declared.¹²¹

These expeditions influenced the way Brooke went about his task as Commissioner. His policy was to mingle conciliation with force, and he could now commence with conciliation. Going along with this, Butterworth provided a letter, in which he acknowledged one from the Sultan expressing readiness to assist in suppressing piracy; disclaimed 'all participation in the late proceedings of other nations against Sulu'; and introduced Sir James Brooke as 'anxious to make my friend's acquaintance and to consolidate the good understanding subsisting between my friend and the British Nation....'¹²² In December 1848 Brooke visited Sulu. This was a visit primarily of reconnaissance, but Brooke put 'certain propositions on matters of business', and 'paved the way for opening up commerce, and for cultivating a better understanding with the natives'. He also visited Datu Daniel.¹²³

Brooke was prompted to take more definite steps by the rumours, that were current from late March 1849 and also worried Claveria, of a second Dutch expedition to Sulu. This seemed to be aimed at securing the sultanate's claims to north-east Borneo so as to forestall the British there.¹²⁴ The Singaporeans memorialized Palmerston, pointing out the probable damage to British trade and the denial of British claims under the Dalrymple grants.¹²⁵ A despatch from Brooke led the Foreign Secretary to instruct the ambassador in The Hague 'to say that the British Government cannot remain an indifferent spectator of these persevering endeavours of the Netherlands Government under pretence of conquests either real or nominal progressively to exclude British commerce from the native states....'¹²⁶ The Dutch government replied that it had no indication of a new expedition against Sulu; in any case its object would be to suppress piracy.¹²⁷ Brooke had meanwhile taken direct action.

'Some vigorous measures and a decided stern tone in our policy' were necessary, he declared.¹²⁸ The Dutch, it seemed, intended to subject the sultanate, or to force it to grant a large cession. He would have 'preferred a slower course', he explained to the Foreign Office. But he now decided that he must immediately proceed to Sulu, and try to 'conclude a Treaty, which may have the effect of preventing the seizure of Sulu territory, and the consequent result of the virtual exclusion of British commerce from that sea....' The Dutch, Brooke thought, would seek to acquire the east coast of Borneo, and this would damage British trade and be inconvenient to the new colony at Labuan. The readiest means of obstructing the Dutch would be to use Britain's claim under the Dalrymple treaty; it 'might be asserted solely for the purpose of preventing the acquisition of a valuable territory by a power far

from favourable to freedom of commerce and apparently bent on excluding the British from the Eastern Archipelago'. Spain, Brooke added, was opposed to a Dutch settlement in the Sulu seas or on the east coast of Borneo. He would call at Zamboanga, and confer with the Governor there so as 'to prevent any jealousy arising on their part, and to afford time for the transmission of any remonstrance which the Government of the Philippines may be inclined to make against the proceedings of the Netherland Government in the Sulu Sea'. Spanish policy, Brooke suggested, was 'strictly conservative, neither liberal or enlightened, but indisposed to any further territorial extension, or to any jealous exclusion of Foreign powers from the portions of the countries not under their rule'. The policy was unlike that of the Dutch, who were aggressive towards native powers, with the sole purpose of keeping other Europeans out.¹²⁹

Late in May Brooke concluded a treaty with the Sultan and datus. This provided for peace and friendship, for most-favoured-nation treatment of trade, for cooperation against piracy. It also contained a clause like article 10 of the Brunei treaty: under article 7, the Sultan promised 'to make no cession of territory within his dominions to any other nation, nor to subjects or citizens thereof, nor to acknowledge vassalage or feudality to any other power without the consent of Her Britannic Majesty'. Ratification was to follow within two years.¹³⁰ Brooke reported that he had been 'received with great cordiality and the Sultan and Datus [had] at once entered into my view of the question and expressed their warm appreciation of the 7th Article of the Treaty which preserves the independence of their country and precludes the alienation of their territory....'¹³¹ This was indeed a good line to take with the Sulus: the pressure from other powers only made it more apt. Moreover that pressure—perhaps, particularly, Dutch expansion—seems to have interfered with their connexion with Borneo.¹³² The Sultan told the British 'that, some short time back, the eastern coasts of Borneo paid tribute to him, but that lately they had ceased, and asked the assistance of the English to endeavour to obtain the renewal of that ancient custom....' The Sulus 'were eager to know when it was our intention to take possession' of the Dalrymple cession.¹³³

At Zamboanga, however, Governor Figueroa protested against article 7, though agreeing with Brooke 'that the interest both of England and Spain would be injured in any Dutch encroachment on the Sulu territory....' Figueroa claimed that Sulu had been under Spanish protection for many years: article 7 was objectionable, in reference not to north Borneo, but to Sulu and its immediate dependencies. Brooke told Palmerston that 'the Sulu territory and sea' were important

as a demarcation between England, Holland and Spain in the Archipelago,...and this line of demarcation can only be maintained whilst Sulu continues an independent state, and preserved from the unjust claims and yet more unjust spoliation of her powerful European neighbours on either hand.

It may fairly be presumed that the Netherland Government in weighing the obstacles likely to be opposed to the contemplated course of aggressive measures, has calculated

largely on the reluctance of England and the inability of Spain to frustrate their designs on Sulu, and for this reason the insertion of the 7th article of the treaty appeared the readiest and boldest means (in spite of the visionary rights of Spain) to prevent the seizure of Sulu territory, whether on the North East Coast of Borneo or in the Sulu Archipelago.

The establishment of the Dutch would injure British commerce, both immediately and in the long term.

Sandakan commands the North entrance of the Straits of Makasar and with Makasar itself, and Menado in Celebes, would render the important passage a Dutch possession. Cagayan Sulu in a lesser degree dominates the same strait, and commands the inner channel to the Philippines, and either position would control the native trade and exclude British commerce not only from the East Coast of Borneo, and the West Coast of Celebes, but likewise from the Sulu Sea and the numerous islands lying between Sulu and New Guinea, for Sulu must as a consequence fall into the hands either of Spain or of the Netherlands, for a weak native state could never preserve its independence amid the contentions of two European nations alike eager to seize on her possessions.

Article 7 avoided 'future discussion, by establishing the Sulu territory and sea, as open to the trade of all nations and as a space of demarcation between the three European governments immediately interested in the question'.

Brooke went on to discuss the Spanish claims. The treaty of 1836 showed the independence of Sulu. If Spain had any rights to Sulu itself, it must have the same right to all Sulu's possessions. In fact the treaty sought to exclude from Spanish protection the possessions in north-eastern Borneo, ceded to Britain in 1763, though to include Balambangan, also ceded. In any case Spain had not afforded the promised protection. Britain, moreover, was not asserting an exclusive right under Brooke's treaty; it had become necessary in order to preserve 'the just interests of every other European nation, excepting only those which would close the Sulu Sea' and alienate Sulu's territories.¹³⁴

Like Dalrymple, Brooke argued for the independence of Sulu. This was welcome to the Sulus, but it would resolve the contentions among the European powers, too. Dalrymple had been anxious also to preserve northern Borneo from Spain and Sulu. Brooke was perhaps more anxious to preserve it from the Dutch, especially as Figueroa had laid no claim. Presumably it would remain open to British influence through the sultanate of Brunei or the sultanate of Sulu or both. Brooke did not intend to use the Dalrymple grant as the basis for annexation. He preferred his own Sulu treaty, indeed, as a means of resisting others' claims. Either it, he subsequently urged, or else Belcher's should be used to preserve northern Borneo from the Dutch.¹³⁵

'The Treaty should be ratified', Palmerston had already ordered, and the ratification was sent out in November.¹³⁶ The execution of these instructions was delayed partly by the lack of available ships, partly by Brooke's mission to Siam.¹³⁷ Then at the end of 1850, dogged by ill-health, but also by attacks from personal opponents and Parliamentary radicals, Brooke determined to go home. He left Spenser St John, his secretary, behind as his deputy, and

instructed him to proceed to Sulu with the ratification, to foster commerce with Sulu and the east coast of Borneo, and to collect information on the pirates at Tungku and at Tawi-Tawi.¹³⁸

Soon after—and while he was still in Singapore—Brooke heard of the despatch of a new expedition from Manila led by the new Governor/Captain-General Urbiztondo. The aim, no doubt, was to subject Sulu to Spain. Was this consistent with former British resistance to Spanish claims, with the recent treaty, 'with our dormant rights to the Northern and Eastern parts of Borneo'? It would injure British trade, and the friendly feelings of the Sulus 'would be an inducement to aid them if possible—at the same time our doing so would establish our influence throughout the Sulu kingdom....' Probably the Sultan would resist the Spaniards, and then retire to the mountains. Thus 'the contest will be sufficiently protracted to allow of any measures' which the Foreign Office deemed 'advisable'. He had told St John to act 'with great caution', and to avoid a collision with the Spanish force.¹³⁹

A few days later Brooke reported that Urbiztondo had declared war on Sulu. Apparently he was demanding certain captives alleged to have been taken by Sulu pirates. This was the ground also of the Dutch attack in 1848, and it was rumoured that the Dutch had urged Spain to seek this occasion to attack by threatening themselves to attack. Captives had been taken for years without a similar demand ensuing: 'there never has been less occasion to advance claims (next to impossible to be complied with) on a monarch always powerless, and who has recently evinced a sincere desire to discourage Piracy amongst his subjects and to aid in its suppression'. St John was to go to Sulu, to ratify the treaty if he could: if he could not, to remind the Captain-General of the earlier Dalrymple cessions. In a postscript of early February, however, Brooke added that he had just learned of a report Farren had made to the Foreign Office, and had recommended that St John's mission should be postponed till the outcome of 'this legitimate warfare' was known.¹⁴⁰

Foreign activities had in fact again impelled the Spaniards to act. Following the making of the Brooke treaty, the Captain-General had reported to Madrid that he thought the Netherlands would support Spain. The Dutch had not sent a second expedition to Sulu, disliked the British move into Borneo, would probably prefer not to see their possessions 'surrounded by those of so powerful a rival'. The Governor of Zamboanga had negotiated with the Sulus to have the Brooke treaty 'left without effect, without obtaining the least satisfaction....' Perhaps the only course was to send an expedition to occupy Jolo, 'our action being warranted by the piratical acts committed by several small boats of Bwal, Sulu....'¹⁴¹ The next step was in the event to strengthen the Spanish claim to north Borneo, weakened by Salazar's treaty and by the nature of Figueroa's protest too. Negotiations with Sulu over this were successful. In additional capitulations of 30 August 1850, the Sultan promised not to surrender any tributary territories without Spanish approval.¹⁴² Like Brooke, Farren was apparently unaware of this document. He was certainly disposed to accept Urbiztondo's statements later in the year more or less at

their face value.

In mid-December 1850 Farren reported that the Captain-General had left for the south, with a corvette frigate, a brig, three war steamers, some gunboats, and four companies of troops. Before he left he had told the Consul that his aims were not aggressive. He hoped to establish Spanish influence more effectively in Mindanao 'by peaceful means', and wished to see provinces and positions where it might be possible to open more ports to foreign trade. As for recent piracies on the coasts of Samar and Leyte,

he attached no serious character to them, but said he was desirous of dissipating by his appearance with an imposing force, any apprehensions they might cause of the revival of piracy; and, by the same means, repress any tendency to that revival....

I asked His Excellency distinctly if he had any serious object in regard to Sulu. He distinctly said no—and ridiculed the report in circulation; giving me to understand that he had no present intention of going there, though I rather think he may do so....¹⁴³

In fact, after destroying the stronghold at Tonquil, Urbiztondo went to Sulu. There, though the Captain-General hoisted a white flag, and the Sultan protested his desire to avoid hostility, the populace was excited, and some shots were fired from the Sulu forts. So Farren reported in a despatch to Palmerston,¹⁴⁴ which was presumably the despatch that deterred Brooke from ratification. The Sultan's own account, which arrived later, was different. According to him, the expedition arrested several Sulu boats at Zamboanga before coming to Sulu. On arrival the Spaniards requested Datu Muluk and others to go aboard, but they would not.¹⁴⁵

Whatever the background of the shooting, the Captain-General sent for reinforcements in order to punish the Sulus. If he failed, Farren now thought, Madrid would probably send a force sufficient to annihilate the pirates and establish the authority to which Spain pretended. Spain's pretensions were kept 'in a state of susceptibility' by the French and Dutch proceedings and by the rumoured Brooke treaty, and Urbiztondo might resolve to reduce the island to 'a Spanish dependency'. There were fewer pirates now to help Sulu; it was dependent on Palawan and other islands for rice: it could be blockaded and starved. But if Urbiztondo followed the Sulus into the hills, his troops might suffer.

If the Captain General should limit himself to the nominal submission of Sulu to the Sovereignty of Spain (as was in 1849 formally proposed and debated in public council in Sulu and unanimously rejected) and Sulu concede that desired object, it would be some advance to the slow course of peaceful improvements, and spare an effusion of blood and human suffering worthless as the people are—but if the Island be not occupied, their slave dealing propensities will be repressed but not controlled—while to render the Spanish Sovereignty there anything more than nominal and especially to reduce the Chiefs and their followers to social order and legal restraint, would involve the Government here in continued hostilities with them and in a very expensive and unprofitable undertaking...

To develop cultivation, colonists would have to be introduced and a large

force for their protection.

The consequences of this unexpected event, if Sulu submit to Spanish sovereignty, will be favourable to the repression of piracy and slavery, be a blow to Mohamedanism which is spread over the Archipelago of Borneo and Mindanao and intimidate the barbarous spirit of those parts for the prestige of the history and name of Sulu is still great in that region—but the resources of the Philippines will pay dearly for it, and it may divert the attention of the Government here from domestic improvements to which it was destined....

How would the British Government view the subjection of Sulu? Farren had made known in Manila his 'mere personal opinion' that it would not be uninterested in these events, as the Sulu Strait was a passage between Australia and China, Labuan was nearby, and Singapore 'the principal mart of the little trade that Sulu has....' But British interest, he had said, would arise from a desire for the suppression of piracy and slavery, and for the development of commerce. The Sulus, he had added, were 'notoriously a lawless, piratical, slave-dealing barbarous race', and the British Government might be glad to hear that the Spanish government was 'about to take decisive measures for destroying their pernicious influence, releasing the Spanish subjects who are held by them in slavery, and reducing them to habits and an example of submission industry and order'. Farren thought the Spaniards might also claim 'the extensive dominion or supremacy which the Sultans formerly possessed, but which as is notorious, they have long lost, and have now no right to the disposal of'.¹⁴⁶ This was, no doubt, a reference in particular to Sabah. Farren, it seems, was now disposed to favour the establishment of Spain in the Archipelago but not in north Borneo. But then he was uninformed about the Brooke treaty of 1849 and about the capitulations of 1850.

The reinforced expedition destroyed the fortifications and town of Jolo, but left no troops there. Prudently, Farren thought, the Captain-General had limited his operations to the town of Jolo, chastising it for the outrage it had committed.

The political fate of the Island will I suppose be determined at Madrid. If it should still be desired to submit Sulu to the protectorate of Spain, under the Government of the Philippines, the Sultan and Datus...may now be disposed to secure their material interests by sacrificing their political independence; beginning to understand that wherever they may settle on the coast, they can be domineered by the Government here....

The chastisement would produce a sensation throughout the area which might have been different if the Sulus had simply abandoned the town for the mountains. The affair, Farren noted, marked the second time the Spaniards had acted strongly against the pirates. Now continued surveillance was required.¹⁴⁷

In April, as Farren reported, a deputation arrived in Manila from the Sultan and datus, including a brother of the Sultan and a sheikh. Apparently, after the Spanish attack, the mountain tribes had fallen upon the Sulus, and so

had a group of Balanini. The Sultan and datus had therefore 'sent this deputation here offering to become subject to Spain, appealing to the treaty of 1836... by which Spain engages to defend them against local enemies, and throwing themselves on the protection of the Captain General'. The Captain-General promised to support the Sulus against native tribes, but enjoined their abandonment of piracy. They were sent back.

There is a strong desire here to render Sulu a Spanish dependency, and extreme prudence I think only restrained the Captain General from at once availing himself of this opportunity to do so. He will temporise with the occasion until he receives instructions from Madrid. At first there was a disposition to send some battalions to occupy Sulu, but it has been abandoned and the management of the relations left to the Governor of Zamboanga.

They are a worthless race and instead of making profitless sacrifices to support them now against the evil which their own lawlessness and treachery have brought on them, it is a question if it would not be wiser to leave them to be broken up by it....

Possibly this comment related, if only obliquely, to Brooke's as yet unratified treaty, of which Farren had heard from Butterworth on 3 May. Thinking, perhaps, that the Captain-General was as poorly informed about it as he was himself, he told Urbiztondo about it. He conceived 'that it might dispose His Excellency to adhere to his original determination of taking no decided measures on the political fate of Sulu, without instructions from Madrid; and thus, leave that question unembarrassed for any interference by H.M. Govt. if such should be its pleasure'. Urbiztondo

asked me if I had any official information of the treaty when it was made. I told him that the letter I had just received... was all that I knew of it, except by rumour. He then said—Sulu is known to Great Britain, France, and Holland, to have had, for centuries, relations and treaties of the most intimate nature with the Government of the Philippines, and that these possessions are much more closely connected with it, and the pretensions of Spain, in regard to it, more extensive, and complicated, than those of any other European State, which has colonies or interests in these seas—you are here the official representative of the British Government—I am the Captain General of these Possessions, and neither at Madrid, nor to you, nor to me, is the existence of such a treaty officially known....

Farren did not discuss the question, but thought that the conversation would strengthen Urbiztondo's 'original determination, and prevent his being materially drawn from it by the present submissive offer of the Sultan and datus. This was all I had in view....'¹⁴⁸ Palmerston approved Farren's reference to the Brooke treaty, and sent Farren a copy. The Foreign Secretary said he had instructed the Admiralty 'to suspend any steps in regard to the Treaty made with this Broken down Chief'.¹⁴⁹

Farren had believed that he was keeping the way open for British intervention. In fact Urbiztondo treated him with a want of candour that surpassed that Claveria had experienced at French hands. The Brooke treaty was known to him. Moreover, on 30 April, he had put his signature to a new treaty signed at Jolo on the 19th. In the Spanish version the Sultan and datus

sought the incorporation of 'the island of Jolo and its dependencies' with the Crown of Spain and made 'a new solemn declaration of adhesion and submission' to Spain, in virtue of old treaties, the treaty of 1836, the additions of 1850, and 'the recent conquest' (Article 1). The treaties with other powers were 'null and void' if they prejudiced 'the ancient and indisputable rights held by Spain over the entire Sulu Archipelago as part of the Philippine Islands' (Article 3). The Sulus undertook to cooperate against piracy (Article 4). No firearms were to be purchased or used without Spanish licence (Article 7). Spain undertook not to interfere with Islam (Article 9) and guaranteed the succession (Article 10). Under article 11 Sulu ships were to enjoy in Spanish ports the privileges and advantages granted to the natives of the Philippine Islands. Except in the case of Spanish ships, customs duties would still be paid to the Sultan and datus (Article 12). A Spanish trading post, garrisoned by Spanish forces, would be established at Daniel's *kuta* in accordance with the treaty of 1836 (Articles 13 and 14). Article 16 granted the Sultan and leading datus annuities in view of their losses and of the need to maintain their rank.¹⁵⁰

The Sulu version was much less definite. For instance, while in the Spanish text article 1 refers to 'incorporation', in the Sulu text it spoke of 'a firm agreement of union in friendship'. Apparently the interpreter was poorly versed in Sulu.¹⁵¹ Certainly the differences between the versions of the treaty could readily prove a source of misunderstanding in the future. The British, moreover, remained ill-informed about it. Farren was not told of it, and its terms, even for a time its existence, were uncertain, though Urbiztondo was careful to tell Butterworth of his success.¹⁵²

Later Spanish criticism of the treaty suggested that it was premature: if its purpose was to revindicate Spanish control, it needed to be enforced.¹⁵³ In fact early in 1852 Farren reported that a military force was to be established in Sulu. He again referred to the expense. 'It is true that the authority of the Government in Mindanao and in Sulu is very nominal, but it is not indispensable at present that it should be otherwise, and an attempt to extend it here by force, will cause an unproductive expenditure of treasure, and unproductive employment of men....'¹⁵⁴ Farren was arguing that Spain could not afford much that was effective. Was he implying that Britain should accept this ineffective authority and not insist on more? or was he indicating that Spain would not in practice go very far in establishing its authority and so damaging British interests? At all events, as after 1836, so again no occupation ensued. Whatever the reason for this, it did not clarify the relationship between Spain and Sulu. On the other hand the British recognized that the expedition had upset Brooke's scheme. That indeed Brooke saw as its purpose.

His view was echoed by his associates. Captain Keppel lamented late in 1848 the Spaniards' destruction of the Sultan's stockade.

The Sultan, under the influence and counsel of the Raja of Sarawak, had become opposed to piracy, and anxious for its suppression. His fortified position gave him

weight, which he had frequently thrown into the scale of humanity: and it must now be feared that many, whom he was able to hold in check, will again follow their evil propensities unrestrained, as they did under previous dynasties. The resentment of Spain as visited on the Sultan of Sulu, seems equally impolitic and unjust. The pretext was piracy, of which some solitary instance may very possibly have been established against a Sulu prau: but the Sultan was certainly sincere in his wish to cooperate against that system. There is ground to fear that natural jealousy was desirous of striking its puny blow at an European rival, through the degradation of the Sultan of Sulu,—that he has incurred in fact, the resentment of the Spanish colonial governors, by those commercial treaties with ourselves which were but lately concluded by Sir James Brooke....¹⁵⁵

Spenser St John later wrote that the Sultan, 'under British surveillance, judiciously exercised, might have greatly improved the condition of his territories and restrained those of his subjects who were inclined to fit out piratical squadrons....' But the Spanish attack destroyed his authority and encouraged piracy. It was justified by a desire to stop the sale of Spanish subjects at the Sulu slave market. But acting so soon after Brooke's treaty allowed a wrong construction to be put on the attack. Sir James's policy was better, St John thought: 'to keep a kind of surveillance over the Sulu Government, to encourage the Sultan in his efforts to check piracy, and to attack the most notorious haunts of the marauders....'¹⁵⁶ Such a policy was in fact impossible for the Spaniards. Their weakness, and the intervention of others, led them to convulsive acts of violence. These were unlikely to lead to effective control unless followed by occupation. With British backing Brooke might have been better able to mingle conciliation and force, though his attempts in Brunei had not succeeded. But the intervention of Spain prevented him.

St John, it is true, still hoped for ratification of the treaty of 1849. Sir James, he told Admiral Austen in March 1851, had suggested postponement till the outcome of the Spanish hostilities was known. But the treaty required ratification within two years, and St John thought that the British should appear at Sulu, even if prevented from actual ratification by a Spanish blockade. That way the treaty might still be preserved, and with it Sulu's independence. No doubt Sir James thought hostilities would not last beyond May, and 'he wished my visit to be postponed until the last legal moment, to prevent as far as possible any discussion with the Spanish Authorities....' The Senior Naval Officer in the Straits decided against conveying St John to Sulu on H.C.S. *Pluto*, 'as it appeared to him that the ratification of the Treaty would give offence to the Spanish Government'. The Admiral's reply, however, indicated that he had intended St John to go to Sulu on the *Pluto*. St John regretted the S.N.O.'s decision. But the delay, he wrote in June, would not matter, 'as the Spanish forces have failed in subduing the island, and as the Sultan will be anxious to secure the Ratification'. But his despatch to Palmerston in July was more worried in tone. The delays were regrettable, 'particularly as I consider that our having appeared at Sulu to ratify the

Treaty, could have given no just cause of offence to the Spanish Authorities, and as from information I have privately received, I fear that the Spaniards have compelled the ruler of Sulu to sign a Treaty, by which their country is in future to be considered as part of the Philippines....' One of the Spaniards' objects was to punish the Sulus for making the Brooke treaty. Their annexation of Sulu would injure British prestige. It would also damage British interests by closing to British commerce the Sulu archipelago, 'and the coast of Borneo to within 70 or 80 miles North of Labuan....'¹⁵⁷ At the Foreign Office Palmerston asked what the Spanish claim to Sulu was, and what 'their actual state of Possession'. One clerk thought that Spanish claims were founded on recent successes. Another uncovered Claveria's statement to Farren of December 1848 that Spain saw itself as 'protectress' to the Sulu archipelago. 'This matter may rest as it stands till we hear further', Palmerston decided.¹⁵⁸

Meanwhile St John had again written to the Foreign Office, uncovering more definite information about the treaty. He enclosed parts of a despatch from the Captain-General to the Acting Spanish Consul in Singapore, privately shown to him. The people of Sulu, it declared, had asked that Sulu and its dependencies should become part of the Philippines. Doubtless they would be subjected to Spanish laws and Spanish tariffs. If the islands alone were affected, St John commented, the injury to British commerce would be great enough, but the dependencies of Sulu extended to northern Borneo between Kimanis and Cape Kaniungan. Much of this territory was ceded to Britain in 1763, St John added. 'I am not aware, whether our having neglected this claim, since our last occupation of Balambangan in 1803, will affect the validity of this grant, but as the Sultan of Sulu as late as 1849, considered our old Treaty as binding, this ancient right of ours may I imagine be still asserted.' If Spain extended its power to Kimanis, the object of acquiring Labuan would be defeated.¹⁵⁹ St John clearly thought at this point that it might be necessary, despite Brooke's treaty, to fall back on the earlier cessions. But in October he felt that all Sulu was not lost. He enclosed a letter from Sultan Muhammad Pulalun, indicating that he had not hoisted the Spanish flag. The Brooke treaty could, he thought, be ratified. 'The assertion...that the Sultan had ceded his dominions to the Spaniards is very premature', St John told Palmerston in a letter that reached London in December.¹⁶⁰

Brooke himself had received the Sultan's letter in London in November and had at once written to Palmerston. Clearly 'the claim of the Spaniards on Sulu rests on no better ground than during the last century, when it was disallowed by the British Government', he declared, rather inaccurately. His treaty was designed to maintain 'a commerce, free to all nations, in the Sulu Sea'. The object of Spain was to eliminate the treaty made by Britain 'with its oldest ally in the Archipelago', and this would limit or extinguish British commerce.¹⁶¹ Palmerston had a copy of Brooke's treaty sent to Lord Howden in Madrid.¹⁶² The Spaniards treated it as a mere project, as it had not been ratified; but, even if it were otherwise, surely Britain should have replied to the Zamboanga protest before communicating it? The Spanish government had assumed that

Britain had decided not to take up Brooke's project; but now it was necessary to state

that Spain has always considered the Archipelago of Sulu as an integral part of the Archipelago of the Philippines, that this opinion which is as old as the discovery and conquest of the aforesaid Islands by the Spaniards, has been, since very ancient times and at different epochs, confirmed and ratified by the submission of the Sultans, and by a multitude of acts of Allegiance, on the part of the same, to the Kings of Spain; and, finally that Her Majesty's Government has maintained this right of Sovereignty over the Suluan Archipelago, whenever they have considered it necessary, as was the case in the year 1845, when the French took possession of the Island of Basilan....

Urbiztondo's aim had been to suppress piracy. But for the Sulus' ill-advised resistance, they would not have been punished for rebellion. The Sultan had now 'spontaneously confirmed...his dependence' by sending commissioners to Manila and asking that his title be revalidated, and that he and the datus receive salaries from the Spanish government.¹⁶³

Just before this reply reached London, St John's despatch of October arrived. On it Palmerston wrote: 'There seems to be no reason why the Ratification of that Treaty [of 1849] should not now be exchanged; but Did Mr Farren report that a Treaty of Cession to Spain had been signed by the Sultan of Sulu [?]'.¹⁶⁴ At the Foreign Office R.C. Mellish found that contradictory orders had been given. Following Farren's despatches, dealt with in the consular department, Palmerston had ordered suspension of any steps in regard to the Brooke treaty. But these despatches, and the order, had not been communicated to Mellish's department, which dealt with Brooke's correspondence. Palmerston's minute on St John's despatch had led Mellish to make enquiries, and as a result he had for the first time heard of the Farren despatches and the orders that had resulted. On the same day the Spanish comments arrived. What was to be done?¹⁶⁵ Lord Granville, the new Foreign Secretary, proposed not to exchange the ratifications. But Brooke's opinion was sought.¹⁶⁶

In reply Brooke showed, Dalrymple-like, that Spain had not possessed Sulu at the time of the treaty of Münster; that Britain had occupied Balambangan despite Spain's protests; that *de facto* Sulu had been independent since and 'exercised the rights of sovereignty both internally and externally'; that the treaty of 1837 [1836] indicated that Sulu was independent. The U.S. had made a treaty; so had Britain in 1849. Only the Sultan could object to its delayed ratification: and he did not do so. 'The independence of Sulu is asserted by the Sultan and people, and as no Spanish troops are on the island, and as Spain exercises no acts of sovereignty there, this independence must, I conceive, be held to be as complete as it was previously to the attack.' The aggression of Spain was prompted by the British

attempt to preserve the freedom of trade through the native states....

...If we permit the exclusive and burdensome system of Spain to be established over the Sulu dominions, we shall close a fertile region to our trade, which may be increased by a systematic course of action. The weakness and supineness of the Spanish

government of Manila offers no hope of an amelioration of the condition of the natives or the correction of their lawless habits, nor can any efficient measures be looked for against the Pirate communities.

It is the weakness of the native governments that gives rise to Piracy—Piracy suppressed boldly and fearlessly, the native governments could be supported and improved—trade would be free and wherever secure would largely increase....

I consider that there are two courses open to the government—the independence of Sulu—the ratification of the treaty—the maintenance of Labuan—the increase of trade from that place and the determined and systematic suppression of Piracy on the one hand; or, on the other, the sacrifice of Sulu—the abandonment of Labuan and the discontinuance of our efforts to eradicate Piracy....

It is more important still, in my opinion, that we should never compromise our position and our power in native estimation; and I believe our recession would have that effect—in these countries, as in India, not to advance is to retrograde....¹⁶⁷

Soon after information also arrived from the India Board, to which the Foreign Office had referred after the arrival of St John's earlier despatches. The Board could not find the treaty of 1763, and was asked to refer to India: the Dutch had been told that there was no present intention to settle on the mainland; but the treaty might help to deflect a Spanish claim. The Bombay government discovered and forwarded the Bantilan treaty of 1761, the 'sale' of 1764, the friendship treaty of the same year, and Trotter's grant.¹⁶⁸ Delayed despatches from Butterworth were also sent to the Foreign Office in February 1852.¹⁶⁹ In June he had reported the deputation to Manila and the conclusion of a treaty, placing Sulu under Spain, salarizing the Sultan and datus, and permitting the establishment of a Spanish garrison.¹⁷⁰ Later he received a letter like the one Brooke received. The Spanish Consul confirmed the existence of a treaty, and so he had not replied. But the Sultan was apparently a fugitive in the mountains, and he might repudiate the acts of his ministers and datus.¹⁷¹

Granville had delayed acting till the result of the reference to India was known. After it came, Malmesbury took over. 'It now remains to be decided', Mellish wrote in April, 'whether the Treaty with Sulu is to be proceeded with....'¹⁷² The result was a despatch to Madrid denying that the Sulu archipelago was part of the Spanish possessions. Treaties had been made with the Sultan in the 1760s and some cessions occupied subsequently: 'there never has been any Question during these proceedings of an alleged Right of Sovereignty on the part of Spain, which had not immediately been disallowed'. The Sultan denied his submission. There were treaties in 1837, 1842, 1845. Britain now intended to ratify that of 1849.¹⁷³

In Madrid the Foreign Under-Secretary, Antonio Rique, wrote to Howden. Why did Britain oppose Spain? Britain could establish itself in Borneo, and Spain did not close the ports of Sulu. Treaties had been made at Sulu, Britain alleged. 'I ask you, my friend, to consider what validity can Treaties have which have been made without the knowledge of Spain, and which relate to a part where, because it lies at the southernmost extremity of the Philippine Archipelago, she has not been able to extend her colonization nor her

vigilance' until the advent of steamers. The French had given up Basilan: 'consider what pain I should feel to see a comparison drawn between the conduct of the two Governments....' Howden took up the point. 'France, on a somewhat analogous question to ours, made the concession *at once* which was required by Spain, and in whatever Spain is determined, or inclined to do now, she will without any doubt act through the instigation of France....' Was it 'really worth while to push this point....?' 'This question is to sleep', Malmesbury wrote.¹⁷⁴

France had backed down. Britain felt it wise, if not to do the same, certainly not to persist. The old argument of the 1760s and 1770s—though it was no longer a matter of the Family Compact—now undermined the chance of ratifying Brooke's treaty. That document he had seen largely in a Dutch context. But in the light both of Spanish opposition, and of European political considerations, there was little chance of preserving Sulu's independence; and it seemed that the only prospect for the archipelago was Spanish dominance. In some sense this was not in itself undesirable, especially in view of Rique's assurance over Sulu commerce. Moreover it would keep the Dutch out: their second expedition had finally been dropped because Spain had protested and seemed to be acting against the pirates.¹⁷⁵ It would also help to keep north Borneo free of the Dutch. Spain, it is true, had strengthened its claims there. But here again Rique was reassuring. Moreover, according to a report of Admiral Austen in connexion with action against pirates in north Borneo, the Captain-General had told the Spanish Consul in Singapore that the Spanish government 'wholly disclaim any intention of holding this territory, or any other in that neighbourhood, except the islands....'¹⁷⁶ Britain was inactive, Malmesbury somnolent, not only because of Spanish protests, European politics; not only because of ignorance of the terms of the 1850 capitulations and the 1851 treaty. No power seemed to be damaging Britain's interests in Sulu or Borneo. The British Government's involvement in the Indonesian Archipelago was declining anyway, and it broke with Brooke in 1853. The appointment of the commission of enquiry that year meant that expansion was at an end in the Borneo region.

Much of British policy—in Dalrymple's time, in Brooke's—had been conceived with the Dutch in mind more than the Spaniards. But the action of both the British and the Dutch, and of the French and Americans, had the effect of spurring the Spaniards on. It is doubtful if they could ever have succeeded in bringing the sultanate under their protection, working through it and reforming it; but the convulsive attacks upon Sulu, launched by them in their apprehension of others, made it still more unlikely that they could pursue a policy that at times they had had in mind and that resembled the policy Brooke hoped to implement. Indeed such attacks were likely to provoke hostility and require repetition. But immediately they did ward off other powers, and make the prospect of a 'neutral' Sulu, envisaged by Dalrymple and by Brooke, doubtful of realization, either by negotiation or otherwise.

There remained the question of the Borneon tributary regions. The

activities of the British and, perhaps, of the Dutch prompted the Spaniards to extend their claims thither. But even those, like Farren, who were not indisposed to accept Spanish rule in Sulu, were unwilling to accept it in northern Borneo; and those opposed to Spanish rule anywhere were likely to retreat on northern Borneo if defeated in Sulu itself.

For the time being Spain's action in Sulu was limited, and in northern Borneo nil. Thus the damage done by Brooke's action was not at once apparent. But perhaps his precipitateness had done some. It had forced action on Spain; it had produced the additional capitulations of 1850 and the treaty of 1851; and it had put the British in the position of not ratifying the treaty they had made. No doubt the chances for preserving an independent Sulu sultanate were never great. The question was the role Britain would have in deciding its fate: that would affect Sulu itself and its Borneo dependencies. British interest in Sulu had a long history, but Spanish claims were never dislodged. Britain had not abandoned Sulu's independence, but had not upheld it. The way, perhaps, pointed to compromise between the colonial powers. This was unlikely to be very favourable to the sultanate itself. But if a territorial division was part of it, northern Borneo might be treated differently from the islands: it had indeed already been treated differently both by Spain and by Britain.

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131. Brooke to Palmerston, 21 June 1849, F.O. 12/7.
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133. St John, *Life in the Forests of the Far East*, II, 201, 232.
134. As footnote 131, with enclosures.
135. Brooke to Palmerston, 3 October 1849, F.O. 12/7.
136. Palmerston to Brooke, 10 November 1849, F.O. 12/7.
137. Memorandum by Mellish, 15 January 1852, F.O. 71/1. See also N. Tarling, 'Siam and Sir James Brooke', *Journal of the Siam Society*, XLVIII, 2 (November 1960), 48 ff.
138. Brooke to Palmerston, 1 December 1850, F.O. 12/8; to St John, 17 January 1851, F.O. 12/9.
139. Brooke to Palmerston, 24 January 1851, F.O. 12/9.
140. Brooke to Palmerston, 27 January/3 February 1851, confidential, F.O. 12/9.
141. Saleeby, pp. 229-31.
142. De Sturler, pp. 141-3. Copy in F.O. 71/4.
143. Farren to Palmerston, 12 December 1850, No. 45, F.O. 72/772.
144. Farren to Palmerston, 17 January 1851, No. 2, F.O. 72/795; also in Foreign Office to Colonial Office, 26 April, C.O. 144/8 (3646); Board's Collections 135271, p. 5.
145. Sultan to Brooke, 2 February 1851, F.O. 71/1; to Butterworth, n.d., Board's Collections 140594, p. 10.
146. Farren to Palmerston, 17 January 1851, No. 3, F.O. 72/795; also in Foreign Office to Colonial Office, 15 May, C.O. 144/8 (4172).
147. Farren to Palmerston, 16 March 1851, No. 10, F.O. 72/795; also in Foreign Office to Colonial Office, 12 August, C.O. 144/8 (6928).
148. Farren to Palmerston, 4 May 1851, No. 22, F.O. 71/1.
149. Minute, 23 July 1851, F.O. 71/1. Palmerston to Farren, 29 July 1851, No. 7, F.O. 72/795.
150. Saleeby, pp. 107-9. For the treaty in Spanish see Montero, II, App., 52-57; and P. de la Escosura, *Memoria sobre Filipinas y Jolo*, Madrid, 1882, pp. 377-84.
151. Saleeby, pp. 110-11, 107.
152. Urbizondo to Butterworth, 15 March 1851, Board's Collections 135371, p. 10.
153. Escosura, pp. 223-8; Montero, II, 450-5.
154. Farren to Palmerston, 3 January 1852, No. 1, F.O. 71/1.
155. Keppel, *Maeander*, I, 58.
156. St John, *Life in the Forests of the Far East*, I, 12-13; II, 213.
157. St John to Austen, 31 March, 22 June 1851; to Palmerston, 12 July 1851; Austen to St John, 30 April 1851, F.O. 71/1.
158. Minutes, 19, 24, 30 September, 1 October 1851, F.O. 71/1.
159. St John to Palmerston, 18 July 1851, and enclosure, F.O. 71/1.
160. St John to Palmerston, 14 October 1851, No. 13, and enclosures, F.O. 71/1.
161. Brooke to Palmerston, 26 November 1851, F.O. 71/1.
162. Minute by Palmerston, 29 November 1851, F.O. 71/1.
163. Miraflores to Howden, 21 December 1851, F.O. 71/1.
164. Minute by Palmerston, 22 December 1851, F.O. 71/1.
165. Memorandum, 15 January 1852, F.O. 71/1.
166. Addington to Brooke, 19 January 1852, F.O. 71/1.

167. Brooke to Addington, 26 January 1852, F.O. 71/1.
168. Foreign Office to India Board, 25 October, 18 November 1851, F.O. 12/10. India Board to Granville, 11 February 1852, with enclosures; Memorandum by Mellish, 23 April 1852, F.O. 71/1.
169. India Board to Granville, 26 February 1852, F.O. 71/1.
170. Butterworth to Halliday, 28 June 1851, Board's Collections 135372, p. 3; 140594, p. 3; F.O. 71/1.
171. Butterworth to Halliday, 18 October 1851, and enclosures, Board's Collections 140594, p. 7, F.O. 71/1.
172. Memorandum, 23 April 1852, F.O. 71/1.
173. Malmesbury to Howden, 11 May 1852, No. 26, F.O. 71/1.
174. Howden to Malmesbury, 15 June 1852, private, enclosure, and note thereon, 26 August, F.O. 71/1.
175. De Sturler, pp. 138-9.
176. Austen to Admiralty, 16 March 1852, *Parliamentary Papers, House of Commons*, 1852-3, LXI (55), p. 6.



3 Sultan Muhammad Pulalun



4 A.H. Layard

3

THE 1877 PROTOCOL

The Aftermath of 1851

URBIZONDO'S expedition had more or less secured the submission of the Sulus, but the treaty of 1851 was not followed by the garrisoning of the capital or by continuous pressure upon the Sultan. It succeeded in deterring the foreign intervention that had built up in the late 1830s and 1840s. It did not succeed in checking piracy, and raids and counter-raids were quickly renewed.¹ In this period the Spaniards intensified their control in the Visayas, and the opening of Iloilo to foreign commerce helped to promote economic development, substantially initiated by foreigners like Nicholas Loney with their enterprise and their ability to offer credit.² But though Zamboanga was also opened, the Spanish position in the south remained uncertain, and pirates continued to attack the northern and central islands. The appearance of Spanish steamers in the Visayas and the British proceedings in the archipelago no doubt put some check upon them. But the Spanish attack on Jolo and on the various strongholds may, on the other hand, have tended rather to disperse than to destroy them, to weaken what control the Sultan had exercised, to make piracy more petty but still pervasive.

The officials at Zamboanga seem to have treated Sulu trade as foreign, despite article 11 of the treaty of 1851, presumably because Sulu was not under effective Spanish control, and other clauses in that treaty were not being enforced. "This at once restricted the small but free trade that had hitherto existed between Zamboanga, Samales, and Sulu, and drove the Sulu trade to other than Spanish ports. It also invited foreign trading expeditions, now made quite safe owing to the extinction of piracy...."³ So wrote a Spanish commentator in 1871. Undoubtedly Sulu's trade was already shifting away from its earlier orientation to Manila and China. The opening of Labuan had helped to conduct it to Singapore, as Farren had noted in 1851. This trend increased during the following decade. Another Spanish observer was to find in 1862 that tribute goods from northern Borneo now went more to Labuan and Singapore than to Sulu.⁴ The redirection of Sulu's trade was no doubt in

itself a disappointment to the Spaniards. Not only did Zamboanga not develop: goods were smuggled into the Philippines. Their concern was increased by the existence of the trade in arms which they had sought to suppress, but which developed in the 1850s.⁵ The redirection in part reflected a shift in the nature of Sulu's imports and exports: in the 1860s and 1870s gutta percha, obtained from Mindanao and Palawan, became more important than tripang and other goods for the China market.⁶ But the political means by which Spain sought to check the development had perhaps already helped to enhance it. Not only attacks on the pirates, but also the treatment of Jolo's commerce and the poor relations with the Sultan, served to promote the Sulus' connexion with Labuan and Singapore and make it more arms-oriented. Would primarily commercial contacts with the British be followed up by a renewal of political contacts with them? Such might only lead to new measures on the part of Spain. Only if they were comprehensive could such measures in turn succeed: and even then the British would have to be ready to accept some compromise, political, commercial, perhaps territorial.

Following the British Government's break with Sir James Brooke, the British navy had almost ceased to act against the Borneo pirates. The local authorities were apprehensive that commerce would be obstructed, even that Labuan would be attacked. The 1852 attack on Tungku—a well-known piratical community on the eastern shore of Borneo, where the pirates who were driven from Marudu and other places by Sir Thomas Cochrane in 1845 and 1846 took refuge—had been somewhat indecisive.⁷ Brooke told the Colonial Office that the pirates intended to retaliate and make Labuan a second Balambangan.⁸ But no naval action ensued. In 1855 the fears of an attack on Labuan were renewed. Information was received from the Brunei rajas that some Sulu praus were at Mengkabong. The Commander-in-Chief duly sent H.C.S. *Auckland* to visit Labuan, and it also visited the coast up to Marudu, calling at Mengkabong and Tempasuk. The Sulu boats, it turned out, were conveying letters, asking that British protection should replace Spanish; but the cruise of the *Auckland*, wrote Hugh Low, acting Governor, would undoubtedly help to clear pirates from the shore of north Borneo, though it would hardly protect trade from 'the very piratical communities of the east coast of Borneo and the islands of the Sulu Sea'.⁹ If Labuan's commerce was impeded by piracy, however, it seems to have been encouraged by Sulu's difficulties with Spain. In 1856 native trading boats from Sulu and the north-east coast came to Labuan, as a later Governor stated, 'for the first time'.¹⁰ Sulu seemed to be seeking both a commercial and a political connexion with Britain.

This was confirmed by a report written in Singapore in 1858 by Lieut. C. C. de Crespigny, who had been granted leave from the Navy for the purpose of exploration in the region. He stressed the commercial opportunities in northern Borneo and Sulu and wanted Singapore vessels to visit them.

The Chiefs of Marudu Bay, of Labuk Bay, and the Bugis merchants of the Kinabatangan river, and other rivers to the Southwest of it, would be very glad to see

English vessels come to trade with them.

The forests of Sulu produce quantities of fine teak trees, and the Sultan of that place is anxious to see vessels in his ports. In consequence of my representations one merchant of this place has lately sent a vessel to Sulu, others will doubtless follow. Another Merchant is about to send a Schooner to work the mother of Pearl banks. The great objection which merchants have to risking their money in enterprises to the Sulu Sea, is that they fear the pirates, who, in consequence of the cessation of the visits of men of war to those Seas, are now as fearless, and as audacious as ever....¹¹

Crespigny also reported that the Sultan of Sulu had asked him for a copy of the Brooke treaty, which he had lost.¹² The idea that Crespigny might deliver it had already been put to the Foreign Office by John Crawford, acting as London agent for the Singapore merchants.¹³ J. B. Bergne, a legal adviser at the Office, did not think that the request could be complied with. The ratification of the Brooke treaty had been delayed, and then put off by the Spanish expedition. Spain claimed Sulu as an ancient dependency; but the Company records, the U.S. and French treaties, militated against its claim; while the Sultan 'denied that he concluded any Treaty with Spain after the destruction of his Town'. The Foreign Office had reported to Malmesbury in 1852; 'but nothing further appears to have been done on the subject either then or since.... it would surely be very inexpedient to revive the discussion with the Spanish Govt. in such an incidental sort of way as sending the Sultan by a mere traveller a duplicate of a Treaty against which they protest, and respecting which we have done nothing for several years.'¹⁴

The Sultan also sent letters to the Foreign Secretary, to the Commander-in-Chief, and to Raja Brooke, complaining of Spanish conduct. These may have been inspired by Crespigny, though, of course, the Sultan had written to the British authorities back in 1855 as well. They referred to the agreements with Raffles and Brooke. In September 1857, they declared, Spanish ships had come to Sulu and captured nine praus; they also seized various boats in other parts of the archipelago. The Sultan had declined to go on board the Spanish vessels, and the Spaniards made war. Subsequently peace was concluded. The Spaniards promised to recognize any treaty with the English, and to give the Sultan \$3400 p.a. But, declared the Sultan, they had broken this agreement, refused to have anything to do with him, and blockaded Sulu.¹⁵ No official reply was sent to the Sultan.¹⁶ But the failure to reply to his letters, as to his request for a copy of the Brooke treaty, did not mean that Britain had finally abandoned the independence of Sulu. Its inaction, as over the treaty itself, had further weakened its ability to support that independence. But such inaction might not continue if the commercial opportunities that were opening up were, despite Rique's reassurance, foreclosed by the Spaniards.

No doubt the Spaniards were concerned, as were some of the British, over continued piratical activity. In 1858 one naval commander stated that 'small fleets of Balanini and Ilanun pirates have scoured the north-west coast of Borneo for the last three years, emboldened by the absence of Her Majesty's Ships of War. This year they were intercepted by British war steamers, who

captured some of their boats, and drove off the others....¹⁷ The Philippines were also still affected. Back in 1854 Farren had reported:

Piracy still exists and large numbers are still carried I believe from these coasts into slavery—but piracy is now carried on in small bodies of light boats, and directed against the coasts and small craft of contiguous parts of these possessions, and no longer appears, as formerly, in combined operations of larger fleets of praus, openly scouring the coasts and attacking coasting and even foreign vessels as well as other craft, and openly making Sulu the chief mart for the disposal of their booty....¹⁸

The pirates, however, came annually, as Loney reported from Iloilo in 1861, particularly from Tawi-Tawi, 'reaching Panay and Negros about May, and continuing their depredations until the change of the monsoon enables them to return, about October and November'. A considerable number of captives was taken from the Visayan coasts, 'and after the occurrence of captures of trading boats in this vicinity, communication by small craft is suspended for a week or two, the natives, who are not allowed to possess firearms, being unwilling to expose themselves to the chance of being carried off....'¹⁹

In a sense, therefore, the British and the Spaniards had a common interest in suppressing piracy. But the British were primarily concerned to expand their commerce, while the Spaniards, wishing to do the same for themselves, wished even more to guarantee the inclusion of Sulu in their empire. This they had never been able to do by a policy of mingled force and conciliation—by simultaneously overwhelming and supporting the sultanate, as advocated by Brooke—nor by occupation: their strength had been insufficient. The continued, even expanding contacts between Sulu and the foreigners alarmed them. Their control in Mindanao increased.²⁰ But measures on the western side of the Archipelago were also necessary. Such measures ran the risk of provoking British opposition. The British would be concerned if British trade in the archipelago was interfered with. They would be even more concerned if the Spaniards interfered in northern Borneo. Over this, as over commercial opportunity in Sulu itself, Rique had given assurances. But Britain's ties with it were closer than with Sulu itself. Whether or not Spain moved in on northern Borneo might depend on the extent of the opposition it would face as well as on the resources at its disposal.

Early in 1857 Farren had reported that a Catholic mission was to be set up at Labuan under Rev. Carlos Cuarteron, previously a shipowner and shipmaster in the region.²¹ Spenser St John, now Consul-General in Borneo, reported early the following year that Cuarteron had established himself at Gaya Bay, 'and does not conceal his intention of fortifying his village, collecting all the captive Manila men now scattered in the country, defying the local authorities, and gradually making it the commercial depot of the coast....' The Spaniards were also allegedly sending out a major expedition which would conclude with the occupation of Balabac, which was either the Sultan of Brunei's or, if the Sulu claim were allowed, part of the Dalrymple cession. St John recited the recent history of British relations with Sulu. Spain had punished the Sultan; he declared he had not submitted. Now Spain was

determined to extend its territory even to north Borneo.²² Soon after, Cuarteron told St John that the Captain-General would attempt to conquer the Sulu archipelago and occupy Balabac.²³ Later in 1858 the Consul-General reported that, as a result of Cuarteron's advice, the chief of Tempasuk was about to apply to the Spaniards now in Balabac for aid in driving out the Ilanuns whom Cochrane had attacked in the 1840s. The Spaniards, St John said, had occupied Balabac as a result of Cuarteron's advice; now they apparently wished to meddle with the mainland. They were, he thought, trying to purchase Gaya, which the chief could not properly sell without the consent of the Sultan of Brunei and, under the treaty of 1847, of Britain. The Spaniards should be checked in Borneo and required to leave Balabac.²⁴ St John also suggested a positive step: the British should set up a post-Mutiny convict station in the Gaya region, part of the territory ceded to Dalrymple. The convict settlement on the Andamans was, he thought, merely a temporary expedient. Brunei's rights could easily be purchased.²⁵ The India Office was not enthusiastic over this suggestion; but, at the Foreign Office's request, it was referred to India, together with a request for the treaties of cession which could not be found in London²⁶—the correspondence of 1852 was apparently ignored.

The Foreign Office had also taken some notice of St John's reports on Spanish activities. After receiving the first of them, it had asked the Spanish government for an explanation of its intentions in regard to the Borneo mainland. Comyn, the Under-Secretary for Foreign Affairs in Madrid, told Lord Howden, the British ambassador, that he had no news of a major expedition, 'and he believed that the Spanish Government were quite satisfied with the possessions Spain held in that quarter of the globe and had no desire to extend them'. He added, however, that the Manila government had full powers to act against pirates without reference to the government in Madrid, and it was just possible that it 'might be making preparations for some such petty warfare....' Possibly St John was misinformed of the destination of the Philippines troops; a substantial force was joining the French expedition against Vietnam.²⁷ This, indeed, the Spanish Government had agreed to send following a request from Walewski, Napoleon III's foreign minister, late in 1857.²⁸ The venture, St John argued, prevented the completion of the scheme of conquest in Borneo waters. Cuarteron maintained that Spain still intended to take the east coast of Borneo.²⁹ In fact the aim of the Captain-General, Norzagaray, had been Sulu. 'The occupation of the island of Balabac was only the commencement of a plan which was prepared for the future occupation if possible of the island of Sulu and the Samales, a project which the expedition of Cochin China obliged me to relinquish....'³⁰ He had not been as interested in Cuarteron's plans as St John surmised.³¹

St John's comment had again been referred to Madrid. Calderón y Collantes, the foreign minister, told Sir Andrew Buchanan in November that a Spanish vessel had taken possession of Balabac, but no establishment had yet been formed there. The Minister of Marine was, however, 'more

communicative'. Apparently Balabac was garrisoned, and 'he has lately sent orders to the Governor of the Philippine Islands, to occupy also the northern part of Borneo in the immediate neighbourhood of Balabac. His Excellency stated... that this territory, which he said had been possessed by Spain up to the period of the French revolution, was of very considerable extent, and possessed a most excellent Harbour, which would prove a second Gibraltar...' Because of a reef all vessels passing the islands would be within reach of the guns of the 'Spanish Castle'. On Buchanan's 'observing that a Castle, therefore, appeared already to exist, His Excellency replied that it had done so formerly, and would soon be rebuilt'.³²

St John pointed out that the Sulus had ceded the region round to Cape Unsang to Britain in the days of Dalrymple—before the French revolution—and since then, the Sultan of Brunei had 'gradually acquired a nominal sovereignty as far as Marudu Bay', and now expected the British protection implied by the treaty of 1847. Spain should be informed of the position; and this would check its designs. At Balabac the Spaniards were showing their 'monopolizing spirit' by stopping praus en route for Labuan and Brunei, and should be required to leave. French activity in Vietnam, on the other side of the China Sea, was a further reason for denying Spain its eastern shores.³³ The British Government instructed its ambassador in Madrid to protest. Malmesbury sent Buchanan St John's account of Spanish proceedings in Balabac, 'and the further extension which the Spanish Authorities appear to be disposed to give to that settlement', in violation, as St John considered, of the treaty of 1847. Buchanan was to call Calderón y Collantes' attention to the subject, and state that Britain could not 'consent to any proceedings of the Spanish Authorities... inconsistent' with British rights secured by treaty.³⁴ Normally, Buchanan commented, Spanish foreign ministers denied knowledge of the subject, or declared British reports incorrect. He therefore prepared a memorandum based on St John's dispatches. This he read to Calderón, and left with him 'in order that he might cause some enquiry to be made into proceedings which in consequence of the relations established by Treaty between the Sultan of Borneo and Her Majesty's Government might occasion serious complications....' The foreign minister promised to attend to the matter, 'and seemed disposed to prevent any untoward zeal on the part of the Governor of the Philippine Islands, from causing difficulties with Her Majesty's Government, by endeavouring to annex territory to the Spanish possessions, the occupation of which, independently of any other consideration, did not appear to him called for by the interests of the Country'.³⁵

The Foreign Office's attitude seems on the surface to have been somewhat half-hearted. Perhaps it was simply not anxious to accept the implications St John drew from the Brunei treaty of 1847. It did in any case order Buchanan to make a representation at Madrid, and the note he sent in was in quite decided terms. Some years earlier, under the same Foreign Secretary, the question of Sulu had been allowed to 'sleep'. North Borneo was no doubt more important

to British interests. But it was still possible that dormant British claims in Sulu itself would be asserted if British interests there seemed to be threatened. How would Spain in turn react? The warning over north Borneo may have had some effect. But Balabac was not abandoned, and Norzagaray had Sulu in mind when taking it.

The Captain-General had another scheme for dealing with it which might again provoke Great Britain. He sought to enlist the support of local British authorities for his scheme. One of these was Sir John Bowring, the Governor of Hong Kong, who was personally acquainted with him³⁶ and visited Manila early in 1859.³⁷ Norzagaray complained to him of the activities of the British vessels, the *Alma* and the *Alfred*, both of Singapore, at Sulu during 1858. Both had sold cargo, including arms. Captain Philip H. Nichols, of the *Alma*, had moreover instilled 'subversive thoughts' into his conversations with the Sultan and datus, and hoisted the Sulu flag, forgetting that he was in a port where the Spanish flag flew. Norzagaray's complaint stressed the trade in arms which, he said, might support rebellion, and would, as in 1851, be used by pirates. But he also asserted that the ports of Sulu, 'considered with all its dependencies as an integral part of this [Philippine] Archipelago', were closed to vessels 'for the purpose of landing or realizing cargoes, unless they have previously satisfied the duties and taxes established in the respective customs houses.... Unquestionably the dominion of the Spanish nation over the Jolo territory involves the obligation of the Sultan not to allow the inhabitants to purchase or to use any kind of fire-arms.' The Captain-General had taken steps to require the Sultan to restore the arms, and hoped Bowring would also take steps to prevent the repetition of such acts. 'The Government of these Islands would be extremely sorry to find itself compelled to enforce a due observance of treaties, in case the brig *Alma* should return to these seas with a design similar to that which she has lately had; and it ought not to conceal from Your Excellency the great regret with which, in an extreme case, it would find itself obliged to make its laws respected....' If, however, such questions were raised, the present communication 'may serve as a precedent for any claims that may be made....'³⁸ The Captain-General was seeking to limit the arms trade by threatening to enforce the closure of Sulu on the ground that it was part of the Philippines, and not one of the open ports like Zamboanga. No doubt Norzagaray did not wish to risk provoking the British by actually carrying out the threat.

The matter was referred home. The Foreign Office was, however, unsympathetic. It had just decided not to supply the Sultan with a copy of the Brooke treaty. But that had not meant an acknowledgement of Spanish sovereignty. Nor was such an acknowledgement secured at this point. The Spanish authorities, it seemed, were in 'a state of hostility with Sulu.... If the Spaniards consider their acts as constituting an effective blockade of Sulu, they ought to notify the same officially'; and that should be done through Madrid, not through Sir John Bowring. Malmesbury agreed. Nothing should be done meanwhile.³⁹ Malmesbury's inactivity worked both ways; he had not

pressed Spain in 1852; nor did he recognize its authority in 1859. But it was true that the Foreign Office assumed that a blockade was in question; not a prohibition of trade with an integral part of the Philippines. Norzagaray's threat passed unnoticed.

The Captain-General had also complained to Governor Blundell in Singapore about the *Alfred* and the *Alma*. There he received more cooperation. The Sulu islands, he observed, were part of the Philippines under the treaty of 1851; only four ports were open; and trade in warlike stores was not permitted. Blundell agreed to announce that 'vessels desirous of trading on the coast and islands forming part of the Spanish possessions' must call at an open port: but said he had no facilities for preventing vessels from taking arms on board. The Indian Government also determined to publish the Philippines customs regulations.⁴⁰ The authorities in Singapore and in India had no apparent sympathy with the arms trade. Possibly this was the germ of an attitude, also held at the India Office, that differed from the Foreign Office's (and later from the Colonial Office's) in accepting more of the Spanish argument on piracy and arms and giving less attention to the British officials in Borneo and Labuan.

The Spaniards also complained to the Foreign Office about the proceedings of the Singapore vessels at Sulu. In August 1859 a note was received from Isturiz, the Spanish ambassador, complaining that Nichols had sold weapons and subverted Spanish authority: reproof and prevention were called for.⁴¹ Isturiz followed this up in July 1860 by telling the Foreign Office that as foreign vessels, in violation of the customs regulations, traded in munitions and weapons in Sulu, his government wished to point out that in the Philippines, of which Jolo and its neighbourhood were an integral part, only Manila, Sual, Iloilo, and Zamboanga were open to foreign vessels.⁴² This was based on a circular in which Calderón appeared to carry out Norzagaray's threat of the previous year. 'Owing to repeated infractions of the Customs House Regulations in the Philippines by foreign vessels which have carried to the Island of Sulu illicit merchandise, ammunition and stores of war', it declared that, only Manila, Sual, Iloilo and Zamboanga being open, no direct trade would be allowed with Sulu and its dependencies, part of the Philippines under the capitulation of 1851.⁴³

The new communication provoked the British. Lord Wodehouse, Under-Secretary at the Foreign Office, suggested making a reference to the protest of 1852:

say that on the grounds there stated we do not admit the right of Spain to prevent trade with Sulu. The bad use which Spain makes of her colonial supremacy as a means of shutting out other nations from trade, is an argument in favour of not acknowledging her pretensions. On the other hand we have, I should think, very little interest in the independence of Sulu. But if we admit the rights of Spain, we ought to know how far those rights extend, and on what they are based.⁴⁴

Following a minute by Lord Russell, the Foreign Secretary, Isturiz was told that the Government saw no reason to disturb its earlier decision, but would

refer to its consul in Manila as to the present state of the facts;⁴⁵ and Farren was asked 'whether the Sultan has in any way recognised the Sovereignty of Spain over his Territory, and whether the Spanish Authorities actually exercise any jurisdiction over any part of the Sulu Archipelago'.⁴⁶

In April 1861 Isturiz replied that Spain considered Sulu part of the Philippines on the grounds of ancient vassalage and the stipulation of the treaty of 1836, 'by which Sulu is declared to be joined to the rest of the provinces of the Philippine Archipelago and Sulu is considered as being within the limits of the territorial rights of Spain in these latitudes'. France had implicitly acknowledged Spanish rights; and the sultans themselves even before 1851 had given 'passports and patents of navigation' in the name of the Spanish government. The treaty of 1836 had been explained by declarations signed at Sulu in August 1850, obliging the Sultan not to cede territory without Spanish consent; and the capitulations of April 1851 incorporated Sulu and its dependencies in the Spanish dominions, and provided for the payment of stipends to the Sultan and chiefs 'to support the dignity of their delegated and feudal authority the investiture of which was to be obtained at Manila by the Commission named by the said Sultan....' But in any case the only object, Isturiz repeated, was to put down the munitions trade; other trade with Sulu might continue after verification at Zamboanga.⁴⁷ Wodehouse said that the Foreign Office must await Farren's report.⁴⁸ Presumably he intended some sort of discussion of Spanish claims, and recognized the territorial as well as the commercial implications, though he did not specifically refer to north Borneo. Some settlement might result. This would certainly involve keeping Spain out of Borneo, and also defining its position, or its right to affect British trade, in Sulu. Thus Spain's new policy seemed to be as risky as, even riskier than, its policy of surrounding Sulu; it might stir up British opposition to Spanish presence anywhere in the sultanate. But Wodehouse's scheme, if such it was, was put off by the failure of Farren's report to reach the Foreign Office before he left office. This indeed hardly strengthened Britain's diplomatic position.

In the Straits, moreover, Governor Cavenagh had agreed to publish the circular of July 1860,⁴⁹ cooperating with Spain rather as his predecessor, Blundell, had done earlier. But the following year he received a letter from Sultan Muhammad Pulalun, dated May. This stated that 'we all agreed to the Treaty' with the Spaniards—presumably that of 1851—but they did not fulfil it, and prevented traders coming to Sulu. The Governor noted that Spain claimed sovereignty in the circular of 1860, and wondered if this conflicted with the rights enjoyed by British subjects under the treaties with Britain alluded to by the Sultan in his letter to Blundell: 'but I have certainly heard complaints made regarding the recent restrictions placed by the Spanish Authorities upon the trade carried on by British vessels with the Archipelago, and it would consequently appear that it was formerly conducted without any interference on their part'.⁵⁰ The Spanish authorities appeared to be enforcing their circular. The Sultan was advised to send an English vessel that arrived at

Sulu to Zamboanga. He declined, saying that the order was against the 1851 treaty; his subsidy was stopped.⁵¹ Even if he had recognized that the treaty incorporated his dominions into the Philippines, the Sultan indeed cannot have anticipated that his ports would be open only to indirect trade.

The Foreign Office again referred to the correspondence of 1852, but admitted that the accounts now arriving, and referring to the treaty of 1851, were 'more recent' than

any of those which were mentioned as establishing the independence of Sulu. The Sulu Sultan has very likely been taken in by the Spaniards and most probably misunderstands the nature of any engagements he has entered into. But the merits of the case do not appear to be so clear as to make it desirable for a definite opinion being pronounced here, which if acted on by the Brit. Auth^{ies} in the Eastern Archipelago might bring about embarrassing discussions with Spain, for which there seems no motive as yet.

The Foreign Office had regarded Sulu as independent; but the allusions to the treaty of 1851 in the present correspondence 'make it difficult to say how the question really stands'. If British interests were found to suffer, the local authorities should report, the India Office was told.⁵² The Foreign Office's position was that it had still not accepted Spanish sovereignty, though it now had a more explicit reference to the treaty of 1851 than ever before; that it was not as yet prepared to challenge it; but that it might actively raise the issue if prompted to do so by commercial complaints. The India Office asked for a copy of the 1851 treaty,⁵³ and the Governor-General was told to try to get one from the Sultan of Sulu through the Straits government.⁵⁴ Also Cavenagh's despatch was referred to Farren, and he was asked to reply to the Foreign Office despatch of 1860.⁵⁵

Meanwhile the Foreign Office avoided an open challenge to Spanish claims in the operations against piracy of 1862-3. The pressure for such operations, mounting since the late 1850s, had at last secured some response; and there had been discussions with the Dutch, with whom the British were once more prepared to cooperate. The pirate 'nests' could not be reached, the authorities at Batavia declared, 'without encroaching upon what the Spanish Government claim to be their territory....'⁵⁶ Buchanan, now at The Hague, wrote in April 1861:

The Minister of Marine appears quite ready to meet the wishes of Her Majesty's Government upon this subject, and he conceives that were the two Governments to get together they need not be deterred by the susceptibilities of Spain from sending an expedition against the haunts of the pirates among the Sulu Islands. He said that the Netherlands Government proposed some time ago to send an expedition in concert with the Government of the Philippine Islands into those waters, but that the Spanish authorities objected on the ground that as the Sulu islands belonged to the Spanish Crown, Spain could not accept foreign assistance in maintaining the police of what she considered Spanish waters.

The Dutch had indirectly admitted Spanish sovereignty over the islands, but as they were not occupied by Spain, the Minister of Marine 'thought that the

Netherlands might be fairly entitled to act independent of Spain, if necessary, in punishing the piratical practices of their lawless inhabitants....' The Spanish Government should, moreover, be induced to send some troops with the expedition, and subsequently should permanently occupy the islands.⁵⁷ Late in May Buchanan received an official note, declaring that the Netherlands would request the cooperation of the Spanish Government, which had claims over Sulu. The ambassador still thought, however, that the Dutch would be prepared to act without Spain if this proposal were not favourably received.⁵⁸ But he was perhaps missing an implication of one of the Dutch Minister's remarks. The Dutch were unwilling to trench upon alleged Spanish rights, anxious for Spanish sanction and cooperation, insistent that even British and Dutch action should be followed by Spanish occupation. It may be that this was a result of their own jealousy; they could not encourage trenching upon their own claims, and if there were to be foreign intervention, it must promote their territorial strength rather than reduce it.

Declaring that piracy was increasing and affecting the trade of Singapore, the British Government instructed its ambassador in Madrid to raise the matter there. The Dutch, disposed to cooperate, wished first to consult Spain, because of its claim to sovereignty in the Sulu archipelago. This claim, it was added, Britain had contested in 1852. But the discussion 'has not been pursued', and it was not necessary to 'reopen it on this occasion. It is to be hoped that motives of humanity, and a desire to promote the general interests of commerce will induce the Spanish Govt., irrespective of any questions as to sovereignty, to cooperate with England and the Netherlands in suppressing these Pirates....' Sir John Crampton was to urge Spain 'to associate with the other Powers in effecting so desirable an object'.⁵⁹ By August no reply had been received. Yet, if arrangements were to be made for the next pirate season, it would be necessary shortly to send orders to the East. The Netherlands government was considering, Buchanan reported, whether or not it would act without Spain's sanction or cooperation.⁶⁰ A Dutch note was sent in at Madrid, and Crampton spoke to Marshal O'Donnell.⁶¹ But Britain and the Dutch ran up against what a Belgian observer later called 'l'orgueil castillane'.⁶² In the event the Spanish Government declined cooperation. Spanish forces had been successful; and a compact with others would 'to say the least, restrain the free action of the Philippine Authorities, who have hitherto so well discharged their task....' O'Donnell hoped that vessels would not give chase to pirates within Spain's maritime zone, nor attack them on land. This could, Crampton thought, raise the issue of Spain's claim to Sulu.⁶³

The Dutch foreign minister

seemed to think that the attitude assumed by Spain in the question might render it impossible for his Government to carry out their previous intentions with respect to it, as the fifth article of the Treaty of Münster, as far as they are concerned, would prevent their interfering against the wishes of Spain with the islands over which she claims to exercise sovereignty.

He admitted, however, that if the sovereignty claimed by Spain over the Sulu Islands

is merely nominal, and that she maintains no establishments upon them, and is therefore unable to restrain the piratical habits of the people, she cannot reasonably expect maritime powers to abstain from taking the measures which they may consider necessary for their own protection....

The Dutch government, he said, had been ready to act independently if Spain had merely declined to cooperate, but

the Spanish note... contained so much more than a mere refusal of cooperation that the Netherlands Government was seriously embarrassed by it, as the Spanish Government not only undertake to encrease the force at present employed by the Government of the Philippine Islands for the suppression of piracy, but protest against a Netherland force being landed upon territory which the Government of the Netherlands have frequently acknowledged to be within the jurisdiction of Spain.

Buchanan pointed out that the Spanish flotilla had proved inadequate to suppress piracy, and that Spain had no establishment in Sulu: 'it seemed to me the Netherlands Government would be perfectly justified in protecting themselves under such circumstances from the piratical populations over which Spain claimed a mere nominal sovereignty, which is not generally acknowledged by maritime States.' Spain, Buchanan argued, could have cooperated without prejudice to the sovereignty it claimed. But he made little impression on the Dutch foreign minister, and concluded that Dutch naval cooperation would 'fall far short of what has been considered desirable'.⁶⁴ In the event the Dutch ordered their forces to cooperate provided Spanish sovereignty were respected.⁶⁵

The British Admiralty, apprehensive of delay, had meanwhile been preparing instructions for their naval commanders in the East. These, of course, dealt with the suppression of Ilanun and Sulu piracy without Spanish cooperation. The major proposal was to intercept the pirates on their homeward voyage up the west coast of Borneo.⁶⁶ The instructions were duly communicated to the Dutch.⁶⁷ Some secret instructions were also sent to the Commander-in-Chief. The operations contemplated were limited to cruising in waters 'far distant from the waters over which Spain claims jurisdiction'. But some of the cruisers might follow piratical vessels into the neighbourhood of areas where Spain claimed jurisdiction. The naval commander should be told 'that in any such case he will be justified in capturing and destroying any vessels undoubtedly engaged in piratical pursuits which may have been chased by Her Majesty's vessels into the vicinity of any island which, although claimed by Spain, is not occupied by her....'⁶⁸ The Foreign Office was a little doubtful: 'it would be clearer if our sailors and marines were prohibited from *landing* in any island claimed by Spain without the consent of the local Spanish authority, if any such is to be found in or near the island or place of refuge of the pirates'.⁶⁹ The Admiralty, by giving secret instructions, recognized that their ships did not need to be so confined in their operations as those of the Dutch with whom they were cooperating. The Foreign Office was anxious to avoid a clash with Spain, at least in islands in which or near which Spanish authority was established. This became still plainer in relation to a proposed

attack on Tawi-Tawi.

Rather in the style of Brooke, St John had advised a major operation.

I feel assured that the only way to break up the piratical system is to attack the marauders in their own homes and destroy their haunts. These are perfectly well known to the natives, and might be pointed out to the naval officers with almost unerring certainty. At present the most notorious ones are Tungku on the East Coast of Borneo, the islands of Binadan and Tawi-Tawi, Kabungkul and Dungdung on the main island of Sulu, all in the Sulu Archipelago; and a few stations on the island of Palawan....

...A political officer well acquainted with the natives and their language might be sent round to the northeast coast of Borneo, where in a few months he could acquire a familiar knowledge of the haunts of the pirates, and be able to procure sufficient evidence to warrant the destruction of their rendezvous by our naval forces. The pirates would scatter and endeavour to form new homes, but a little surveillance would prevent their gaining head, and if a systematic course were pursued and the pirates convinced that we were in earnest, they would soon abandon a pursuit where the dangers were greater than the chances of profit....⁷⁰

Commenting, Captain Corbett of H.M.S. *Scout* suggested an attack on Tawi-Tawi. Information could be obtained from released captives after the attack, and the Sultan of Sulu could be told that a similar fate would befall other pirates.⁷¹ The Admiralty referred to the Foreign Office. It declined to make a decision, pending receipt of Farren's report on Spanish sovereignty in the Sulu archipelago.⁷²

The immediate results of the 1863 naval operations were not proportionate to the extent of their diplomatic preparation. In part, perhaps, this was because no pirates circled Borneo in 1863.⁷³ The appearance of a man-of-war in 1862, and an encounter with the Sarawak steamer *Rainbow* that same year, may have discouraged them, as the Raja of Sarawak suggested:⁷⁴ the ships of 1863 were pursuing a frightened goose.⁷⁵ The limits placed on the operations by the Spaniards, and then ultimately by the Dutch, were also important. The British, too, were in the event not prepared to challenge the Spanish claims, though they were neither openly admitting nor denying them. The Spaniards were, however, running a risk. Their claims involved them in obligations; if they could not fulfil those obligations, their claims might be ignored. In the course of the discussions on cooperation, 'actual occupation' had been set against 'claims'. Other colonial powers with their own problems, like the Dutch, might be indulgent. Those without such problems might be more disposed to challenge Spain. The operations against piracy had an effect upon the Spaniards if not upon the pirates: they were bound to prompt new efforts to assert Spanish control over Sulu.

Indeed the Spaniards had themselves attacked Tawi-Tawi in 1862. This was reported to Governor Cavenagh by W.E. Jackson of the British barque *Osprey*. Jackson's journal also noted that a new Sultan had taken over in Sulu, a young man. One party among his chiefs wanted Spanish protection 'until they could get a better', such as that of Britain or James Brooke; the other

feared the loss of a mode of living, piracy, though only a few on Sulu itself engaged in it, putting out on the south side of the island. There were Spanish vessels at Sulu, and Jackson was told that he must first pay duties at Zamboanga, whither, unwillingly, he went. This information Cavenagh passed on to the Indian Government. He did not secure the copy of the 1851 treaty it sought, as the *Osprey*, carrying back his request, was wrecked, and the intercourse between the Straits and Sulu almost entirely ceased.⁷⁶ The Spaniards had certainly strengthened their position. They had steamers at their disposal. They had, moreover, intervened over the succession. The son of Muhammad Pulalun, who had died in September 1862, had been challenged by Datu Jamal-ul-Kiram, grandson of Shakirullah and son-in-law of Datu Daniel. A Spanish commission, sent in November, had confirmed the succession of Jamal-ul-A'zam, and he had confirmed that Jolo, Tawi-Tawi, and north Borneo were all under Spain.⁷⁷

Had Farren replied? the India Office asked early in 1864, 'it being not impossible that the interests of British commerce may suffer in that quarter'.⁷⁸ Reminded back in May 1862, Farren had not been able to 'conceive what was the fate of my former report on the Sulu question', and promised to send another.⁷⁹ Now he was asked again.⁸⁰ In fact he died in August 1864 without sending it.⁸¹ The acting Consul, Webb, sent a copy of the treaty of 1851. The Sultan who made it, the late Muhammad Pulalun, was charged with not abiding by it, and his salary suspended for three years, but otherwise, Webb thought, the sums specified in the treaty had been claimed and paid. Sulu's trade had 'dwindled to an insignificant trade with Zamboanga....' But the new Sultan and the chiefs, though discontented, were inclined to submit quietly to their fate.⁸²

Spain, wrote Webb, claimed all the Sulu archipelago, on the basis of geographical contiguity and right of conquest. But in fact it had never done more than inflict occasional 'chastisements and panics', and had not prevented slave-raiding. The only time Spain had a fort in Sulu was in the seventeenth century.

From that period no military settlement has been made in Sulu by Spain; and though a right of Suzerainté has been alleged on a convention with the Sultan of Sulu at a subsequent date, yet a Treaty between Spain and Sulu in 1837, contains no admission by the latter of dependence on the former, and previous to the year 1851, the relations between the Governments of Sulu and the Philippines, and the military attitude of Sulu, as well as the Treaties with each other, establish, that however desirous the Spanish Government has been to acquire and have it considered that Sulu was its dependency, yet such was not the case in fact....

Even the French occupation of Basilan was opposed, Webb thought, on the ground that it was a Spanish island, not that it was Sulu's. The treaty of 1851 resulted from a conflict with Sulu brought about by an expedition sent to nullify the effect of Brooke's treaty. The Governor of Zamboanga was present at and sanctioned the accession of the new Sultan. But the Sulus, and inhabitants of other islands, had recommenced piracy soon after the treaty of

1851, and the old Sultan had been convicted of bad faith. 'Spain, therefore, must, from the experience of ages, be convinced, that her Treaties with and alleged rights over the Suluese, are set nought by the latter', and even now, 'the Government is preparing an expedition to chastise the "moros" for their continued and daring descents on the coasts... even up to the very gates of Zamboanga, and for murderous and nearly successful attacks on Pollok', a Spanish settlement on Mindanao. Great Britain, Webb believed, had tacitly recognized the Spanish treaty of 1851 by suspending ratification of its treaty of 1849. Spain's jealousy explained its recent non-cooperation against pirates. But Webb thought that Britain, Spain and the Netherlands should enter a convention to cooperate against piracy, and that Sulu should be garrisoned and 'opened to free intercourse and trade with Foreigners....' Then civilization might 'take root'.⁸³ Webb's suggestion was built upon an extension, or a misunderstanding, of what had been proposed in 1862. It implied that Spain could not alone deal with the Sulu problem. It should be internationalized: the three powers would cooperate against the pirates; the trade would be open. But Spain wanted a unilateral solution, with its difficulties and its benefits.

Cavenagh had reported in 1863 that Singapore's trade with Sulu had virtually ceased. Early in 1865 he received from the new Sultan some complaints about the Spaniards, who were accused, for example, of interfering with the trade of Chinese merchants. An enclosed letter made it 'clear that the Sultan has ceased to be an independent Chief, and become a stipendiary of the Spanish Government'.⁸⁴ There had, moreover, been no British complaints since 1861-2, and the Indian authorities were not unsympathetic to Spain. When commenting on Webb's reports and on the treaty of 1851, the Indian Government declared that it had 'received no representations of ill effects to British interests arising from the terms of this Treaty. The arrangement does not appear one with which this Government is in any way called upon to interfere; and as the natives of Sulu are addicted to piracy, we are of opinion that the control of the Spanish Government over Sulu, so far as it may prove effective, is likely to be beneficial.' 'Nothing I conclude need be done', wrote Hammond, Permanent Under-Secretary at the Foreign Office.⁸⁵

Once more the question 'slept'. But, though British claims had been weakened by non-enforcement, none had been explicitly abandoned, even in relation to Sulu itself; and while Spain's authority was not established there, there was, in the absence of an understanding such as Wodehouse suggested, or an internationalization such as Webb proposed, still the possibility of a major dispute in the process of establishing it. Unilateral action was—given Spain's weakness, its colonial practice, Sulu's opposition—almost certain to raise the issue of British trade, especially if the arms traffic revived. It might also raise the question of north Borneo.

Over this, Great Britain had issued a warning to Spain at the prompting of St John. In other words, the Government had acted more positively over

Borneo than over Sulu, a question which it had allowed to 'sleep'. It is probably, therefore, incorrect to suggest that Spain might have occupied Sandakan in 1863 without a British protest.⁸⁶ O'Donnell indeed hesitated to do so for fear of British opposition. But it is not certain that this was the result of the British warnings. Though Cuarteron's proposals had continued to receive little support from Manila, the royal government had displayed an interest in them in 1861, and indeed at first thought that Britain might desist from what was seen as its surreptitious advance in Borneo, as it had in Sulu itself, if Spain stood up firmly for its rights.⁸⁷ In 1862-3, however, the Spanish Government's view was rather different. In January 1862, the son of a chief from Kinabatangan met the commander of the Spanish naval vessel *Valiente* in Sulu roads, sought protection, and offered assistance to Spanish ships and cooperation against piracy.⁸⁸ The Captain-General's response was, again, not enthusiastic: as a check to possible extension by Raja Brooke or by the Dutch, he preferred appointing a Spanish consul in Sarawak.⁸⁹ Meanwhile in July 1862 the *Santa Filomena* had visited Sandakan, and V.C. Roca, the commander, met various chiefs, who asked for Spanish protection and admitted that, as a dependency of Sulu, their territory was under Spanish sovereignty.⁹⁰ This time the royal government was cautious. To act on this would mean complications with Britain, which was seen as recognizing Spanish sovereignty in Sulu, and it might be that the Sandakan chiefs were seeking Spanish assistance because of the combined operations against the pirates. What advantages could be set against these disadvantages?⁹¹

The combined operations against piracy seemed thus to be more influential in restraining Madrid than the St John-inspired protests; and the Manila Government was always doubtful. Both focused on Sulu. Madrid was unwilling to disturb what it saw as British recognition of its sovereignty there. This it had nearly done itself with the 1860 circular. In the event no challenge had ensued: the British Government was unwilling to present one without adequate information and adequate grounds. The position in Sulu and north Borneo remained in suspense till further action brought a challenge. Fearful of foreign intervention, the Spaniards pressed ahead in Sulu, hoping also to acquire north Borneo in the end. By pressing ahead, they provoked intervention. One imperialism reacted upon another, and a compromise was reached primarily at the expense of the Malayo-Muslim states. But the Spaniards were not able entirely to avoid some sort of internationalization of Sulu and they did not make good their claims in Borneo.

The American Concessions

In the discussions on the suppression of piracy in 1862-3, three powers had been concerned, Great Britain, the Netherlands, and Spain. They were the established European powers of the region. Upon their decisions the fate of the remaining sultanates, as well as of the pirates, largely depended. In making their decisions, they rejected full-scale cooperation, but even the rejection

showed a degree of common interest. Britain and the Netherlands were now more in agreement than perhaps at any time since the 1820s. Neither challenged Spanish claims, though they had reservations about them. Later in the 1860s and in the 1870s other powers became involved and, as in the 1840s, they were powers without the common interest of the established. They might challenge the established in two ways: either by upholding the independence of the sultanates against the advance of the established Europeans; or by using the weakened position of the former to secure concessions in anticipation of foreclosure by the latter. To either of these challenges the established powers were likely to react by seeking to strengthen their claims, but their cooperation, such as it was, was unlikely to survive. In the negotiations that led to the Anglo-Dutch treaty of 1824, Britain had sought to avoid encouraging other powers to challenge the claims of the Dutch, and so gain admission to parts of the Archipelago not definitively incorporated in their empire. Now other powers were appearing in the Archipelago. Britain would have to decide whether it should join with them in securing concessions from the sultanates or upholding their independence; or whether it should rather join with the Dutch and the Spaniards in resisting the intervention of newcomers. In the event Britain adopted an expedient admixture of the two courses. Expediency, however, did not alone determine the proportions of the mixture. British policy had long given more weight to north Borneo than to Sulu itself.

In north Borneo Brunei was involved, as well as Sulu. Moreover, Brunei's future was at issue in this phase, as well as Sulu's. Brooke's plans to reform it had collapsed; indeed the Raja of Sarawak was now extending at its expense, though paying fixed annual sums for the rivers transferred. The remainder of the sultanate became more difficult to hold together and its *pengirans* more desperate for revenue. But the decision to lease the Sabah territory and the islands to some American concessionaires in 1865 was not, perhaps, taken merely on pecuniary grounds. During the Balambangan experiments the northern territory had featured in the Bruneis' attempt to attract British interest to their sultanate. Despite their lack of success, they had gradually re-established their authority south of Marudu. Then, under Brooke's guidance, the British Government had accepted the offer of Labuan from Raja Muda Hassim, and had begun to back up the latter's influence to the north of Brunei Town. The shift in Brooke's policy in the 1850s may have prompted the Bruneis to look elsewhere and make concessions rather on the Sarawak model to balance the concessions made to Sarawak itself.

The Americans were not quite newcomers. In 1850 their consul in Singapore, Balestier, had made a treaty with Brunei on the lines of Brooke's treaty of 1847, though without an equivalent to article 10.⁹² Only in 1865 was a Consul-General appointed to Brunei, C.L. Moses. G.T. Ricketts, the newly appointed British Consul in Sarawak, suggested that there would be intrigue, and it might be necessary to enforce the treaty of 1847.⁹³ In October he reported that Moses had secured from Sultan Abdul Mumin a ten-year lease

of the coast between Kimanis and Sandakan, and also Balabac and southern Palawan, in return for annual payments of \$4200 to the Sultan and \$4000 to the Temenggong. Moses was to administer and develop the country, and he had gone to China to form a company to exploit coal and commerce. The scheme might be approved by the U.S. Government, Ricketts thought, which would thus possess a point on the Palawan passage, and threaten Sarawak. But the local inhabitants did not recognize the Sultan's claims; the Sultan of Sulu had granted the territory to Britain in 1763; and Balabac and Palawan were occupied by the Spaniards.⁹⁴ Moses transferred his rights—all the 'powers and rights usually exercised by and belonging to Sovereign rulers'⁹⁵—to Joseph W. Torrey, an American merchant, but subsequently quarrelled with him. Styling himself President of the American Trading Company of Borneo, Torrey was appointed Raja of Ambong and Marudu by the Sultan of Brunei and established a colony of twelve Americans and sixty Chinese at Kimanis.⁹⁶

Not only Ricketts, but also Brooke's friend, J.A. Smith, had called attention to the matter in London, declaring that 'the English island of Balambangan' had been ceded.⁹⁷ The Foreign Office sought information from Labuan and from Washington,⁹⁸ while a memorandum recalled earlier vain attempts to find the treaty that had ceded Balambangan.⁹⁹ Callaghan, the Consul-General in Labuan, reported that he had pointed out article 10 of the treaty of 1847 to Torrey, who had replied that his lease was for ten years only. Balambangan, Callaghan added, had not been ceded. Banggi had been.¹⁰⁰ The venture, he thought, would be pushed, and it might injure the trade of Labuan to the north-east and to Sulu.¹⁰¹ From Washington the British Government learned that any land Moses was seeking was for his own purposes.¹⁰² The U.S. Government 'declined to accept a cession of territory in Borneo as proposed to them by Mr Moses, whose proceedings appear to have been disapproved'.¹⁰³ Seward told Sir F. Bruce, the British ambassador, 'that the system of Government in the United States would render it impossible to govern a Country already inhabited by people of a different language, customs and ideas, such as India for instance'. Bruce thought 'that he meant that the Country must be so thinly peopled as to admit of its being settled by Americans, or that the Population must be of such a description as would admit of their participating in the privileges of American Citizenship...'.¹⁰⁴ Late in 1866 the Kimanis settlement had in fact been withdrawn,¹⁰⁵ and the consulate itself was discontinued in March 1868.¹⁰⁶ According to Henry Bulwer, a later Governor of Labuan and British Consul-General, writing in 1872, 'no portion of the annual rentals which were promised in return for the concessions' was ever received by the Sultan.¹⁰⁷

The Sultan of Brunei, Callaghan said, had little authority south of Marudu and none beyond, where the Sultan of Sulu had claims.¹⁰⁸ The latter, he learned, had been angered by the cessions.¹⁰⁹ Indeed he wrote to the Labuan Government a letter on which Low, acting as Governor/Consul-General, reported in 1867. In it the Sultan claimed the coast from Kimanis northwards,

but offered to come to an agreement with the Americans or, still better, with the British. The Sulus, Low commented, had 'for a very long time' exercised sovereignty over the north-east coast, 'but their power has never extended to the westward of Marudu bay', though cessions of that territory had been made to Dalrymple. The rulers had always 'shown a desire to be on good terms with the Colony' of Labuan. No visit had been paid to them since 1849, however, and the copy of the Brooke treaty with the British ratification on it was still at Labuan, as a result, Low understood, of instructions sent following Spanish protests. Commenting at the Colonial Office, one clerk, Charles Cox, thought that, 'tho' the acquisition of territory is out of the question, it would be good policy to keep on terms with the Sultan....' The Colonial Secretary, the Duke of Buckingham, considered it superfluous to tell the Foreign Office that he was opposed to any cession to Britain from Sulu or Brunei.¹¹⁰

At the Foreign Office, it was thought that the Sultan of Sulu had little claim to the territory in any case. Lord Stanley, the Foreign Secretary, decided: 'the less we are mixed up in this the better'.¹¹¹ Low was told that, since Washington had disavowed any connexion with Moses' proceedings, it was 'not thought necessary to raise the question whether Her Majesty's Government had not a right to object to this grant as being contrary to the provisions of our Treaty with the Sultan of Brunei....' Moreover, the American Trading Company had subsequently failed. Under the circumstances, it was considered 'inexpedient' for the British Government 'to interfere in this matter', and Low was told merely to acknowledge the Sulu letter.¹¹² A memorandum had indeed been prepared on its arrival. It recounted the Foreign Office's position in regard to Sulu, and discussed the Spanish treaty of 1851 recently reported upon by Webb. It also recounted the decision not to raise the question of the British treaty of 1847 in regard to the Moses grant. The Sultan's letter was dated July 1866. 'He probably was not aware of the departure of the Americans when he wrote it but He can hardly have any claim to this Territory'.¹¹³

When the Spaniards had allegedly contemplated a settlement in north Borneo, the treaty of 1847 had been brought to their notice. The American concessions, again, were not ignored. But, as the U.S. Government denied involvement, the treaty of 1847 was not brought forward. This did not mean that the Foreign Office was not interested in north Borneo: rather that it was thought better only to assert British rights when it seemed necessary. Possibly this course ran the risk of encouraging the belief that British rights did not exist, but that was no doubt better than to allege British rights, and enlarge the dispute, and then have to let them 'sleep', as over Sulu itself. The uncertain position of Sulu in Anglo-Spanish relations was, of course, an additional reason for not involving the claims of that sultanate in the American affair. This was made easier by the doubts cast on their validity.

The events of these years formed a context for Britain's new negotiations with the Dutch. With them, as the cooperation against the pirates illustrated, relations had improved. Merchants in the Straits Settlements, as earlier, opposed their extension. But the Foreign Office's aim was rather to obtain a

restatement of the principles of 1824.¹¹⁴ The interest of other powers in the Archipelago tended to lead in the same direction. Late in 1865 it seemed that the Dutch were ready to negotiate a new treaty, ending the disputes over the treaty of 1824, ending their differential customs duties also.¹¹⁵ The Netherlands proposals were, however, intended to include an agreement, not only over Sumatra, the focus of Straits discontent, but also over the future of Borneo, where the Dutch feared the British Government might occupy Sarawak.¹¹⁶

'The old policy of working against the Dutch out here seems to me foolish', Ricketts told A.H. Layard, Under-Secretary at Foreign Office, in October 1865, '—things are now entirely in a transition state—the influence which we once held together with the Dutch in this portion of the East being now divided among French, Americans, Dutch and English—it would one would imagine therefore be more politic to be on terms of amity with the Hollanders, so as in times of difficulty to neutralise the power of the French and Americans....'¹¹⁷ Layard agreed that

it is for our interest and advantage that the ill-defined authority of the barbarous native chiefs in Sumatra and in parts of Borneo, should be replaced by the rule of a civilised Power—and the Power which we have the least cause to fear in the East is Holland. All we require is that Holland should renounce the exclusive, narrow commercial policy that she has hitherto so obstinately adhered to in her colonies....

But did the Dutch want a promise from the British over Sarawak? Should Her Majesty's Government renounce any future claim upon the Raj? The question was connected with that of the American encroachments currently under discussion.

The points to be considered are whether if Sarawak should fall into the hands of a Power which might make war with Great Britain its possession by an enemy might interrupt or seriously threaten our communication with China and the Eastern Seas.

Whether the same would be the case if the territory said to be ceded to the United States... should become an American settlement and naval depot.

Whether the possession by us of Sarawak and of the Island of Balambangan and adjacent territory asserted to have been ceded to us in 1763, is essential or desirable for the maintenance of our naval superiority and for securing the free communication of our trading vessels with China....

Layard recommended consulting the other Departments.¹¹⁸

Presumably affected by the establishment of the French in Vietnam, the Admiralty believed that the Borneo coast was of some strategic importance. Labuan, it told the Foreign Office, was 'a valuable acquisition, and one that should be retained'. Balambangan was valuable, too, and should not be allowed to fall into the hands of 'any strong maritime power'. The Admiralty also considered 'that it would be prejudicial to the interests of this Country if we were to enter into any arrangement with the Netherlands Government by which Great Britain would be precluded from acquiring Possessions in those Seas, while it would be left open to other great maritime Powers to occupy

whatever Stations they would find it advantageous to possess'.¹¹⁹ The Colonial Office view was similar. There seemed to be no reason why the British Government should 'either be jealous of Dutch settlements, or anxious to extend its own'; but 'it would be undesirable to fetter the future policy of this Government by promises to the Dutch as to what course it may be desirable to pursue in yet unknown circumstances'.¹²⁰ Layard concluded that negotiations with the Dutch could proceed. But Britain should not 'enter into any engagement with the Dutch as regards Sarawak, reserving to ourselves perfect liberty of action with regard to that settlement. We should reserve our rights whatever they may be to the Island of Balambangan and put them forward if any other nation attempts to occupy it...'¹²¹

A settlement over Borneo was thus not included in the negotiations with the Dutch, which in the event were to culminate in the Sumatra treaty of 1871.¹²² The Foreign Office resolved to keep open its options in regard to Sarawak, and to claim Balambangan if others claimed it. These decisions were taken in the context of the American concessions in north Borneo. The treaty of 1847 was a further protection against them, but in fact it did not prove necessary to invoke it. In these memoranda, it was, rather curiously, not mentioned. But their whole tenor implied its retention. The policy of asserting British rights in Borneo had been envisaged in 1818. The treaty of 1824 had perhaps been intended to displace it. In turn it was partially displaced in the 1840s. The new negotiations between Britain and the Netherlands did not result, so far as Borneo was concerned, in the former's dropping the challenge it had then presented to the latter, though the intervention of other powers had suggested they should work together.

The American adventure had brought some British gun-vessels to the coast. According to the new Governor/Consul-General, John Pope-Hennessy, their visit had another use: they encouraged traders on the west coast, who were still rather apprehensive of pirates. The Governor was also interested in developing Labuan's commerce with the east coast and with islands like Palawan. 'Some of the Chinese merchants have recently built schooner praus in Labuan with which they carry on a good trade with Bengkoka in Marudu Bay, with Sugut on the North East coast, and with...Palawan....' Palawan's trade with Labuan had, indeed, recently increased: previously it had focused on the Philippines. The trade from some points in north-east Borneo had, on the other hand, declined. The birds' nests, hitherto brought from Kinabatangan, had been cut off because of 'a war which has for some time existed between the Sulu people at the mouth of the river, and the mountaineers of the interior', the Dusuns, which the Sultan had sent his son to settle. Gutta-percha was in demand. Crespigny, now Harbour Master at Labuan, told the Governor

that immense quantities of gutta percha and of similar articles exist in districts of Borneo with which we have at present no trade at all, but districts with which we should properly have connexion, that is, Bulongan on the East Coast all the way to Marudu Bay. In the whole range of this coast neither the Dutch nor the Spaniards are supposed

to have any authority, and it is without exception the richest district in the whole of Borneo....

Indeed two Englishmen from Singapore and two Dutchmen from Makasar had settled at Bulongan. Here, Pope-Hennessy added, Belcher formerly made a treaty.¹²³

Pope-Hennessy did not merely report on Labuan's commercial prospects: he acted. In June a schooner under British flag, the *Gipsy*, owned by Lee Cheng-ho, the revenue-farmer at Labuan, had been attacked *en route* from Marudu to Linkabo by a Haji from Ubian. Securing the assistance of H.M.S. *Dwarf*, the Governor went to the Sulu, of which Ubian was a dependency, and secured a pilot and a letter of authority. The local Panglima agreed to give up the Haji and to pay \$3000, but the pirate escaped after a *mêlée*. Some deserted houses were destroyed.¹²⁴ The following year the Governor suggested that north-east Borneo, supposed to be under Spanish protection, needed more attention from the British navy.¹²⁵ He did not apparently consider Spanish claims and British activity inconsistent. During his visit to Sulu in the *Dwarf*, he had tried to avoid giving the impression that they were. The Sultan and datus had complained to him that the Spaniards had broken their treaty by stopping the Sulus' trade and failing to pay promised stipends; and they had 'expressed a desire to make a Treaty with the British Government. Knowing the friendly relations between Her Majesty's Government and the Government of Spain, I gave no encouragement to the complaints or proposals of the Sultan....' Three years later, Pope-Hennessy received through Commander Chimno, of a British surveying vessel, the *Nassau*, a letter from the Sultan making similar complaints. But he could find no evidence that the Sulu trade to Labuan was 'in any way checked by the Spanish authorities. It is an increasing and valuable trade; and I have done my best to encourage it....'¹²⁶ The captain of the *Dwarf* had a lower opinion of the Spaniards: they kept the Sulus subject 'by force of bombardment....'¹²⁷ Nor was Pope-Hennessy unsympathetic to another European power, one new to the Archipelago.

Recently unified Italy was seeking to begin colonial expansion: it also wanted a convict settlement overseas. Borneo was one of the possibilities. Carlo Racchia, sent out in the *Principessa Clotilde*, tried in February 1870 to acquire the island of Gaya from the Sultan of Brunei.¹²⁸ Both Racchia and the Sultan referred to Pope-Hennessy. In reporting home the Governor/Consul-General enclosed a memorandum in which Racchia asked the Sultan not only for the island of Gaya and the use of the Bay and of Sapangar Bay for naval purposes, but for a settlement on Banggi for agricultural purposes. The chief aim, he told Pope-Hennessy, was a penal settlement. Pope-Hennessy found that the Labuan traders were opposed to a settlement at Gaya Bay. It would cut off the trade from Sulu and north-east Borneo, which was important to the Colony. Moreover, 'all those districts from Bintulu up to the Rajang River which have been ceded to the Sarawak Government do not come to trade any more in Labuan', they said. Though he was aware that Gaya was in the Dalrymple cession, Pope-Hennessy himself was not unfavourable to the

Italian proposal. He had thought that an Italian settlement might improve the resources of Borneo and thus, too, the trade of Labuan. The objections of the traders would certainly apply less to Banggi than to Gaya. The Sultan himself seemed disposed to agree to the cession, but asked Pope-Hennessy's views. The Governor referred to Her Majesty's Government.¹²⁹

At the Colonial Office there was an inclination to agree with Pope-Hennessy. The Office, Cox wrote, had opposed Britain's acquisition of Sarawak. 'It appears to me that if we are not prepared to extend Trade in these rich districts we ought to be glad to see such a Country as that of Italy willing to do it.' Robert Herbert, Assistant Under-Secretary, agreed; even though Labuan's trade might be affected, 'more than commensurate benefits may... be expected in the extension of civilisation, the suppression of piracy, etc....' Similarly Sir F. Rogers did not 'think that England has a right to protect the trade of its own subjects or territories by obstructing the commercial progress of other countries, and would raise no objection....' The Colonial Secretary, Lord Kimberley—previously, as Lord Wodehouse, Under-Secretary at the Foreign Office—asked about the Dalrymple cession. The treaty of 1847—which Racchia and the Sultan had had in mind—was also considered. Kimberley then decided to tell the Foreign Office 'that if the proposed Italian colony were to be simply a trading settlement', he would agree with Pope-Hennessy 'that we should have no just grounds for objecting to the cession'; but that he doubted if the British Government should approve the introduction into Borneo of 'an European convict population', an element of disorder.¹³⁰ These views the Foreign Office accepted, and the Governor/Consul-General was told not to countenance the scheme.¹³¹

The permanent officials were opposed to a dog-in-the-manger attitude to Italy, and Kimberley's concern over convicts appears to have been genuine, though he seems, not surprisingly, not to have been clear whether they were to be on an island, Banggi or Gaya, or on the mainland. It is possible, however, that his answer was intended as a more polite, and perhaps more expedient, means of discouraging Italy than alleging British treaty rights, though, of course, it indicated that the British had an interest in the area in any case. The Foreign Office did not itself go into the question, once it had received the Colonial Office's negative recommendation.

The Sultan of Sulu's appeal to Pope-Hennessy had indicated a deterioration in his relations with Spain. Spain, on the other hand, was becoming more apprehensive over foreign intervention. Pope-Hennessy's visit—involving the first by a vessel of the Royal Navy since 1849—may in itself have been a cause of concern, however cautiously he behaved. The purpose of such intervention was to put down piracy: further intervention must be avoided, if not by putting down piracy, then by more effective Spanish intervention. Even the Chimno survey, begun in mid-1870, was a source of apprehension.¹³² Chimno carried letters from the Sultan not only to Pope-Hennessy but also to Governor Ord in Singapore, and had several chats with the Sultan, who sought British protection and declared that the Spanish subsidies had

ceased.¹³³ The Spaniards, too, had been made aware of the interest of other powers. Callaghan had suggested that the American enterprise 'annoyed and alarmed' them: he heard that a partner of Torrey's had warned the Captain-General that the Spaniards must leave Palawan and Balabac.¹³⁴ At that time, too, the Sultan of Sulu had appealed not only to Great Britain but also, through the commander of a visiting merchant ship, to Prussia, offering it part of north Borneo.¹³⁵ Not insignificantly, in 1867 the Spanish Government ordered the Philippines authorities to define the Sulu territories.¹³⁶ No doubt the Spaniards became aware of the Italian venture, too. The opening of the Suez Canal in 1869 was likely to bring in more European competition. But the Spaniards, it seems, were also afraid that it might strengthen the Islamic element in the opposition to the Europeans, seen in Sumatra and southern Borneo,¹³⁷ in Sulu, too; just as some of the British, on the other hand, believed that their interests would suffer especially in India if a general Islamic/European conflict ensued.

What happened in Spain also affected Spanish policy in Sulu and the Philippines. The death of Isabel II in 1868 introduced several years of chaos. The monarchy was challenged; Cuba rebelled. But those years—which even led King Leopold II of the Belgians to think that he might make the Philippines a pre-Congo Free State¹³⁸—did not in fact make Spain more ready to abandon its colonial territory. The installation of Amadeo of Savoy as King in December 1870 indeed aroused martial ardour.¹³⁹ But no Spanish régime could afford colonial compromise. The period of disorder at home was also a period of obstinacy abroad.

Early in 1869 Ricketts, now Consul in Manila, had reported that the Sulu question was under discussion among the Manila authorities, 'some recommending that all pretensions ought to be withdrawn from the Sultan's territory, and others that it should be brought into firmer subjection than it is at present'. The matter had been referred to Madrid. His own view was rather different. 'The present state of things is no doubt prejudicial to the Singapore Labuan and Sulu trade, and could the independence of the Sultan be ensured and a free port opened somewhere on the route between Labuan and Manila..., the Sulu trade which now passes by Manila and Zamboanga would most probably be diverted from that channel and tend to improve the commerce of Singapore.'¹⁴⁰ Ricketts thus revived the idea of an internationalized buffer state of Sulu which would boost the flow of trade to Singapore. But the Foreign Office did not take it up: there was no reason, so far, for it to stir from its sleep.

The Spaniards had still not taken decisive steps when in June 1870 Ricketts reported that pirates, possibly from Marudu, or from some Sulu islands, had been infesting the Bernardino Straits and the islands on the south-west coast of Luzon. 'A serious check was at one time placed on the movement of the Ilanun pirates by the Spanish steamers; for some time past however owing to the dilapidated state of the navy of this colony all preventive measures have been relaxed; hence this new outbreak....' Some of the military authorities

thought that Tawi-Tawi, 'the supposed haunt of the pirates', should be occupied and the inhabitants deported. This would mean, Ricketts believed, that the Sulu archipelago, 'now more or less independent would soon fall into the hands of Spain....' The British Government might consider the effect of this on the trade of Labuan and Singapore, and the right of the Sultan to ask for British protection under the Brooke treaty. Such piratical acts were formerly made the pretext of an attack on Sulu. 'Nothing has transpired to show that such a line of conduct is meditated by the colonial authorities at the present moment, nor do I think they would embark on an expedition of this sort without the sanction of the government at Madrid....'¹⁴¹ The following month, however, Ricketts reported a rumour that a naval station would be established near the island of Sulu, 'the object being to prevent the organisation of such expeditions in future'.¹⁴²

In September, furthermore, Ricketts learned that the authorities had resolved on an expedition to Sulu, probably later in the year, or early in 1871, when the season was better, and after, presumably, Madrid's assent had been obtained. The differences with the Sultan related to breaches of the treaty of 1851. The Sultan had lately imported firearms from Singapore, and he had failed to prevent piracy. But he might now plead, as in 1861, that Spain had failed to pay the promised subsidies, and could well argue that the suppression of piracy was not 'an ordinary task', since few of the widely scattered islands owed him allegiance, and many of their inhabitants were piratical. The acquisition of arms was not surprising, in view of the advocacy in the Manila papers of attacks on Sulu. Ricketts could not discover whether the expedition was 'intended to be a means of suppressing piracy only, or whether it is intended at the same time to attempt a formal occupation of the Sultan's dominions....' But piracy could be suppressed by cruising better than by invasion: indeed destruction might only encourage disorder and robbery.¹⁴³ What seemed to be at hand was in fact not a scheme to suppress piracy, but another phase in the struggle of Spain to assert itself in the Sulu archipelago. A further blow at Sulu had become politically necessary, even though it might assist in the suppression of piracy only ultimately, if at all.

The expedition was delayed longer than Ricketts expected: indeed for the most of the following year. In October 1871 he wrote that the Spaniards were planning a new settlement on Palawan at Port Royalist. The major purpose was to exclude others: no other advantages seemed likely to compensate for the expense involved. In Mindanao there were similar coastal settlements, and that at Pollok was being reinforced, partly to deal with Mindanao pirates, perhaps also in preparation for an attack on Sulu.¹⁴⁴ A few days later he wrote that the scale of activities led him to think that the government intended to take possession of Sulu.¹⁴⁵

At the end of the month Sulu Town was bombarded by Spanish gunboats. The *Diario*, official organ of the Manila Government, stated that the bombardment was ordered because the Sultan refused to surrender a captive actually taken in the presence of Spanish naval vessels, and indeed denied the

existence of such a captive. Ricketts thought that 'the real cause is ...to be found in a desire on the part of Spain to extend her dominion in these seas....' The attack had long been meditated and the effect would be to close the archipelago to foreign commerce. But no occupation seemed to be intended: rather the naval station rumoured earlier. The *Diario* spoke of a blockade until the captive was given up, and the establishment of a naval station that would prevent piracy and illicit commerce '(as trading with Sulu is termed)'. In fact piracy could be prevented by cruisers based elsewhere, and so Spain's establishment of a naval station at Sulu was 'merely a pretext for acquiring a right of jurisdiction over the ports of the Sultan's territory' Moreover Spain would be able to 'interdict if she pleases all direct foreign intercourse with that country' without the risk and expense involved in landing an expedition. But no doubt military occupation would follow 'at the first opportune season'.¹⁴⁶

It seemed that Spain, despite its military ardour, would for the time being stop short of occupation. Even this limited policy in fact over-extended the Spaniards: the expenditure on the Sulu expedition and its demands on manpower contributed to the Cavite mutiny of 1872,¹⁴⁷ widely regarded as symbolizing the beginning of the Filipino nationalist struggle. In Sulu, as ever, Spain demonstrated weakness even in demonstrating strength. But in any case it would not try to occupy the island. It would take new steps on the surrounding islands of Palawan and Mindanao. It would also seek to interdict illicit commerce with Sulu. Already in the 1860s it had sought—rather in opposition to the 1851 treaty—to divert Sulu's trade to Zamboanga. Though, since Sulu was not in fact occupied, such a proceeding was provocative, it had produced little protest from traders, and the British Government had not continued to object to the circular of 1860. But now the talk was also of blockade. For the signatories of the Declaration of Paris, of whom Spain was not one, this meant something specific: to be binding a blockade must be effective,¹⁴⁸ and, as the Foreign Office had noted in 1859, it must be notified to other powers. Spain was again running the risk of provoking what it sought to avoid. Sulu's trade would be oriented more to Singapore, more to arms. Yet other powers would be more likely to intervene on its behalf. Already in December Ricketts was raising the question.

How long the blockade of the Sulu Archipelago is meant to be continued it is impossible to say—should, however, any ulterior military operations not be intended to be carried out against Sulu, one can only view in this act of the Spanish Government a design for hindering the trade of Labuan, Singapore and Sarawak from visiting that country, as it can hardly be admitted that the blockade of a whole archipelago for an indefinite period is a measure absolutely necessary to be adopted for the prevention of piracy, an evil by the way which might easily be remedied by a proper system of cruising.

No notification has as yet been made as regards the blockade in question and can a blockade be considered legally binding which has not been formally notified?¹⁴⁹

Ricketts had earlier hinted that the proper solution to the uncertainties of

the 1860s was not the reduction of Sulu by Spain but the general recognition of its independence. He put forward more concrete suggestions as the new expedition got under way. Spain would no doubt seek to justify its measures by the difficulty attending the suppression of piracy. But the most Spain would do would be to establish a few posts in the Sulu archipelago, and the pirates would easily be able to move out of their reach. Cruising would be preferable.

The suppression of piracy can then only be regarded as the ostensible cause, and a desire to propagate the doctrines of the Roman Catholic faith and exterminate Islamism in the South, a love of aggrandisement, the creation of new places for the support of a certain number of officials, a jealousy of foreign influence obtaining any footing within the zone of Spanish rule, and the exclusion of foreign vessels from trading freely with the Sultan's people are, we may rest assured, the real causes which prompt Spain to aim at this extension of her territory.

The trade of the Sulu seas would become coasting trade in Manila hands; a custom-house would be set up; and 'the annoyances consequent on the faults committed by native rulers are nothing in comparison to the loss and molestation often suffered from a highly organised system of legal spoliation....' Therefore Ricketts suggested,

supposing H.M.'s Government be unwilling to support the Sultan of Sulu either directly or indirectly, that occupation of Sulu by Spain be alone permitted under some such conditions as the following.

1st. That British subjects be allowed to reside in and trade in any part of the Sulu Archipelago....

That all British merchandise imported in British vessels into any of the ports of that Archipelago be admitted duty free.

That no duties be levied on the productions of that Archipelago exported either to Great Britain or any of her colonies—that in short all the ports in that Archipelago be held as free ports....

That the religion of the people be not interfered with, and further, that these conditions be embodied in a convention....

The object of such conditions was to ensure that 'our people trading from Labuan and Singapore with Sulu be not deprived of the privileges which they have hitherto enjoyed'¹⁵⁰

British trade in the Philippines prospered.¹⁵¹ But many British statesmen regarded Spanish commercial practice as exclusive. Kimberley was one. Layard, too, had written from Madrid, where he was now ambassador, asking if he should take official steps. 'There is, I believe, a good deal of British Trade with Sulu', and either no duties at all were levied in the Sultan's territory, or they were 'very light'. If this territory 'should fall into the hands of Spain, her restrictive and vexatious commercial policy, and revenue regulations, would no doubt be at once extended to them....'¹⁵²

The Foreign Office looked into its Sulu file, following a call by the Foreign Secretary, Granville, for a memorandum on Britain's right to interfere. This referred to Dalrymple, Brooke, the treaty of 1851, and brought the story of Britain's connexion with Sulu down to the India Office's negation of 1865.¹⁵³

A copy was sent to Layard, 'from which you will perceive that H.M.'s Govt. are not disposed to interfere in the matter'. But he was told to 'ascertain the Intentions of the Spanish Govt. in regard to Sulu and...call attention to the possible Interference with British Trade in that Locality'.¹⁵⁴ Layard's representations secured a reply that seemed satisfactory. The Spanish Government, it declared, entirely disapproved of the conduct of the Captain-General in relation to Sulu: Izquierdo would be recalled.¹⁵⁵

In December Ricketts forwarded an extract from the *Courier de Saigon* of 20 November. In this the Spanish Consul, noting that they had conveyed munitions to Sulu, notified that foreign vessels might not trade directly with that port. 'During the last twenty years', Ricketts commented, not quite accurately, 'traders from Singapore, Borneo and Labuan have frequented Sulu, and no question appears to have been raised by the Spanish Government on this subject—indeed Spain has never practically exercised any jurisdiction over that country, and the treaty of 1851 has been to all intents and purposes a dead letter.'¹⁵⁶ Governor Bulwer feared for the future of Labuan: it had won the confidence of Sulu traders; and it would be greatly affected if Manila annexed the islands and stopped the trade 'which is now practically open...'. Some articles in Manila papers, he noted, admitted that the object of the Spaniards was to secure 'the monopoly of the trade... which they complain has been too much diverted into English and Dutch and other trading channels', and he also alluded to the notification of the Spanish Consul at Saigon, forbidding trade by foreign vessels at Sulu as an integral part of the Philippines.¹⁵⁷

At the Foreign Office the Librarian, Hertslet, thought that the notification might indeed seriously affect trade between Singapore, Borneo, Labuan and Sulu.¹⁵⁸ At the Colonial Office Cox noted that the Spanish Government had disapproved of the proceedings in Sulu.¹⁵⁹ But the Foreign Office told Layard to ask if the notification were authorized.¹⁶⁰ The Spanish Government explained that it was an extract from the circular of 1860, which had been reissued in 1871, communicated to and acknowledged by Granville. Sulu was part of the Philippines, according to earlier and recognized rights and the treaty of 1851: other ports in the Philippines were open, and a factory was shortly to be established in Jolo, so that foreign trade could not experience 'any serious inconvenience'.¹⁶¹ In July 1871 the Spanish ambassador, Rances y Villaneva, had indeed sent in a note, declaring that one of the difficulties in suppressing Moro piracy was

the non fulfilment of the engagements which the Sultan of Jolo as well as some Datus have solemnly contracted with Spain, particularly in regard to the admission of foreign vessels from direct trade in their ports. This has given rise to the late reclamations against the Sultan, and the King's Government, desiring to avoid the inconveniences and the complications which might result from the presence of foreign merchants in these ports, not qualified for lawful commerce, has thought, that in order to prevent as far as possible both the one and the other, it ought to call attention of friendly governments to the circular issued by the Minister of State, July 2nd, 1860....

To this circular the Foreign Office had, as a result of Rances' note, given publicity in the *London Gazette*. Only now did Hertslet become aware of the note. Yet earlier, as he observed, the circular had not passed unnoticed, and up to 1865 'the Question of Sulu had been considered a very important one....' Was it now worth making any further representations to Spain? Granville was asked. 'I think not', he replied.¹⁶²

The Foreign Office seems again, as in 1851-2, to have fallen victim to its departmental organization. But even now it neglected a suggestion, originating in the consular department, that might have got around the blunder. This was that Layard should acknowledge the latest Spanish note, say that the British Government understood that the Spanish aim was merely to suppress piracy, and leave the way open for further communication if necessary. Meanwhile the Consuls at Manila and Brunei should be asked to report. Then 'we shall see how matters stand, but the publication of the Spanish Notice last August may cause us serious inconvenience. The point would seem to be to avoid further entanglement, and to obtain correct information....'¹⁶³

The republication of the circular seemed even more clearly than the original to be aimed against all trade with Sulu, and not arms trade alone. It would cut off Sulu's resources of opposition. Possibly the Spaniards hoped for, or even expected, British endorsement. Like the original circular, however, the republication risked provoking a British denial of their claims over Sulu and of their right to limit its trade even in arms. But though the earlier notification had been questioned at the Foreign Office, this time it passed unnoticed. The blunder—the result of involuntary slumber, rather than determined sleep—further weakened the Foreign Office's position over Sulu. For the moment it seemed to matter less, as the Spaniards had declared that they were recalling Izquierdo. But, as Bulwer commented, when the Spaniards were questioned earlier about their proceedings in Balabac, 'they gave the same assurances as they have lately given with respect to their proceedings in Sulu; but in the meantime they did not desist from their aggression until they had annexed the island'.¹⁶⁴

Indeed a few weeks earlier he had written of the effects of Spanish proceedings on the trade to Labuan. A few boats had lately escaped the vigilance of the Spanish cruisers. But their practice was to sink all boats attempting to communicate: an unarmed *bona fide* trading vessel from Labuan, not under the British flag, carrying tobacco and opium, had been taken near Panguturan, and its crew shot at Zamboanga.¹⁶⁵ The bombardment, initiated the previous year on a pretext, had been repeated in February 1872. In addition a blockade of the island of Sulu had been 'to some extent maintained by the Spanish ships which cruise about, off the coast, interrupting or destroying all native boats that venture to approach or leave the island, nor is the smallest fishing boat allowed to put off from the shore....' When troops arrived, the Spaniards would, Bulwer believed, 'establish a factory on the island, build a fort and a customs house and thus claim actual possession....'¹⁶⁶

Such, indeed, Lt. Patero, commander of the *Valiente* and initiator of the pretext, had advocated, together with the ultimate incorporation of Borneo into Spanish territory.¹⁶⁷

The Sultan, Ricketts reported, had said that he could not find the captive Patero sought, that he had acted against piracy where his authority extended, that his people habitually traded in arms, that the Sulus had fired on the Spaniards in self-defence.¹⁶⁸ On the other hand, Ricketts maintained, Spain had not adhered to the treaty of 1851, having failed to keep up the annual payment. The previous Sultan had repudiated and the present Sultan consistently refused to recognize the sovereignty of Spain, he believed, and the Spaniards had never occupied Sulu, nor exercised any jurisdiction there. The people of Sulu had a different religion and language from the Visayans. In fact Sulu was not really part of the Philippines and should be outside its regulations. 'Could then...the Spanish Government complain if the independence of Sulu were recognized by any foreign state and would not Gt. Britain be justified in claiming for her subjects the right of trading freely with the inhabitants of Sulu—a right by the way which has hitherto been enjoyed by them and which has only been lately contested?...'¹⁶⁹

The Foreign Office was in fact further than ever from making a point of the independence of Sulu. But the Colonial Office prompted it to act on Bulwer's reports. Herbert, now Permanent Under-Secretary, suggested 'a strong protest' to the Spanish Government. 'Their proceedings may result in great injury to our trade and danger to H.M. Subjects.' 'I don't see on what ground we can protest', wrote Kimberley, but he thought that the Foreign Office should call for an explanation at Madrid.¹⁷⁰ The Foreign Office told its envoy in Spain to call attention to the activities Bulwer reported and the assurance Layard had received in January.¹⁷¹ Further material from Bulwer led the Colonial Office to seek a reply, and the envoy in Madrid was asked for the answer, 'as the subject is exciting attention and is one to which H.M.G. cannot remain indifferent'.¹⁷² The reply was that further information would be sought. If the evidence showed that a merchant vessel had been seized as declared, dire punishment would ensue.¹⁷³ Later the British were told that there was no foundation for the report. As H.C. Eliot of the Foreign Office put it in June 1873, the Spanish Government 'fastened on this one particular accusation, which they deny, and as it rests on a very slight foundation, it seems useless to say more about it....'¹⁷⁴ But by this time the situation had a new dimension. For the Sultan had appealed anew for assistance from Britain and from Germany. The latter appeal had perhaps more effect on Britain's policy than the former. Both had some effect on Spain's.

In June 1872 Bulwer had reported that the Sultan had given Chimno two letters, dated May, for the Queen. One related to the Spanish attack; the other, alluding to Dalrymple and to Brooke, sought to involve Britain in Sulu.¹⁷⁵ 'Spain claims the right of Sovereignty over Sulu', wrote Eliot, 'and...although we also at one time asserted certain rights, we have not thought it advisable to maintain them or to contest the rights of Spain....' Now the Spaniards sought

to carry their rights 'into practical effect', and this had affected British trade. The Sultan was protesting; 'and the question is whether H.M.'s Govt. are prepared to interfere, either by a friendly remonstrance, which would probably have no effect,—or by reasserting and maintaining the Treaty Rights which we formerly claimed....' Granville proposed an answer: 'we cannot assist him'.¹⁷⁶ Instead, though without a recognition of Spanish sovereignty, the Sultan was told to abstain from giving offence to Spain and recommended to the protection of the Almighty.¹⁷⁷ The Colonial Office did not object, although, as Robert Meade, the Assistant Under-Secretary, commented, 'Providence is sometimes on the side of the "gros bataillons"'.¹⁷⁸

So far the effect on British interests had not sufficed to swing the Foreign Office back to maintaining the independence of Sulu, more difficult as that had become since the blunder of 1871. But the Spanish 'blockade' continued. In March 1873 Governor Ord reported that the *Straits Times* had published a notice from the Spanish Consul prohibiting foreign vessels from calling at Sulu. Ord asked him for information; and he replied that he was fulfilling the decree of 1860, already published in the Straits Settlements *Gazette* by Governor Cavenagh. Ord then republished it. 'The restrictions which are being imposed', he commented, '...have been very unfavourably received by the Mercantile Community here, and I think it very desirable that the views of Her Majesty's Government on the subject should be made known as soon as possible.'¹⁷⁹ The Foreign Office again thought that the Government had no valid reason for objecting, and so the Colonial Office was told.¹⁸⁰ But this time the Colonial Office did not accept the Foreign Office's view, and a different course was followed. The involvement of the Germans may account for this.

The German Involvement

In 1872 Bulwer had visited Gaya, Marudu, and Balambangan, but had not gone to the east coast. In his report he recalled the Dalrymple cessions.¹⁸¹ Later that year he had commented on the interest of other powers in the area and their possible interruption of Labuan's trade from the north-east and Sulu. These powers included the Italians, seeking a convict station, and the Dutch, advancing up the east coast, as well as the Spaniards, who had nominal possession of Sulu, and 'affect a claim' to parts of north Borneo. Perhaps they also included the Germans, 'disposed', it was thought, 'to turn their attention to these seas, and as traders...likely to prove more dangerous rivals to English commerce....'¹⁸²

Early in 1872 Cadorna, the Italian Minister in London, had sought British assent to a penal settlement between 6° and the northern extremity of Borneo.¹⁸³ The Foreign Office rather eccentrically referred this to the India Office, who in turn referred to the Viceroy, and reminded him of St John's proposal for a British convict settlement back in 1859.¹⁸⁴ The Colonial Office referred to its earlier opinion,¹⁸⁵ and Granville told Cadorna that Italy could not expect a favourable answer. Cadorna was still optimistic,¹⁸⁶ perhaps

because Pope-Hennessy had been encouraging, and the Italian Government continued to press. Italy needed a penal settlement which, moreover, might be utilized as a naval station to protect Italian commerce with Japan. The Foreign Office again referred to the Colonial Office, and to the earlier correspondence. 'On what grounds', the Foreign Office asked, could the British Government 'properly base their objection to the establishment of the proposed Colony, as it would appear that Great Britain has no right or claim to the Territory in question?' The Foreign Office just managed to avoid the further slip this question implied. A private note from Hammond recalled the existence of the treaty of 1847. But it had, as Meade noted, overlooked the Dalrymple treaties. The reply to the Foreign Office included a reference to the danger of introducing convicts into Borneo, inserted by Kimberley; a restatement of the view that the British Government could not oppose a trading settlement, simply in order to protect Labuan's interest; and a reference to the Dalrymple cessions. The relevance of those cessions was a matter for Granville's decision. The question of an Italian naval station at Gaya, 'close to the main lines of communication in the Eastern Seas', was a matter for the Foreign Office and the Admiralty. The Colonial Office, for its part, would again refer to the Governor of Labuan.¹⁸⁷

This reference to Bulwer crossed his earlier report but produced another. A settlement at Gaya would damage Labuan's trade, he repeated. What of a settlement elsewhere? The Sultan of Brunei's dominions, previously extending to Kaniungan, now extended only to Kinabatangan. The other main harbours were Marudu and Sandakan. Chimno, Bulwer said, had been surveying the passage between Sulu and Borneo, as a possible route between Australia and China. Sandakan would be well placed. It was also a focus of trade: a substantial proportion of the birds' nests imported into China came from that region; and according to Low, the Sultan of Sulu obtained \$10,000 from the Kinabatangan nests. Much of the trade went at present via Marudu to Labuan and Singapore. A settlement at Marudu, like one at Gaya, would, Bulwer argued, divide Brunei territories, for their severance from the Sultan's dominions would become as complete as that of the Sarawak territory or Labuan. If one considered the interests of Brunei, the cession should be on its limits, or insular. This pointed to Sandakan. But a settlement there would still limit Labuan's trade, which would be confined to that of the opposite coast, at present 'the poorer portion', and Sandakan's strategic importance was a matter of imperial policy. Only by implication had Bulwer dealt with the treaty of 1847. As Meade commented, he said nothing about the Dalrymple cessions, 'and I suppose such claims can hardly be said to exist, though I see he colours red the Island of Balambangan....' Meade suggested a reference to the Admiralty over Sandakan. Knatchbull Hugessen, the Parliamentary Under-Secretary, repeated the view that the Government could not object to a settlement on the ground that colonial trade would be injured. It might make use of any claim it had '(and I am not aware that we really have any)'; or it might insist that a convict settlement was undesirable. It was the latter line to

which Kimberley adhered. There was 'strong ground for resistance on account of the disorders which would follow the introduction of a desperate class of European convicts into Borneo....' The Italians should be told that the idea 'cannot meet with our approval'.¹⁸⁸ The Foreign Office was perhaps somewhat embarrassed, since it had earlier declined a request for Socotra in the Red Sea. But Granville had been stonewalling against the Italian minister,¹⁸⁹ and now the Foreign Office agreed with the Colonial Office. The Italians gave in.¹⁹⁰

Once more the Government took its stand on the 'moral' issue, only by implication enforcing the treaty of 1847. No doubt it wished to appear friendly to Italy. But the treaty was in use at Brunei. The Italian Government had more or less dismissed a complaint from Torrey. But it had not only been delayed by the Foreign Office: it had been perturbed by an article in *The Times* in August 1872, on its alleged intention to establish a penal colony. It decided to proceed with the occupation of Banggi. But then a Dutch protest had arrived: the Netherlands Government was opposed to a penal settlement in the region.¹⁹¹ Racchia pointed out that Banggi had connexions with Sulu and Sulu with Spain, and that Spain had published a notice prohibiting foreign trade with Sulu. The project was reduced to one of investigation, and Racchia left it to his colleague Giordano.¹⁹² He reached Brunei in April on the *Governolo*, and planned to ascend Mount Kinabalu. But at Brunei he discussed with the Temenggong 'the territories that some years ago were so improperly leased to American adventurers', as Bulwer put it. Enche Muhammad, the consular writer, seemed mistaken, he added, in thinking that the Italians wanted the territories: it was a matter, no doubt, of gaining information. The writer said that he constantly reminded the Sultan of the treaty of 1847, and the Sultan, he alleged, replied: 'The English nation is our principal friends—and Labuan is like the fortification of Brunei. If other nations wish to establish their colonies on the N.E. coast the trade will be injured....'¹⁹³ With this the Italian scheme indeed died.

The British Government was even more likely to resist Spanish claims to Borneo—not so far openly asserted—than it was Italian. If the Foreign Office lapsed, the Colonial Office would remind it. But the Colonial Office in fact became so concerned over the Spanish threat to Labuan's trade that it sought to reawaken sleeping British resistance to Spanish claims to Sulu itself. In this process the Germans, whose interest Bulwer had already noted, were involved.

In March 1873 Bulwer reported receiving a visit from the German warship, *Nymphe*, en route for Sulu. The previous year, Captain H. Schück, a German trader, had undertaken, as he told Low, 'to forward a letter to Prince Bismarck from the Sultan, appealing against the conduct of the Government of Manila, expressing a desire for the establishment of friendly relations with the German Empire, and asking for help....' The *Nymphe* had come to 'ascertain on the spot the merits' of the Spanish-Sulu dispute. Captain von Blanc understood that the treaty of 1851 had not been ratified by Spain, nor

had it been notified to other European governments, and that Spain's claims were thus unrecognized. He wished to discover how Britain viewed the status of Sulu. Bulwer believed that Spanish pretensions, indicated in the renewal of the 1860 decree, conflicted with British interests. But it was the Foreign Office that should decide if they conflicted with British rights. 'Though I believe I should have been justified in stating that the Spanish claims to Sulu had never been recognized by Her Majesty's Government, I thought it better to avoid making any statement or expressing any opinion on that point....' But Bulwer did refer to Britain's past relations with the Sulu islands, and declared 'that the presence of the Colony of Labuan in the near neighbourhood of the coast of Borneo and of the Sulu Islands and the relations which the Colony had established with the people both of the coast and of the Sulu Islands was naturally a strong proof of the interest which Her Majesty's Government had in these parts....' Von Blanc intended also to visit the east coast. Bulwer 'thought it well to indicate the present boundaries of the Sultan of Brunei; and I also took occasion to mention the cession of territory made to the East India Company in 1763'.¹⁹⁴

The *Nymph* touched at Labuan again in April, with a letter and presents from the Sultan to the Emperor Wilhelm I; and von Blanc was no doubt 'alive to the advantage that may result to German interests' from the Sultan's anxiety for German friendship. It seemed possible, Bulwer reported in a second despatch, that the Sultan had offered to cede Bongao, which commanded the channel between Borneo and the Tawi-Tawi group, and stood thus in the passage of the trade between Australia and China. Von Blanc also visited Marudu and Sandakan, and spoke of them, rather too earnestly, as Sulu's, while Bulwer alleged they were Brunei's. Bulwer thought it right that, so far as north and north-east Borneo was concerned, 'he should at least know that the Sulu views upon their territorial rights on the mainland of Borneo were at variance with those entertained by the Brunei Government....' What the British Government's opinion might be Bulwer had not said: it was for the Foreign Office to express 'should the necessity arise'.¹⁹⁵ But Bulwer had indicated British interest both in Sulu and in north Borneo; in the latter he had indicated something more.

The arrival of the first Bulwer despatch about the Germans led the Colonial Office at Meade's suggestion to ask the Foreign Office if it affected its unreadiness to object to the republication of the 1860 circular. Kimberley himself added: 'The trade with Sulu is of vital importance to Labuan, and His Lordship would suggest, for Lord Granville's consideration, whether the Spanish Government possesses any actual jurisdiction over the Dominion of the Sultan of Sulu who...appears not to recognize or submit to any Spanish authority.'¹⁹⁶ The second despatch, Cox suggested, concerned 'a matter that may be of much importance to our Trade....' The Foreign Office should be asked what action it proposed. Hammond told Meade that he thought that it had some time ago resolved not to interfere. Kimberley said he had spoken to Granville.¹⁹⁷ Indeed he had written privately to the Foreign Secretary. 'Is it

quite politic to recognize the right of the Spaniards to prohibit trade with Sulu? Their right seems to me questionable and the extension of their effete and anti-commercial Government in the Indian Archipelago injurious to ourselves and all other nations who trade in these parts.¹⁹⁸

A long standing dislike of the 'anti-commercial' policy of Spain had been reinforced in these years, in part by a number of minor questions which gave the impression that its attitude was 'arbitrary, trivial and even dishonest'.¹⁹⁹ Earlier unsure of the grounds for protest, Kimberley took his stand on this general point. The Spanish system, assumed to prevail in the Philippine archipelago, should not spread into the 'Indian Archipelago', in which it seems Kimberley, like Brooke, included Sulu. Indeed the Colonial Office, concerned to protect the trade of Labuan, and also, now that it had taken them over from the India Office, of the Straits Settlements, was attempting again to bring up the question of Sulu's independence. This the Foreign Office, lulled by Rique's assurances, had allowed to sleep; and it had published the decree of 1860 in 1871. But the future of Sulu was no longer simply a question to be settled, so far as the West was concerned, by the established powers of the region, Spain, the Netherlands, Great Britain. Germany, now united, seemed interested, like Italy. Should Britain oppose Germany or join Germany? Should Britain conciliate Spain or support Sulu? North Borneo was also involved. A few days before his letter to Granville Kimberley had commented that a memorandum by Bulwer on Borneo would be 'useful if we wish to resist attempts of the Spaniards to extend their pretensions to the part of Borneo, claimed by Sulu'.²⁰⁰

To join in challenging Spain, on the basis of ineffective occupation, would involve not only something of a reversal of policy over Sulu, but also a general principle, earlier unpalatable to Holland, and probably to Britain itself, as well as to Spain. But for the Germans, the Foreign Office might still have hoped to avoid challenging Spain and relied upon diplomatic pressure of another sort to secure some measure of satisfaction for the Colonial Office. If, however, the Germans meant to intervene, the British position might be threatened more seriously. The alternatives would then be to support Spain, which the Colonial Office would be unable to stomach, and which might in any case provoke Germany; or be faced with a German-Spanish deal, possibly involving north Borneo, which neither Foreign Office nor Colonial Office would be able to stomach. It might be well to put in a preliminary protest on behalf of Britain, so as at least to secure a role in the internationalization of the issue that had now perhaps become unavoidable. In the event there was some cooperation with Germany. But the joint action of the two powers—both provoked by Spain—was based on something more than common resentment of Spain. It was better for Britain to cooperate with Germany than to see Germany act unilaterally: not only would cooperation browbeat Spain more effectively, it might restrain Germany. There would be risks, however: Britain would not wish to become embroiled in quarrels between Germany and Spain in Europe over, for instance, the Catholic

question; nor would Britain readily accept German territorial acquisitions in the South-East Asian maritime region.

For a time, indeed, the Foreign Office hesitated. Undoubtedly it was concerned about the possible intervention of the Germans. A paper by T.V. Lister repeated von Blanc's queries over the treaty of 1851;²⁰¹ and in July a memorandum by A.S. Green surveyed Britain's relations with Sulu, and noted that the Queen of Spain had in fact sanctioned the treaty made by Urbiztondo.²⁰² The Foreign Office sent its embassy in Berlin not only the Bulwer despatches, but also a report from the acting Consul in Manila that the Sultan of Sulu had offered to place his dominions under the German flag, and appointed an ambassador.²⁰³ The Germans admitted that an offer had been made, but no ambassador had been sent.²⁰⁴

Learning of this, the Colonial Office asked for a reply to its earlier letter. Such a request would be useful, since the Foreign Office conducted Sulu business in three departments, and it would let 'the German Department know that there is such a letter which the Spanish Department may help them to have in the Consular Department'.²⁰⁵ The Colonial Office also sent over a petition from the Chinese traders of Singapore, declaring that the trade with Sulu had been stopped, 'owing to the action of the Spanish Government which refuses to allow goods and merchandise to pass except through their own ports...'²⁰⁶ A letter from the Sultan was also forwarded. This rather neatly replied to the Queen's letter by declaring that the proceedings of the Spaniards were preventing his dealing with piracy. The Colonial Office declared that the Sulu trade was 'suffering severely'—a phrase inserted on Kimberley's own instructions—and asked if Granville wanted orders sent to the Governor of the Straits.²⁰⁷

The Foreign Office, still perplexed, referred to the Law Officers. The 1860 decree raised the question of Sulu's independence, discussed in the July memorandum, which was enclosed. The trade of Sulu was, the Foreign Office added, 'held to be of vital importance to the British Colony of Labuan and hence has been raised the question of the right of Spain to interdict foreign resort to that Island'. The Law Officers were asked to report 'whether there is any sufficient ground for disputing the Sovereignty of Spain over Sulu, or for objecting to the notification prohibiting the resort of vessels to those Islands'. J.D. Coleridge and J.P. Deane replied that, with the information available, they could not 'form a clear opinion on the rights of Spain to the Territories in question.... But we are of opinion that the notification prohibiting the resort of vessels to the Sulu territories and dependencies may properly be objected to, and the Spanish Government be called on to confine the effect of that notification to vessels engaged in illegal traffic',²⁰⁸ by which the Law Officers apparently meant traffic in arms. With the assent of the Colonial Office, Layard was instructed to protest, while reserving Britain's right to dispute the Spanish claim to sovereignty in the Sulu Archipelago which it had never recognized. Isturiz, the Foreign Office said, had stressed that the object of the decree was to suppress arms traffic, and with this assurance the British

Government appeared at the time to be satisfied. But now the decree had been revived in a form likely to be 'most injurious' to British trade.²⁰⁹ Layard commented that the right of foreign vessels to trade with Sulu was an issue which would probably be raised in Madrid: some German vessels had already been seized.²¹⁰

The visit of the *Nympe* in July had led the Spaniards to bombard Sulu and to publish on 2 August a proclamation in which the Spanish Admiral, declaring that Sulu was in a state of 'open rebellion', ordered the destruction of all Moro vessels leaving the archipelago of Sulu: if armed, the Moros were to be considered pirates.²¹¹ Bulwer complained of the Spaniards' 'undiscriminating violence': no house nor boat was safe along the Sulu shore; and the natives thought prisoners taken were killed. It was hard to believe that Madrid approved. Meade thought it a 'shameful story. It seems a pity that Spain should be allowed to behave in this way: the war is being carried on in a part of the world which is not open to whatever influence public opinion might possess.' A Labuan Chinese vessel had been seized, and Kimberley suggested that the Admiralty's attention should be called to the matter with a view to protecting British traders.²¹² More significantly the Spaniards also seized a German vessel, as Layard reported. Count Münster, the German minister, spoke of this to Lord Tenterden, Under-Secretary at the Foreign Office, and was told of the protest the British Government had recently instructed Layard to make: it had never acknowledged Spanish sovereignty and refused to recognize proceedings based upon it.²¹³

The Spaniards' activity in the Caribbean formed a context for these exchanges. Their practice there was to treat those who supplied the Cuban rebels as pirates. The practice culminated this same month, November 1873, with the seizure of the American steamer *Virginus* and the shooting of sixteen British subjects.²¹⁴ But the Foreign Office believed that it was desirable to watch the Germans as well as the Spaniards. A new report from Bulwer could only confirm such a belief.

Schück, the German trader who had effected the communication between the *Nympe* and the Sultan of Sulu, had decided to establish a trading settlement at Sandakan. He had obtained from the Sultan, Bulwer wrote, 'a grant purporting to be a grant of land in that Bay', and gone to build a warehouse and establish a depot for collecting produce. The Sultan had also granted him a monopoly of the rotan trade on the north-east coast: if he obtained other monopolies, as he intended, his settlement would be 'most disastrous' to trade in general and to Labuan in particular. Piracy, and also apprehension of Spanish cruisers, had deterred Chinese traders from visiting the north-east coast, and the trade had been mostly brought down to Labuan by Sulu traders. Now it would be threatened by Schück's establishment. The Colonial Office officials were not alarmed. The Germans might obtain all the commercial advantages of the Sultan's territory, wrote de Robeck. 'This may be bad for Labuan, but is a first rate thing as a whole.' Herbert agreed: 'we cannot prevent the Germans, who are anxious to develop their foreign

commerce, from establishing themselves in a position which we did not care to occupy. A good deal of any trade they create will one way and another benefit British merchants....' Kimberley also agreed. But the Foreign Office should be told that the monopolies were objectionable.²¹⁵ The Foreign Office itself thought that the German Government might possibly be interested and sent the despatch to Berlin, just after Münster's discussion had prompted new instructions to the ambassador there.

Münster's approach, Lord Odo Russell was told, had some significance in reference to Bulwer's reports that the German Government's attention had been drawn to 'the advantages which might be derived from the colonization of some of the islands of the Sulu group, and of that portion of the north-eastern coast of Borneo which is claimed by the Sultan as part of his dominions....' The Sultan had appealed to Germany; the *Nymphe* had been sent to Sulu; a German trader had secured monopoly concessions. Spain had claimed the sovereignty of the Sulu Islands 'from time to time', and was now apparently attempting to prosecute its claims by force. 'These claims have never been admitted by this country, which has consistently maintained the principle of the independence of the islands....' Layard had been told to protest against a notice prohibiting foreign trade, and this attitude would be sustained. It was 'obvious that if there is any truth in the report of the intention of Germany to negotiate with the Sultan, the German and Spanish Governments may come into collision'. Britain was interested because in future much of the growing trade between Australia and China would pass through the Sulu Archipelago. Russell should report any indication of Germany's acquiring territory or interfering in that quarter.²¹⁶ In Berlin Bülow welcomed Granville's explanation of British policy and explained that of Germany. Nothing as yet could be done about the seizure of ships by Spain, owing to the lack of official information. Russell asked about the *Nymphe* and about Schück. The *Nymphe*, Bülow replied, had been sent to report on Sulu, and in fact to tell the Sultan 'that Germany could not undertake to interfere at that distance from home'. In response to further enquiries from Russell, Bülow said that 'notwithstanding the great increase of German Trade in those regions generally', the German Government had 'no wish or intention...to acquire transatlantic possessions in the Sulu Archipelago, or indeed in any other portion of the Globe....'²¹⁷ These remarks were reassuring. But perhaps the possible involvement of British subjects was not the only reason why the British associated themselves with German protests against the seizure and confiscation of the *Marie Louise* when official reports began to arrive.

British subjects did seem to be involved. The *Marie Louise* had been chartered by an American firm in Hong Kong and sent south with J.B. Field, allegedly a British subject, on board, as a joint venture with him. It was seized off Sulu in August, though fifteen miles off shore when taken, and ultimately condemned as a prize in a secret court. Field was confined, but escaped, and took refuge in the British Consulate in Manila. The acting Consul, Oswald Coates, called on the Captain-General. He and the Admiral, he reported,

became 'rude and excited'. Later Coates delivered Field's protest, which admitted he had been ashore in a boat, but maintained that he did not know the port was blockaded, and in any case had few arms aboard. The Captain-General 'shouted if you do not like our laws you and the English and all the rest of the Foreigners can go....' The Governor of Hong Kong presumed that the *Marie Louise* was seized for trading at places not qualified according to the circular of 1860, republished 1871.²¹⁸ At the Foreign Office Eliot pointed out that Britain had protested at the prohibition. He considered Spanish proceedings in the *Marie Louise* case arbitrary, and thought that, unless, as the Colonial Office had suggested, the Admiralty took steps to protect British traders, 'we shall have another "Virginius" case in the Philippines....' Tenterden also thought Spanish proceedings 'most arbitrary and outrageous'.²¹⁹

Coates himself wanted a British vessel sent to Manila. He pointed out that Ricketts's relations with the Spanish colonial authorities were already bad.²²⁰ As Nicholas Loney put it in a private letter: 'though an estimable, gentlemanly person, his dislike of Spaniards is so great that they have discerned and resented it, never calling on him or exchanging the usual amenities of that kind....'²²¹ On his return from leave he was threatened. 'It seems to be a sort of cry of "Death to Foreigners"', Tenterden wrote, 'which the Spanish authorities encourage or blink at as a means of intimidating the Consuls from remonstrances agst. their arbitrary proceedings in seizing foreign vessels trading, or accused of trading, with Sulu—seizures from which the authorities, or some of them, are supposed to have benefited....'²²² Later it was thought that Ricketts had exaggerated the threat to his person. Sulu and this question 'got mixed up together', Tenterden wrote.²²³ But perhaps the Consul intended them to be so mixed up: he wanted naval action that might restrain the Spaniards in the south as well as in Manila.

Further papers were received by the Colonial Office and sent over to the Foreign Office. These included two despatches from Ord, one of which enclosed a letter from the Sultan of Sulu, brought by a German merchant, Schomberg, who declared that when he was in Sulu in his steamer, the *Augusta*, the Spaniards were blockading the island with five gunboats. The Sultan alluded to the *Marie Louise*, and appealed for Queen Victoria's help. The other despatch indicated that Ord had published a notice in the *Gazette* at the request of the Spanish Consul in Singapore. This declared that 'rebellion' obliged the Spanish Government to 'sustain a war against the Sultan of Sulu with the sole purpose of enforcing the existing Treaties' and stopping piracy: thus 'the Sulu Ports and Islands shall be submitted to vigorous blockade'; and it repeated the Admiral's order of 2 August.²²⁴ Eliot asked whether orders should not be sent to British ships, if not to prevent captures, at least to see fair trials.²²⁵

Meanwhile Münster said that the German minister in Madrid would be instructed to demand release of the *Marie Louise* and also indemnification, since the seizure was in international waters, and the confiscation was on the

alleged ground of 'a breach of blockade', though such had never been publicized and was not therefore legally binding. It was presumed that the British would also make representations at Madrid, and the German minister would take 'analogous steps'.²²⁶ In Berlin Bülow made a similar communication to Lord Odo Russell.²²⁷ Layard was instructed to communicate fully with his German colleague and reserve the right to make representations on behalf of British subjects. Further instructions were deferred, pending report from the Law Officers.²²⁸

Commenting on the 'cruel' Spanish notice transmitted by Ord, and the risk of an outrage on British subjects of native origin, the Colonial Office suggested that a 'blockade' implied that Sulu was an independent state with which Spain was at war, though the notice talked of rebellion.²²⁹ The Spanish Minister of State, Carvajal, in replying to the British protest against the notification reported by Ord in March 1873, had insisted on Spanish rights and pointed to the capitulations of 1850, to the treaty of 1851, and to the circular of 1860, published in 1871.²³⁰ And a subsequent note to the German minister in Madrid based the seizure of the *Marie Louise* more on these claims than on the blockade under the August proclamation. The ship was condemned, it maintained, on three grounds. First, it had infringed the blockade, because a boat from it had communicated with the shore. But this first ground, Carvajal admitted, had weaknesses. 'The Territory of Jolo is in rebellion against the sovereignty of the country. The Spanish Government, which on repeated occasions has shown its desire to reduce it anew to obedience, without having recourse to those severe measures which it had a right to employ has ultimately determined to effectively surround its coasts to prevent it sending to sea, those piratical vessels that make depredations in those seas....' Hence the orders of 2 August. 'From that time the blockade existed *de facto*, the case not having been foreseen...that a foreign vessel could force it;...because Spain had no customs house in Jolo..., it was not necessary to take precautions against an act which could not be committed, at least legally. For the same reason I understand that a general notification of the blockade was not made, because commerce had no interest in being warned of it....' The blockade could not apply to the *Marie Louise*, but other laws might. The second ground for the sentence on the ship was that it was carrying contraband to the Jolo rebels. Thirdly, trade with Jolo was illegal: under the new act of submission of 1851 Jolo and its dependencies belonged to Spain; and Spain had no customs house there. Foreign nations had been reminded that trade was illegal in 1860.²³¹ The stress here was on the claim to sovereignty, as Münster pointed out in London. 'The Spanish claims to the rights of possession of the Sulu Islands have never been expressly recognized by the Imperial Government any more than by the Royal British Government....' They had not been opposed, so long as they did not interfere with legitimate German trade; 'yet the occasion may arise from the turn which the present case of reclamation appears to be taking....' The issue was Sulu's independence. If Sulu was a Spanish possession, the next question was

whether or not the *Marie Louise* was captured in the open sea. If Sulu was independent, then Spanish claims and Spanish measures 'must be considered as unjustifiable and unallowable....' In view of Britain's earlier protest, Germany looked forward to its cooperation.²³² This statement Granville welcomed.²³³

The Foreign Office had been drafting a despatch to Layard about the circular. This attempted to explain away what one official called the 'unlucky oversight' that led to publication in 1871. The British Government 'were inadvertently led to imagine that the Circular...had for its sole object the suppression of Piracy'; otherwise it would have repeated the language of 1860. There was no intention to deviate from its policy with regard to 'the Independence of Sulu'.²³⁴ The draft went to the Law Officers, as had the papers on Ricketts and on the *Marie Louise*. But they pronounced merely on the latter. There had been no declaration of belligerence to justify the blockade or the seizure of contraband. Indeed the Spaniards themselves hardly sustained the blockade concept. Their third ground might have raised the question of Spain's title. But even if that were 'as unquestionable as it is doubtful', it could only be exercised in territorial waters, and the *Marie Louise* was apparently outside them. The Law Officers suggested that a vessel might well be sent to sustain the Consul's authority and protect the rights of British subjects.²³⁵ 'But', asked Eliot, 'is anything more to be said about the Spanish Claim to Sovereignty over Sulu, which we do not admit, although we have not yet thought it expedient to take any active steps to dispute it?' Tenterden thought the question should be referred to the Law Officers.²³⁶ The draft to Layard was—presumably at this point—shorn of its reference to the 'Independence' of Sulu. A despatch about the *Marie Louise* was based on the Law Officers' report, and instructions were sent to the Admiralty as they suggested.²³⁷

The new reference to the Law Officers referred to the rigorous prohibition of trade by the Spaniards. Lord Derby thought it in these circumstances 'very desirable that Her Majesty's Government should come to a decision upon the question of the Spanish Claim to Sovereignty over the Sulu Archipelago....' The Law Officers were also asked to suggest what steps Great Britain might take to protect British subjects engaged in legitimate trade with Sulu.²³⁸

The reference had been delayed by a change of government in London. Meanwhile the Colonial Office had forwarded a despatch from Bulwer, complaining of the notification of August, and more generally of Spanish aggression, unjustified by an alleged desire to suppress piracy.²³⁹ Meade feared that while Spanish claims were being considered, Spanish ships would 'continue to perpetrate...horrors...on these miserable islanders....'²⁴⁰ The Colonial Office thus asked for instructions on an answer to the Sultan of Sulu's latest letter and on a reply to Governor Ord about the notification.²⁴¹ Eliot proposed a civil reply to the Sultan; but Tenterden thought the letter only a rejoinder to Granville's, and saw no need to continue the correspondence, especially as the sovereignty question was still under

consideration. Eliot himself was 'puzzled' about the notification, partly because he confused it with the circular. The Foreign Office, he wrote, had told Spain that its publication here was an accident, but had not withdrawn it. 'We have protested against the interference with legitimate British Trade caused by the Blockade, but our protest has only been called forth by the harsh measures of the Spanish Govt. As long as they confined themselves to measures for the suppression of piracy, we were not disposed to interfere....' But the Law Officers' report was awaited.²⁴²

Before it arrived, Layard reported that the Spanish government had ordered the release of the *Marie Louise*. He was told to protest still over the treatment of Field.²⁴³ This pressure the Law Officers' report favoured. But it did not support the Foreign Office's growing disposition to challenge Spain over Sulu. If the Spanish claims could be maintained, they rested on the treaty of 1851, since the treaty of 1836 limited Spain to a protectorate, and cancelled any other rights. The treaty of 1851 was preceded by Brooke's treaty, but that had never been ratified. Correspondence had been dropped in 1852. The 1860 ratification led to remonstrance, but the idea of a joint protectorate was not pursued, and in 1865 the Indian Government reported that Spain had a right to sovereignty over Sulu. Thus, while it was true that the British Government had never recognized Spanish claims, it was 'equally true that Her Majesty's Government, with a full knowledge of all the facts, has stood by and allowed the claims to be acted upon, and, in our opinion, Her Majesty's Government would not now be justified in further remonstrating against such claims....' The Spanish government could, therefore, if it wished, prohibit trade with Sulu. But representations over the *Marie Louise* might lead to some arrangement that would put an end to the 'unsatisfactory' state of Anglo-Spanish relations over Sulu, and 'the interest which Germany has in the matter' might assist in bringing it about. Any negotiations should aim at 'affording reasonable trading facilities to British Subjects....' In the meantime the British Government could take such steps to secure the persons and property of British subjects engaged in legitimate trade with Sulu 'as are usually taken in similar cases where the subjects of friendly States are concerned'.²⁴⁴

The Law Officers thus advised against supporting Sulu's independence: but, they recommended, Great Britain should exert diplomatic pressure on Spain, joining with the Germans to that end. Eliot thought that this meant that Spanish sovereignty must be recognized, but that 'in doing so we should define clearly the rights which we admit as regards prohibiting trade....' The Law Officers included the right to prohibit trade in the rights of sovereignty: they did not notice the Spanish claim to blockade Sulu ports. 'It should be clearly laid down what steps a Country has the right to take in order to enforce a prohibition to trade with its own ports.... I think also that the Spanish Govt. should be warned that in assuming the Sovereignty of Sulu Archipelago they also assume the responsibility of keeping order and providing for the security of life and property in the Islands and adjacent seas....' But Tenterden saw no

advantage in telling Spain that its sovereignty was recognized 'unless we are called upon to give an opinion....' It would suffice to tell Layard that Spain's right was 'doubtful', but that in the circumstances Britain was not in a position to protest against it. 'The distinction between "blockade" and "prohibition" shd. be clearly defined.' A draft should be prepared and communicated to Germany 'with a view to joint action'.²⁴⁵

Nothing further had, however, been done when the Colonial Office forwarded part of a despatch from Bulwer. The Governor of Labuan had shown in January how the tobacco and opium farms his predecessor had established in order to sustain the colony's revenue had damaged its trade with Sulu and the north-east coast by raising the prices of the commodities used to secure the produce of those regions. This had helped Schück in developing trade at Sandakan at Labuan's expense and, while the Spaniards inhibited Labuan's commerce with Sulu, the Germans ran their blockade.²⁴⁶ Labuan's traders 'are losers both by the blockade and by the rival trading station', Bulwer added in a further despatch. But even if the blockade ceased, Sandakan would still intercept Sulu traders previously accustomed to visit Labuan, as well as absorbing much of the east coast trade. Meade suggested that the Foreign Office should be told 'how depressed is the condition of Labuan Trade and that among other causes...the conduct of the Spaniards in Sulu takes a chief part....' The Foreign Office had long been considering the matter, 'and it is really time that some effective steps should be taken to check the barbarities which for some years have been practised on the unhappy natives of the Sulu group'. Carnavon, the Colonial Secretary, agreed. The Foreign Office was asked what steps were being taken over the blockade. Spanish proceedings were apparently conducted with 'great and wanton barbarity', injured British trade, and could 'easily lead to serious disturbances'.²⁴⁷ The Foreign Office explained that it was consulting Layard, now in England.²⁴⁸

The following month, however, the Foreign Office fell back on the Law Officers' suggestions, and proposed to leave the Sulu question 'in abeyance for the present', trusting that the British and German representations at Madrid would lead to measures 'which will prevent undue interference with legitimate foreign trade with Sulu'.²⁴⁹ Bulwer himself thought that for Labuan the Sandakan trading station was 'a far more formidable opponent than the Spanish blockade of Sulu', more especially as John Dill Ross, who carried most of Labuan's trade with Singapore, had come to an arrangement with the Germans.²⁵⁰ But the Foreign Office proposal led Meade to expostulate:

when I consider what has been the course of events in this unhappy group of Islands and the spectacle afforded to orientals of a Christian Power murdering, pillaging and burning with no adequate excuse—and that Power so weak that the slightest intimation from us that proceedings must cease, would no doubt be attended to—I think a more vigorous course might well be adopted....

It would seem that the F.O. have only one type of letter for use in their correspondence with Oriental Potentates. The answer to the letter of the Sultan of Sulu

much resembles that addressed to the Sultan of Acheh in wholly different circs., and in fact amounts to a warning that he should be careful how he gives offence to the Spaniards, He having been the outraged Party....

Meade suggested that 'a little light should now be thrown upon the proceedings of Spain in Sulu', and a ship be sent to investigate. 'I think we have ample ground for further remonstrance with the Madrid Govt. for the sake of humanity and because one European Power cannot commit flagrant injustice without bringing discredit and consequently political complications upon other Powers having relations with Eastern nations.' Herbert and Carnavon agreed. The latter wrote:

The F.O. seem to me to be responsible for the present position of the question not only by their indifference but by their mismanagement in virtually acknowledging this monstrous claim on the part of Spain when they placed it in the Gazette. But if we are silent we make ourselves partners to the inhumanity and lawlessness of the Spanish proceedings....

The resulting letter to the Foreign Office was a strong one. The proceedings of the Spanish nation in Sulu were 'only worthy of the conduct and history of this very Spanish nation in their dealings with native races three centuries ago....' While 'refraining for the present' from controversy over Spanish rights, 'it may be desirable in the interests of civilisation and humanity that strenuous remonstrances should be addressed' to the Spaniards, pointing out the effect of their actions on the credit of all European nations having dealings with those of the East.²⁵¹

Meade's language was after all echoed by some at the Foreign Office. T.V. Lister saw 'the Spanish ships as Pirates, and the quarrel with Sulu as a pretence for murder, plunder and rewards', and he suggested sending ships to Sulu waters to protect legitimate trade and to deny the blockade and if necessary force it. Derby was ready to send a ship to report. 'But I am not so clear as to our right to deny the validity of the Spanish blockade....' Commenting in reply, Lister referred first to the prohibition on trade. This, the Law Officers declared, was a legitimate act of sovereignty. But Isturiz had said that the prohibition was 'only to extend to munitions of war and that Spain was anxious to encourage bona fide commerce....' This assurance should be carried out, Lister urged. A blockade was a different thing, though the Spaniards were using it to carry out the prohibition of trade: it would involve acknowledging the Sulu people as belligerents; it had not been notified; and it did not in fact exist. In his indignation, Lister omitted Isturiz's insistence that legitimate trade must go *via* Zamboanga: but, as the Law Officers no doubt recognized, such a stipulation did not mean that a blockade was justified, nor acts of violence. Derby was now persuaded. 'But we had better say nothing about forcing the blockade.'²⁵² The Admiralty was told that the time for 'some further action' had arrived, but that a report was required. Could then a naval vessel visit the archipelago for that purpose? 'We have advanced a step', Carnavon commented.²⁵³

Meade suggested privately that some pressure might be put on the

Spaniards 'to stay their high-handed proceedings against the unhappy Sultan of Sulu' when the recognition of the new Alfonsist régime was considered. Tenterden and Derby thought that this could not be made a condition of recognition, but that Layard should bear it in mind.²⁵⁴ He was told that, until the naval report had been received, the British Government could not decide on its attitude to Spain's claim over Sulu; but that, if he had an opportunity, he was to mention to the new Spanish authorities how gladly the British Government would see a discontinuance or relaxation of the measures against Sulu. This despatch, described by Cox at the Colonial Office as 'very mild', was communicated to Bülow.²⁵⁵

Assurances of a sort were forthcoming in Madrid. The Foreign Minister, Castro, told Layard that he 'was aware that Naval officers in their zeal and anxiety to distinguish themselves did not always observe the law of nations and might commit regrettable acts....' But Spain wished 'to do what was agreeable' to Great Britain, and he would write to Malcampo, the Captain-General, and ask him to instruct the naval authorities 'to do all in their power to avoid acts which had given rise to my friendly representations....' Castro also asked Layard to tell the British Consul in Manila to get in touch with the Captain-General. 'Equally satisfactory assurances—which produced nothing—have been given us on previous occasions', Meade commented.²⁵⁶ Layard's letter to Ricketts suggested that he might tell Malcampo that he would 'be doing good service to his country, and obviate the risk of serious complications arising with foreign Powers, if he could moderate the legitimate zeal and patriotism of the Spanish naval officers....' No doubt the visit of the *Frolic*, the naval vessel which was to make the enquiry, would 'excite distrust and suspicion, as is always the case when a foreign vessel of war appears in the Archipelago. However, there are no grounds for this feeling. England has no wish to interfere in any way with the legitimate rights of Spain.... Other Powers may have an eye to the Eastern Colonies of Spain....' But Great Britain only wanted to see them well-governed; and its trade would contribute to their legitimate commerce.²⁵⁷

H.M.S. *Frolic*, Commander Claude E. Buckle, had called at Labuan on Christmas Eve 1874, and left on New Year's Eve, with W.H. Treacher, acting Colonial Secretary, and the consular writer at Brunei, as interpreters.²⁵⁸ Bulwer, just leaving for home, urged Buckle to go to Sulu itself, and if possible make contact with the Sultan and chiefs.²⁵⁹ It proved impossible. Buckle gained the impression, however, that the 'full bearing of the contents' of the 1851 treaty had not been 'honestly' made known to the Sultan and his advisers. In any case he thought that Spain had infringed article 12, which referred to customs duties on non-Spanish vessels, by the notification of 1860. If the treaty held good, then the Spanish claim to sovereignty held good; but Spain had not been able to exercise its rights or obtain a footing. As for the 'prohibition on trade', the Spaniards were trying to carry out a blockade, but with a very insufficient force; all their vessels were at Jolo. It did not appear to be justified by the 1873 notification: but Lt. Propolo, of the blockading vessel

Filomena, said it existed in virtue of the notification of 1860. A small steamer from Sandakan, the *Tony*, run by the Labuan Trading Company (the Ross-Schomberg combine), regularly breached the blockade. As for piracy, Buckle felt that the subjects of the Sultan were not given to it; but probably occasional acts were committed by Bajaus and natives of Tawi-Tawi. The Spaniards would indeed encourage it by their cruel and destructive warfare, which was provoking bitter hatred. The islands could be conquered only by 'a strong force of European troops....' The chief gainer at present was the Labuan Trading Company. As for the British Government's intention to protect legitimate trade, there was none left;

but as a matter of policy, and in the interest of British trade that did exist, and would exist again but for the present state of things, disgraceful to Spain as a European nation, I submit that it is highly desirable that some immediate steps should be taken to put a stop to the proceedings of Spain in the Sulu Archipelago, and that if anything is to be done, either in the interests of trade, or on behalf of the Sultan of Sulu, it should be done immediately....

Much of the north-east coast of Borneo, where the Labuan Trading Company was also active, was, Buckle added, subject to the Sultan of Sulu, and paid tribute to him, the present chief at Sandakan, Datu Harun, being a brother-in-law. Spain claimed it all under the treaty of 1851, and 'I am convinced that, when convenient, Spain has the fullest intention of making good her claim, if possible to do so....' The question should also be dealt with before Spain gained a footing.²⁶⁰

Some of the same points had been made to Ricketts by Buckle, and by Ricketts to Sanderson at the Foreign Office. Buckle's information showed, Ricketts thought, that only petty piracy remained; and he reported that repeated blockade of Sulu was not necessary, as Spain maintained, in order to put down piracy. Ricketts also thought that, as Sulu was essentially independent, the circular of 1860 had no *raison d'être*, nor had the acts growing out of it. If a blockade was in question, breaches of it should be tried appropriately. But a formal notification would involve recognizing Sulu's independence. Perhaps the British Government should revive Brooke's treaty, or else treat the parties as belligerents and so assert Sulu's independence.²⁶¹

At the Colonial Office Cox believed that 'we have at last arrived at a position at which the question *must* be seriously taken up, and a strong protest, and something more, be addressed to the Spanish Govt....' Little could 'be hoped for from the assurances given by the Madrid Govt.', Meade thought,

as experience has already shewn that they are unwilling or unable to carry out the pledges voluntarily given to Her Majesty's Minister in Spain. The time seems now to have arrived for Her Majesty's Govt. to consider whether the so called blockade should not be disregarded and thus adopt a line of action which must speedily determine a state of affairs which is a disgrace to the Spanish Govt. and not only injurious to the trading interests of Gt. Britain but perilous to the good understanding which should always subsist between other European nations and the native states in that quarter of the globe.

The blockade should be disregarded, the Colonial Office told the Foreign Office, and the Madrid Government held responsible for any loss suffered at Spanish hands. 'This would be a very strong measure', said Tenterden.²⁶²

Meanwhile the restored Bourbon government seemed to be following a new policy. Back in October 1874 Ricketts had reported that the Captain-General had asked Madrid for permission to attack Sulu.²⁶³ Then early in 1875 there were reports of Spanish-Sulu negotiations in Sug (Jolo).²⁶⁴ Ricketts explained in April that Malcampo had obtained permission to attack Sulu. A commissioner had been sent to demand that the Sulus disarm: if he was refused, as was to be expected, the expedition would be sent.²⁶⁵ The following month Low reported from Labuan information brought by the commander of the *Tony*.

The Sultan summoned a general assembly of the people, and the proposals of the Spaniards were laid before them and advocated by an interpreter named Alejo, a Spanish half caste, who had come with them, and the public discussion on the race course continued for four or five days. The Sultan and people of Sulu finally decided to accept the Spanish flag on condition of their being allowed liberty of trade, and the Spaniards left the Island to carry this offer to Manila....

The blockade had meanwhile been relaxed to allow trade with Spanish ports and Chinese had arrived from Zamboanga.²⁶⁶ A rather different report was, however, given by J.R. Howard, commander of the Sultan of Brunei's steamer *Sultana*, which had been chartered by a company of Chinese merchants of Labuan, encouraged by Bulwer. He had spent some time in Sulu, 'his vessel lying about 8 miles from the chief Town, in a creek which is frequented by persons employed in running the Spanish blockade', and had several interviews with the Sultan. Apparently the Sulus told the Spaniards that they could not accept their terms, 'and that they would neither dismantle their forts, deliver up their arms nor consent to their trade being forced into Spanish ports—all of which was demanded of them as a condition of peace....' The Sultan was ready to come to an understanding with 'any other European nation, more especially with the English'; asked if Great Britain would interfere; said he would ask the Labuan Government's advice before making any terms with the Spaniards; wanted an English merchant established in Sulu; and hoped to send his son to an English school. The Sultan of Brunei had sent a friendly letter in the *Sultana* and received a friendly reply.²⁶⁷

In June Ricketts reported that another Spanish mission had been sent.²⁶⁸ But he did not expect agreement. For the Sultan would wish to negotiate as an independent prince, the treaty of 1851 being 'a clog on the actions of the people and the development of their trade....' If the Sultan did not give in, an expedition of 6000 soldiers would be sent. This might enable the Spaniards 'to effect a lodgement on the island, but they will not be able to subdue it....'²⁶⁹ Ricketts still hoped for compromise. In Manila the aim was to incorporate Sulu in the Philippines. But perhaps Madrid would accept less. 'Might not some arrangement be made by which the Sultan of Sulu shd. be looked upon as a nominal vassal of Spain; the Sultan and his people being guaranteed that

no interference should be made by Spain as regards its customs laws and govt. the Sultan of Sulu being merely required to receive a Spanish Consul....²⁷⁰

Buckle's report, and the Colonial Office's suggestions, were sent to the Law Officers, with a request for advice 'as to any representation which could properly be addressed to the Spanish Govt. with regard to the blockade of the Sulu Ports and the interference with British Trade as described in Captain Buckle's Report....'²⁷¹ The Law Officers adhered to their earlier views on Spanish sovereignty. If the hopes of peace were likely to be fulfilled, no steps would be necessary. But it seemed doubtful. What could be done? Spain seemed to assert a right of blockade, as in a state of war, co-existing with a customs-house prohibition, as in time of peace. The Foreign Office should call attention to the anomaly, and Spain should choose either a state of warfare, with its rights and obligations, 'or one of Peace modified in its consequences upon Foreign Trade by the existence of an armed Rebellion'. A blockade, if chosen, must be effective. 'If, on the other hand, the Spanish Government relies upon the right to prohibit trade with a subject Territory in a state of insurrection, it should be told that such prohibition must be complete and not partial and must be applied equally to the legitimate trade of all friendly powers....' A British naval presence would help to protect British trade and check Spain.²⁷²

Meanwhile the *Sultana* had been seized.²⁷³ 'Let us hope', wrote Meade, 'that the Spaniards may at last kick the F.O. into doing something a little more vigorous than consulting the Law Officers.'²⁷⁴ But this is what it once more did.²⁷⁵ The mate of the *Sultana* brought down a letter from the Sultan, Low reported. In this Jamal-ul-A'zam appealed to 'the ancient friendship of Great Britain' and sought the Governor of Labuan's 'opinion and advice' on his situation. Howard said that he had often asked what line he should pursue, 'asserting his youth and inexperience in dealing with Europeans and professing himself willing to submit to a reasonable arrangement with the Spanish Government, provided only that the disarmament of the country be not insisted upon and liberty of trade be permitted'. Presumably the Sultan hoped for the good offices of the British Government. Low suggested that their general lack of success might lead the Spaniards to accept an opportunity to come to an arrangement if presented by 'the friendly interposition of Her Majesty's Government....'²⁷⁶ Meade thought that the Foreign Office would do only what the Law Officers suggested, 'and this we may be sure will be little enough....' Perhaps Carnavon should speak to Derby. Even if the Law Officers could not say that Spain's claim to sovereignty was illegal, it should be urged to cease its 'barbarous' but 'ineffectual' warfare. Carnavon thought it 'hopeless'. But the Foreign Office was told that the Colonial Secretary felt that Spanish proceedings were 'utterly indefensible, most injurious to British interests, and at variance with the policy that should be adopted by all European Powers in those seas....' The prospect of 'a reasonable arrangement', also referred to, Eliot thought 'not... very hopeful', and the Foreign Office awaited the Law Officers' report over the *Sultana*.²⁷⁷ This came in

October. It suggested that the British could not demand restitution of the *Sultana*, since it was not a British ship. But British subjects were concerned, and no real blockade had been established, and so Britain should demand compensation for illegal capture. In addition, the Law Officers thought that the British Government should state 'strongly to the Spanish Government that the conduct of the Spanish officers in the Sulu Archipelago if not corrected, will lead to serious difficulties between Great Britain and Spain....'²⁷⁸

Lister commented on the two reports from the Law Officers. 'In writing to Mr Layard I think we should carefully avoid any acknowledgment of Spanish sovereignty over Sulu.' There were no Spaniards there. 'When such claims of sovereignty as Spain puts forward in the case of Sulu are brought forward to justify acts wh. are practically piratical I think we should be very cautious abt. admitting them even tho they may be founded upon treaties.' Derby agreed. But Eliot did not understand what instruction was to be sent to Madrid. The Law Officers believed that Spanish sovereignty could not be disputed, and proposed putting two options to Spain, a state of war and a blockade, or a state of peace, modified by a rebellion, 'in which they would have the right, under certain conditions, of prohibiting foreign trade with Sulu Ports'. But Lister and Derby wanted to avoid acknowledging Spanish sovereignty.

This seems to me very difficult. We may deny the Spanish claim altogether in spite of the Law Officers' opinion—and I have no doubt we could make out a good case, on the ground of non-occupancy—but it seems to me that any middle course between recognising and denying the claim, would only prolong the present unsatisfactory state of affairs.²⁷⁹

Derby found that he could not come to a 'satisfactory' conclusion and wanted Tenterden to consider the problem.²⁸⁰

The Foreign Office seemed to be back where it was in 1874. Its attempts to revert to upholding Sulu's independence had foundered on the Law Officers' opposition. It was prepared to use other forms of diplomatic pressure. But this seemed impossible without admitting Sulu's loss of independence. Another approach was needed. One possibility was to challenge Spain's claims as a means of securing proper treatment for foreign commerce: thus controverting the Law Officers' views in order to achieve the ends they suggested. In this the cooperation of the Germans might be useful. Despite Layard's reference in his letter to Ricketts, there seemed to be no need to guard against territorial ambitions on their part. Their pressure on Spain might, however, help. The new Foreign Office initiative coincided with the receipt of information that the long-expected Spanish expedition was about to be sent to Sulu.

The Tripartite Negotiations

The Captain-General had planned to send an expedition to Sulu if he received no satisfactory reply to his demands. By the end of 1875 Ricketts was

reporting that preparations for an expedition were well under way. The reason given for it in the Manila papers was the suppression of piracy; but in fact piracy no longer existed on a large scale: acts of violence in the Sulu seas must be seen as acts of retaliation upon Spain. Any recent Bajau exploits—and there had been no authenticated cases for four or five years — would not be fitted out at Sulu or in any way under the Sultan's orders; they came from 'islets far to the south of Sulu and are in no way dependent on nor do they acknowledge the Sultan's authority....' The real reasons for the expedition were the Sultan's refusal to accept Spain's proposals; the desire to exclude others' trade; and hatred of Islam. The expense would be great. If the troops experienced a reverse, the campaign might last for years. If they were successful, then occupation would be involved. Occupation of a small area of Jolo would mean virtual siege; occupation of the whole island would require large forces. Possibly the inhabitants might leave for Borneo. The advantages to Spain seemed to Ricketts 'very questionable'. A telegram led the Colonial Office to ask for the Foreign Office's comments. Its decision was to consult Germany.²⁸¹ 'I wonder who the F.O. will find to write to next', wrote one Colonial Office clerk early in the New Year. Others were more positive. Cox saw 'no objection to the F.O. carrying Germany with them in any remonstrance or something more that may be addressed to Spain....' 'It will be a good thing if we can get something done', wrote Meade, '—whether by ourselves or in concert with another Power is not of gt. importance. The Germans have complaints of their own against the Spanish Col^l authorities, so perhaps something may be done.'²⁸²

Derby had spoken to Tenterden shortly before Christmas. The Foreign Secretary thought

that the time has arrived when a dft. shd. be prepared to Lord O. Russell stating how the case stands and asking whether the German Govt. do not consider that the present state of things cannot be allowed to continue indefinitely and whether they are prepared to join Her Majesty's Govt. in telling the Spanish Govt. that it must be brought to an end as the interruption of foreign trade can no longer be tolerated....

Russell should also point out 'that the claim of Spain to the sovereignty of Sulu, whatever it might have been worth must be taken to have lapsed by the failure for so long to attain a de facto control over the island....'²⁸³

The resulting despatch, sent to Russell in January, suggested that the Spanish-Sulu treaty of 1836 meant that Sulu was at that point independent, but admitted that the Dalrymple treaties had 'lapsed'. The Brooke treaty, against article 7 of which the Governor of Zamboanga protested, did not come into force, though approved by the British Government, because of the delay in ratification. But the Spanish government was led by it to send an expedition to Sulu and secure the treaty of 1851, termed an act of re-submission. In communications to Sir James Brooke, the Sultan denied he had surrendered dominion, and it had been asserted that he was not aware of the 'true meaning' of the treaty and also that Spain did not carry out its share of the bargain. In any case the validity of the treaty had never been admitted by

the British Government. Moreover, in June 1852 the Spanish Under-Secretary 'gave it to be understood that the ports of the Archipelago would not be closed against foreign trade', and in 1861 Isturiz declared that the prohibition 'extended only to contraband trade in munitions of war....' Had Spain, in virtue of the treaty, 'established settlements there, and made proper provision for the Government of the Islands, and for the encouragement of foreign trade under reasonable regulations, Her Majesty's Government might perhaps now not be disposed to dispute the Sovereignty claimed by Spain....' But Spain had 'done none of these things....' Expeditions, prohibitions of trade, like that of February 1873, burning villages, cruel hostilities, destruction of fishing vessels, the bombardment of Sug, seizure of foreign vessels: these had been Spain's methods. In addition, though with an insufficient force, Spain had claimed to institute a blockade; but this was inconsistent with a claim to sovereignty. 'Blockade is a belligerent right, and can only be exercised in a State with which a blockading Power is at war. A Power may prohibit foreign trade with its own ports,—but such a prohibition does not carry with it the same rights of interference with foreign vessels as are conferred by a regularly constituted blockade.' The British Government's conclusion was that whatever rights Spain had to sovereignty 'must be considered as having lapsed owing to the complete failure of Spain to attain a de facto control over the territory claimed', and 'in these circumstances, the interruption of foreign trade caused by the Spanish proceedings in the Sulu Archipelago should no longer be tolerated....' Russell was instructed to ask if the German government agreed, and if it would join in intimating to Spain that 'the present state of affairs in the Sulu Archipelago must be brought to an end'.²⁸⁴

With this despatch the Foreign Office moved at last towards a challenge to Spanish sovereignty over Sulu, but with a view to gain new undertakings from Spain over the treatment of foreign commerce there. It sought German support. Only Carnavon seems to have had misgivings over this. 'I have been so anxious that some pressure sh. be put upon Spain that I cannot make any objection to the particular mode proposed....' But it might have been better to act 'for ourselves....'²⁸⁵

News had arrived meanwhile of the Spaniards' seizure of a German schooner from Singapore, the *Minna*, during November. This vessel, belonging to the firm of Lind, Asmus and Co., was commanded by the ubiquitous Schück. He was said to have been collecting a valuable cargo of pearls and pearl-shells at Siassi; after which he had been expected to purchase stores for the Sultan in Singapore.²⁸⁶ Hatzfeldt, the German minister in Madrid, demanded the release of the vessel, and Calderón y Collantes, back at the Spanish Foreign Ministry, promised to refer to Manila.²⁸⁷ 'The German Govt. act with decision', Meade observed.²⁸⁸ Berlin went further. It told Hatzfeldt to 'insist peremptorily upon...immediate release'; otherwise it might raise 'the whole question of the Spanish claims and pretensions as regards Sulu', and take 'such measures as may be required to protect German interests

in the Archipelago'. Hatzfeldt asked Layard if he would support his representations, as some of the cargo was British. Layard agreed to caution Calderón.²⁸⁹ Münster also sought British support.²⁹⁰ But the release of the *Minna* was quickly ordered.²⁹¹

Calderón told Layard that the Manila authorities were using the blockade as a justification for their action, but he recognized its inadequacy, and thought it important that Spain 'should avoid raising any question with regard to the relations between Spain and Sulu....'²⁹² 'The German Govt. would stand no nonsense', Cox noted enviously. 'I wish we could infuse a little of the same spirit into our proceedings', Meade added, and Herbert thought that its action would 'make it difficult for the Foreign Office to submit to any similar insult or oppression hereafter....' 'Note particularly', Carnavon advised, '—as having important future bearings on this question—repudiation (actual or contingent) by German Govt. of Spanish claim of sovereignty.'²⁹³ Bülow told Russell that the Spanish minister, in agreeing to release the *Minna*, 'had expressed a hope that the German Government would not insist on a subsequent discussion of the principles the case might be supposed to involve'. But Bülow reserved the right to do so.²⁹⁴ Clearly, as Carnavon saw, there was a chance that the Germans would go along with the new British initiative.

Further information arrived of the intended Spanish expedition to Sulu. Layard sent to London extracts from the *Diario Español*, describing the preparation of a force of 8500 men, and its objectives, chastisement of the Sultan and datus, who had set aside the treaty of 1851. An article declared that the Sultan was lord of Borneo between Kimanis and Santa Lucia Bay. For some years, it added, the Sultan had worked against piracy and given information about datus involved. But things had changed since 1867. 'In the first place the excitement produced by the chief Mohamedans was remarked; Sulu was one of the places where they laboured with the greatest pertinacity, and our cruisers seized vessels which, if they did hoist the Dutch flag, were laden with arms and powder suited to the objects of the new "Holy War"....' No doubt there was some connexion with the Anglo-Dutch invitation to cooperate against piracy. 'It must also not be forgotten that it was at this time that the first symptoms of the struggle in which Holland finds itself now engaged in Sumatra, —manifested themselves, as well as those of the civil dissensions which the Mohamedan population has provoked in China....' Others thought that the Germans stimulated the Sultan's resistance, but this the *Diario* doubted. Though vacillating, the Sultan's conduct did not give ground for well-founded complaint until 1871, when there was a definite rupture, and he turned to 'unscrupulous speculators' who furnished him with arms and ammunition. The *Diario* thought that the 1871 episode ought to be investigated, for the Sultan protested his adhesion to Spain.²⁹⁵

It was in these circumstances that the German government replied to the proposals Great Britain made in the despatch to Russell. In a discussion at the Foreign Office in February, Münster alluded to some general principles of

German policy, as revealed in the case of the Caroline and Pellew islands, over which Spain had asserted a paper claim in 1874. Germany had no wish to acquire colonies of its own: it welcomed their acquisition by others. 'The more, however, the German Government abstains from the pursuit of a Colonial policy of its own, the more urgently it is bound to secure German commerce from unjustifiable encroachments on the freedom of its movements.' It could not allow Spain to exclude German traders from islands where it had no officials and to insist that they proceed first to a port of the Philippines. There was no disposition, Münster said, 'to allow German navigation and commercial intercourse with innumerable groups of islands in which Spain has arrived at no political organisation whatever, to become tributary to the Spanish customs-revenue'; and Germany also agreed that Spain could not at once claim to be a sovereign and a belligerent, quite apart from the question whether or not a blockade was in practice enforced. But, following the seizure of the *Minna*, Hatzfeldt had been assured that strict orders had been sent to prevent further such cases; and Spain had also denied that warlike preparations were directed against the Sultan or against Sandakan. Thus the German Government wished to await further information before giving a definite reply to the British proposals. Meanwhile the two Governments should decide what was to be done if the joint declaration proposed by Derby should be made, but have no practical effect.²⁹⁶

Presumably as a result of this communication, and of the need for information, Layard was asked to make enquiries about the expedition in Madrid. Calderón said its object was to suppress piracy and restore Spanish prestige: there was no question of conquest. The question whether Spain was waging 'war' was, he said, being discussed by the Cabinet. At a later interview he added that Spain was determined to enforce its Sulu treaties, but intended to raise the blockade. The same answer was made to Hatzfeldt. Apparently Calderón 'wished to evade giving any definite explanation as to the relations between Spain and Sulu. At one time His Excellency spoke of the Sultan as an independent sovereign, at another as a vassal....'²⁹⁷ When Hatzfeldt asked if the Sultan 'was treated as a belligerent, or if it was only intended to make him fulfil his engagements, the Spanish Minister answered with a certain hesitation, that he was a Sovereign, but under certain obligations which he would have to fulfil'.²⁹⁸ The Foreign Office told Layard to express the hope that the order sent to Manila 'will have the effect of preventing further interference with trade on the part of the Spanish Cruisers in the Sulu waters'.²⁹⁹ The Colonial Office was not impressed. No reliance could be placed, wrote de Robeck, on 'a statement which seems both to say we will go on, and we will draw back....' Cox thought the Spanish Government 'very shiftily. We must hope Germany will be anything but satisfied.' 'The F.O. are only too glad to seize on any pretext as an excuse for drawing in their horns', wrote Meade. Spain should abandon all claims to sovereignty in the Sulu group.³⁰⁰ The Colonial Office was being a little unfair on its colleagues: the Germans had replied cautiously to the new British initiative. But now they

decided that the further information secured by no means satisfied them; and they took up the option Bülów had reserved.

Spain might raise the blockade: but that would be of little importance if it compelled the Sultan to recognize its customs supremacy. It seemed, indeed, that Spain was sending an expedition 'for the express purpose of obviating the doubts intimated by us and by Great Britain as to her sovereignty over the Sulu Kingdom and her right to restrict foreign navigation in the Sulu sea—by the overthrow of the Sultan and the conquest of as large a part as possible of his possessions....' An extension of Spanish possessions would be indifferent to Germany, if the Spanish colonial system were modified. But of this recent events suggested little prospect. The Germans would therefore join with the British as proposed. The joint proceedings should not, in view of Spain's other difficulties, take a comminatory form, and Germany had the impression that Great Britain looked towards an 'amicable understanding', especially as the Sulu expedition could not now be prevented; but they should 'leave no doubt that we shall not consider ourselves bound by any peace or Treaty conditions imposed on the Sultan of Sulu *to the prejudice of our commerce*'. It would not be prudent to stress the question of the blockade, now dropped. It would also be well to avoid any recognition of Spanish sovereignty; otherwise Spain

would no doubt rely all the more on its pretended Customs supremacy.... We think that the success of our amicable representations essentially depends upon our convincing the Madrid Cabinet that the treaty or subjection-relations of the Sultan of Sulu with Spain will be regarded as existent, in our conduct, especially towards the Sultan, only on condition that Spain renounces by satisfactory declarations, the further attempt to restrict the general traffic in the Sulu sea to a few remote parts of the Philippines. It would therefore, in our opinion, be advisable to ignore the treaty-relations of Spain with the Sultan of Sulu altogether at first, so as not to prejudice, even formally, more comprehensive subsequent steps.³⁰¹

Germany's policy was to seek commerce not colonies. This now in a sense defined its approach to the Sulu negotiations. Spain could have sovereignty only at a commercial price. Additionally no offer of recognition was to be made, at least at first. This line Great Britain was to follow. It fitted in with the Foreign Office's own proposals. It had another advantage. The Germans feared Spain would claim north Borneo. Keeping the sovereignty question out of the way would keep that out of the way also. And that might be best for Britain.

As news arrived of the Spanish occupation of Sulu Town,³⁰² instructions for Layard were drafted and sent to Berlin.³⁰³ These Bismarck approved.³⁰⁴ Indeed they followed the German line, in avoiding immediate challenge to Spain or discussion of its sovereignty. But if Bismarck wished still to let the new Alfonsist Government down lightly, the Foreign Office was still perhaps affected by its doubts over its own position. The British Government did not wish at present to discuss 'the complicated question of the precise relations which may exist between Spain and Sulu'. But, whatever Spain-Sulu relations were, the instructions ran, 'they do not, and cannot, confer upon the Spanish

Govt. the right to prohibit direct traffic by British and other foreign vessels with Sulu Ports....' The Government trusted that the instructions recently announced by Calderón would prevent further interference with foreign trade. But Layard was to send in another note, avoiding any threat of force, but indicating a determination 'not to submit to the prohibition of direct trade by British Ships with Sulu Ports'. He was to avoid any admission of Spanish sovereignty over Sulu or its dependencies, and to consult the German minister. A note was sent in on 11 April.³⁰⁵ Calderón was again disarming. He replied promptly on 15 April. The expedition, he insisted, was aimed at obliging the Sultan to fulfil his treaties with Spain and at diminishing piracy. The blockade, dictated by the state of war, had ceased, 'and the difficulties and obstacles' have therefore also disappeared as regards all commerce in general....' Foreign commerce would in fact be encouraged by Spanish authorities whenever possible. Calderón also agreed that 'the relations which may exist between Spain and Sulu do not give a right to either State to prohibit or interfere with the direct traffic of British subjects and other foreigners with the ports of the said Archipelago, which traffic ought to be and shall be respected in accordance with the principles of International Maritime Law....' 'This seems satisfactory', ran a Foreign Office minute.³⁰⁶

The German government was less happy. Hatzfeldt was told to ask for 'distinct guarantees' against further attempts 'to interfere with the complete freedom of trade with the Sulu Archipelago....' Calderón suggested a convention. Probably, Layard suggested, he hoped to obtain from Germany 'some formal recognition of the claims of Spain to the Territories belonging to and dependent upon the Sultan of Sulu....' Layard thought Britain should avoid this. Rather, the two governments, in replying to the Spanish note, might fairly place a construction upon it in conformity with their views as to freedom of trade with Sulu, leaving it to the Spanish Government to accept that construction. To discuss the terms of a Convention at the present time might be to raise the whole question of the claims and relations of Spain to Sulu, which might not be desirable unless Her Majesty's Government were prepared to take a decided course in the matter.³⁰⁷

With this approach Derby, and also the Germans, went along.³⁰⁸ Bismarck, however, proposed identic notes, indicating the answer expected, and Derby agreed.³⁰⁹

In Madrid Sir John Walsham, the chargé, discussed the notes with Hatzfeldt. The former feared that the Spaniards might take the opportunity to insert some allusion to their sovereign rights. The latter thought that in that case the replies should be returned.³¹⁰ In the event the notes of July insisted on 'a right to the full freedom of trade and intercourse with the Sulu Archipelago', and declared that consuls and port authorities would be instructed to clear vessels to any part of it.³¹¹ Calderón was now less forthcoming. He said he could not reply without referring to the Cabinet; and that he could not do before his departure with the King to San Ildefonso.³¹²

Meanwhile detailed accounts of the situation in Sulu had reached Europe.

By the end of February, Spanish forces had taken town and stockade.³¹³ The Sulus, Low learned from the master of the *Tony*, had retreated to the hilly country.³¹⁴ But, according to Ricketts, the Spanish force was on the defensive: subjugation would take some time; attempts at a peace had failed; and the offer of the sultanate to a principal datu had been declined.³¹⁵ The Spaniards were fortifying the old town, he wrote in April, and would garrison it. Otherwise their efforts were confined to bombarding some villages on the coastline.³¹⁶ Ricketts nevertheless thought that they would endeavour to interfere with foreign trade. If the blockade was raised, that might allow trade with Sulu Town; but an order would be needed to ensure trade with other ports in Sulu island and with other islands. No one would want to trade with Sulu Town 'through the medium of Spanish Carabineros'. Perhaps Sulu's independence could be acknowledged, Ricketts again suggested. Tenterden did not of course go so far. But he suggested that the Admiralty should be asked to send a vessel 'to visit the Archipelago from time to time to see how things go...'³¹⁷ Germany agreed to send one also.³¹⁸

A telegram from Ricketts of early June showed that, while the blockade had been removed, the customs prohibition remained.³¹⁹ The Colonial Office, in a letter drafted by Meade, stressed the importance of 'a clear understanding... with Spain that our commerce and that of other nations should have free access to any and all of the Sulu ports'. The Spaniards in Sulu Town might well object to the commerce of other nations supplying the Sultan with the means of resistance, 'and this is probably the best manner of shewing Spain that the German and British Govts do not intend to recognize their claim to sovereignty which they have vainly attempted to enforce'.³²⁰ Consul Ussher, Bulwer's successor, had, on receiving a copy of Calderón's note of 15 April, issued a notification that trade with Sulu might be resumed.³²¹ But he noted that Calderón was 'careful not to specify' whether trade was to be carried on according to the circular of 1860, and this had made him hesitate, he explained. The final paragraph of the note of 15 April declared that Spain-Sulu relations gave neither state the right to interfere with direct traffic 'with ports of the said Archipelago....' Calderón introduced the word 'ports' without defining them, or specifying whether Spain or Sulu might levy duties. The 'real intentions' of Madrid, or at least of Manila, remained in doubt. Cuarteron said that Ussher's notification was 'worthless', and that Calderón's despatches were 'to be taken only in a diplomatic sense, whatever meaning the Apostolic Prefect may attach to that term....' The whole truth had not been elicited from Madrid, Ussher thought, and Manila appeared determined to annex Sulu. 'I think that Sulu and its dependencies should, by the joint action of England, Spain and any other European power having interests in the vicinity, be declared neutral and free to all trade; guarantees against any foreign occupation being given on the part of those Powers and the Sultan....'³²²

The news from Ricketts and the Ussher circular led the Foreign Office to consult the Germans. Vessels might be seized; serious questions might arise.

The two representatives at Madrid should point out the 'complete incompatibility' between the statements from Manila and the assurances given at Madrid in April 'that direct foreign trade with the Sulu Archipelago would not be interfered with....' They should insist on appropriate orders to the colonial authorities and call for a reply to the notes of July.³²³ The Colonial Office used Ussher's letter of explanation to 'stir up FO'. Though he had issued his notification prematurely, it might be used to press upon Spain the 'early acceptance' of British and German views, and the Admiralty should be asked to give orders for the protection of British trade from any interference. Meade saw Sir Julian Pauncefote, Legal Assistant Under-Secretary at the Foreign Office, 'and the F.O. are going to approve Mr Ussher's conduct in all the circumstances of the case. But a little assistance such as I have sketched will not be thrown away upon the F.O.'³²⁴ The Foreign Office had received no reply from Berlin. Stirred up, it decided to go ahead with the remonstrance in Madrid nevertheless, telling Germany that Ussher's action had been approved.³²⁵

Bülöw now agreed to an 'identical remonstrance'.³²⁶ There was a complication. Anxious to collect property at Siassi, and uncertain whether the blockade of August 1873 had been raised, Schück had sent the *Minna* back via Zamboanga, where it paid duties.

Both for the purpose of enabling us on the German side also to point out that the notifications issued by the English authorities in Labuan were justified by the circumstances, and in order to prevent the possibility of having undesirable consequences drawn on the Spanish side from the fact of a German ship having paid duties—and apparently without protest at Zamboanga, it appears desirable to the Imperial Government to declare expressly at Madrid that we decidedly consider the speedy issue of the necessary instructions and advices to our Consuls and ship commanders to be of importance....³²⁷

A further report from the German Consul in Singapore indicated that the *Minna* had paid duties to the Sultan also. Now there was the question of a further voyage. The Spanish Consul said that Calderón's note of 15 April meant only that foreign ships could trade with the Sulu archipelago when they had fulfilled Spanish customs regulations at Manila or Zamboanga. The German Consul thought that they could sail direct to the archipelago. Indeed, Münster declared, the Spanish Consul's view was 'in direct contradiction to the fundamental concessions so arduously obtained at Madrid....'³²⁸ The identical notes were redrafted and sent to Madrid.³²⁹

Layard and Hatzfeldt saw Calderón separately. The Spanish minister told the British ambassador that he adhered to his assurances. But the financial arrangements of the Colonies, including the customs, were 'entirely independent of the Government', and the Philippine authorities had probably seen the Sulu trade 'as a financial question, and had therefore considered themselves free to act independently of any engagement entered into at Madrid in imposing and collecting Customs Dues....' He would bring the matter before the council of ministers and insist upon measures to carry out

the assurances given. If the German vessel paid duties at a Philippine port, then more duties at Sulu, he disapproved of the conduct of the Spanish authorities. In conversation with Hatzfeldt, Layard learned, Calderón

threw out a suggestion that in future, the Customs-Duties might be only paid by merchant vessels to the Spanish revenue officers on reaching Sulu. When Count Hatzfeldt pointed out that this would limit trade to the one small military settlement which, according to all accounts, was held by Spain in the Island, Senor Calderón Collantes suggested that the Sultan of Sulu might collect the duties and account for them to the Spaniards. Such an arrangement might lead, Count Hatzfeldt thought, to the Sultan refusing to allow any trade whatever. However, he abstained from making any remark which might be construed into an admission of the sovereignty of Spain over the Sulu Archipelago.

Calderón gave the same assurances to Hatzfeldt as to Layard, 'that the Spanish Government intended the trade with Sulu to be perfectly free'.³³⁰

Calderón's attempt to blame Manila was, it seems, unfair. Malcampo had heard of the note of 15 April only when Cuarteron had sent him Ussher's notification. Possibly Ayala, the Overseas Minister, had refused to carry out the assurances of April, and Calderón had evaded bringing them to cabinet.³³¹ He had phrased his note in the hope of reconciling it with the notification of 1860. But he did not succeed. Now his emphasis was on avoiding the payment of duties twice, to a Spanish authority, and to the Sultan. A new scheme was in mind. Following the representations of Layard and Hatzfeldt, Cánovas, the president of the council, intervened and Ayala sent instructions to Malcampo 'to declare the Port of Sulu and any other Port of any importance in its Archipelago, immediately qualified for foreign Commerce, even though it be not possible at once to establish the service with regularity, without exacting other duties than those at present established, and make known to foreign merchants that they can carry on their trade directly through the said Ports without paying double duties, and without touching in our other Islands'. But this was no more than Calderón had hinted at to Hatzfeldt, and Layard found it 'far from satisfactory, as it assumes that the whole Sulu Archipelago belongs to Spain, and that she has a right to designate in it the Ports which are open to foreign trade.' In conversation with Hatzfeldt, indeed, Calderón tried, though in vain, to obtain some admission of Spanish sovereignty over the Sulu Archipelago.³³²

Cánovas spoke to Layard. He said that he feared that further cases might occur, and suggested an agreement so as to avoid 'serious international questions arising...'. Spain, he declared, claimed sovereignty over Sulu as a result of the treaty of 1836, which had been ratified by subsequent treaties, and not disputed by other powers. 'On the other hand, England and Germany claimed freedom of trade with the Sulu Archipelago. Spain was quite ready to grant it, but in all Countries certain Ports were designated for Trade, and were provided with the necessary customs houses and establishments.... The Spanish Government desired to make a similar arrangement in the Sulu Archipelago....' Britain and Germany should indicate which ports were 'best

suited' and 'most frequented', and Spain would consider opening them. Layard replied that he had no authority to discuss the question of Spanish sovereignty: his instructions were to insist on 'that freedom of trade with Sulu that had been so long in existence....' But Cánovas' proposals, he declared, went further than any previous Spanish claim. 'It was notorious that Spain only held with difficulty one small military settlement near the capital of Sulu. How then could she pretend to regulate the trade at all the ports of the Archipelago...?' Cánovas said that the Sultan had ceded all his territories, and had even for a time received the agreed annual pension: he was a rebel. If any ports or islands in the Archipelago were not included in his territories, 'it might be agreed that they should continue to have the same free commercial relations with foreigners that they formerly enjoyed....' Cánovas concluded by expressing surprise that Great Britain and Germany were acting together, and by hinting at some convention with the two powers.³³³

The substance of this conversation was telegraphed to London.³³⁴ 'It is evident that the Spaniards are getting a little frightened', wrote Eliot, 'which is something gained, — but I think we ought to refuse most decidedly to allow our trade to be restricted to certain ports; — or to be drawn into a formal acknowledgement of the Sovereignty of Spain over the Archipelago.' He suggested that Great Britain should tell Spain that it had never recognized Spanish sovereignty, and that such had never been 'properly exercised'.

That so long as the Spaniards do not interfere with the right of Foreign Trade with the Archipelago,—Her Majesty's Govt. though not formally recognizing Spanish sovereignty—would probably not be disposed to interfere with the proceedings of Spain; but that they cannot allow Spain, on the strength of a claim to Sovereignty, of doubtful origin and which she is unable to enforce, to prohibit British subjects from trading with ports practically under the authority of the Sultan of Sulu who is willing and anxious to encourage foreign trade with the Archipelago.

If Spain placed obstacles in its way, Great Britain and Germany would 'be compelled seriously to consider what steps they shall take to protect the persons and property of their respective subjects....' Eliot suggested consulting Germany on notes to this effect, and Tenterden and Derby agreed.³³⁵ This was indeed in accordance with the policy the Foreign Office had earlier decided upon. The Germans, earlier rather reluctant, now wished to go further.

Bülöw raised the question of challenging Spanish sovereignty. Calderón's assurance of 15 April, he said, had led the Germans to avoid so doing: but now he thought it would influence the Spanish government 'if the British and German Envoys were, by verbal intimations only, to excite its apprehension of a thorough discussion of those claims to sovereignty', especially inasmuch as the new Spanish expedition had 'not even led to the reacknowledgement of the 1851 Treaty on the part of the Sultan of Sulu, let alone the actual possession of the Sulu empire or separate parts thereof, excepting a small coast[al] territory of the island of Sulu....'³³⁶ Eliot commented that his own proposal, which was to go to Berlin for concurrence, was intended 'to intimate that the action of

Her Majesty's Govt. on that point will depend upon whether or not the Spanish Govt. keeps its promises not to interfere with Foreign Trade....³³⁷

Before the new proposal, stating the Anglo-German position, was sent to Madrid, a long written reply was received to the remonstrance that followed the seizure of the *Minna*. This restated the Spanish position. Since the sixteenth and seventeenth centuries, and more especially since the 'solemn stipulations' of 1836 and 1851, Spain had the right to treat the Sultan and the inhabitants of the archipelago as its subjects, Calderón claimed. During the recent rebellion, a blockade was required, which unfortunately prejudiced British commerce. On 15 April he had promised that the blockade would be lifted, and this was done. He had also promised that British traffic with the ports of the archipelago should be protected in accordance with the principles of international maritime law. According to such principles, 'the liberty of Commerce does not extend to the faculty of carrying it on without distinction with all the ports, but with such Ports which should have been qualified for foreign and coasting trade....' The telegram sent to the Captain-General on 12 November 'loyally fulfilled' this undertaking. Spain would have been entirely within its rights to insist that ships went to Zamboanga, as under the notifications of 1860 and 1871. But it had decided to allow ships 'to proceed to Sulu without touching at Zamboanga or any other of our islands, and without paying duties at any one of these....'³³⁸

Eliot did not think that this meant that his draft need be altered.³³⁹ Over this the Germans were being consulted. The Spanish plan, Lord Odo Russell was told, was to treat Sulu as a dependency and open certain ports. 'This step does not advance the prospect of a satisfactory solution, as the sovereignty of Spain over the islands is not admitted by Great Britain and Germany, who claim for their subjects perfect freedom of trade unrestricted by interference at any port not actually in the military occupation of Spain.' Great Britain considered that 'no time should be lost in placing the matter again before the Spanish Govt. in such a light that no misapprehension may exist as to what is required of them....'³⁴⁰ Bülow concurred in the draft.

The Spanish Government, he said, were evidently much annoyed at the joint action of England and Germany in the matter and had insinuated to Count Hatzfeldt that if his Government would drop the question of Sovereign Rights of Spain over the Islands of the Sulu Archipelago for the present, they would willingly satisfy all the demands of Germany in regard to freedom of trade. The Spanish Government asserted that England had formerly recognized their Sovereign Rights and now desired them for purposes of her own....

Bülow had insisted that it was futile to try to separate Britain and Germany on the matter.³⁴¹

The despatch to Layard, finally sent on 27 November, insisted that the British Government did not recognize Spanish sovereignty over the archipelago, 'although they are not desirous to raise the question unless forced to do so by the conduct of the Spanish Government'. But in fact the Spanish government, instead of fulfilling the promises of April, was seeking to confine

trade to certain ports to be specified. If, however, the liberty of trade was to be of any value, 'it must include the right to trade with any port in the Archipelago....' Spain must carry out its promises. Otherwise Great Britain and other powers might have to consider steps to protect the persons and property of their subjects in the exercise of acknowledged rights. Layard was to read the despatch to Cánovas. Cox thought Meade would be satisfied.³⁴²

Calderón had again suggested negotiations. He told Layard that Bülow did not dispute Spanish sovereignty—according to Münster, a misstatement of the earlier declaration of the Germans that they would not discuss the sovereignty question if their trade were fully guaranteed. He also hinted that Spain 'did not require the whole of the vast archipelago', but would be content with Sulu and the adjacent islands.³⁴³ In Berlin the Spanish Ambassador had proposed the conclusion of protocols.³⁴⁴ The proposal for a formal agreement, Eliot noted, involved considering several points. First, the Spaniards claimed sovereignty over all the territories of the Sultan, 'which claim may include a portion of Borneo. They have however intimated to Mr Layard that they might be content with the recognition of their Sovereignty over "Sulu and the adjacent Islands".' In consequence they claimed the right to restrict trade to certain ports, while they held only one settlement, on Sulu island itself. Under pressure they had admitted the right to trade direct to Sulu, that is without going first to a port in the Philippines, 'but this admission will be of little or no value if the permission to trade is restricted to a few ports,—or if heavy duties are imposed without affording... protection..., and without security that further duties will not be levied by the Sultan or others' in areas under their authority. The British did not recognize the Spanish claim to sovereignty, but did 'not wish formally to contest it, so long as the Spaniards do not interfere with the right of foreign trade,—but...we reserve the right to ignore that Claim if they do so interfere,—whether by actual prohibition,—by restriction to certain ports,—or by the levy of duties without corresponding protection to our trade. [I do not see how we can absolutely deny the right to levy duties unless we at the same time deny the sovereignty.]' In an agreement the Spaniards would no doubt seek a recognition of their sovereignty over at least part of the archipelago, 'and in their present position I do not see how they can,—even if they are willing to do so,—give the securities for our trade which we should be bound to require in return for such recognition....' Eliot thus opposed the proposal, and suggested awaiting the result of the new Anglo-German representations.³⁴⁵

Britain's main object, Layard wrote later in his memoirs, was to secure freedom of trade. 'If that freedom of trade were fully conceded she did not much care whether Spain established her protectorate or sovereignty over parts of the Archipelago, although she did not admit the right of the Sultan to cede any part of the Island of Borneo....' German demands were ostensibly similar.... But there was a suspicion, which was not only entertained at Madrid, that Prince Bismarck had ulterior designs with regard to the Sulu Islands, and that he was seeking an excuse to annex them to Germany. Her trade had, of late years,

greatly increased in the Eastern Seas, in which her shipping was now everywhere seen, and many German merchants were established at Singapore and elsewhere in that region. She was consequently, it was believed, in search of Colonies...., and the Sulu Islands, by their fertility and central position, furnished what she required.

Whether this suspicion was well founded or not, it was to a certain extent apparently confirmed by what occurred during the term that Count Hatzfeldt and myself were engaged in the negotiation at Madrid....

Hatzfeldt received official instructions like Derby's instructions to Layard, but he admitted that 'they were not in conformity with the views of Prince Bismarck, with whom he was in direct private correspondence. This added considerably to the difficulties we had to encounter in dealing with the Spanish Government, which was convinced that Germany was secretly preparing the way for the annexation of the Sulu Islands....' It was all the more insistent on asserting its claims to political sovereignty and commercial monopoly.³⁴⁶

Undoubtedly there was a fear in Spain that Germany wanted Sulu, if not the Philippines itself.³⁴⁷ But that this made the Spaniards more rigid in their attitude seems doubtful. No government in Spain could avoid rigidity on colonial questions. Cánovas was attempting to reduce foreign pressure by making concessions: he might also win positive advantages. Fear of Germany must in fact have helped to induce him to do so. His regret was that Great Britain was acting in association with Germany: as an imperial power itself, and one which had failed to uphold Sulu's independence in the past, it might, he may have hoped, prove more moderate. But Britain had determined to join with Germany initially partly to check any territorial ambitions on Germany's part, but subsequently to secure some commercial concessions from Spain. What Bismarck was seeking was not territorial but diplomatic advantage, not Asian but European gains. At first he had courted the Alfonsist régime, partly as against reviving monarchism in France.³⁴⁸ After the 'War in Sight' crisis of 1875 he had taken up the religious question, and saw his relations with Spain more in the context of the *Kulturkampf*.³⁴⁹

Early in December Layard had a further discussion with Cánovas after reading him the British despatch. Cánovas insisted on Spanish sovereignty, indeed 'tacitly, if not directly, acknowledged' by Britain, he claimed, until Izquierdo's blockade. Nor did the absence of Spanish customs houses or ports outside Sulu prove that Spain did not claim and exercise sovereignty. 'No one, he presumed, would call in question the sovereignty of Spain over the Philippine Archipelago, yet there were many Islands in that group in which there was not a single Spanish Functionary, and where native chiefs, and, in some cases, Spanish monks, were the only representatives of Spanish authority.' The Spanish Government had admitted that to insist that all vessels proceed to Zamboanga before going to the archipelago was 'unfair', and had 'spontaneously withdrawn' that regulation. 'He did not see, he added, why the English and Spanish Governments should not come to a further understanding, and why the questions which had been raised between them in consequence of the blockade, which he admitted had been wrongly instituted

as no state of belligerency existed between Spain and Sulu, should not be amicably settled....' Layard said that the British Government was clearly 'equally desirous of coming to a friendly agreement...and...had gone so far as to say that they were not desirous of raising the question of the sovereignty of Spain over Sulu unless they were forced to do so by the conduct of the Spanish Government'. All Britain insisted upon, Layard said, was 'that British trade with the Archipelago should not be interfered with', and that the April promises should be fulfilled. The British 'would never admit the claim of Spain to limit foreign trade to certain places or Ports in the Archipelago which she did not *de facto* possess and occupy. England, I added, had no desire whatever to interfere with Spanish rule in the Philippines, or to annex territory in that direction.... What she objected to was the restrictive commercial policy of Spain....'

Cánovas suggested a negotiation on the basis of the note of 15 April. 'Other bases for negotiation might also be laid down; for instance that Spain and England should return to the "status quo" before the blockade by General Izquierdo; that Spain should voluntarily revoke the regulations which made it necessary for foreign trading vessels to call at Zamboanga before proceeding to Sulu; and no duties should be levied by Spain on foreign ships in the Archipelago except at such ports as were actually occupied by Spanish officials....' 'Did he contemplate', Layard asked, 'any declaration on the part of Her Majesty's Government recognizing the Sovereignty of Spain over the Archipelago...?' He did: he could not abandon 'the rights of his Country....' In that case, Layard replied, he 'could not entertain the proposal that he had made'. Otherwise he would discuss it, if Hatzfeldt were brought in. 'After some reflection, Señor Cánovas said that some understanding might be arrived at by which all question of the right of sovereignty over Sulu might be avoided....' He raised no objection to including Germany. Layard wrote to ask the Foreign Office for authority to negotiate on this basis, with the aim of securing 'complete freedom of trade with the whole Archipelago' without the necessity to call previously at any Spanish port, and payment of customs duties to Spain only at ports in the archipelago 'actually possessed by Spain'.³⁵⁰

The idea was well received at the Foreign Office, though Eliot thought that the Spaniards should be prevented from insisting that vessels should call at any specially designated port in the archipelago. 'Without this I think the Spanish Authorities will try to make our vessels call at one or more specially designated ports which they may choose to occupy in the Archipelago itself, and my impression is that the nature of the trade there is such that an obligation to call at a particular port would be a serious burden....'³⁵¹ The Germans were consulted. The Layard proposals would, it seemed to the British Government, secure 'absolute freedom of trade'. The question of sovereignty would indeed be left open: but on this the Spaniards would find it difficult to give way; while 'after the explicit declarations which had been made, it would be impossible for them to advance hereafter their

pretension that their claims were being tacitly conceded....³⁵²

The Colonial Office had received a despatch from Ussher in which he suggested that the Spanish annexation of Sulu would be 'followed at a suitable period, and under some specious pretext, by the assertion of the claim of Spain to places on the Northeast coast of Borneo, in virtue of their being dependencies of Sulu....'³⁵³ At Meade's suggestion, the Colonial Office proposed that Spain 'should be at once warned that no claim to any points or places on the mainland of Borneo founded on the pleas of their being dependencies of Sulu would in any case be recognized by Her Majesty's Government'.³⁵⁴ Eliot doubted if this were wise. 'So far we have admitted no claim to Sovereignty over Sulu or any of its dependencies, and I think that if we were to make a special reservation respecting the mainland of Borneo, it might be taken as an indication of wavering as regards the Islands....' Derby agreed.³⁵⁵ Shortly after, Layard placed a 'spontaneous declaration' of Calderón's on record. The Captain-General, Malcampo, had been appointed by a previous government and was in favour of Spanish extension over the whole archipelago and northern Borneo. 'In this', Calderón said, 'he went far beyond the views of the Ministry, who had no designs whatever upon Borneo, and limited the claims of Spanish sovereignty to "Sulu and the adjacent islands"....' Calderón was, as he said, anxious to settle the Sulu affair.³⁵⁶ No doubt this assurance, following an earlier hint, was a well-timed attempt to win British agreement, though it might have a damaging effect on future Spanish pretensions.

Certainly the Germans were making difficulties. The question of arms traffic had been raised. Calderón had told Hatzfeldt in a note that the German merchant houses at Singapore and the English traders at Sandakan were deeply engaged in it, and that he had instructed the Spanish Consul in the Straits to do what he could to prevent it. The German Envoy protested to Cánovas that Calderón had thus 'revived and renewed the extremest pretensions of Spain to regulate and control foreign commerce with the Sulu Archipelago....'³⁵⁷ Cánovas declared that Britain and Germany had always admitted that Spain had the right to prevent arms trade with the Archipelago. Hatzfeldt contested this, and regretted that Cánovas and Calderón seemed determined to raise the question of sovereignty.³⁵⁸ There had indeed been some indication that 'legitimate' trade was Britain's sole concern, and that 'contraband' trade was not legitimate. But it was true that to allow Spain to inhibit even such trade was a recognition of its sovereignty, and so it could not be admitted by this stage. 'This...despatch...shows', Meade wrote, 'that Spain will only grant under compulsion what we insist on.'³⁵⁹ Anxious also to avoid a division between Britain and Germany, Layard supported Hatzfeldt in demanding the withdrawal of Calderón's note. Cánovas said that 'he could not face the Cortes and public opinion if he were to renounce the claim of Spain to sovereignty over Sulu. Anything short of that he was ready to do....' Layard told him that the British Government did not wish to raise the question, and simply wanted 'perfect freedom of trade with Sulu.... Señor

Cánovas threw his arms round me in the Spanish Fashion, and declared that he could not wish for more....³⁶⁰ A few days later Layard learned that the Spanish Consul in Singapore had been instructed to suspend action on orders relating to Sulu trade, and not to interfere with it pending an arrangement with the German government.³⁶¹

Other matters were raised by the Germans in their reply to the British proposal to negotiate on the basis set out by Layard. Before receiving details of his suggestions, they had indicated that Spain must give satisfaction over particular cases in a preliminary protocol. Spain, they also declared, could not be conceded the right to levy duties in the ports in its possessions: for the Sultan could enforce his duties; and so foreign ships would pay double. Perhaps some arrangement should be made between Spain and Sulu so that an overall charge could be levied on ships visiting the archipelago: such an arrangement Germany was prepared to assist in effecting.³⁶² Now the German government repeated its wish for a preliminary protocol. In the main negotiation, it insisted,

No restriction of the freedom of traffic to certain ports is to be allowed, ...either on condition that Spain undertakes to make all the necessary arrangements at certain points within a certain period, ...or with the stipulation that we should concede that right to Spain for the places in the Sulu Sea now alleged to be in her possession.

In the first case we should, to a certain extent, be inviting Spain ourselves to take possession of places not hitherto occupied; in the second case the question to be answered for each separate place, whether an actual occupation in international sense had taken place could only lead to fresh differences of opinion....

In both cases, too, the concession would be 'in opposition to the fundamental notion' Britain and Germany had 'contended for', and 'involve an indirect decision of the controverted sovereignty question, not compatible with our reserve in reference to the disputes between Spain and the Sultan of Sulu....' And how to ensure that a ship did not pay customs first to Spain and then to the Sultan? The idea was repeated that, if Spain wished to levy customs, it must come to an arrangement with the Sultan.³⁶³ Eliot thought that this instruction could 'only be intended to make any agreement impossible....' But the negotiation was in any case in abeyance.³⁶⁴

For now the Germans demanded the preliminary withdrawal of a decree issued by Malcampo in Manila in November as a result of the instructions from Madrid. This had declared Jolo open to foreign trade, except in arms and ammunition, and allowed foreign ships, after going there, to visit any other points in the archipelago. The *Tony* had been seized under the decree, and Hatzfeldt was instructed to tell the Spaniards that the German navy would protect its flag. Germany also sought British naval cooperation.³⁶⁵ Eliot thought that the decree should be withdrawn, but that Britain should not join in Germany's threats. Perhaps Germany's measures would be 'the only effectual ones'; but Spain had been conciliatory: it had ordered the release of the *Tony* and was sending out Moriones, Malcampo's successor, with new instructions. Threats, and their possible execution, might cause ill-will and

rupture the negotiations. Tenterden agreed: 'We must take care that the Germans do not, for the sake of their own interests, lead us into taking more serious measures than the importance of the case deserves....' 'The constant pressing of the Germans over this petty affair is getting it into confusion', he added. Derby agreed on 'reserving the use of threats till it appears necessary'.³⁶⁶ He told Münster that Great Britain was inclined to be satisfied with the Spanish proposals.³⁶⁷

In Madrid, meanwhile, Hatzfeldt had not at first carried out the instructions of which Münster had given the Foreign Office the substance, fearing that it might lead Silvela, who had replaced Calderón, at once to retire.³⁶⁸ But he was in fact told to carry them out, Silvela or not,³⁶⁹ and Silvela found they formed 'a very painful and disagreeable communication'.³⁷⁰ Silvela told Layard he was ready to propose a protocol on the Layard basis. A separate preliminary protocol might be made with Germany. But he hoped that threats could be avoided: he could not appear to act under threat, or to surrender sovereign rights. Layard told the Foreign Office: 'it is important not to delay as public opinion is beginning to be excited in this matter.'³⁷¹

Eliot thought that Layard should negotiate on the following conditions: that there should be no recognition of Spanish sovereignty over the archipelago or any part of it; that foreign vessels could go to any port direct; and that trade could be carried on in all articles.³⁷² A subsequent note, approved by the Colonial Office, conveyed these proposals to Münster.³⁷³ Hatzfeldt had told Layard that he was not sure that Bismarck wanted the affair settled. '(Remarkable!)', commented Derby.³⁷⁴ But the Foreign Secretary, as he told Layard,

preached moderation...: and apparently with some success; Bismarck was, at first, inclined to be violent, I really believe more from temper than because he had any plan of humbling Spain. He dislikes the Spaniards as Catholics, as inclined to be friendly towards France, and (more reasonably) for their frequently insolent conduct towards foreigners. We must act with Germany as far as we can; but keep within bounds of moderation.³⁷⁵

Münster now declared that Germany would negotiate on the basis of the British proposals, 'according to which', he said, 'the British Govt. does not either allow that those Ports in the Sulu Archipelago which are at present actually occupied—or which hereafter will become occupied—by Spain, should be excepted from unconditional free trade....'³⁷⁶ Eliot had already seen the difficulty here, and the Foreign Office sought to correct Münster's phrase. 'If by this expression it is meant that such ports shall not be closed to foreign trade, either by direct prohibition, ...or the exaction of prohibitory duties,—Your Excellency has correctly interpreted the meaning of Her Majesty's Government.' But Britain was 'not prepared to go so far as to refuse to allow the Spanish authorities to enforce reasonable Port and Customs Regulations and to levy moderate duties on all vessels entering Ports in the Sulu Archipelago actually in the occupation of Spain.'³⁷⁷ The Germans now

apparently accepted this, too, though it was not clear that they recognized its application to ports to be occupied by Spain in the future, or only to those currently so occupied. The German government told Hatzfeldt that 'it is imperative to secure the unrestricted right of foreign ships to free traffic with *all* places, whether occupied or unoccupied; if then Mr Layard be authorised to concede to Spain the right of levying duties in the ports occupied by her, such a right ought not...to bind foreign ships...to run into a port occupied by Spain, either before or after....'³⁷⁸ Eliot pointed to the provision against this in the draft to Layard: 'we might [also] suggest that it might be stipulated that in ports in Spanish occupation Foreign vessels should be subject to the same regulations and duties as Spanish vessels,—or that some similar stipulation should be made to guard against oppressive regulations or excessive duties'.³⁷⁹

Layard told Derby early in February that Hatzfeldt had received 'a message from Bismarck himself to act in entire accord with me.... Thro' yr. moderating influence, demands were withdrawn to wh. the Spanish Govt. would not have acceded....'³⁸⁰ The Foreign Office had avoided involvement in Bismarck's quarrel and it had died down. Eliot had written to Layard: 'It certainly looked at one time as if Bismarck wanted to get us into a serious quarrel with Spain....'³⁸¹ But he was not suspicious of Germany, and he disagreed with the new British Consul-General in Manila, W.G. Palgrave, who was 'inclined to take a wrong view of the question...he has contracted a jealousy of Germany, with whom we are acting in the matter....'³⁸² Palgrave indeed advocated the recognition of Spanish sovereignty over Sulu as a means, not only of ending piracy, but of blocking German commercial and strategic threats in the region: 'it is much more to our interest that the key to the Sulu thoroughfare should be held by a weak, but allied, than by a strong, though allied, Power....'³⁸³ 'As far as German trade rivalry is concerned', Eliot commented,

I suppose our merchants must take their chance with all rivals in free competition in Sulu as elsewhere.

As to the designs of the German Govt. they are strongly and formally denied by Germany, and they are intrinsically improbable. On the other hand the restrictions placed upon our trade by the Spaniards were most strongly protested against by our Merchants in the Eastern Seas, and are represented by Consul Gl. Ussher to be utterly ruinous to the trade of Labuan....

Palgrave did not prove that 'we have been on the wrong track....'³⁸⁴ 'The fact is the Consul [Palgrave] regards the interests of more wealthy traders (those of Manila) than our protégés of Labuan', wrote de Robeck at the Colonial Office.³⁸⁵ Palgrave's office was indeed in the office of Smith, Bell, major British merchants in Manila. 'Our British residents here think', he wrote, 'and theoretically I agree with them, that our interests would best be assured by incorporating Sulu into the Hispano Philippine Archipelago. But the F.O. holds otherwise, and it seems I have got myself into some disfavour by even propounding the Manila opinion....'³⁸⁶

At least since Farren's time, the British merchants in Manila had tended to

take a more favourable view of Spanish rule in the Philippines than those in the Indonesian Archipelago, and Palgrave, unlike Ricketts, followed their views. Indeed, though the overall view of Spanish commercial regulations held by British statesmen was an unfavourable one, British merchants in the Philippines prospered. The overall view seemed, however, to be confirmed by Spanish proceedings in Sulu, and British trade was thought to be unfairly treated. The Foreign Office followed the 'tack' of cooperating with the Germans to secure concessions from the Spaniards. Palgrave's view was indeed in keeping with a different tradition in British policy, which aimed at keeping island South-East Asia free of rival major powers. No doubt cooperation with the German government would indeed help to restrain it. But in fact the British seemed not to fear German territorial ambitions: their main concern was to avoid too deep an involvement in Bismarck's *Kulturkampf* diplomacy.

Silvela was anxious to negotiate 'as, in consequence of the attitude of the opposition press, he might find it more difficult hereafter to make the concessions which our respective Governments expected....' Though Hatzfeldt has not yet received new instructions, a start was made on the preliminary issues at the end of January, and Layard managed to modify the German demands. It was agreed that Spain would not have to make public satisfaction to the German flag. Silvela read his instructions to Moriones—to avoid all interference with foreign trade with Sulu till agreement had been reached—and it was decided to accept these as communicated of his own accord rather than under pressure. Subsequently it was also decided that the preliminary matters should be the subject of notes rather than of a protocol.

Then the discussion shifted to the general matters that would be covered by a protocol. Silvela had said that he had always opposed what Layard called 'the illiberal and restrictive commercial policy of Spain in her Eastern colonies': it made other powers hostile and so prevented Spain fulfilling its 'civilising mission'. In the draft protocol Layard and Hatzfeldt gave him, they included an additional stipulation rather like the one Eliot had suggested, 'to the effect that the Spanish Authorities should not levy, at the ports de facto occupied by Spain in Sulu, any duties in excess of those authorized by the Tariff in force on the [Iberian] peninsula, or by Treaties or Conventions between Spain and other Nations....' Layard thought that if the Spanish Government accepted this condition, 'it would be an important step towards the reform of their illiberal commercial policy in the Philippines....' Hatzfeldt sought to limit the Spanish right to levy duties to the Sulu ports currently occupied by Spain. Silvela 'insisted upon the right being extended to Ports to be hereafter occupied by her, at which the necessary arrangements for commercial intercourse might be established....' He could not agree to what 'would virtually be a complete renunciation of the claims of sovereignty by Spain to Sulu', and was already under attack by Calderón and others for insisting that the sovereignty issue must not be raised. Layard and Hatzfeldt, authorized to yield, gave in. But Silvela's suggestion that the protocol should

reserve the right of Spain to 'pursue, capture, and punish Pirates' was deferred.³⁸⁷

In further conversations over the following days, both Layard and Hatzfeldt indicated that the question of piracy should be kept out of the protocol: 'the formal recognition of the right of the Spanish Authorities to suppress piracy in the Archipelago might be used to justify acts of interference by Spanish cruisers with non-Spanish vessels....' The question of occupation was again discussed. Layard told Silvela that Great Britain and Germany wanted no more

than absolute freedom of trade in that Archipelago, without any restriction, or hindrance whatever as regarded their shipping and subjects on the part of the Spanish Authorities; that if that trade were not interfered with, or limited, by the occupation by Spain of certain ports in Sulu and the adjacent islands, they were not disposed to object to that occupation, it being, however, distinctly understood that they did not thereby recognise the Spanish claim of sovereignty to the Sulu Archipelago, and that occupation should be of a 'bona fide' character, to be proved by the presence of official establishments for the proper regulation and protection of commerce....

Silvela 'urged that the occupation of the capital of an Island ought to infer the occupation of the Island itself...and that the Islands whose inhabitants recognise the rule of Spain, altho' there were no Spanish Authorities present to enforce it, ought also to be considered as Islands occupied by her. These pretensions Count Hatzfeldt and myself absolutely refused to entertain', Layard reported. One further issue was the definition of the area concerned: Silvela preferred 'Sulu Archipelago' or 'Archipelago of Sulu'; Layard, mindful of Calderón's declaration of November, preferred 'Sulu and the adjacent islands'.³⁸⁸

In London Eliot thought that some clause on piracy would be acceptable: 'if it pleases Spain I see no reason why we should not make so harmless a concession....' Tenterden did not like the idea of putting anything into the protocol 'merely to please Spain. If they have the right to pursue pirates they cannot want any recognition of it. It is probably some Spanish device. The war agst. Sulu has been almost from the beginning under the pretence of preventing piracy and the grossest cruelties have been perpetrated under cover of it....'³⁸⁹ Over the nomenclature of the area Eliot and Tenterden agreed. Eliot knew 'of no reason why we should wish to limit the Spanish right to occupy Islands to any particular distance from Sulu. It is desirable not to use any term that might be construed as relating to that part of the mainland of Borneo which is a dependency of Sulu,—but this object could...be effectually obtained by the use of the term "Sulu Archipelago".' That could hardly cover any part of Borneo, 'whereas it might be argued that Borneo is an island adjacent to Sulu....' Tenterden was slightly suspicious, but unwilling to 'haggle'. The Germans had given the whole question 'an artificial importance and the Spaniards have seconded them. The amount of quibbling and word-splitting would do honour to any negotiation....'³⁹⁰

There was more to come, for the Germans had apparently still not fully

accepted that Spain could levy duties at ports to be occupied in the future. According to Münster, Bismarck thought that 'if we gave way' on this 'and recognised implicitly the Sovereignty of Spain in the whole of the Sulu Archipelago, we should not obtain our object, the liberty of commerce, and freedom of trade in the Sulu Archipelago'.³⁹¹ The previous day, however, Münster had himself said that the German government would be guided by the British over the question.³⁹² Eliot thought all this was 'quite incomprehensible', and Count Dönhoff at the German embassy he found 'as much puzzled as I am....'³⁹³ The issue should not be pressed, Eliot still thought: 'if it is the negotiation must inevitably fail. If we refuse to admit the right of Spain to establish regulations in ports which she may hereafter occupy, we shall practically prohibit Her from occupying any more territory than she now possesses—and unless we assume a Protectorate over the Archipelago, I do not see what right we have to restrict the liberty of Spain in such a matter.' The article provided against 'bogus' occupation, and Spain, he thought, was unlikely to be able to occupy *de facto* many more of the islands than it already possessed.³⁹⁴ Tenterden agreed with Eliot.

What we contend for is freedom of direct trade with these Islands.

To say that we will acknowledge the *de facto* possession of Spain of the port of Sulu itself but will not acknowledge any future occupation of ports is at once to go too far and not far enough.

It is going too far to acknowledge the *de facto* occupation of the chief Port if we mean to defend the independence of Sulu altogether.

It is not going far enough if we do not mean to defend its independence.

Our object has been to prevent the exercise of a fictitious or constructive claim of Spanish sovereignty under which, while in fact Spain possessed no authority over these Islands and could give no protection or access to them, Spanish cruisers seized on Ships for violation of imaginary Customs Regulations—it was in short a paper occupation.

So long as we guard against this and secure freedom of trade our object is attained.³⁹⁵

The Foreign Office encouraged the Germans to waive their objection to the stipulation and referred to their earlier comments on the Pellew Islands.³⁹⁶

A further delay ensued while Hatzfeldt was away from Madrid. Then he returned with instructions that Spain should be required to notify the occupation of new ports six months before the right to levy duties was recognized.³⁹⁷ Two other points caused major difficulty in the final discussion. The first was the right to fish, which Hatzfeldt sought as arising out of the *Minna* episode, but which Silvela had opposed.³⁹⁸ The Spanish colonial minister pointed out that a free right of fishing would deprive the Philippine authorities of the revenue gained by selling licences to the native fishermen, and would encourage encroachment into Spanish waters. Silvela suggested an article 'limiting this right to English and German Subjects and shipping employing native fishermen provided with Spanish permits, and to certain localities.—We found it impossible to draw up one in any terms which would not directly or indirectly admit the sovereignty of Spain in the Archipelago, or

expose English and German Subjects and ships to the interference of Spanish Cruizers....' Finally the difficulty was surmounted by granting a general right to fish, without prejudice to the rights recognized as Spain's by the present protocol. The second problem was the use of the word 'ports' in the article on occupation. The Spaniards preferred the word 'points', as 'port' would restrict occupation to the port itself. Earlier Layard had rejected this: its object was 'too evident'. But Silvela and Cánovas again objected to the word 'ports' and maintained that the Spanish occupation might be restricted by it to such places on the Sea as might be technically termed 'a port', or which England and Germany might arbitrarily define to be such; that the occupation might be considered as limited to the actual port itself, without jurisdiction over adjoining territory and waters; that it would exclude all places occupied by Spain inland; and it might enable foreign vessels to land arms and contraband, and foreigners to set at naught the Customs, Sanitary, and other Regulations, within a few hundred yards of a Spanish settlement....

Layard had apparently thought that, if the word used was 'port', Spain might be able to claim occupation of an island by occupying merely a port. But he now decided 'that there was really no essential difference in the use of the word "point" or "port", so long as the conditions with regard to effective occupation were insisted upon....' Hatzfeldt and he agreed to accept the word 'point' if the clause on notification were accepted by Spain. So the negotiations concluded.

Exaggerated Spanish susceptibilities have had to be considered, and the greatest care taken not to employ any term which might imply either a denial, renunciation, or recognition of Spanish sovereignty, whilst expedients had to be found to enable Señor Silvela to defend and justify, before the Country and the Cortes, his conduct in abandoning a claim so long insisted upon by Spain, and to which she appears to attach so much importance....³⁹⁹

The protocol was signed on 11 March.⁴⁰⁰

'Cánovas ought to be very grateful to you for what you have done for Spain in getting Bismarck to give way', Layard told Derby, 'as at one time the Chancellor seems to have wished to pick a quarrel with the Span. Govt....'⁴⁰¹ Great Britain's own aim had been to secure some guarantee of freedom of trade in Sulu and, partly because of the absence of other means of exerting pressure, German cooperation had been welcome, provided it did not involve Britain in serious conflict with Spain. Spain was concerned to preserve its claim to sovereignty, especially in view of its anxiety over the ambitions of Germany and possibly of other powers. The Spanish government did not secure the recognition of its claim, but avoided its denial by making the concessions to Great Britain and Germany contained in the protocol. The compromise solution had its weakness for Britain as well as for Spain. The provision that Spain could levy duties at points to be occupied in future meant, as the Germans had seen, that there was little restraint on the further extension of its authority: rather it was encouraged.

In view of this, it is perhaps at first sight surprising that Layard rejected out of hand Cánovas' suggestion that Great Britain should recognize Spanish

sovereignty over Sulu: possibly such a recognition might have bought a better bargain. The reason was not a determination to preserve the independence of the sultanate. That had been suggested at various times: by Dalrymple and by Brooke, more recently by Webb and Ricketts. But in London even the Colonial Office, even perhaps, Meade, had seen Sulu's independence more as a device for securing concessions from Spain than as a desirable object in itself; and the whole trend of the negotiations was towards an arrangement among imperial powers that would reduce the chance that the Sulus could maintain their independence.

There were other reasons for Layard's rejecting Cánovas' suggestion. First in view of the British Government's previous policies and actions, it could not make a very strong case for upholding the independence of Sulu. Second, territorial matters would be raised when the limits of the protocol were discussed. In November Layard had written:

What the Span. Govt. now aim at is to get an admission of their rights of sovereignty over all the territories of the Sultan from England and Germany. If this is obtained they will, I think, endeavor to make some arrangement with regard to the Archipelago, which may be satisfactory to us. But the admission that *all* the territories of the Sultan belong to Spain may lead to troublesome questions hereafter, as he claims a considerable portion of the N. of Borneo—or did claim it at some time....⁴⁰²

Here was a further reason for avoiding negotiations on this basis.

Perhaps there was another consideration also. Though the Foreign Office, unlike Palgrave, showed little fear of territorial ambitions on the Germans' part, it would be well not to give them an opportunity by bringing northern Borneo into the discussion. It was in fact kept out of the negotiations, despite the Colonial Office's anxiety. The British focused on the archipelago. The status of north Borneo thus remained unchanged. Calderón had allegedly made a useful statement of Spanish intentions in regard to it. But if Britain wished others to recognize its own interest in north Borneo more formally, it might first have to strengthen its own claims, so far based on the treaty with Brunei of 1847, and on the Dalrymple treaties, which the Foreign Office itself considered as 'lapsed'. It could hardly rely on the independence of the Sulu sultanate as a guarantee of the independence of north Borneo. Nor could it expect all powers to be as complaisant as Italy.

Certainly local British authorities had pointed to the existence of Sulu's claims over northern Borneo, including areas also claimed by Brunei. It had been alleged that Spain, in taking Sulu over, would take them over also, as well as other islands in the Sulu sea, to which, again, Brunei had some claims. In reporting on the Spanish occupation of Port Royalist, Ricketts had referred in 1871 to the Brunei claim to part of Palawan.⁴⁰³ In June 1874 he reported an attack on Balabac by people from southern Palawan—claimed by Spain, but really Sulu's—with some from north-east Borneo.⁴⁰⁴ According to Bulwer the attack was by people from Palawan and Cagayan Sulu, 'by way of reprisal for aggressions on the part of the Spaniards who were destroying their boats and otherwise interfering with their peaceful pursuits and fishermen....' Since late

1873 or early 1874 the Spaniards had been applying to southern Palawan the policy they had been applying to Sulu proper since 1871. One object, as with their earlier occupation of Balabac, also claimed by Brunei, was to prevent the growth of trade to Labuan. The other object was to extend Spanish dominion, 'possibly with the view ultimately of extending their encroachments to the mainland itself of Borneo—a course which, apart from other objections, would be highly injurious to the interests of the British settlements in these seas....'⁴⁰⁵

Buckle's report early the following year suggested that the Spaniards intended to make good their claim to north Borneo, and later in 1875 Low learned from Nakhoda Gomba, collector of customs for Sulu on the east coast of Borneo, that the Spaniards had made overtures to Sharif Yasin at Marudu.⁴⁰⁶ When reporting in 1876 on the expected Spanish expedition to Sulu, Ricketts wrote that, if it were taken, 'it is not improbable but that Spain will assert a right of Sovereignty' over north-east Borneo. The result, he said, would be 'the interruption of all our Singapore and Labuan trade with Sulu, the annihilation of the treaty of 1848 [1849] made by us with the Sultan of Sulu also that made with the Sultan of Brunei and the falling of the harbour of Sandakan and other places in Borneo into the hands of the Spaniards....'⁴⁰⁷ Ussher agreed that Spanish annexation of north Borneo was likely to ensue.⁴⁰⁸ Further encroachments, he later repeated, could be expected when Spain found it 'convenient'.⁴⁰⁹

There were also references to Dutch advance up the east coast. Low reported in 1875 that the Dutch were extending from Kutai over Berau and Bulongan, where English merchants from Singapore had trading settlements.⁴¹⁰ The commander of the British naval vessel, *Egeria*, sent to Sulu in 1876, investigated the position. But, as far as he could ascertain, the acquisition of fresh territory by the commandant of Kutai was 'not in opposition to certain Treaties which exist with the Dutch'; and at the Colonial Office de Robeck did not think Britain needed to be 'jealous' about Dutch proceedings.⁴¹¹

The time was perhaps coming, however, when some further step might be necessary to preserve north Borneo for British interests. Nor were Spain's claims over Sulu, German interest in the area, Dutch advance up the east coast, the only factors. Brunei was in decline, and the interests of the American concessionaires had been renewed, to the annoyance of Sultan Jamal-ul-A'zam of Sulu.⁴¹² Even the treaty of 1847, so far used against Spain, and in a sense against Italy, might not suffice in the future.

1. N.M. Saleeby, *The History of Sulu*, Manila, 1963, pp. 111–12.

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3. Article from *Diario de Manila* reprinted in *Straits Times*, 18 November 1871.

4. P. de la Escosura, *Memoria Sobre Filipinas y Joló*, Madrid, 1882, p. 402; José Montero y Vidal, *Historia de la Piratería Malaya-Mohometana en Mindanao Joló y Borneo*, Madrid, 1888, II, Appendix, 67.
5. Article by 'Porvenir', reprinted in *Straits Times*, 18 November 1871.
6. J.K. Reynolds, 'Toward an Account of Sulu and its Borneo Dependencies', M.A. thesis, University of Wisconsin, 1970, pp. 110-11. E. Wickberg, *The Chinese in Philippine Life 1850-1898*, New Haven, 1965, pp. 91-2.
7. N. Tarling, *Piracy and Politics in the Malay World*, Melbourne, 1963, pp. 161-3.
8. Brooke to Pakington, 22 September 1852, C.O. 144/10.
9. Low to Colonial Office, 3 August 1855; 18 September, with enclosures, C.O. 144/12.
10. Bulwer to Kimberley, 9 May 1874, No. 17, C.O. 144/42 (8304).
11. Crespigny to Admiralty, 18 October 1858, in Admiralty to Colonial Office, 6 December, C.O. 144/15 (12520); also in Admiralty to Foreign Office, s.d., F.O. 12/35.
12. Crespigny to Admiralty, 18 October 1858, in Admiralty to Foreign Office, 6 December, F.O. 12/25; Crespigny to Governor of Straits Settlements, 9 October 1858, Proceedings, Last Quarter, 1858, Foreign Department, C.O. 273/3; also Collections to Political Despatches 21 (No. 54 of 1860), India Office Library.
13. Crawford to Malmesbury, 22 October 1858, F.O. 12/25.
14. Memorandum, 17 November 1858, F.O. 17/318.
15. Blundell to Malmesbury, 26 February 1859, No. 87/193, and enclosure, F.O. 12/26.
16. Foreign Office to Colonial Office, 29 April 1859, F.O. 71/1.
17. Cresswell to Admiralty, 28 October 1858, C.O. 144/15.
18. Farren to Clarendon, 9 March 1854, No. 10, F.O. 72/853.
19. Loney to Farren, 10 July 1861, in Farren to Russell, 31 August, No. 28, F.O. 72/1017.
20. Saleeby, p. 112.
21. Farren to Clarendon, 7 March 1857, No. 16, F.O. 72/927. For Cuarteron, see also Montero, II, 472-3n.
22. St John to Foreign Office, 8 January 1858, No. 1, F.O. 12/25.
23. St John to Clarendon, 19 January 1858, No. 4, F.O. 12/25.
24. St John to Malmesbury, 21 May 1858, No. 7; 5 November, No. 11, F.O. 12/25.
25. St John to Malmesbury, 4 November 1858, No. 4, F.O. 12/25. For the Andamans settlement, see N. Tarling, 'Pirates and convicts: British interest in the Andaman and Nicobar islands in the mid-nineteenth century', *Journal of Indian History*, XXXVIII, 3 (December 1960), 505-26.
26. Melvill to Hammond, 15 April 1859, F.O. 12/26. Stanley to Governor-General, 12 May 1859, No. 22, Political Despatches to India 1.
27. Howden to Malmesbury, 1 May 1858, No. 97, F.O. 72/936.
28. R.S. Thomson, 'The Diplomacy of Imperialism: France and Spain in Cochin China, 1858-63', *Journal of Modern History*, XII, 3 (September 1940), 336-7.
29. St John to Malmesbury, 17 August 1858, No. 9, F.O. 12/25.
30. Norzagaray to Minister of State, 25 March 1859, enclosed in Ricketts to Derby, 1 June 1875, Political No. 6, F.O. 71/6.
31. Escosura, pp. 385-8; Montero, II, Appendix, 61-63.
32. Buchanan to Malmesbury, 7 November 1858, No. 231, F.O. 72/940.
33. St John to Malmesbury, 4 February 1859, No. 1, F.O. 12/26.
34. Foreign Office to Buchanan, 2 April 1859, No. 75, F.O. 72/952.
35. Buchanan to Malmesbury, 23 April 1859, F.O. 72/955; also in Collections to Political Despatches 3 (No. 24), and in Foreign Office to Colonial Office, 5 May 1859, C.O. 144/16 (4702).

36. Bowring to Foreign Office, 29 November 1858, No. 322, F.O. 17/301. Bowring to Edgar Bowring, 3 December 1858, Eng. Mss. 1228/228, John Rylands Library.
37. See J. Bowring, *A Visit to the Philippine Islands*, London, 1859.
38. Norzagaray to Bowring, 24 March 1859, F.O. 17/318.
39. Memorandum, n.d., and note thereon, F.O. 17/318.
40. Blundell to Secretary, 17 June 1859; Norzagaray to Blundell, 2 February; Blundell to Captain-General, 29 March; Under-Secretary to Governor, 9 August, No. 4875, Collections to Political Despatches 13 (No. 23 of 1860).
41. Isturiz to Russell, 8 August 1859, Collections to Political Despatches 5 (No. 38 of 1859).
42. Isturiz to Russell, 17 July 1860, F.O. 71/1.
43. Circular, 2 July 1860, in Ord to Kimberley, 13 March 1873, No. 60, C.O. 273/65 (3897).
44. Minute, 27 July 1860, F.O. 71/1.
45. Russell to Isturiz, 2 August 1860, F.O. 71/1.
46. Foreign Office to Farren, 20 August 1860, No. 1, F.O. 71/1.
47. Isturiz to Russell, 9 April 1861, F.O. 71/1.
48. Minute, 14 April 1861, F.O. 71/1.
49. Cavenagh to Consul, 10 September 1861, Collections to Political Despatches 45; C.O. 273/5.
50. Cavenagh to Secretary, 18 October 1861, No. 187 and enclosures, Collections to Political Despatches 59 (Coll. 2 to No. 181 of 1862); F.O. 71/1; C.O. 273/5.
51. Information from Wyndham, in Buckle to Ryder, 20 February 1875, F.O. 71/6.
52. Minute, n.d.: Foreign Office to India Office, 11 April 1872, F.O. 71/1.
53. India Office to Foreign Office, 9 May 1862, F.O. 71/1; C.O. 273/5.
54. Wood to Governor-General, 8 May 1862, No. 42, Political Despatches to India 5.
55. Foreign Office to Farren, 26 May 1862, No. 2, F.O. 71/1.
56. Reilly to Hope, 3 February 1862, F.O. 37/404.
57. Buchanan to Russell, 2 April 1862, No. 50; 9 April, No. 52, confidential, F.O. 37/398; Collections to Political Despatches 60 (No. 42 of 1862).
58. Buchanan to Russell, 24 May 1862, No. 71, F.O. 37/399.
59. Russell to Crampton, 9 June 1862, No. 113, F.O. 72/1029.
60. Buchanan to Russell, 20 August 1862, No. 121, confidential, F.O. 37/399.
61. Crampton to Russell, 15 August 1862, No. 329, F.O. 71/1036.
62. Greindl to Leopold II, 26 August 1874, in L. Greindl, *À la Recherche d'un État indépendant: Leopold II et les Philippines*, Bruxelles, 1962, p. 346.
63. Crampton to Russell, 26 August 1862, No. 334 and enclosure, F.O. 72/1036.
64. Buchanan to Russell, 3 September 1862, No. 126; 10 September, No. 131, F.O. 37/400.
65. Buchanan to Russell, 9 October 1862, No. 140; Ward to Russell, 13 October, and enclosure, F.O. 37/400.
66. Romaine to Kuper, 8 October 1862, confidential, F.O. 12/30.
67. Foreign Office to Ward, 15 October 1862, F.O. 37/397.
68. Paget to Kuper, 9 October 1862, F.O. 12/30.
69. Foreign Office to Admiralty, 10 October 1862, F.O. 12/30.
70. St John to Russell, 2 August 1862, F.O. 12/30.
71. Corbett to Admiralty, 6 October 1862, F.O. 71/1.
72. Admiralty to Foreign Office, 14 November 1862; reply, 24 November, F.O. 71/1.
73. Low to Russell, 10 September 1863, No. 8, F.O. 12/31.
74. Kuper to Admiralty, 14 February 1863, in Admiralty to Colonial Office, 27 March, C.O. 144/22 (3058).

75. Charles Johnson to Emmy Evelyn, 28 March 1863, Papers in the private possession of Admiral B.C.B. Brooke.
76. Cavenagh to Secretary, 28 January 1863, No. 23/138, and enclosure; 23 October, No. 194/1417, Collections to Political Despatches 70 (Coll. 2 to No. 19 of 1864), F.O. 71/1; C.O. 273/6.
77. Montero, II, 496-9; Saleeby, 116.
78. Merivale to Foreign Office, 11 March 1864, F.O. 71/6; C.O. 273/6.
79. Farren to Murray, 24 October 1862, private, F.O. 71/1.
80. Foreign Office to Farren, 21 March 1864, No. 2, F.O. 71/1.
81. Webb to Russell, 30 August 1864, No. 29, F.O. 72/1087.
82. Webb to Murray, 19 September 1864, No. 37; 7 October, private, F.O. 71/1.
83. Webb to Russell, 24 October 1864, No. 56, F.O. 71/1.
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88. Escosura, p. 331. The August date, given in *ibid.*, Appendix, 396, and repeated in Montero, II, 499, is surely an error.
89. Escosura, p. 333.
90. *ibid.*, pp. 335-6, 405-6; Montero, II, Appendix, 68-69.
91. Escosura, pp. 407-8; Montero, II, Appendix, 69-70.
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101. Callaghan to Foreign Office, 7 May 1866, No. 3, F.O. 12/33A.
102. Foreign Office to Callaghan, 18 May 1866, No. 4, F.O. 12/33A.
103. Foreign Office to Low, 31 May 1867, No. 3, F.O. 12/33B.
104. Bruce to Foreign Office, 13 May 1867, in Foreign Office to Colonial Office, 30 May, C.O. 144/26 (5323).
105. Low to Foreign Office, 1 December 1866, F.O. 12/33A; also in Low to Colonial Office, s.d., C.O. 144/25 (953).
106. Bradford to Pope-Hennessy, 5 March 1868, in Pope-Hennessy to Foreign Office, 28 March, No. 1, F.O. 12/34A.
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108. Callaghan to Foreign Office, 2 October 1865, F.O. 12/32B.

109. Callaghan to Foreign Office, 29 January 1866, No. 1, F.O. 12/33A.
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125. Pope-Hennessy to Clarendon, 6 July 1869, No. 2, F.O. 12/34B.
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159. Minute by Cox, 17 March 1872, on C.O. 144/35 (2580).
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163. Memorandum, 6 May 1872, F.O. 72/1314.
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180. Foreign Office to Colonial Office, 12 May 1873, F.O. 71/3.
181. As note 164.
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202. Memorandum, July 1873, F.O. 71/3.
203. Coates to Granville, 9 June 1873, F.O. 71/3.
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206. Petition in Colonial Office to Foreign Office, 2 September 1873, F.O. 71/3.
207. Sultan to Queen Victoria, 8 June 1873, in Ord to Kimberley, 12 July 1873, No. 202, and minute thereon, C.O. 273/67 (8946); F.O. 71/3. Colonial Office to Foreign Office, 3 September, on 8946; F.O. 71/3.
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210. Layard to Granville, 8 November 1873, No. 505, F.O. 71/3.
211. Statement by Wyndham, n.d., in Buckle to Ryder, 28 February 1875; Proclamation, in Kennedy to Kimberley, 11 October 1873, No. 219, F.O. 71/3.
212. Bulwer to Kimberley, 26 September 1873, No. 54, with minutes, C.O. 144/41 (11857); F.O. 71/3.
213. Granville to Münster, 15 November 1873, F.O. 71/3.
214. Bartlett, pp. 252-3. Allan Nevins, *Hamilton Fish*, New York, 1957, II, 667 ff.
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217. Russell to Granville, 21 November 1873, No. 395, F.O. 71/3.
218. Heard to Ag. Colonial Secretary, 1 October 1873; Coates to Kennedy, 26 September; Protest, 16 September; Kennedy to Kimberley, 2 October, No. 212, F.O. 71/3.
219. Minutes, 26, 27 November 1873, F.O. 71/3.
220. Coates to Kennedy, 24 September 1873, confidential; Kennedy to Kimberley, 11 October, No. 219, and enclosures, F.O. 71/3.
221. N. Loney to his Father, 23 October 1865 [1868], *A Britisher in the Philippines*, p. 113.
222. Telegram from Hong Kong, 26 November 1873; Minute by Tenterden, 27 November, F.O. 71/3.
223. Minutes on Ricketts to Granville, 19 November 1873, No. 54, F.O. 72/1355.
224. Ord to Kimberley, 23 October 1873, No. 339; 31 October, No. 344, and enclosures, F.O. 71/4.
225. Memorandum, 12 December 1873, F.O. 71/4.
226. Münster to Granville, 11 December 1873, confidential, F.O. 71/4.
227. Russell to Granville, 4 December 1873, No. 413, F.O. 64/777.
228. Foreign Office to Layard, 26 December 1873, No. 221; 29 December, No. 228, F.O. 71/4.
229. Colonial Office to Foreign Office, 10 December 1873, F.O. 71/4.
230. Carvajal to Layard, 2 December 1873, F.O. 71/4.
231. Note, 22 December 1873, translated in Layard to Granville, 31 December, No. 686, confidential, F.O. 71/4; also in Foreign Office to Colonial Office, 12 February 1874, C.O. 144/43 (1613).
232. Münster to Granville, 19 January 1874, F.O. 71/5.
233. Granville to Russell, 26 January 1874, No. 27, F.O. 71/5.
234. Draft to Layard, January 1874; Memorandum by Lister, 29 December 1873, F.O. 71/5.
235. Law Officers to Foreign Office, 26 January 1874, F.O. 83/2363.
236. Minutes on Law Officers' report of 26 January 1874, F.O. 71/5.
237. Foreign Office to Layard, 9 February 1874, Nos. 48, 49; to Admiralty, 4 February, F.O. 71/5; also in Foreign Office to Colonial Office, 12 February, C.O. 144/43 (1613).
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241. Colonial Office to Foreign Office, 20 February 1874, on C.O. 144/43 (1613); F.O. 71/5.
242. Minutes, 24 February 1874; n.d., F.O. 71/5.
243. Layard to Derby, 23 April 1874, No. 272; Derby to Layard, 7 May, No. 141, F.O. 71/5.
244. Law Officers to Derby, 26 May 1874, F.O. 83/2363.
245. Minutes, 28 May 1874; n.d., F.O. 71/5.
246. Bulwer to Kimberley, 6 January 1874, No. 1, C.O. 144/42 (2011).
247. Bulwer to Kimberley, 14 January 1874, No. 2, C.O. 144/42 (2673); Minute by Meade, 19 June, on *ibid.*; Colonial Office to Foreign Office, 4 July; on *ibid.*, F.O. 71/5.
248. Foreign Office to Colonial Office, 15 July 1874, F.O. 71/5; C.O. 144/43 (8108).
249. Foreign Office to Colonial Office, 4 August 1874, confidential, F.O. 71/5; C.O. 144/43 (9188A).
250. Bulwer to Carnavon, 25 June 1874, No. 23; 4 July, No. 24, C.O. 144/42 (11016, 11017).
251. Colonial Office to Foreign Office, 11 September 1874, on C.O. 144/43 (9188A); F.O. 71/5.
252. Minutes, 17, 19, 21, 23 September 1874, F.O. 71/5.
253. Foreign Officer to Admiralty, 2 October 1874, confidential, F.O. 71/5; also in Foreign Office to Colonial Office, 5 October, C.O. 144/43 (11509). Minute, 9 October, on 11509.

254. Meade to Bourke, 3 February 1875, private, and minutes, F.O. 71/6.
255. Foreign Office to Layard, 8 February 1875, No. 53, F.O. 71/6; also in Foreign Office to Colonial Office, 13 February, C.O. 144/45 (1587). Cox's minute, 15 February, on 1587. Foreign Office to Russell, 15 February, No. 48; Russell to Derby, 19 February, No. 82, F.O. 71/6.
256. Layard to Derby, 28 February 1875, No. 251, F.O. 71/6; also in Foreign Office to Colonial Office, 9 March, C.O. 144/45 (2670). Meade's minute, 12 March, on 2670.
257. Layard to Ricketts, 1 March 1875, F.O. 71/6.
258. Low to Carnavon, 4 January 1875, Separate, C.O. 144/44 (2285); F.O. 71/6.
259. Bulwer to Carnavon, 25 February 1875, confidential, C.O. 144/45 (2153); F.O. 71/6.
260. Buckle to Ryder, 28 February 1875, and enclosures, F.O. 71/6; also in Foreign Office to Colonial Office, 24 June, C.O. 144/45 (7132).
261. Ricketts to Sanderson, 9 February 1875, private, F.O. 71/6.
262. Minutes, 30 June, 7 July 1875, on C.O. 144/45 (7132). Colonial Office to Foreign Office, 10 July, on 7132; F.O. 71/6, with Tenterden's note.
263. Ricketts to Derby, 13 October 1874, Political No. 11, F.O. 71/5.
264. Low to Derby, 22 March 1875, No. 4, F.O. 71/6; also in Foreign Office to Colonial Office, 6 May, C.O. 144/45 (5077).
265. Ricketts to Derby, 17 April 1875, Political No. 4, F.O. 71/6; also in Foreign Office to Colonial Office, 18 June, C.O. 144/45 (6930). Also telegram from Sir A. Clarke, received 25 April, F.O. 71/6.
266. Low to Derby, 4 May 1875, No. 8, F.O. 71/6; also in Low to Carnavon, 8 May, No. 3, C.O. 144/44 (6943).
267. Low to Derby, 8 May 1875, No. 9, F.O. 71/6; also in C.O. 144/44 (6943). Low to Derby, 15 July 1875, Consular No. 13, F.O. 71/6; also in Low to Carnavon, 16 July, No. 49, C.O. 144/44 (9932). Treacher to Derby, 22 January 1877, Political No. 1, F.O. 71/10.
268. Ricketts to Derby, 15 June 1875, Political No. 8, F.O. 71/6; also in Foreign Office to Colonial Office, 26 August, C.O. 144/45 (9661).
269. Letter from Ricketts, 16 June 1875, private, F.O. 71/6.
270. Letter from Ricketts, 17 June 1875, private, F.O. 71/6.
271. Foreign Office to Law Officers, 5 July 1875, F.O. 83/2363.
272. Law Officers to Derby, 27 August 1875, F.O. 83/2363.
273. Low to Derby, 15 July 1875, Consular No. 13, as in note 267.
274. Minute, 6 September 1875, on C.O. 144/44 (9932).
275. Foreign Office to Law Officers, 16 September 1875, F.O. 83/2363.
276. Low to Derby, 12 August 1875, Consular No. 16, F.O. 71/6; also in Low to Carnavon, s.d., No. 57, C.O. 144/45 (10784).
277. Minutes on C.O. 144/45 (10784). Colonial Office to Foreign Office, 18 October, on 10784; F.O. 71/6, with minutes.
278. Law Officers to Derby, 22 October 1875, F.O. 83/2363.
279. Minutes, 23, 27 October 1875, F.O. 71/6.
280. Minute, 5 November 1875, F.O. 71/7.
281. Ricketts to Derby, 18 December 1875, Political No. 16; Colonial Office to Foreign Office, 23 December, and note thereon, F.O. 71/6.
282. Minutes on Foreign Office to Colonial Office, 3 January 1876, C.O. 144/47 (123).
283. Memorandum by Tenterden, 23 December 1875, F.O. 71/7.
284. Foreign Office to Russell, 17 January 1876, No. 35, F.O. 71/7; also in Foreign Office to Colonial Office, 6 March, C.O. 144/47 (2757).
285. Minute, 8 January 1876, on Foreign Office to Colonial Office, 7 January, C.O. 144/47 (293).

286. Ricketts to Derby, 26 November 1875, Political No. 14, F.O. 71/6; also in Foreign Office to Colonial Office, 14 January 1876, C.O. 144/47 (707). Low to Derby, 25 November 1875, Consular No. 22, F.O. 71/6. See also Schück's own rather different statement, 16 November 1875, F.O. 71/7.
287. Layard to Derby, 13 January 1876, No. 17, F.O. 71/7.
288. Minute, 21 January 1876, on C.O. 144/47 (707).
289. Layard to Derby, 14 January 1876, No. 18, F.O. 71/7; also in Foreign Office to Colonial Office, 25 January, C.O. 144/47 (1026).
290. Münster to Derby, 17 January 1876, F.O. 71/7; also in C.O. 144/47 (1026).
291. Layard to Derby, 18 January 1876, No. 23, F.O. 71/7.
292. Layard to Derby, 18 January 1876, No. 24, F.O. 71/7.
293. Minutes on C.O. 144/47 (1026).
294. Russell to Derby, 26 January 1876, No. 44, confidential, F.O. 71/7.
295. Enclosures in Layard to Derby, 28 January 1876, No. 45, F.O. 71/7; also in Foreign Office to Colonial Office, 4 February, C.O. 144/47 (1373).
296. Münster to Derby, 10 February 1876, confidential, with enclosure, F.O. 71/7.
297. Foreign Office to Layard, 15 February 1876, No. 43; Layard to Derby, 17 February, No. 78; 20 February, No. 86, F.O. 71/7, the last also in Foreign Office to Colonial Office, 1 March, C.O. 144/47 (2606).
298. Memorandum left by Münster, 22 February 1876, F.O. 71/7.
299. Foreign Office to Layard, 29 February 1876, No. 59, F.O. 71/7; also in C.O. 144/47 (2506).
300. Minutes on C.O. 144/47 (2506).
301. Bülow to Münster, 24 February 1876, F.O. 71/7.
302. Münster to Derby, 12 March 1876, F.O. 71/7.
303. Foreign Office to Russell, 15 March 1876, F.O. 71/7.
304. Russell to Derby, 23 March 1876, No. 128, F.O. 71/7.
305. Foreign Office to Layard, 25 March 1876, No. 91; Layard to Derby, 11 April and enclosure, F.O. 71/7.
306. Translation of note, 15 April 1876, in Layard to Derby, 17 April, No. 204, F.O. 71/7; also in Foreign Office to Colonial Office, 29 April, C.O. 144/47 (5072).
307. Layard to Derby, 24 April 1876, No. 219, and enclosure, F.O. 71/7. See also Hatzfeldt's despatch, 26 April, in Münster to Derby, 22 May, F.O. 71/7.
308. Russell to Derby, 5 May 1876, No. 189; Derby to Russell, 6 May, No. 327, F.O. 71/7.
309. Derby to Russell, 10 June 1876, No. 464, F.O. 71/7; also in Foreign Office to Colonial Office, 27 June, C.O. 144/47 (7853).
310. Walsham to Derby, 10 June 1876, Political No. 294, F.O. 71/7.
311. Münster to Derby, 19 June 1876, and enclosure, F.O. 71/7; Derby to Walsham, 3 July, No. 202, F.O. 71/8.
312. Walsham to Derby, 22 July 1876, No. 350, F.O. 71/8.
313. Ricketts to Derby, 6 March 1876, Political No. 6, F.O. 71/7; also in Foreign Office to Colonial Office, 17 April, C.O. 144/47 (4568).
314. Low to Derby, 24 March 1876, Consular No. 6, F.O. 71/7; also in Low to Carnvon, 29 March, No. 19, C.O. 144/46 (5725).
315. Ricketts to Derby, 24 March 1876, Political No. 8, F.O. 71/7; also in Foreign Office to Colonial Office, 17 May, C.O. 144/47 (6171).
316. Ricketts to Derby, 10 April 1876, Political No. 9, F.O. 71/7; also in Foreign Office to Colonial Office, 27 June, C.O. 144/47 (7853).
317. Letters from Ricketts, 11, 21 April 1876, F.O. 71/7, with note on the latter.
318. Derby to Russell, 18 June 1876, No. 480, F.O. 71/7; also in Foreign Office to Colonial Office,

- 27 June, C.O. 144/47 (7853). Derby to Macdonnell, 4 July 1876, No. 504, F.O. 71/8.
319. Telegram, 12 June 1876, F.O. 71/7; also in C.O. 144/47 (7853).
320. Colonial Office to Foreign Office, 11 July 1876, on Foreign Office to Colonial Office, 11 July, C.O. 144/47 (8309); F.O. 71/8.
321. Ussher to Derby, 5 July 1876, Consular No. 14, F.O. 71/8; also in Ussher to Carnavon, 27 July, No. 44, C.O. 144/46 (9938).
322. Ussher to Derby, 24 July 1876, Consular No. 16, F.O. 71/8; also in Ussher to Carnavon, 26 July, No. 56, C.O. 144/46 (10923).
323. Foreign Office to Macdonnell, 21 April 1876, No. 561, F.O. 71/8.
324. Minutes on C.O. 144/46 (10923). Colonial Office to Foreign Office, 20 September 1876, on *ibid.*, F.O. 71/8.
325. Derby to Russell, 27 September 1876, F.O. 71/8.
326. Telegram from Russell, 4 October 1876, F.O. 71/8.
327. Memorandum from Münster, received 12 October 1876, and enclosures, F.O. 71/8.
328. Münster to Derby, 17 October 1876, confidential, and enclosure, F.O. 71/8.
329. Derby to Russell, 24 October 1876, No. 671; to Layard, 31 October, Nos. 295, 296, F.O. 71/8.
330. Layard to Derby, 7 November 1876, No. 457, F.O. 71/8.
331. Hunter, pp. 116-17, 121.
332. *ibid.*, p. 121. Layard to Derby, 13 November 1876, No. 477, with enclosure; *s.d.*, No. 476, F.O. 71/8.
333. Layard to Derby, 14 November 1876, No. 479, F.O. 71/8.
334. Telegram, 14 November 1876, F.O. 71/8.
335. Memoranda, 14 November 1876, *n.d.*, F.O. 71/8.
336. Bülow to Münster, 11 November 1876, communicated 17 November, F.O. 71/8.
337. Memorandum, 21 November 1876, F.O. 71/8.
338. Note, 14 November 1876, in Layard to Derby, 21 November 1876, No. 490, F.O. 71/8.
339. Memorandum, 24 November 1876, F.O. 71/8.
340. Derby to Russell, 22 November 1876, No. 715, F.O. 71/8.
341. Russell to Derby, 24 November 1876, No. 520, confidential, F.O. 71/8.
342. Derby to Layard, 27 November 1876, No. 330, F.O. 71/8; also in Foreign Office to Colonial Office, 5 December, C.O. 144/47 (14539), with minute.
343. Münster to Derby, 2 December 1876, F.O. 71/9. Layard to Derby, 23 November 1876, No. 493, F.O. 71/8.
344. Memorandum from Münster, 27 November 1876, F.O. 71/8.
345. Memorandum, 1 December 1876, F.O. 71/8.
346. Add. Mss 38933, pp. 297-8, British Museum.
347. Layard to Derby, 18 November 1876, Add. Mss 39124, f. 120.
348. Bartlett, p. 213.
349. *ibid.*, pp. 214-16. Add. Mss 38933, p. 243.
350. Layard to Derby, 6 December 1876, No. 520, F.O. 71/9.
351. Memoranda, 13, 21, 22 December 1876, F.O. 71/9.
352. Derby to Münster, 14 December 1876, F.O. 71/9.
353. Ussher to Derby, 4 October 1876, No. 22, F.O. 71/8; also in Ussher to Carnavon, 23 October, No. 72, C.O. 144/46 (14373).
354. Colonial Office to Foreign Office, 29 December 1876, on C.O. 144/46 (14373); F.O. 71/9.
355. Memoranda, 30 December 1876, *n.d.*, F.O. 71/9. Foreign Office to Colonial Office, 6

- January 1877, C.O. 144/49 (257).
356. Layard to Derby, 3 January 1877, No. 7, F.O. 71/10; also in Foreign Office to Colonial Office, 17 January, C.O. 144/49 (719). But cf. Montero, II, 556-7n.
357. Layard to Derby, 11 December 1876, No. 529, F.O. 71/9.
358. Layard to Derby, 16 December 1876, No. 533, F.O. 71/9; also in Foreign Office to Colonial Office, 8 January 1877, C.O. 144/49 (321).
359. Minute, 14 January 1877, on C.O. 144/49 (321).
360. Layard to Derby, 29 December 1876, No. 554, F.O. 71/9.
361. Telegram, 2 January 1877, F.O. 71/10.
362. Memorandum from Münster, 18 December 1876, F.O. 71/9.
363. Draft to Hatzfeldt, January 1877, in Münster to Derby, 9 January, F.O. 71/10.
364. Memorandum, 16 January 1877, F.O. 71/10.
365. Decree of 16 November 1876, in Palgrave to Derby, 29 November, F.O. 71/8. Münster to Derby, 11 January 1877, F.O. 71/10.
366. Memoranda, 12, 14, 17 January 1877, n.d., F.O. 71/10.
367. Memorandum by Tenterden, 17 January 1877, F.O. 71/10.
368. Layard's telegram, 13 January 1877; to Derby, s.d., No. 38, F.O. 71/10.
369. Layard to Derby, 16 January 1877, No. 43, F.O. 71/10.
370. Layard to Derby, 17 January 1877, No. 45, F.O. 71/10.
371. *ibid.*; Layard's telegram, 16 January 1877, F.O. 71/10.
372. Memorandum, 17 January 1877, F.O. 71/10.
373. Derby to Münster, 18 January 1877, F.O. 71/10; Colonial Office to Foreign Office, 19 January, F.O. 71/10; also on Foreign Office to Colonial Office, 18 January, C.O. 144/49 (787).
374. Telegram, 16 January 1877, F.O. 71/10, with Derby's comment; Add. Mss 39124, f. 126.
375. Derby to Layard, 25 January 1877, private, Add. Mss 38933, p. 299, 39011, f. 59.
376. Münster to Derby, 23 January 1877, F.O. 71/10.
377. Derby to Münster, 24 January 1877, F.O. 71/10.
378. Münster to Derby, 29 January 1877, F.O. 71/10.
379. Memorandum, 3 February 1877, F.O. 71/10.
380. Layard to Derby, 3 February 1877, Add. Mss 39124, f. 129.
381. Eliot to Layard, 26 January 1877, Add. Mss 39011, f. 70.
382. Memorandum, 13 January 1877, F.O. 71/8.
383. Palgrave to Derby, 24 January 1877, F.O. 71/10.
384. Memorandum, 26 March 1877, F.O. 71/10.
385. Minute, 10 March, on Admiralty to Colonial Office, 14 February 1877, C.O. 144/49 (2000).
386. Mea Allen, *Palgrave of Arabia*, London, 1972, pp. 250-1, 253.
387. Layard to Derby, 3 February 1877, No. 79, F.O. 71/11.
388. Layard to Derby, 12 February 1877, No. 89, F.O. 71/11.
389. Memoranda, 18 February 1877, n.d., F.O. 71/11.
390. Memoranda, 15, 16 February 1877, F.O. 71/11.
391. Note from Münster, 17 February 1877, F.O. 71/11.
392. Münster to Derby, 16 February 1877, F.O. 71/11.
393. Memoranda, 19 February 1877, n.d., F.O. 71/11.
394. Memorandum, 18 February 1877, F.O. 71/11.
395. Memorandum, 19 February 1877, F.O. 71/11.

396. Derby to Münster, 21 February 1877, F.O. 71/11.
397. Layard to Derby, 8 March 1877, No. 125, F.O. 71/11.
398. Layard to Derby, 18 February 1877, No. 100, F.O. 71/11.
399. *ibid.*: Layard to Derby, 10 March 1877, No. 127, F.O. 71/11.
400. *Parliamentary Papers. House of Commons*, 1882, LXXXI, 545-7.
401. Layard to Derby, 8 March 1877, Add. Mss 39124, f. 133.
402. Layard to Derby, 18 November 1876, Add. Mss 39124, f. 120.
403. Ricketts to Granville, 11 October 1871, No. 32, F.O. 71/2.
404. Ricketts to Derby, 6 June 1874, Political No. 4, F.O. 71/5; also in Foreign Office to Colonial Office, 3 August, C.O. 144/43 (9125).
405. Bulwer to Carnavon, 30 September 1874, No. 55, C.O. 144/43 (13922); F.O. 71/5.
406. Low to Derby, 15 July 1875, Consular No. 14, F.O. 71/6; C.O. 144/44 (9932).
407. Ricketts to Jervois, 29 January 1876, in Jervois to Carnavon, 19 February, confidential, F.O. 71/7.
408. Ussher to Derby, 24 July 1876, Consular No. 16, F.O. 71/8; also in Ussher to Carnavon, 26 July, C.O. 144/46 (10923).
409. Ussher to Derby, 20 December 1876, F.O. 71/9; also in Ussher to Carnavon, s.d., C.O. 144/47 (1889).
410. Low to Derby, 15 July 1875, Consular No. 14, F.O. 71/6; also in Low to Carnavon, 16 July, No. 49, C.O. 144/44 (9932).
411. Douglas to Ryder, 18 December 1876, F.O. 71/11; also in Admiralty to Colonial Office, 14 February 1877, C.O. 144/49 (2000), with de Robeck's minute, 10 March.
412. Low to Derby, 12 August 1875, Consular No. 16, F.O. 71/6; also in Low to Colonial Office, s.d., No. 57, C.O. 144/45 (10784).

THE BRITISH NORTH BORNEO COMPANY

The Schemes for Mediation

THE negotiations in Europe had been urged on by the new Spanish expedition of 1876, which had occupied a bridgehead on the island of Jolo. A more complete Spanish success might have made it more difficult for Great Britain and Germany to secure the concessions they sought. As it was, though Spanish sovereignty was not recognized, and some, like Meade, rather hoped that the provisions of the protocol would obstruct its being made effective, the Foreign Office was clear that Great Britain and Germany could not prohibit the extension of Spanish authority, provided that commercial facilities were accorded as required by the protocol. To some extent the protocol, therefore, even encouraged Spanish expansion: it specified what Spain had to do to meet the challenge of foreign powers. Spain's moves to strengthen its control were nevertheless to raise again the idea of mediation or internationalization. They also made it more necessary for the British to strengthen their position in northern Borneo, and at this stage a new compromise, of the nature of a territorial partition, was reached.

At Labuan Consul-General Ussher had late in 1876 still urged measures to exclude the Spaniards, not only from northern Borneo, but also from Sulu. The commander of the *Egeria* suggested that the Spaniards intended to annex, not only Sulu, but also

the adjacent groups. They have also commenced works of an extensive character at Sulu; and the Natives, with the exception of the Sultan and his adherents, who still sullenly hold out, appear to recognise the new Colony.

The last opportunity... has now... arrived when Great Britain and Germany can with reason and justice insist upon the withdrawal of the Spanish Establishments from the Sulu group....¹

'As to the Spaniards strengthening themselves at Sulu', Eliot commented in January 1877,

it is a matter of course that they should do so,—and if they choose to take bona fide

possession of other islands, or groups of Islands, I know of no ground on which we can interfere,—except so far as may be necessary to protect our trade.

Mr Ussher wants England and Germany to insist upon the withdrawal of Spanish Establishments from the Sulu group,—but to do so would be a complete departure from the policy hitherto pursued by Her Majesty's Govt.²

This, of course, was the policy recognized in the protocol in March. But if the Foreign Office's policy was not that of its Borneo representative, nor was it that of its representative in Manila: it stopped short of supporting Spanish sovereignty in Sulu. Palgrave described the views of the Spanish naval commander, Admiral Polo, as the same as those of the new Captain-General, Moriones: 'Dominion to Spain; Trade to England. My own attitude...being that of reserved protest, and dependence on your Lordship's Instructions.'³ But he went beyond reservation and dependence. In May he visited Puerto Princesa (Port Royalist), the Spanish settlement on Palawan, and also Sulu, Zamboanga, and Isabela de Basilan, on a Spanish government vessel, and expressed the hope that the voyage removed 'any remnants of annoyance on account of past complications in the Sulu Archipelago....'⁴ He recommended—as Moriones had in fact suggested⁵—the establishment of a British consular agency, dependent on Manila, at Zamboanga. It would be a means of collecting information on any collision between British ships and Spanish naval authorities, and of giving relief or assistance to vessels using the Sulu passage. Another factor was 'the probability of a great extension of British trade in those parts, so soon as the Sulu Archipelago shall be completely pacified, an event which now may reasonably be hoped for as not far distant....' The jurisdiction of the agency would include Mindanao, Palawan, Balabac, Basilan, Sulu, Siassi, 'and the adjacent trading-points of the Sulu-Phillipine Archipelago'. An intelligent 'Hispano Malayan' was available.⁶ Ussher had perhaps already gained an intimation of Palgrave's scheme. The Sulu group, he recommended, should continue under the Borneon consular jurisdiction.

The importance of its trade to Labuan, as well as the friendly relations always existing between this Colony and the Sultan will probably incline Your Lordship to this view of the matter.

Moreover the frequent visits of H.M. Ships to Labuan as compared with Manila, the superior facilities for intercourse afforded to Labuan, and lastly the difficulty which H.M. Consul in Manila will always experience in arriving at the truth from the Spanish authorities are arguments, in my opinion, conclusive as to the necessity for this arrangement....⁷

Palgrave's report on his visit to Sulu in any case did his scheme no good at the Foreign Office. The Spaniards occupied, he found, only the unhealthy site of the Sultan's former capital, which had been suitable for 'an excellent Malay pirates' nest', but was

the worst situation that could have been chosen for permanent European and military occupation.

Whoever of the Spaniards or their Malay Soldiers strays but a few yards beyond the

lines is liable to be assaulted and stabbed by the hostile Malays, partisans of the Sultan, who keep up a kind of desultory blockade in the thickets around....

The island itself, or rather the Caste of Datus, that is Malay Chiefs, who administer it, and amongst whom the so-called Sultan is merely a *primus inter pares* is about equally divided between friendly and hostile to the Spaniards....

A little money, judiciously distributed among the Chiefs, and a moderate display of military force, backed by a couple of gunboats, on the Southern side of the Island, where the Sultan, the centre of the anti-Spanish league, resides, would in a few days bring the entire island under Spanish rule....

The Spaniards appeared paralyzed, however, and their attitude, supposed by themselves to appear conciliatory, in fact was interpreted as 'one of weakness and incapacity, perhaps cowardice....' At Tawi-Tawi the chiefs, 'out of rivalry doubtless with those of Sulu', had united to acknowledge Spanish supremacy. But the Sultan and his adherents, who allowed white men to trade at their port of Parang only if they came from Labuan or Singapore, remained hostile, and were backed up in fact by 'the Labuan traders, by whom that hostility was originally instigated, in view of monopolizing to their own profit the Sulu trade....' No doubt, 'in spite of their almost incredible mismanagement and inefficiency', the Spaniards would in future

extend their present military, or quasi-military occupation, till it includes, at least nominally, the entire Sulu Archipelago. And certainly Spanish dominion, however faulty, is more in the interests of British trade and commerce generally, and even of the natives themselves, than Malay pirate-anarchy; though it is, I admit, possible that the monopoly of the Labuan Trading Company may suffer somewhat under the exchange, by the re-opening of the Manila route, and the consequent attraction of Sulu trade and produce in that direction....

The protocol would be enforced under the present régime. But Moriones and Polo were exceptional, and so, 'considering the customary ways of Spanish Officers, Naval, Military, or even Civil, their utter ignorance of Law, international or mercantile, and their mistaken pride in striving to maintain indefensible positions..., and the ambiguous proceedings and questionable honesty of the Labuan and Borneo Chino-Malay traders', disputes could be expected, while the German traders' attitudes were 'better calculated to provoke than to allay annoyance....'⁷⁸

More damaging to the chance that Palgrave's suggestions would be adopted even than his view of the Sulus as pirates, was his connexion with Schück, the captain of the *Minna*. Associated with Lind, Asmus, he had been established at Siassi since 1874, and in 1876 had paid duties at Zamboanga as well as to the Sultan. This practice he continued. In December and January 1876-7, the *Flower of Yarrow*, owned by Ross and carrying cargo the property of the rival Labuan Trading Company, had twice visited Sug (Banua), but had been refused permission to trade to the islands, unlike the *Minna*, which had been allowed to trade at Siassi. The *Tony*, another Labuan Trading Company vessel, had been captured by the Spaniards in December and accused of smuggling, though it had paid duties to the Sultan. W.C. Cowie, the manager

of the Company, had asked Ussher's advice, and been told that his notification of 1876 was still in force. Schück told Palgrave that the current situation in Sulu—neither peace, nor war—meant 'anarchy and confusion', and he blamed both the Labuan Trading Company and the Labuan government. Cowie had been left by the *Tony* at the Sultan's port of Maimbung.

His company owed the Sultan a large sum of money and he kept the people in a perpetual ferment by persuading them to hold out against the Spaniards as the English Government had prepared two ships of war to drive the intruders out, at the same time he proved to them that the Germans had made friendship with the Spanish or else the *Minna* would not be allowed to return to Siassi while the flower of Yarrow was refused to go amongst the islands. He used the name of the Governor of Labuan freely and likewise the Colonial Secretary's Mr Treacher from Labuan, both of whom he pretended to be intimate with. He succeeded so far as the Sultan refused me permission to trade if I went first to the Spanish place.

and, later, even if he did not go to Banua first. Cowie subsequently sold a steamer to the Sultan, settling the debt. It was to fly the English flag, but Cowie was to trade in it in the Sultan's name, making a farce of the free trade of Sulu. The Labuan Trading Company's aim was monopoly, which would only harm Labuan. Yet Cowie seemed to have Ussher's support. If the Sultan were sure that the British Government would not assist him, Schück added, he would make a treaty with Spain, with other governments acting as sponsors.⁹ A treaty would indeed destroy the special advantages of Schück's rivals, and he could develop a trade he had already tried to base on cooperating with both Spain and Sulu. Whether the Spaniards would accept a settlement with other governments as sponsors, or the Sultan accept one without, remained to be seen.

Bulwer, Ussher's predecessor, had certainly thought that the Labuan Trading Company harmed Labuan, even more, perhaps, than the Spanish blockade. It is doubtful if the Company had Ussher's support. His reports on it and on the *Tony* were certainly not very sympathetic.¹⁰ 'The factory of Messrs Schomberg and Company at Sandakan inspires me with grave suspicions', he wrote, 'in respect to a certain lawlessness whispered to prevail there.... Without authority from the German Government I cannot well interfere in the concerns of the factory, although British subjects are known to be interested in it....'¹¹ Palgrave thought, however, that Schück was independent of 'a national bias, whether German, Spanish, or other', and his information largely 'trustworthy'. His own knowledge, 'derived from other and independent sources', Palgrave added, only tended to 'confirm the imputation' against Ussher.

Spanish incompetency,—there is no other word for it,—with the mutual distrust engendered by a long experience of bad faith and corrupt dealings on either side, have no doubt had much to do with the prolongation of an unsettled state of affairs in Sulu and its Archipelago; but it has, there is, I fear, too much reason to believe, been due of late, if not to the action, at any rate, to the concurrence, even the encouragement, of His

Excellency the present Governor of Labuan more than to any other cause....¹³

This statement was criticized by Cox at the Colonial Office as 'a most unnecessary and gratuitous attack upon Mr Ussher...—but for its being made by Mr Palgrave it would be a matter of surprise to find our Consul at Manila an upholder of Spanish interests in the Archipelago....' 'Unfortunately', Meade added, 'Mr Palgrave took up strong Spanish views on this question....'¹³ It was suggested that Palgrave should be told that Her Majesty's Government expected its officers loyally to support each other in carrying out its policy, and to be 'very careful before giving credence to reports brought by traders whose statements are too frequently dictated by their interests'.¹⁴ Palgrave's more general comments on Sulu were also poorly received at the Colonial Office. The Government did not regard the Sultan as a pirate. It had 'uniformly declined' to recognize Spanish claims over Sulu; its objects had been to develop the trade between Sulu and Labuan with which the Manila government had interfered; it could not regard with favour any extension of Spanish interference in the area. Palgrave should receive 'stringent instructions' to counteract his 'decided bias'; otherwise 'there will be a serious risk that any benefits which might be derived from the Protocol...will be rendered nugatory....' Nor was the consular agency he proposed acceptable. Serious difficulties might occur if such were accredited to the Sultan; and as Britain 'would prefer a withdrawal rather than an augmentation of Spanish authority' in Sulu waters, any appointment at one of the ports held by the Spaniards 'would appear to be objectionable as involving some hitherto unaccorded recognition of that authority....'¹⁵ These views the Foreign Office endorsed in despatches to Palgrave, thanks to Meade's 'exertions'. 'The labour we delight in physicks pain', the latter explained.¹⁶ The Foreign Office had in fact not been keen on an agency in any case. 'Considering the difficulties wh. have arisen about Sulu', Tenterden had written, 'the idea of appointing a native merchant as Consular Agent does not appear promising....' 'I do not like the idea at all', wrote the Foreign Secretary.¹⁷ Ussher himself suggested appointing a vice-consul for Sulu: but not one dependent on Manila or an employee of Smith, Bell.¹⁸ He was told that any appointment was unacceptable.¹⁹

Palgrave meanwhile retracted his surmises about Ussher.²⁰ His despatches, he explained, 'stated the opinions held by the more experienced among British residents in the Philippines....' But he maintained that he had adhered to Foreign Office views in his dealings with Spanish officials.²¹ Later Palgrave added that the Sulu/Manila trade was 'chiefly British'.²² Some British traders could flourish, it seemed, under what Meade called Spain's 'restrictive Commercial policy'.²³ But, whatever their interests, they should not stand in the way of liberalization. In much the same way the British Government had pressed the Dutch to end differential duties, though established British merchant houses in Netherlands India were opposed to change.²⁴

If British interests in Sulu were not to be protected by the presence of a consular agent, visits by British naval vessels became more necessary. The

protocol, Ussher insisted, must be enforced, and to ensure this he recommended that British men-of-war should go to the archipelago.²⁵ Meade had already recommended the same course. When the Colonial Office received a copy of the protocol, de Robeck suggested that all Meade 'had contended for' was 'at last conceded by Spain....' 'It will remain to be seen how it will be respected by the Spanish Authorities in the Eastern Seas', Meade commented less optimistically. 'I am sorry that the Protocol recognises the right of the Spaniards to extend themselves to other portions of the Sulu group as hitherto we have refrained from admitting as well as from contesting their claim to Sovereignty over the Islands....' 'Naval vessels should visit 'the Sulu waters...with tolerable frequency for a short time to come....'²⁶ The Foreign Office sent the recommendation to the Admiralty,²⁷ and a naval visit ensued, that of Commander Church and H.M.S. *Curlew*. In return it led to suggestions that went well beyond the enforcement of the protocol.

In June, Ussher had acknowledged a copy of the protocol. Traders still hesitated to go to Sulu. But praus were again coming down 'from the Archipelago; and good cargoes have been obtained by the English and German ships trading there....'²⁸ Some weeks later the *Curlew* arrived. Church had called at Manila and Palgrave had introduced him to Moriones and Polo.²⁹ Ussher found that he had acquired little correct information. 'He was, I fancy under the impression that arms and munitions of war were forbidden to be imported into any port of the Archipelago, and appeared not to be aware that the trade of Labuan and Singapore was still being carried on in preference with the ports of the Sultan.' Ussher provided Church with Treacher as an interpreter, and with instructions that indicated that arms trade was permitted outside Spanish ports and that it was important to determine whether such ports were 'effectively occupied'. He also asked Church to report on any Spanish intention to occupy north-east Borneo. 'This, I have good reason to know, would be resisted by Her Majesty's Government....'³⁰

According to Ussher, Church found that the Spaniards were observing the protocol. He persuaded the supercargo of the steamer *Pontianak*, which he found at Maimbung, a port under the Sultan's control, to go round to Banua and trade with the Spaniards, and they did not molest her. This, Ussher thought, was 'an able measure' on Church's part, 'as establishing a precedent for the future with regard to foreign vessels entering Spanish ports in Sulu and departing therefrom unmolested....' The Spaniards were, however, about to bombard Maimbung—'the old ignoble warfare'—allegedly fearing that otherwise the Germans would take over. Spanish officers also told Church that they intended to annex Sandakan and the north coast of Borneo, and he saw a map 'including the whole of North Borneo, the Sulu Archipelago, and the country close to Labuan as Spanish territory....' With Cowie present Treacher saw the Sultan and found him 'very despondent...his people have lost heart and are dropping away from him....' Treacher thought that the two sides, Spain and Sulu, would accept a British mediation on the basis of the

treaty of 1851. But the Sultan would want a guarantee by Britain, Germany or both.

Shortly afterwards, Ussher forwarded a letter from Sultan Jamal-ul-A'zam to Queen Victoria: a similar one had, the Governor said, been forwarded to Emperor Wilhelm I through the German consul in Singapore. The letter included a garbled version of the treaty of 1851, presumably part of the corrupt Sulu version. The Sultan declared that the Spaniards were expected to attack. He denied that he encouraged pirates as they suggested, though he had no ships to put down Balanini and Bajaus.

On our part we are willing to renew the Treaty made with our Father in the year 1851, and in addition give to the Spaniards the country of Banua which is in their possession; but they must cancel one article in the Treaty which has reference to piracy. The reason why we desire that the article should be struck out is that the Castilians broke the Treaty formerly under this pretext, because, though we did not keep pirates, they said we did encourage them, and they broke the Treaty on that account, and left off the payment of the yearly \$1500.00 mentioned in the treaty....

Similar remarks had also been made by the Sultan in his conversation with Treacher. A favourable response to his request for mediation, Ussher urged, would end a 'troublesome question', and afford 'an opportunity...of determining once and for all the limits of Spanish possession in the direction of the North Coast of Borneo'. The Sultan, he noted, drew attention to the provision of the treaty that allowed foreign ships trading directly to Sulu to pay duties to him.³¹ In fact article 12 did not clearly contain a provision for direct trade, though it was implied.

Church called at Manila on the way back, and mentioned to the Consul that he himself had declined an interview with the Sultan, but that the latter had asked Treacher for mediation. At his own request Church was taken to see Moriones and Polo. He 'proposed that Mr Treacher should be employed by the Hispano-Philippine Government, as a negotiator of peace with the Sultan' on the basis of a modified treaty of 1851. The proposal was received, Palgrave said, 'with much courteous gravity....' If such naval visits, the Consul suggested to the Foreign Office, were 'made occasions for interfering in matters which lie outside the said Protocol as are the relations peaceful or otherwise, between the Spaniards and the Malays of those islands, and of extemporary and I must suppose unauthorized diplomacy on the part of H.M.'s Naval Officers and their interpreters', they might, and probably would, 'cause much harm'. They might irritate the Spaniards and defer the 'pacific arrangements' they desired to promote. 'Mediation when unasked is more likely to meet with distrust than acceptance....' A visit by the secretary to the Labuan government might also encourage the Sultan and 'other Pirate Chiefs in the war, such as it is, they are actually carrying on against the Spaniards and their subject Malays by a hope not perhaps avowedly held out, of British or it may be German, countenance and support'. In the view of Palgrave, who had not yet received the 'stringent instructions' the British Government had decided to send him, the archipelago should be in the hands

of Spain. 'That the present struggle will thus terminate if not interfered with is almost certain....'³² At a subsequent meeting Moriones told Palgrave that Church's plan of mediation was 'practically impossible'. He was, however, already negotiating with the Sultan. For an entire occupation of the islands he thought the means available 'inadequate.... But he expected that complete administrative annexation would shortly follow on the negotiations and other measures now in progress'. In reply to a 'direct enquiry' from Palgrave, the Captain-General

declared without reservation or proviso, that it neither now was, nor, to the best of his knowledge, ever had been the intention of the Hispano Philippine Govt., to lay claims to or occupy any port or territory whatever in the Island or on the coast of Borneo. Nor indeed has the said Govt. the means even if had it the desire, for such an extension of territory—especially South.

Spain would abide by the protocol, and Moriones hoped that British officers 'would on their side abstain from doubtful and possibly injurious interference in matters that lay outside' its 'terms and scope....'³³

On the arrival of Ussher's despatches, the Foreign Office had referred the idea of mediation to Berlin,³⁴ and Ussher was told to intimate to the Sultan that his letter was under consideration and that the British Government was communicating with the German.³⁵ The Sultan, the German ambassador noted, wanted mediation on the basis of the treaty of 1851.

That Treaty, however, repeatedly acknowledges in the clearest manner the supremacy of the Spanish Crown over the Sulu archipelago. It is very likely that the Spanish Government would gladly avail itself of a step taken by the Governments of Germany and Great Britain for a mediation on that basis, and look upon it not incorrectly as some sort of a recognition of the Spanish sovereignty over Sulu. Whether such a step would succeed in obtaining for the Sultan the removal of the Treaty articles he objects to, and the fulfilment of the Treaty by Spain, is altogether questionable....

The sovereignty question was in any case a secondary matter for Germany. 'The only object of the Imperial Government...is to prevent the occurrence of reclamations on account of annoyances to the German commercial flag, and the extensions of the illiberal Spanish colonial system of the Philippines to the Sulu archipelago....' This was, it was hoped, obtained by the protocol.³⁶

The background to Church's proposal differed from the background to Schück's. But the Sultan's readiness to accept most of the treaty of 1851 was surprising. At the Foreign Office it was considered a 'most suicidal' proposal on his part. It was not Britain's policy to 'encourage the spread of Spanish dominion in the Sulu Archipelago', and so Britain had determined not to establish a consulate there. 'It is presumably British Trade alone which concerns us', and that was protected by the protocol. Article 12, it was thought, would allow trade direct with any port in Sulu, 'but it is questionable how long this article would be recognised were the Treaty renewed'. Palgrave indicated that the Spaniards were in any case unlikely to accept mediation, and were anxious to enforce the protocol. It was not clear why Ussher and Church supported mediation so strongly. The British should propose telling

the Sultan 'that they cannot see that any advantage would be derived by him through a joint British and German mediation having for its basis the renewal of the Treaty of 1851', and so could not accede to his request. Tenterden found it 'a very difficult question'. If Great Britain mediated on the basis of 1851, 'we shall admit Spanish sovereignty'. If it refused, 'we must either protect the Sultan's independence or leave him to treat alone—in wh. case Spain wd. insist on sovereignty'. He suggested a reference to the Colonial Office. Derby agreed: 'but we shall have to decide before long one way or the other'.³⁷ The Colonial Office was also puzzled, but thought that the British Government should await the arrival of a full report from Church himself and Ussher's return home on leave; and the Foreign Office concurred.³⁸

Church's own report had in fact just arrived when this decision was reached. After visiting Manila and Labuan, he related, he had gone to Sandakan, where Cowie had recently purchased the Labuan Trading Company's property. At Sulu various Spanish officers told him that their plan was to take Maibung and Parang, 'and then one by one the Islands of the Archipelago', and Sandakan. Church assured them that, if he made contact with the Sultan, 'it would have no political signification', and at Maibung, therefore, he did not join Treacher in visiting him. Back at Banua, they saw the Spanish chief of staff and referred to peace terms. He 'said that if the Powers who had drawn up the Protocol would arrange matters... it would be very satisfactory, but that that statement must be considered quite unofficial'. The treaty of 1851 would be acceptable, he said: 'if it had not been for the ill-advised actions of one of their officers they would never have had any quarrel with the Sultan', he added. Back at Manila, Church discussed the possible employment of Treacher (though it is not clear that he proposed it) and the re-enactment of the 1851 treaty 'witnessed' by Britain or Germany or both. It was evident, he concluded, 'that the Government of the Philippines will first attempt to conclude peace with the Sultan without the help of either England or Germany; but, as long as the Protocol is faithfully observed, the matter does not appear to concern us very much, although there would be a natural desire to prevent any more blood being shed'; and if the *Curlew's* visit 'should prove to have been the means of bringing about negotiations for peace it will be a source of satisfaction....'³⁹ Church was clearly not optimistic over mediation: he expected at least that the Spaniards would try to secure peace first. In fact, as Palgrave hinted, the idea, treaty of 1851 or not, may only have provoked them.

This view he developed in later despatches. A further naval visit had ensued. According to Palgrave, Lt. Tudor of the gunboat *Swinger* delivered to Manila a letter from the Sultan to the Captain-General.⁴⁰ At the end of November, the Consul wrote that Moriones and Polo intended to visit the south in December. 'I incline to think that some measures, destined to affect the territorial relations of the Island of Sulu and its dependencies, is on foot....' Apparently the letter brought by Tudor contained proposals like those brought by Church. 'Hence also rumour attributes to the respective

visits of the Naval Officer above mentioned a share in bringing on the solution, pacific or otherwise, of the matter said to be now in view....⁴¹ The Foreign Office regretted that Church had not visited the Sultan, since Britain recognized his sovereignty over what was not occupied by Spain.⁴² But there was no doubt some truth in Palgrave's view: the idea of mediation could only encourage the Spaniards to intervene more actively and eliminate its possibility.

A further letter from Treacher, now acting Consul-General, gave an account, drawn from Cowie, of the Spanish contacts with Sulu following the Church visit. Late in October the Sultan had received a letter from the Captain-General, stating that he had heard from the English that the Sulus wished to make peace, and asking the terms sought. The Sultan replied through Lt. Tudor that he wished to await the response of Britain and Germany to his letters. Some days later Alejo and another Spanish officer arrived at Maimbung. Spain could not treat through the British: again they asked, what were the Sultan's terms? He gave the same reply. He also wrote to Treacher.⁴³ Lt. Tudor, unlike Church, had visited the Sultan. He used Cowie as interpreter. The Sultan, he found, distrusted Schück because of his contacts with the Spaniards. But, as Treacher observed, Schück was Cowie's rival.⁴⁴

The Sultan would not give in, Treacher thought, but rather retreat from island to island. To follow him would be costly for the Spaniards, especially if they observed the protocol. But the Sultan was ready to enact the treaty of 1851, with the omission of the clause on the suppression of piracy, and 'with the assistance and knowledge of some independent foreign Power....' Spain would retain Banua, and make an annual payment to the Sultan and *datus*. The other islands would be free of the Spaniards, and the Sultan would levy duties there except on ships flying the Spanish flag. No doubt this would drive the trade into Spanish vessels, although the tendency might be counterbalanced by the fact that duties were levied in Philippine ports, but not in Hong Kong, Singapore and Labuan. All this, the Colonial Office noted, was to be discussed with Ussher.⁴⁵

Reports from Palgrave received a few days later suggested that the situation was less critical. In mid-December Polo had asked him in what light Britain would view effective Spanish conquest and annexation of the Sulu island-group in whole or in part. He replied that Britain would not approve and 'did not desire to see any further territorial extension of Spanish dominion in these parts....' The Admiral asked about a new treaty based on that of 1851. Palgrave thought that a new treaty would need to secure the 'territorial integrity of the dominion of the Sulu Sultan and *Datus*', and the freedom of trade as laid down by the protocol: some of the articles of 1851 would need to be modified. Treacher, Polo thought, was unsuitable as a mediator: but he asked if Britain found the idea of mediation acceptable. Palgrave believed so, but said Germany's concurrence would be needed. Polo declared that the Philippines government wished to adopt Palgrave's views as a basis and proposed a talk with the Captain-General.⁴⁶

Moriones was present at a second meeting. Speaking subject to correction from Madrid, he communicated the letter received from the Sultan through Church, and asked what the reply should be. It was agreed that it should seek a statement of the Sultan's terms. Speaking also under correction from his home government, Palgrave asked what the Spanish terms were, and Moriones repeated those put forward by Polo. Palgrave insisted upon 'the guaranteed recognition of all the territorial administrative and hereditary rights of the Sultan and his Datus by land', which Moriones agreed to. Secondly, he insisted upon 'recognition of the Sultan's rights to impose and to collect Customs at all parts of seaboard, not actually occupied by Spanish settlement'. This Moriones thought 'hard', but accepted. He also agreed that the Sultan should not be required to hoist the Spanish flag. As for the Sultan's request for British intervention, no reply, it was agreed, could be definite until the opinion of the metropolitan governments was known. But Palgrave suggested that Moriones could tell the Sultan that, in view of the Madrid protocol, any arrangement 'would necessarily have to be submitted, in one form or other, to the approbation of the co-signatories....' Moriones and Polo approved. The Captain-General would reply accordingly, Palgrave reported to the Foreign Office, and anticipated pacification on the basis indicated. The cruise south had been deferred at least to February.⁴⁷

By late January, according to acting Consul Mackenzie, Moriones and Polo were preparing 'a visit of inspection'. He thought the object 'more *peaceful* than *warlike*', though Moriones was 'a high-spirited soldier' and unwilling to treat with the Sultan.⁴⁸ Early in February they left: Mackenzie expected a treaty.⁴⁹ Such was reported by a telegram from Madrid on 10 March: 'The Sultan of Sulu makes proposals of peace, admitting fully the Sovereignty of Spain'.⁵⁰

In the discussions they held with Palgrave, Polo and Moriones had no doubt sought to reduce the risk of British intervention by seeking his opinion on the terms that might be demanded of the Sultan. Indeed the Captain-General was later to refer to 'some arrangement or understanding with Mr Palgrave'.⁵¹ In fact, of course, the Consul had stopped short of this, and indicated that his suggestions were subject to correction in London. He was, however, sympathetic to Spanish control over Sulu. Indeed Tenterden had written that his 'sentiments are so strongly in favour of the Spaniards and against the "Pirate chiefs" as he calls the Sulu Sultan and his followers that nothing can be hoped for through his influence in the way of pacification'.⁵² But Palgrave favoured Spanish control in part because he conceived it inevitable in the long run: he wished to impose certain conditions upon it; and he thought that the interference of others would only precipitate Spanish action and ensure Spanish rigidity. He did, in fact, succeed in a sense in modifying Spanish terms: the Sultan accepted a new treaty rather on the lines indicated in his discussions with the Admiral and the Captain-General. Moreover, he had secured from them an indication that at least at present they did not intend to extend into north Borneo. This indeed was the kind of

settlement that the Foreign Office was to accept. But Palgrave had given too much for too little; and perhaps only made a guarantee of British interests in north Borneo more necessary.

Meanwhile in January Treacher had visited Sulu on H.M.S. *Hart* in order to indicate to the Sultan, according to Foreign Office instructions, that his request for mediation was under consideration. The Sultan, whom he saw on 14 January, said that he expected 'great pressure...to come to terms before the two Governments applied to can interfere....' Treacher said that the Spaniards knew of his communication to the British and German governments 'through the indiscretion of Commander Church', and suggested that, if averse to making a treaty at once, the Sultan might seek to gain time for the receipt of their replies. Treacher also hinted that the Spaniards might retire from Sulu itself if they were offered Balabac, Palawan, Basilan and other islands which they claimed, but which had never been regularly ceded, and if they were given an undertaking against piracy. The Sultan felt that only one in ten Sulus would fight for him, Treacher reported, while the Spaniards, nettled by the appeal to Britain and Germany, would 'make a final effort to subdue and occupy these magnificent islands....' Treacher went to Banua on 23 January, and there the Governor, Col. Carlos Martinez, at once claimed the Sulu possessions in north Borneo. But this, the acting Consul-General thought, was not important, as Martinez had been in the area only a couple of months. Treacher then returned to Maimbung. The idea was mooted of a cession of most of the archipelago to Baron Overbeck, Alfred Dent and the proposed company.⁵³ Treacher's visit to Sulu was indeed connected with another enterprise.

The Pajak of 1878

In May 1875 Hugh Low, acting Consul at Labuan, had received a visit from the Austrian corvette *Friedrich*, Capt. Baron von Oesterreicher, on a voyage round Borneo. Men sent ashore to cut wood had been attacked on the northern side of the entrance of the Sibuko, or St Lucia Bay. Oesterreicher thought that the assailants were Sagai Dayaks. But Low thought that they were Sulu people, mistaking the Austrian flag for that of Spain. In fact they were later reported to be Bajaus of Omadal, who indeed thought the *Friedrich* was Spanish. The main purpose of the corvette's voyage was to investigate the position of the American Trading Company of Borneo, 'as some capitalists in Vienna, who had been applied to on behalf of the Company', had asked the Imperial and Royal government for information. Oesterreicher did not go to Brunei because of an outbreak of cholera, but expressed himself 'satisfied that there was no such Company at present on the coast of Borneo....'⁵⁴

Such a company still existed on paper, however. And the situation in Brunei was not entirely unfavourable to a renewal of its leases. Low hoped to reform the sultanate, but his chances of success were slim. Could the Labuan authorities be sure that Brunei would continue to abide by the treaty of 1847?

On the one hand, there were the questions of interpretation: were leases covered by article 10? what if British subjects were involved? On the other hand, there was the question of enforcement. The Sultan might adhere to the Labuan interpretation because of his connexion with the British. Impoverished pengirans might not. How would the British Government react? Some of these questions had been raised already in 1865. In the interim the Foreign Office had successfully opposed the further extension of the Raja of Sarawak to the Baram. But the sultanate of Brunei had claims over Sabah also, and the uncertainty over its future, and over the maintenance of the treaty of 1847, were factors, additional to those arising out of the Sulu claims, that the British Government had to take into account in seeking to preserve its interests there.

Shortly after the *Friedrich's* visit, the Austrian Baron Overbeck arrived at Labuan on a Swedish barque with Torrey, as head of the Company. They, too, called on Low, but mentioned no business. Nothing had been paid on the original grants of 1865, the acting Consul reported, and they were about to expire. Low concluded that the object was to obtain their renewal and perhaps an additional cession, and told Enche Muhammad, the consular writer in Brunei, that, if this were so, he should 'invite the attention of the Sultan and Rajas to their treaty engagements'. But, after several interviews, Temenggong Hashim released Torrey from his arrears for a small payment, and signed a new agreement conferring on him for ten years with right of renewal 'the entire control' of Paitan, Labuk, Bongaya, Sandakan, Kinabatangan, Memiang, Balabac, Palawan, and Cagayan Sulu, in return for \$3000 p.a., 'and such assistance to the Pengiran as he may call for'. Torrey proposed that the Sultan should cede 'for so long as he or his assigns may wish to hold them...the island of Gaya and all the countries forming the North and Northeast parts of Borneo from Sulaman to Paitan....' Low thought that Torrey 'intended this request to include Sugut, Labuk, Bongaya, Sandakan, and Kinabatangan, so as to confirm the grant by the Pengiran Temenggong, but his ignorance of the country and its geography appears to have caused him to suppose that Paitan is the most southern of the provinces he coveted'. For the proposed cession he offered \$3000 p.a. for seven years, then \$5000 for seven years, then \$7000. Sultan Abdul Mumin declined: the Company had not been 'straightforward'.

The consular agent had written to ask if a 'farm' or *pajak* of the countries of this sort was prohibited by the treaty of 1847. Low had replied that "'to farm away the right of ruling the districts proposed...ought not to be consented to by the Rajas till after communication with Her Majesty's Government'...." He sent over a further letter to be read to them, enumerating some of the problems, such as 'the actual and long possession of those colonies by Sulu claimed under an alleged treaty with Borneo, to which it was probable that they would now add the rights of conquest and uninterrupted occupation'; the Sulus' jealousy of the Moses grants; the Spanish settlements on Palawan and Balabac; the Dalrymple cessions of most of the territory.

I mentioned also that it was likely that the recent trade established between Singapore, Labuan and Sandakan had aroused the attention of the strangers, and that

any interference with it under the name of the Rajas of Brunei would be an unfriendly action to those British Settlements; that it was not possible that a private Company could establish themselves in opposition to Sulu and Spain; that on learning the true state of the case it was more probable they would endeavour to come to some arrangement with the Sulus....

The Bruneis 'would run the risk of bringing hostilities upon themselves at a time when perhaps they would have weakened the friendly relations with England by neglecting to observe the 10th article of the Treaty'. Low's letters were too late to be considered before the Temenggong made his agreement, but the Sultan repudiated any share in that act. The Temenggong himself explained that under the agreement he regained Kimanis and Benoni, and no doubt he felt that he had nothing to lose since, if Brunei had any authority at Marudu, it had little beyond it.⁵⁵

Born in Lippe Detmold, Overbeck had worked for the British firm of Dent and Company in Hong Kong, and been appointed consul by Austria-Hungary in 1869. He had been interested in the Sabah concessions since 1870. In July 1874 he had made an agreement with two friends, Count Montgelas of the Austrian embassy in London, and A. B. Mitford, later Lord Redesdale, by which the trio were to acquire the concessions and share the profits of their resale.⁵⁶ No doubt Low was right to hint that the trade of the Labuan Trading Company at Sandakan had raised the possible value of such a deal. It was the trio's attempt to interest some Vienna businessmen that led to the visit of the *Friedrich*. Meanwhile in January 1875, Torrey had agreed to sell Overbeck all his rights in the American Trading Company. A renewal of the leases was to be obtained within nine months.⁵⁷ Hence the visit described by Low. Temenggong Hashim, as Low was aware, was anxious for the succession. For that he needed money. He centred his hopes upon the promises of the Company and of Sarawak, but wanted 'to avoid incurring blame'.⁵⁸ He agreed, therefore, to the leases, but possibly attached importance to their temporary character.

In 1878 a new lease followed, in which the Sultan participated. Possibly only Low's protests had stopped him before. Treacher, also acting as Consul-General, was less effective. Indeed, he had already become somewhat impatient of the Brunei régime—he contrasted its 'anarchy, lawlessness and misgovernment' with Sarawak's 'more vigorous and powerful form of government'⁵⁹—and he may have had grounds for thinking that the authorities at home were not unfavourable to the new enterprise.

While Overbeck searched for capital, Torrey, still unpaid, sought to charge Cowie for the use of Sandakan, but was told that his Brunei grant was worthless. A plan whereby Cowie and Torrey would join in securing the cession of Sandakan from Sulu was ruled out by Schomberg.⁶⁰ Overbeck obtained support from Alfred Dent⁶¹ and returned to Borneo in December 1878 in the British steamer *America*, together with Torrey, William Pretyman as secretary, William Pryer, from a merchant house in Shanghai, and Simpson, a gunner. Overbeck told Treacher that the object of his association with Dent was to 'form a British Company somewhat, tho on a smaller scale,

after the manner of the late East India Company, the main desire being to develop the agricultural resources of the Northern portion of Borneo....' The acting Governor/Consul-General replied that he would welcome such a British Company and did not think the interests of Labuan should stand in its way. Overbeck planned to buy Torrey out. But Treacher doubted if his claims were still valid, and suggested that it would be better to obtain a fresh grant from the Sultan, 'a fairer and less onesided concession', and Overbeck said that was his desire. Recalling Overbeck's earlier attempts to interest foreign capitalists and the *Friedrich's* visit, Treacher was not entirely satisfied with the Baron's declaration, and followed him over to Brunei in H.M.S. *Hart*. Overbeck showed Treacher his instructions from Dent, but declined to agree to a clause providing that the grant could not be transferred to foreign citizens without British consent. Both Overbeck and the Sultan did, however, promise that any concession should contain a clause 'subjecting it to the approval of the British Government', and this, Treacher thought, would suffice. In fact, after Treacher left, Overbeck pressed the Sultan hard, pointing out that the British Government had failed to secure revenues due to him from the defaulting company that leased the coal mine at Muara, and finally the Sultan and the Temenggong signed a number of agreements, none of which contained the required clause.

By the first the Sultan granted Dent and Overbeck Paitan, Sugut, Bongaya, Labuk, Sandakan, Kinabatangan, Memiang, and as far as the Sibuko, with all the islands within three leagues of the coast, for as long as they wished to hold them: they were to pay \$2000 p.a., the Sultan retaining the right to resume the territories if this were not paid for three successive years. By the second agreement the Sultan granted all the territories belonging to him from the Sulaman to the Paitan, together with the island of Banggi, for \$6000 p.a. Under the third agreement the Sultan granted all the land belonging to him on the west coast, including Gaya Bay, Sapangar Bay and island, also Papar, his 'private property', for \$4000 p.a. In an agreement containing no provision for resumption, the Temenggong granted Kimanis and Benoni, his 'private property', for \$3000 p.a. A proclamation by the Sultan appointed the Baron 'Supreme Ruler of the above named Territories with the title of Maharaja of Sabah (North Borneo) and Raja of Gaya and Sandakan...with all...powers and rights usually exercised by and belonging to Sovereign Rulers....'

Treacher believed that the new company would succeed, especially if 'supported by the occasional presence of a gunboat....' If it did, Labuan would probably be ruined. The Sulu trade would go to Sandakan, and the company would absorb the Borneo trade. But if the new company were 'a bona fide British undertaking...the interests of Labuan should not be objected to it', though 'a similar proposal by the successful ruler of Sarawak' had been vetoed. As the agreements stood, Overbeck and Dent could transfer the concessions 'to one or other of the Governments' which had interested themselves in Borneo. But at least the American concession had been cancelled, and the new grant did contain the name of 'an English merchant of

position....⁶²

In London Edward Dent, Alfred's brother, was to find it

unfortunate that the Governor of Labuan insisted on the sanction of the British Government being obtained to all the documents as otherwise the negotiations would have gone on smoothly, and moreover the authorities at Labuan would be more inclined to assist us in the future if Overbeck had not opposed them in that particular point. I don't see, however, how he could have acted otherwise than he did, as if the British Government took it into their heads to disapprove, we should have had all our expense for nothing....⁶³

But he acted differently over the Sulu cession. Much of the territory was in Sulu hands, Treacher pointed out, and the Baron would have to negotiate with that Sultan. Overbeck indeed agreed to insert in any treaty with him 'a clause to the effect that the concession shall not be sold or transferred to any other nation or foreign company except with the consent of Her Majesty's Government'. He wrote to Treacher:

I think there should be the strongest possible inducement for you to carry through such a measure for it would be a great diplomatic victory, in so far as it would virtually place the whole of the east coast under the direct control of the Government, at any moment they liked, without pledging them in any way to the expenditure of a single Dollar unless they chose to do so.⁶⁴

In Brunei the Baron ignored Treacher's request. Why did he heed it over Sulu? Certainly the Dents' correspondence shows that the Sulu claim was a surprise to them. 'I don't know what he [Overbeck] intends doing in the Sulus....', wrote Edward.⁶⁵ Possibly it was a surprise to Overbeck, too: Torrey had learned of it only from Cowie, and was unlikely to press the information upon a potential purchaser. Perhaps Overbeck thought it well to go along with Treacher in view of the uncertainty of the situation in Sulu, and of the possible need for support from the British Government. If no cessions were obtained, the company could still fall back on the Brunei grant which was, moreover, not dependent on the British Government's approval.

Did Treacher help? He went to Sulu in relation to the question of mediation, and apparently saw Sultan Jamal-ul-A'zam before Overbeck. The Sultan's desperation was obvious. He had appealed for mediation, but the Spaniards were increasing their pressure. The visit of Treacher perhaps suggested that he would have a better chance of British support if he made a concession. A British commentator some years later was to write: 'there is but little doubt that when this concession was granted the Sultan fully expected to receive help from the English nation to rid himself of his enemies, the Spaniards. The presence of the Governor of the British Colony of Labuan at Maimbung during the negotiation of the concession, would naturally heighten this impression....'⁶⁶ Another contemporary, Pryer, suggests that the Sultan was apprehensive of Datu Harun, the viceroy of Sandakan, who had fallen out with Cowie and been recalled, and was planning to betray the Sultan to the Spaniards, in return for their seizing Sandakan and re-installing him there.⁶⁷ A concession also meant cash.

Treacher responded unofficially, as he declared, to the Sultan's request for advice. Overbeck, he thought, represented a bona fide British company. If he wished to make the grant, it might be well, he suggested, to insert a clause rendering the concession 'not transferable to others than British Subjects without the consent of the British Government, to obviate the risk of its ever passing into the hands of his enemies the Spaniards'; and to insist that any subsequent difficulties between himself and the company should be referred to the decision of the Consul-General, so as to avoid the kind of problem experienced at Brunei over the Muara lease.

The Sulus claimed the country from Kimanis to Balik Papan, the acting Consul-General reported, but exercised authority only south of Marudu, 'while the country between Pandasan and Marudu is comparatively independent of either sovereign, and that between Pandasan and Kimanis is divided between the Sultan of Brunei and independent Brunei chiefs....' In the agreement Sultan Jamal-ul-A'zam made with Dent and Overbeck, the limits were set at Pandasan and Sibuko.

The Sultan was anxious that the limits should be fixed from Kimanis to Balik Papan, explaining that by making no mention of the country from Kimanis to Marudu he might be thought by his people to be abandoning his claim to it, tho at the same time he acknowledged that his power actually only commences at Marudu, and that consequently he would ask no additional rental if the limits were fixed as he desired;—it being considered, however, that complications might arise in the future with the actual possessors of that country, for the most part independent chiefs, a compromise was effected and the limits fixed from the Pandasan river to the Sibuko river—the latter being, according to a Dutch official chart in the Baron's possession, the Northern limit of Dutch territory on that coast....

The Sultan consulted Treacher on the amount he should ask in return. His suggestion, \$5000 p.a., was incorporated in the agreement. The Sultan assured Treacher that his annual receipts were currently \$5000, including 300 busings of seed pearls from Linkabo, which at \$10 was \$3000, and \$2000 from the produce of the birds' nest caves in Kinabatangan. No doubt, Treacher added, the territory contained minerals; no doubt Chinese would immigrate if a settled government were established; and if 'the British Government gave its moral support' to the company, Treacher repeated, 'there need be no fear of any great difficulty in dealing with the natives, who from the operations undertaken by Her Majesty's naval forces in the time of Sir James Brooke, have been taught the power of Europeans, so that the way is in a measure prepared for a company undertaking the development and civilization of the country....'⁶⁸

In the English translation of the document, enclosed in Treacher's despatch, the Sultan, with the consent of the datus, granted and ceded to Overbeck and Dent 'forever and in perpetuity all the rights and powers vested in us' over the territory concerned and the islands within three leagues of the coast; and Overbeck and Dent agreed to pay \$5000 p.a. to the Sultan, heirs or successors. Under a subsequent clause the territories were declared vested in

Overbeck and Dent 'for so long as they shall choose or desire to hold them', but were not to be transferred to any other nation or a foreign company without British consent. Any dispute was to be referred to the Consul-General in Brunei. If the Sultan and his heirs and successors 'experience any trouble in the future', Overbeck and his company 'promise to help us by giving advice and counsel to us to the best of their ability'.⁶⁹

Over some clauses in this agreement there has been much controversy. Part of it has arisen from misconception: for instance, the restriction on transferring the territory has been seen as an improper restraint upon the Sultan,⁷⁰ though it was intended to be a restraint upon Overbeck. Some of the controversy has arisen from problems of translation. As with the Brunei grants the word *pajak* was used, meaning 'farm' or 'lease' rather than 'cede'. The English translation seems to overstate the case, moreover, by including the words 'forever and in perpetuity'. The meaning is no doubt better represented by the later clause, which provided that the territories were vested in Overbeck and Dent and their successors for as long as they wished to hold them; and this corresponds also with the Spanish translation from the Sulu made at this time.⁷¹ The more modern Conklin translation refers, however, to a lease 'forever',⁷² and there was indeed no retrocession clause.

In return the Sultan gained only a lukewarm offer of assistance and \$5000 p.a. Treacher's despatch implies that this sum was what he wanted, and a recent scholar has suggested that he was glad to get so much in view of the decline in the value of the Sandakan trade by the 1870s.⁷³ But the Sultan later claimed that he had asked for \$8000, Overbeck had offered \$3000, and they had settled on \$5000.⁷⁴ In 1849, the then Sultan had spoken of loss of tribute from the east coast, but in 1872 Low had estimated that the Sultan obtained \$10,000 from the Kinabatangan nests alone.⁷⁵ No doubt trade had been once more disrupted since then, and even on his own showing the Sultan was prepared to accept less. His desperation and his hopes did not, of course, put him in a strong bargaining position, and Overbeck, he later declared, pointed out the possibility that Brunei or Spain might take over.⁷⁶ Possibly these circumstances also account for the lack of Sulu signatures on the *pajak*, to which H. Otley Beyer drew attention:⁷⁷ too public a document might become known to the Spaniards and precipitate action.

I.D. Black has indeed argued that Sultan Jamal-ul-A'zam planned to retain sovereignty in Sabah, preserving it from Spain, and then retaking it from those to whom he had—he hoped temporarily—granted sovereign rights. To this plan Black attributes ambiguities in the cession documents.⁷⁸ Something like this may indeed have been in the Sultan's mind. In a separate document, dated, like the grant, 22 January 1878, he nominated Overbeck 'supreme and independent ruler' of the territories and gave him the title of Datu Bendahara and Raja of Sandakan.⁷⁹ It is doubtful if the Sultan distinguished very carefully between possession and delegation of sovereignty. But his predecessors had not been unaware of devices for maintaining the framework of the sultanate: the appointment of Sharaf-ud-Din, the lease of Basilan. What

Jamal-ul-A'zam failed to do was include in the *pajak* any means for its resumption, or even any provision for a subsequent increase in the annual payment involved.

It was after the grant was made that Treacher visited Banua and had discussions with Martinez. On his return Overbeck suggested the concession of the rest of the archipelago to the Dent-Overbeck undertaking, and a draft agreement was

submitted to His Highness, in which it was proposed that in consideration of the annual payment to the Sultan of the sum of say Fifteen or Twenty thousand Dollars, which he would himself apportion amongst the Datus and others who have claims upon the revenue, the Government of the entire Archipelago, with the exception of those islands in which the Spanish have settlements, and of Banua...should be transferred to the proposed company, the Sultan selecting a square mile of territory as his private domain.

In a private interview with Treacher, the Sultan indicated that he would make such an agreement 'provided only that it would be approved and supported by the British Government; as he feared that if disallowed he would find it still more difficult to obtain anything like fair terms from the Spaniards....' He said that he would have to consult publicly fifteen or twenty datus, 'of whose consent he felt assured, but of whom a few are not quite trustworthy, and that consequently the whole negotiations would immediately become known to the Spaniards, who would not only redouble their efforts to subject him, but would inflict upon him harder terms than ever....' Treacher agreed to telegraph to the Foreign Office via Singapore.⁸⁰ The offer again indicates the Sultan's desperation, but also his caution. If guaranteed by the British, this larger concession might help: otherwise it would be dangerous. The indication of Britain's support over the islands must be more formal than in the case of the mainland: Britain was less committed, Spain more. The offer casts light on the mainland cession in another way. It perhaps confirms a suggested reason for the Sultan's limiting his consultations with the datus even over Sabah. It also suggests that he intended to retain some ultimate suzerainty over both mainland and islands, though any hope of regaining the real exercise of power that he may, as Black suggests, have had, must have been slim.

Treacher's telegram announced the offer, asked if it was sanctioned, added that the Spaniards were preparing an expedition, and concluded: 'Pauncefote knows the Company.'⁸¹ The Legal Assistant Under-Secretary, previously in Hong Kong, knew something about the China hands involved. Late in 1876, for instance, he had minuted that Torrey was 'well known in Hong Kong and in very bad repute there—He styles himself "Rajah Torrey"....'⁸² It seems clear that he was also in contact with Dent before Overbeck left; and after Dent himself left for the East late in 1877, he wrote to his brother Edward: 'I made rather a mistake in not calling upon him [Pauncefote] at the Foreign Office before I left, as he might have given me useful letters to Consuls and others in the event of my going to Borneo and requiring introductions to Singapore and Borneo officials so that they recognised me as real chief of this

Borneo scheme...⁷⁸³ In commenting on the negotiations at Brunei, Edward Dent wrote: 'we must give up the idea of selling the territory to the Austrian Government, as the support of the Foreign Office here, and that of the authorities at Labuan, were given on the distinct understanding that we were going to act in furtherance of British interests; so unless the home Government refuse us all protection our only course will be to set up a Company here to develop the country...'⁷⁸⁴ Alfred agreed: 'it must undoubtedly be a British company now...'⁷⁸⁵ As Treacher said, Overbeck had introductions, though 'of a private nature certainly, from gentlemen holding high official appointments at home, and to whom the previous correspondence on the subject from the very first was in all probability known';⁷⁸⁶ and Treacher's telegram about the islands implies that the mainland cession was sanctioned. Possibly his belief that he was acting in accordance with the wishes of the Foreign Office was in fact passed on to the Sultans.

Pauncefote's support for the enterprise was not necessarily merely or even primarily a matter of connexion, corrupt or otherwise, with old China hands. Throughout the Sulu discussions the British Government, Foreign as well as Colonial Office, had been anxious to keep other powers out of northern Borneo. During those discussions the Colonial Office had suggested a specific attempt to exclude Spain. That had been rejected by the Foreign Office as likely to invite a discussion over the question of sovereignty as a whole, which was undesirable. It was moreover likely to defeat its object by inviting the attention of Spain and perhaps of Germany to northern Borneo. The non-inclusion of that territory in these discussions (as in those with the Dutch in the 1860s) indicated its importance to the British. The Government had on several occasions warned other powers off it without specifically claiming it or even clearly insisting on its treaty rights. A discussion on the sovereignty issue could not, however, be long delayed, as Derby saw. The Dent-Overbeck concession may have been a way of strengthening Britain's position in the meantime, without too overt a commitment of British power or, therefore, too overt a challenge to others. Government support for Dent might be won: but it would be justified. If this was a motive with Pauncefote, it was much less likely that he would 'sanction' the proposal made to cede or lease the islands as well as the mainland.

There is, perhaps, another aspect to Pauncefote's policy. Treacher noted that the Foreign Office was not overtly in support of the Company.⁷⁸⁷ Alfred Dent wrote, apparently in relation to the Brunei negotiations, that Treacher and H.M.S. *Hart* 'were of much assistance; whether this was intentional or not I cannot yet say but they certainly interested themselves very kindly in our favour which augurs well for the future favour of... Colonial Office...'⁷⁸⁸ It is possible that Pauncefote acted covertly, not simply because of other powers, but also because of that Office. The Colonial Office was indeed opposed to the establishment of other powers in northern Borneo. But it disliked expedients of the Dent-Overbeck kind, and even came to prefer the extension of Sarawak. Treacher was a Colonial Office official as acting Governor of Labuan as well

as (more than) a Foreign Office official as acting Consul-General. Instructions to him had perhaps on this count also to be covert. Treacher's comment on Overbeck's introductions, made in July, uncovered what de Robeck had suspected: 'powerful but private support....' Cox thought the despatch 'peculiar coming from a Consul and from an Acting Gov^r to his two Chiefs'.⁸⁹ Probably it is not safe to carry the argument as far as Wright, who argues that Pouncefote appointed Treacher as acting Consul while Overbeck was in London. That appointment would follow the Colonial Office's appointment of him as acting Governor of Labuan, the two posts having been linked since Callaghan's day.⁹⁰ Wright also observes that Overbeck arrived in Borneo only after Ussher left,⁹¹ and this may be significant, for Ussher admitted that he had been warned against Overbeck.⁹² The main point is, however, that Treacher owed allegiance to both Offices. The subsequent negotiations on the part of Pouncefote and the Foreign Office involved the Colonial Office as well as other powers. No doubt fear of the latter could help to persuade the former. The Colonial Office had, moreover, no satisfactory means of preserving British interests in northern Borneo alternative to the expedient it disliked: this is indeed Pouncefote's best justification. A guarantee of Sulu territory was no longer feasible, if it ever had been; a new colony would also be unwelcome even to the Colonial Office. Thus, for Pouncefote, opposition from other powers could be a hindrance; but it might be diminished by promoting a company rather than a colony; and it could also be a help in dealing with the Colonial Office. Again all this made it unlikely that the cession of the islands would be approved. But in fact that proposal was never squarely considered. Treacher's telegram indeed complicated consideration of the mainland grants.

It arrived on 22 February before the despatch about the Sulu grant of the mainland territory and while the Colonial Office was considering the despatch about the Brunei grant. The grant was likely to affect the trade of Labuan, Cox minuted. But he did not think that the British Government could interfere although the cession was contrary to the treaty of 1847. In the case of the proposed Sulu cession, 'we are in a different position, because the parties have not yet accomplished their object, nor are they. I should say, likely to do so as the Sultan most probably will not consent unless he knows that we should not object'. The Spaniards wanted Sandakan, and would get it if the Sultan reverted to the treaty of 1851. Meade wondered if the objections to Raja Brooke's extension were based on the 1847 treaty, and if they applied in both cases. 'I have warned the F.O. privately not to approve this for the moment.' De Robeck replied that Dent and Overbeck were an English company, but that article 10 of the treaty of 1847 applied to Brooke, even though his British nationality had been affirmed. In 1875 the Sultan and Low had stopped the Americans under article 10. Send all the papers to Ussher, Meade suggested, and ask his views; refer to Raja Brooke and the enforcement of the treaty against him; and say that the Colonial Secretary 'would require to be satisfied that this concession is innocuous before recommending its approval by Her

Majesty's Government and that there are good grounds for departing from the policy laid down and hitherto consistently followed....' Herbert agreed. 'Sir J. Pouncefote is no doubt personally well acquainted with Messrs Dent and Overbeck but this may lead him to be more favourable to their scheme than if they were strangers.' 'A great and successful trading Company would almost extinguish our languishing Colony of Labuan', but British influence and interests might be advanced. 'While therefore I would proceed very cautiously in connection with this undertaking I would not refuse it consideration.'⁹³ The views of Meade in particular suggested reasons for Pouncefote's caution. Treacher's telegram, which arrived while these minutes were being written, did not help. It mentioned Dent and Overbeck and Pouncefote. Though it really applied to the islands, this was hardly noticed, and it was read as meaning trouble with Spain even over the mainland.

Ussher's comments on the Brunei proceedings were being considered at the Colonial Office when the despatches about Sulu arrived. A company like the old East India and Africa companies was the announced intention, he observed. To 'render valid the proceedings of such a Company at all events as to the sovereign rights ceded by the Sultan of Brunei', it should receive a charter from the Crown, establishing a power in Her Majesty to resume possession, and it should be a bona fide British undertaking. But British policy, Ussher thought, had 'of late years been averse to such enterprises; and the probable result will be that within a limited period Her Majesty's Government would have to assume the sovereign power and make these lands a British Colony, which could be done as easily now....' If a successful company were established, it would annihilate Labuan as a trading colony and this would be 'most undesirable', 'even assuming that the projected Company should be in all respects worthy of British support and encouragement', since the island was of strategic importance. Meanwhile Ussher counselled the Government against a waiver of the treaty with the Sultan of Brunei and urged it to use its influence with the Sultan of Sulu to cancel any grant he had made. If he refused, the Government should tell the company that it would not permit its occupation of north Borneo, any more than occupation by Spain, 'whose pretensions unless I mistake Her Majesty's Government have definitely rejected....' As for the islands, cessions might increase the risk of a clash between Britain and Spain. There was also a risk that Britain might be drawn into clashes with the inhabitants in regions only nominally owing allegiance to the Sultan of Brunei. Ussher argued that it would be 'impolitic and perhaps not equitable' to concede permission to acquire a cession to 'a doubtful undertaking...with the prospect of crippling if not destroying the trade of Labuan' after it had been refused to 'a British subject and a constitutional and enlightened ruler like the Rajah of Sarawak....'⁹⁴

At the Colonial Office most shared Ussher's sentiments. Cox thought Treacher had encouraged the Baron in thinking the Colonial Office would not object, 'as his objection to the Cession would apparently have been waived had the Baron consented to a clause forbidding a transfer to any Foreign

Country or Company....' If Britain called on the Sultan to cancel, it might be a breach of faith by the Sultan. Yet in its present form the cession was 'very undesirable, and still more if the Baron attempts to set up a Maharajahdom....' He seemed to be 'a mere speculative Adventurer', and to have 'the whip hand of us....' But he might perhaps be told that the British Government would not recognize the cession 'unless he was prepared to establish an English Company or agreed not to transfer the ceded Territories to anyone without the consent of the English Govt....'

Meade's view was stronger. If the undertaking were foreign, he saw no reason to waive article 10, which had been enforced against Raja Brooke. If the undertaking were British,

it would be most objectionable....

They are to exercise Sovereign rights.... They cannot do this without involving the British Govt. in their proceedings, and in undefined responsibilities consequent thereon.

If they are successful, there will probably be complaints against them, whether from the Spaniards or from the Sultans of Sulu and Brunei. We shall be called upon to control them and their proceedings....

If the natives massacred them, 'we shall be called upon to avenge them. English feeling at home will not allow them to be left to their fate....' Exeter Hall would call for repression if they dealt harshly with the natives. 'In international law I believe the cession to a British Company is virtually a cession to the British Crown.... We should be saddled with a responsibility but without any control. It would, in my opn., be better to establish a Colonial Govt. at once over the districts in question....' Apparently Treacher favoured the scheme because it would 'embroil us with Spain on behalf of Sulu....' The British Government would be 'involved in trouble on behalf of these adventurers at the very commencement....'

Herbert was again more moderate. He was 'reluctant to check legitimate enterprise....' Labuan might be extinguished, but it

cannot pretend to stop the way if any good scheme for developing Borneo is set on foot.

I doubt moreover whether we have the right to tell the Sultan of Brunei that we forbid him to cede privileges and lands to a Foreign Power or association; and, this being so, if we refuse to allow an English association to be formed where it is proposed, we drive the promoters to make it a foreign undertaking, and British interests, including those of Labuan, will be beyond our protection altogether.

It is always a serious question whether if trade and settlement are contemplated or commenced, and it is not convenient to establish a British Government on the spot we should not endeavour to keep control over the proceedings of the traders by causing a Company to be formed under such requirements as may serve British interests.

But on the whole, Herbert favoured taking Meade's line in writing to the Foreign Office, 'principally, because we have already on our hands two or three young, costly, and troublesome colonies or settlements; and have good reason to fear that Baron de Overbeck's scheme could at an early stage lead us into difficulty'.

The Colonial Secretary, Hicks Beach, agreed. A foreign company or a transfer to a foreign power was objectionable. A British company needed the means 'to deal both firmly and justly with the natives'. It was not certain that this one had. It might moreover involve complications with the Spaniards under their Sulu treaty. The Foreign Office could decide if the treaty of 1847 enabled Her Majesty's Government to object to the cession of lands and privileges to a foreign company. The Colonial Office wrote to the Foreign Office accordingly, while recognizing it was a Foreign Office matter. It also regretted that Treacher had appointed Overbeck's agent at Sandakan, Pryer, as vice-consul, as it appeared to afford 'a certain amount of sanction to the Company....'⁹⁵

Shortly before, the Colonial Office had forwarded its comments on the proposed Sulu mediation. These were based on suggestions Ussher made in January, before news of the Dent-Overbeck grants had arrived. Mediation on the basis of the 1851 treaty he rejected. But Madrid should be told that Britain and Germany claimed to be represented 'in any final arrangement', and 'that they would not or could not recognise any settlement having for its basis the establishment of Spanish sovereignty in the Archipelago....' This should be done at once in order to prevent Madrid's approving anything Moriones secured by force or by negotiation during his southern tour. Treacher should visit the Sultan, perhaps with a German officer, and suggest to him 'such terms as he might accept from Spain in final settlement of the question....' There were two possibilities, Ussher thought. Either Spain 'should content herself with a territorial compensation—the annexation or occupation, possibly of one important port or Island—the remainder of the Archipelago being confirmed and guaranteed to the Sultan, together with the harbour of Sandakan and the territory adjacent thereto in Northern Borneo, which he now claims as an appanage....' This would mean a treaty between the three powers and the Sultan, and possibly one between Spain and Sulu. Alternatively, Britain and Germany should 'oppose any arrangement between Spain and Sulu by which the Sovereignty of the former State should be recognised over the latter, and by which the Commercial interests of the two first named Powers should be prejudiced'; or in other words maintain the *status quo*. Both courses, especially the latter, would be resisted by Spain, and require the other two powers to support the Sultan. Ussher favoured the first course.⁹⁶

The next step, Cox wrote, was to consider what might be done in concert with Germany.

It is clear the Sultan will stick to us if we stick to him—and that any willingness he may have expressed to adopt the Treaty of 1851 arises from a desire to make the best bargain he can for himself if we leave him to take care of himself and for the sake of our trade and position in those Seas it is very desirable in my opinion that he should not be so left....

Meade communicated with the Spanish department at the Foreign Office but, he wrote late in March, his hopes of further communication with Ussher were

put off by the latter's illness. The treaty of 1851 would recognize Spanish sovereignty. The protocol of 1877 'seems to recognise the right of Spain, if she can, to conquer the Sulu group....' It was 'not unlikely' that the Sultan had yielded, according to the telegram which had now been received from Madrid. In that case all Britain could do would be to enforce the protocol. But the telegram might be 'incorrect and at the F.O. I find they do not place much faith in it'. A letter sent to the Foreign Office followed Meade's suggestions. Treacher should visit Sulu in a ship of war, bearing a reply to the Sultan's letter. He should offer mediation and, pointing out that the renewal of the treaty of 1851 would involve Spanish sovereignty, endeavour to ascertain the terms the Sultan would accept. Possibly the Spaniards should be told—unless pressed they might decline mediation—and German cooperation was important. As for 'the rumoured intention of Spain in regard to the mainland of Borneo', should it prove that the Sultan had submitted, as the Madrid report suggested, it would seem desirable 'to prevent this Act extending to Sulu possessions on the mainland....'⁹⁷ The Colonial Office hoped to preserve British interests in north Borneo by mediation. This might be too late, it recognized: but it had no specific alternative. The Foreign Office adopted the suggestion of a new visit to Sulu, and it sought German cooperation.⁹⁸ It telegraphed instructions to Treacher in May and Bülow told the German consul in Singapore to join him.⁹⁹

Treacher had in fact already written about the new Spain-Sulu treaty. A letter from the Sultan, brought back by H.M.S. *Hart* in April, said that soon after Treacher had left in late January, Alejo had arrived at Maimbung in a Spanish gunboat, bearing a draft treaty. The Sultan, as Treacher had advised, had tried to prolong negotiations, but finally accepted the draft, for fear of war and famine. But he insisted that ratification be received at Sulu before the treaty became binding, 'and he adds in his letter to me that if I receive a favourable reply to the telegram...respecting the proposed cession of the islands to Dent's company, there might be time to effect it before he receives the ratifications'. According to Treacher the draft treaty provided for annual payments to the Sultan and datus, and for a division of Sulu island, the southern coast being left to the Sultan. The Sultan could levy duties where Spain was not established, and grant licences to carry firearms. Any difference between him and any Spanish naval officer or governor was to be referred to the Captain-General. The Sultan was to endeavour to put down piracy and help the Spaniards against it. 'No mention is made in this document', Treacher added,

of the remaining islands of the Sulu Archipelago, nor of the Sultan's possessions in Borneo, but when Captain McNeile visited Banua, on his way back to Labuan, he was informed by the Spanish Governor that if this Treaty is approved by the King's Government, the whole of the dominions of the Sultan, including the Borneon possessions, and excepting only the small portion of the Island of Sulu south of the Sinungan Kadungdung line, become Spanish, and the Spanish flag will be hoisted at Sandakan, the cession to Baron de Overbeck not being recognised....

Probably the Spanish claim to the Archipelago, if the protocol was adhered to, could not now be gainsaid: but the claim to Bornean ports could be objected to.¹⁰⁰

The account of the treaty Treacher had received from the Sultan was substantially accurate. The omission was the declaration of Spanish sovereignty over the archipelago of Sulu and its dependencies, to which the authorities at Banua were no doubt referring. The Sulu version was indeed less explicit on this than the Spanish.¹⁰¹ Palgrave's successor at Manila was to suggest that the treaty was 'a convenio, in which presents and subsidies formed the inducement to a nominal submission, the importance or completeness of which was never recognised by the Malays'; an agreement hastily concluded by Spain in order to avert mediation.¹⁰² The treaty was indeed in some ways milder, as well as vaguer, than might have been expected. Perhaps it was partly as a result of Palgrave's moderating influence, and not merely because of the fears of mediation, that the Spaniards put forward such terms. Not that the terms pleased the Colonial Office. 'The delay of the F.O. spread over many years has resulted in the Spaniards getting what they want'; Meade lamented. It was unavoidable, Hicks Beach declared, since Britain had not supported the Sultan.¹⁰³ Possibly Palgrave, the Foreign Office's official, had indeed helped to defeat the Foreign Office's policy. But the chances of effectively intervening to assist the Sultan had long been slight. The Foreign Office was to concentrate on saving north Borneo, chiefly through Pauncefote's devices. But the relatively harmless treaty the Sultan had after all apparently been able to make with Spain may have made him less ready to sustain the Overbeck grants.

In late May, however, Treacher did not find the Sultan entirely happy with the treaty, and this gave the Acting Consul some scope. Following the telegraphed instructions, Treacher had again gone to Sulu, accompanied by Enche Muhammad, but not by his German colleague from Singapore, and had discussions with the Sultan, going to some trouble to secure 'a comparatively private interview'. Jamal-ul-A'zam gave a further account of the February negotiations. Alejo, he said, had declared that Spain wished to revoke the old treaties and 'conclude a fresh one containing easier terms'. But the draft did not contain the revocation, and the Sultan wanted the good offices of the British and German governments over this matter. The draft, too, in dividing the island of Sulu, did not leave the Sultan half, as anticipated, but only one-third. Another issue was the hoisting of the Spanish flag, even in the Sultan's part of Sulu, upon which Alejo insisted. The draft had still not been ratified, wrote Treacher.

The Sultan's chief and first desire now is that a convention should be signed by the four Governments interested in the question, viz: England, Germany, Spain and Sulu, next that the two first named nations should appoint Consuls at Sulu,...that the Island of Sulu should be divided into two equal parts, the northern to be ceded to the Spaniards,...that all former treaties should be annulled, that the Spaniards should retain possession of Basilan, Balabac and the northern half of Palawan,...that the

annual payments should be continued to his heirs and successors (which is not provided in the Treaty) and that he himself should be recognised as a perfectly independent sovereign, ruling over the whole Sulu Archipelago and the Sulu possessions in Borneo, with the above mentioned exceptions....

He wanted the treaty 'witnessed, as he puts it, by England and Germany....' He was now quite at the mercy of the Spaniards, and Treacher pointed out that, 'unless strongly put to the Spanish Government', any interference was 'only likely to cause harsher terms to be inflicted....'¹⁰⁴

At the Colonial Office, Cox thought Great Britain 'powerless to interpose' against the Sulu treaty. But 'no time should be lost to prevent...the Spaniards from acquiring the Sulu possessions on the mainland of Borneo'. Possibly Britain could conclude a treaty engaging the Sultan not to cede to any power 'the remainder of the Islands of Sulu or his possessions on the mainland—if he has others than he has handed over to Overbeck and Co.—but I suppose if this is done we must, after what has passed, do it in concert with Germany....' Meade wanted to ask the Foreign Office what steps it proposed. The Secretary of State decided that the Colonial Office should point out the danger to the Sulu possessions on the mainland and recommend taking up the notion of a treaty.¹⁰⁵ Treacher had sought to revive the idea of preserving Sulu's independence, though probably hoping to combine this with the maintenance of the Dent-Overbeck cession. The Colonial Office saw little chance of effectively intervening to support Sulu, but still wanted a means of preserving British interests in northern Borneo alternative to supporting the Dent-Overbeck cession. But the Foreign Office followed policies largely made by Pauncefote.

Treacher had meanwhile reported his suggestions to the Foreign Office by telegram.¹⁰⁶ As a result the Foreign Office had drafted a letter to the Colonial Office suggesting that the idea of mediation should be dropped. 'Lord Salisbury is disposed to think that it would be inexpedient to raise any objection to the Treaty unless H.M.G. are prepared to take upon themselves the Sovereignty or to grant a Protectorate over Sulu.' Trade would be protected by the 1877 protocol, 'and as it would appear that the Sultan is really powerless to maintain his position, Lord Salisbury thinks that further interference on his behalf would be useless....' But some remonstrance might be possible, perhaps in conjunction with Germany. This draft was not, however, sent.¹⁰⁷ Instead, at Pauncefote's suggestion, the new Spanish treaty, as reported by Treacher, was referred to the Law Officers. 'The Secretary of State fears that this Act of Spain creates a new state of things which, if not objected to in limine, may serve as a pretext hereafter for overriding or seriously weakening the effect of the Protocol.' Were Britain and Germany 'entitled to protest against this Treaty', or was any action 'necessary or expedient to protect their interests under the Protocol'?¹⁰⁸

The Law Officers thought that Britain could not protest against the treaty. They were not sufficiently acquainted with the state of the different peoples and Governments in

the Sulu Archipelago to say whether any or what action may be necessary or expedient to protect the English and German interests under the Protocol; but...possibly Treaties might now be made by the German and English Governments giving them the right to object to the occupation by the Spaniards of any 'points' or places not already occupied effectively under the Protocol.

Pauncefote suggested that, on receiving the ratified treaty, the Government could, with Germany, make a joint communication to Spain.¹⁰⁹ Earlier he had declared that the treaty was 'incompatible with the recent Protocol'.¹¹⁰ In fact it had always been recognized that the protocol did not prohibit Spanish extension. What Pauncefote seems to have had in mind was further pressure on Spain as part of a process of bringing about a territorial settlement severing north Borneo in some sense from the islands. In this the cause of the Dent-Overbeck company would be served; but it could also be useful, as even the Colonial Office might come to realize. Mediation in Sulu was hopeless. Annexation of north Borneo was undesirable. The suggestions of Cox and the Law Officers were impractical. Pressure on Spain in itself might be inadequate. But British interests might be preserved by combining it with the establishment and recognition of the company.

In Madrid Silvela, the foreign minister, expressed fears about Treacher's interference in Sulu, and declared that the treaty did not conflict with the protocol.¹¹¹ He then gave Sackville West, the British ambassador in Madrid, a copy of the treaty, still to be regarded as confidential. 'The Sultan had in fact merely given back to Spain the Sovereignty which she had formerly exercised over his territories, and he could not but think that the change would in every way facilitate the carrying out of the provisions of the Protocol....' Notice would be given of the occupation of different points on the coast, 'which must ensue as soon as the treaty came into force....'¹¹² In October the treaty, ratified in July, was officially communicated.¹¹³ The Foreign Office prepared a new draft for the Law Officers, again asking, on the basis of the definitive treaty, if Britain could oppose it, and if so, on what grounds. If it could not receive Britain's acquiescence, 'His Lordship would be glad to have your opinion on the possibility and expediency of resuscitating the old Treaties with Sulu of 1761, 1764, 1769 and 1849.' The draft, and one communicating it to the Colonial Office, were cancelled, and held for Pauncefote.¹¹⁴ By this time Dent had returned to England.

Back in May—some days before he declared that the treaty was incompatible with the protocol—Pauncefote had written a memorandum on the Dent-Overbeck concessions, disagreeing with the Colonial Office's view of them. Apparently it relied on Ussher. But Pauncefote was 'personally acquainted with the Promoters of this scheme and with its real features', while Ussher knew little of 'China people and China affairs'. Dent was 'a gentleman of the highest respectability'. 'I am assured', Pauncefote continued, 'that the Association is purely British—that they have ample capital—and that they have no idea whatever of parting with the concession to any foreigners or foreign state. They are indeed precluded from doing so by the terms of the

Sulu Concession, and would no doubt extend the same undertaking to the Brunei concession....' This partly disposed of the objection that the company could not deal with natives under its jurisdiction; 'but I would add that the Company pay a yearly Tribute to the Sultan who remains their Suzerain, and that if necessary we can exercise extraterritorial Jurisdiction over British Subjects under the Treaty of [1847 with] Brunei....' As to the infraction of article 10 of that treaty, it was already 'practically obsolete', and its spirit at least had been disregarded on the occasion of the cessions to Sarawak. No objection had been made to the original cessions to American subjects, Pauncefote argued, and none could now be fairly made to their transfer to British subjects. As for the claim

that the scheme may saddle H.M.G. with responsibilities and involve them with the Sultans of Brunei and Sulu and possibly with Spain and other Powers; this is a vague statement which in my opinion should have no weight against the advantage which must accrue to British interests from the transfer of this territory to a British Company.

The Sultans could hardly complain; as for the Spaniards, 'they are trying to annex the whole of the Sulu Dominions and it is the more important that we should save something from their grasp'; and the Dutch did not complain in Torrey's time nor have they since. The strategic value of the territory, opposite Saigon, was enormous, and its mineral resources vast. 'New outlets for Trade are wanted and although I do not think H.M.G. are called upon to give any active support to this Scheme, (which I consider a very spirited and thoroughly English enterprise) I am at a loss to perceive why they should go out of their way to obstruct it....' It would be 'only fair' to the capitalists, 'and prudent in a political point of view', to suspend action till Dent and Overbeck, who were returning from the East in August, had been heard. Salisbury agreed. He thought that the company could be recognized, and British rights under the treaty waived, provided that they were not thus prejudiced in other cases, and that no more foreigners were admitted to the partnership without the Government's consent. He would not take action, however, till Dent arrived.¹¹⁵

Pauncefote thus won a major skirmish in the defence of the company. Meanwhile he sought to acquire means for exerting pressure on the Spaniards. It was not, however, merely a matter of dealing with them; nor even with others involved, the Dutch, the Germans, the Sulus, the Raja of Sarawak, whose objection to the cession Pauncefote denounced,¹¹⁶ the Italians, who Treacher thought might revive their claim.¹¹⁷ The Colonial Office was still not vanquished. Meade in particular disliked the Dent-Overbeck enterprise. But if no other means were available to preserve British interests in north Borneo, others at least in the Colonial Office might come to accept the company. To achieve this objective, however, indeed to achieve the purpose of the whole enterprise, the company must be 'English'. Pauncefote had also to ensure this. The 'charter' concept, implicit perhaps in Overbeck's reference to the East India Company, but brought up by Ussher as an argument against the scheme, would be a means to that end, and so become an argument for it. It

could also be used to undercut Meade's assertion that the exercise of sovereign rights by a company would involve the British Government in responsibility without control. Guided by Pauncefote, the Foreign Office had to ensure that Alfred Dent's view of the undertaking—he was disinclined to sell the concessions—came out on top.

Already Edward Dent and Alfred had agreed that it must be a British company. The former maintained contact with Pauncefote while the latter was away. 'I am glad you are keeping in with Pauncefote', Alfred wrote to Edward.¹¹⁸ In April Pauncefote told Edward Dent that nothing was 'officially decided', but that 'the Foreign Office was favourable to us. The Colonial Office do not quite seem to take the same view, but as the matter seems chiefly to rest with Pauncefote I daresay he will be able to bring them around'; while Mitford, according to Montgelas, 'hoped that a conversation he had had with two of the secretaries would somewhat change their views. Of course Mitford and Montgelas cannot say much as from their official positions they are not supposed to be connected with private companies....'¹¹⁹ The following month Edward Dent wrote of a possible approach to Austria-Hungary, if Britain did not 'recognise a Consul': some recognition was essential for the security of settlers.¹²⁰ To Overbeck he wrote on the same day in a rather different vein: 'it might...strengthen our hand considerably if the Government here thought the Austrian Government was willing to treat for the possession of our territory....'¹²¹ A few days later Edward Dent sent Pauncefote a formal letter asking for the British Government's support and suggesting that it await Overbeck's return from the East 'before taking an unfavourable view of the...company....'¹²² This resulted from a further conversation with Pauncefote. The Foreign Office, Edward Dent told his brother, was disposed to grant a charter if no more foreigners were admitted, but would 'not come to any decision probably until Overbeck and yourself return home....I have written to him [Pauncefote] at the Foreign office a letter...which he will be able to show to officials if it is wanted....' Edward Dent thought of visiting the Colonial Office 'to calm them. If however they have decided to shelve the matter until Overbeck's and yourself's return it may not do any good my interfering. I will however take Pauncefote's advice as he really seems strong in our favour....'¹²³ Mitford went to the Colonial Office. 'Meade seems the opposing element.... Herbert himself takes a favourable view of it', Edward Dent reported.¹²⁴

The decision to delay a decision over the cessions, announced in the House of Commons on 22 May, caused Ussher some concern. The scheme was only 'a filibustering expedition'. A delay was 'highly dangerous'. An 'immediate decision' was essential: otherwise Overbeck would involve more capitalists and claim he had been misled. Certainly, as Cox saw, the parliamentary statement had 'an appearance of encouraging—which is not the view taken here....'¹²⁵

Not only the entrenchment of the company, but even the opposition of foreign powers might assist Pauncefote. So far the Spaniards, however, had

protested against Overbeck's proceedings only in the East. The Spanish consul at Singapore had complained to the Governor of the Straits, in particular because of Treacher's support of the venture.¹²⁶ Moriones had protested to Mackenzie in Manila, also about Overbeck's sale of guns to the Sultan; and the Consul feared that the Dent-Overbeck venture would only strengthen Spain's determination to extend its dominion over Sulu.¹²⁷

More threatening to the company, and less susceptible of being turned to its account, was the discontent of the Sultan. At Sandakan Overbeck had lowered the Sultan's flag, and Pryer had begun to levy duties. This aroused Cowie and the Chinese at Sandakan, and, so the Baron told Treacher, his actions were misrepresented to the Sultan. Muhammad Ashgari, the former governor, was told to re-hoist the flag. The Sultan also protested to Treacher that Overbeck had hoisted his own flag and not the British ensign, and asked about the Brunei agreement. Treacher replied that the British flag could not be hoisted without the British Government's consent and that the Brunei cessions were for form's sake.¹²⁸ Worked on by Cowie, the Sultan, Treacher suggested, was dissatisfied with the Overbeck arrangements. The payment of \$5000 p.a. was 'too small a sum as an equivalent for the privileges he has parted with'. The Sultan also considered that the Baron, as Datu Bendahara and Raja of Sandakan, had become a datu, and was not an independent ruler. Treacher thought that the Sultan's 'susceptibilities' had been 'hurt' by the over-hasty proceedings at Sandakan. During his visit to Sulu in May, however, the Sultan had 'scarcely alluded to this question, and gave me to understand that he would take no active steps in it until he heard from me the opinion of Her Majesty's Government'.¹²⁹ The Sultan's reply to Treacher reiterated some of his earlier arguments. The flag had not been mentioned in the arrangement of January: had he made an agreement about it, he would have adhered to it. As Datu Bendahara, Overbeck was 'one of my subjects', and so he could not cast down the Sulu flag. Secondly, 'I find on enquiry that I am a loser by the arrangement (His Highness then goes on to say that he understood that he was merely farming out the Country but it appears now as though he had sold it). I will not accept this. There is a difference between farming out a country and selling it....' The Sultan asked Treacher to advise Overbeck not to exercise authority at Sandakan 'until this matter is settled with me....' And he had known nothing of the Brunei agreements. 'Is it right that there should be two Rajas governing in one territory?...'¹³⁰

Cowie indeed claimed, as Treacher thought, that he had induced the Sultan to challenge the agreements.¹³¹ But perhaps he was working on a receptive mind. Following the unexpectedly moderate Spanish treaty, Jamal-ul-A'zam may have decided he had given up too much to Overbeck. He may have wished to turn him out; or, more likely, to assert the rights he had failed to make explicit in the agreement, so as to secure better terms for allowing him to stay. The Sultan of Brunei had secured \$15,000; he had secured \$5000, and part of that had been set against three guns, 'a good stroke of business' for Overbeck, as de Robeck wrote derisively.¹³² It was not inconsistent for Jamal-ul-A'zam

still to hope that Britain would intervene and guarantee a better treaty with the Spaniards. But that he said little to Treacher about Overbeck was not surprising.

There was no difficulty with the natives, Treacher reported in July; even Pryer was safe at Sandakan, despite Cowie and the dispute with 'their sovereign'. The Sultan's letters were dictated by Cowie, who had gone into opposition, Treacher suggested, when he failed to sell Overbeck the *Far East*. When signing the documents in January, the Sultan was, he thought, 'well aware of their nature and meaning', but he was possibly not aware of the Brunei arrangements.¹³³ Dent had come down to Labuan with Overbeck and found Treacher 'very friendly', though he suspected that he had received 'a wiggling from home. He read us a letter from the Sultan of Sulu showing that somebody has been poisoning that dignitary's mind; we may have some trouble in setting him and ourselves right but diplomacy should do it.' Overbeck's demonstratively hauling down the Sultan's flag at Sandakan had given Pryer 'rather a ticklish time', Dent told his brother. Possibly trouble could be expected 'where the Sulu Sultan has agents. Keep all this private of course....'¹³⁴ Treacher might have supported the company more than he did over the Sultan's complaints, Dent thought, and over his apparent wish, like the Sultan of Brunei, to secure more than \$5000 p.a. The acting Consul-General was after all 'a party to the whole affair....' But he was probably 'under the influence of the C.O....'¹³⁵

In August Treacher reported by telegraph and despatch the ratification of the Spanish treaty, which he described as a new treaty 'virtually ceding the whole Sulu territory to the Spaniards....' The Sultan gave out that he could wait no longer for Anglo-German intervention. 'The Sultan was also, I am informed, made to write a letter to Messrs Dent and Overbeck, who were at Maimbung at the time, telling them to withdraw from Sandakan....'¹³⁶ Cowie, it appeared, had changed his policy: Overbeck had come to terms over the *Far East*. But the Baron's interviews with the Sultan, who 'thinks himself outwitted because the Brunei potentate has received more liberal compensation than himself', were inconclusive.¹³⁷ The arrival at Labuan of Captain W.G. Scott of H.M.S. *Lapwing*, who had been at Maimbung from 29 July, showed Treacher that the new treaty was in fact a ratification. The Sultan said the treaty was forced on him; but Scott thought it was not unacceptable to him or to the datus as pensions were involved. The Captain cautioned Jamalul-A'zam 'not to engage in any treaties with Spain which would give them any right over Borneo.... I am persuaded', he added, that 'he would like to raise more money on Borneo if he could....'¹³⁸ Overbeck and Dent themselves reached Labuan on 16 August. No settlement had been made over the Sulu flag at Sandakan: but it had blown down and not been replaced.¹³⁹ A letter from the Sultan to the Baron, dated 23 July, said that the Captain-General sought to cancel the treaty 'made by us with the consent of our Datus in Sulu, which has reference to the concession of Sandakan....the treaty made by us was not quite settled and now...we notify our friend that the above matter

should be decided by the Captain General and the Governor of Banua.' According to Overbeck, any such letter, if written in Sulu, was to be considered the work of the Spaniards; and it was written in Sulu. The Spaniards, Treacher also reported, were intriguing to have Datu Harun reappointed governor of Sandakan: he had been pro-Spanish all along.¹⁴⁰

As Treacher thought, but apparently had not been told, there had been correspondence between Overbeck and the Spaniards. A letter from the Sultan of 22 July, the date of the ratification, had annulled the contract with Overbeck by reason of the present and former treaties with Spain, and declared that this had been stated in April 'when I informed you that our contract could not be carried out....' Governor Martínéz conveyed a translation of this to Overbeck. Overbeck declared that his lease, witnessed by the British Consul-General, predated the Spanish treaty, and that he would not withdraw from it. The rights of Spain had never ceased to exist, replied Martínez. A state of war set treaties aside, Overbeck argued: the 1877 protocol showed that the treaty of 1851 was not in force, as it superseded it at several points, and the treaty of 1836 excluded Borneo. The territory was moreover ceded to Britain in 1763.¹⁴¹

Overbeck thus took his stand on the lease of January and argued against Spanish rights. He also attempted to make out the protest to be the work of the Spaniards. But the Sultan had hoped for more on account of Borneo, and even after Cowie had withdrawn his opposition, he had not come to a new arrangement in the course of the 'diplomacy' Dent had envisaged. He may have entered into this correspondence—which resembled the 'Cowie-dictated' letter of June in being written in Sulu—not altogether unwillingly, rather as, according to Scott, he concluded the Spanish treaty itself. Overbeck perhaps wished to conceal from Treacher the depth of his differences with the Sultan. There was, moreover, later correspondence with the Sultan, which suggested that the 'Spain-dictated' protest did not end the matter, any more, perhaps, than Spain began it.

Dent himself blamed the Spanish influence on Jamal-ul-A'zam for the failure to come to terms. 'We all left his (stinking) palace yesterday', he wrote on 28 July, 'and are now waiting for a reply to a *last chance*; if that fails we fall back upon our original documents and shall have to use force or intrigue to have them carried out. (Nothing can be more complete than these documents)....' But on the 30th he added that, though they were to leave next day, he still hoped to settle affairs by correspondence.¹⁴² Before he and Overbeck reached Labuan, however, Treacher had in fact already received a letter from the Sultan, dated 29 July, which indicated little prospect of settlement. The Spaniards came, Jamal-ul-A'zam wrote, and only Dent visited him, not Overbeck, 'and that for a short time only. We could not enter into the subject [of the concession] with him because the Spaniards had taken up their quarters in our Palace.' When they left, Dent and Cowie came, and then Overbeck, seeking a chop for the removal of the Sulu governor of Sandakan and flag.

We replied that there need be no difficulty about the Governor...but while we were talking we were taken suddenly ill. The next day the Datu Bendahara said he wished to go to his ship to sail the next day. But we replied what can we do. We are sick now, but if the Datu Bendahara can wait, we also really are anxious to settle this matter, if the Datu Bendahara wishes to arrange about the money mentioned in the Treaty. But the Datu Bendahara replied that he could not discuss any more about the Treaty, and that he could not wait any more....¹⁴³

That Dent was prepared to pay much, if any more seems doubtful. Certainly his brother regarded the total payment, \$20,000 p.a., as excessive: 'we ought to try to get the amount reduced, at all events for the first few years....'¹⁴⁴ It is conceivable that a prospective increase was discussed at Sulu, but it is unlikely, and there is no reference to it in the letters. Overbeck sent Pryer instructions from Singapore late in August. These alluded to unresolved difficulties with the Sultan 'regarding the interpretation of the convention concluded between us', and discussed the question of hoisting the British ensign as well as the Company's flag. The instructions contained no direct reference to cash, but referred to some documents which might be signed if negotiations were 'carried to a successful issue....' The Sultan's response was a request for a higher subsidy, which Overbeck declined.¹⁴⁵ The Baron's aim was clearly confirmation of the 'original documents'.

'The difficulties of the Company increase. Everybody is now stirred up and in motion', de Robeck wrote in October.¹⁴⁶ But the emphasis was on Spain, and not on the Sultan. Dent had told his brother to keep it all private; and while Overbeck's attempts at concealment hardly worked, Treacher rather played the Sultan's opposition down. In any case Pauncefote was concerned to emphasize the Spanish threat, and so win over the Colonial Office. The 'new treaty', he declared on receipt of Treacher's despatch referring to it, would require 'great attention', as the Spaniards would try to claim north Borneo: 'the very contingency which the C.O. urge us so strongly to resist while opposing at the same time the British Company. The concession to the latter which is prior in point of date to this new treaty may prove useful in resisting the encroachments of Spain in Borneo....'¹⁴⁷ According to Edward Dent, 'Pauncefote treated the Spanish claims as all moonshine at least as regards Borneo....'¹⁴⁸ The Colonial Office was seen as a greater obstacle, but it was hampered by the results of what it saw as the Foreign Office's errors. Meade wrote of the 'new' treaty: 'This is what we always expected from the dilatoriness of the Foreign Office....'¹⁴⁹ De Robeck thought that the Foreign Office might thwart Spain by using Overbeck and Dent. Meade did not know which was 'most objectionable. If it were not for the governing Power which they claim and without which they can probably do nothing I should of course prefer Overbeck and Dent.'¹⁵⁰ Possibly this indicated that Meade's opposition was already weakening.

The actual attempts of Spain to enforce the north Borneo claim appeared to endanger Dent and Overbeck, but in fact did the reverse. A Spanish gunboat, the *Marques del Duero*, visited Sandakan early in September, with Alejo

aboard. He told Md. Ashgari to hoist the Spanish flag, but he did not do so, despite a threat of bombardment. The *Far East* was placed across the line of fire, and a British flag hoisted over a British subject's house. Finally the gunboat retired, though threatening to return with 'an increased force...!!!!', as Pryer put it. Alejo told Pryer that he intended also to go to Marudu and Tempasuk. The visit, Treacher believed, was 'a feeler', and unless the British Government protested, would be followed by annexation, as had happened earlier in the case of Balabac, an island claimed by the Sultan of Brunei.¹⁵¹ He sent a telegram to London.¹⁵²

On this the Foreign Office acted. West was told that the 'reported proceedings...with regard to Borneo are calculated to cause very serious uneasiness to Her Majesty's Government, in view of the important British interests existing in that Island....' He was to mention Calderón's assurance of January 1877 that the Spanish government had no designs on Borneo.¹⁵³ Silvela replied that he had received no information;

but as there were certain parts of the Coast over which the Sultan of Sulu claimed sovereignty, it was natural that when the capitulation of this sovereignty was made the places should be included in it.... The Spanish Government...did not seek to acquire fresh territory. They had enough to do to keep what they had got.... The treaty had been forced upon them in order to put an end to a state of things which could no longer be endured, and it was scarcely likely that they should seek to hamper themselves by attempting to extend an occupation already so burdensome to them. He repeated therefore that Spain had no such designs on the Island of Borneo as appeared to be attributed to her, and that, if any points on the Coast of that Island had been occupied or Spanish Flags hoisted, such proceedings resulted from the provisions of the treaty as he had already explained....

Spain had no intention of 'occupying the island of Borneo....'¹⁵⁴ The communication of the Sulu treaty soon after this led to the preparation of the reference to the Law Officers, suggesting the possibility of reviving the Dalrymple treaties: a dubious scheme, even as a holding operation, as the Foreign Office had earlier admitted they had 'lapsed'. Pauncefoot saw the opportunity to pursue his own idea—already divined by de Robeck—a little further. Edward Dent saw him after the telegram arrived. 'Pauncefoot thought the action of the Spaniards would bring the Colonial Office round to our side, as the latter have all along been against any encroachment of Spain into Borneo....'¹⁵⁵

The Spanish minister in London learned something. For Silvela told West early in November that he had reported 'that Baron Overbeck was endeavouring to make over to Her Majesty's Government certain portions of the Coast of the island of Borneo to which he laid claim, and that in order to effect this cession he wished to make it appear that the Spanish Government had violated the provisions of the Protocol by the conclusion of the Treaty...with the Sultan....' He hoped no attention would be paid to a German adventurer. In October Dent had reached England. A memorandum was to be submitted when the German adventurer arrived.¹⁵⁶ The Spaniards

already had some hint of Pauncefote's scheme: to protest about the treaty and so secure the company's position in north Borneo. At the same time the Colonial Office was to accept the company as a guarantee of British interests there, though there would be no transfer of territory to the British as the Spaniards suspected.

The Charter

The structure of the North Borneo venture formed in Alfred Dent's mind during 1878, in part as a result of Pauncefote's discussions with his brother. Not only must it be British. 'Everything will be arranged on honest and broad principles', he told Edward in May after receiving an account of the interview with Pauncefote of the previous month,

the rights of natives carefully guarded and provided for and free trade as far as possible. My idea is that every dollar raised by way of revenue or sales of land should be spent in the country or in expenses connected therewith, our profit is to be made hereafter in mining, cultivation, trading and so on. Overbeck has however not quite fallen in with this....¹⁵⁷

In June Alfred Dent told Treacher, according to the latter, that the Company intended to plant coffee. But trade *per se* was inadequate, and so sovereign rights were required, as 'a means to an end', and not as an end in themselves. Treacher hinted that they might, if the scheme collapsed, go to 'the highest bidder', possibly a foreign government.

Mr Dent replied that his Company would be only too glad to give the British Government, in return for moral support, a lien on the title deeds and to deposit them at the Foreign Office; and it is perhaps possible that in consideration of permission to levy reasonable export and import duties on the native trade, to go towards paying the expense of Government, he and his friends would agree not to engage in it themselves, in which case Labuan and Straits traders would be benefited by the establishment of a Government of some kind in the place of the non-Government now the rule, whereas they will certainly be injured if they have to contend against a Company, weighted with the duties from which their rivals in trade are exempt....¹⁵⁸

Dent's ideas were thus shaped, not only by commercial considerations, but also by the prospect of further Government support on conditions held out by Pauncefote, and also by Treacher.

The idea of a charter was first seriously discussed in the Ussher protest. Subsequently Pauncefote seems to have raised it with Edward Dent. While Ussher saw it as something undesirable, for Pauncefote it had advantages: it could be drawn up so as to meet a number of the Colonial Office's objections by limiting Government responsibility and securing some control; at the same time it would help to diminish foreign opposition, since, though establishing British interests, it would not do so by annexation. In August Edward Dent saw Pauncefote again. 'Pauncefote says Ld. Salisbury is still favourably inclined and the former's idea seems to be that a Royal Charter should be granted under certain restrictions; one of the chief being that the country should not be transferred to a foreign power....' Edward thought that

'naturally', if the Government protected them, they would not want to do so; but then there will be the weak point in our tenure from the Sultan [of Brunei] that if we fail to pay the rent for 3 years the country goes back to him, and he could then do what he liked with it, so possibly the authorities here might say they could not sanction our possession of the country unless we could guarantee to keep it.... This is not what Pauncefote said but simply an idea which occurred to me. Paying a lump sum to the Sultan would do away with that objection....¹⁵⁹

Early in December Dent and Overbeck sent Salisbury their long-awaited communication. Not surprisingly it asked for a charter. The provisional association that had been formed, they declared, was 'British in domicile and character', and could raise capital. It sought no monopoly, and would not harm Labuan, which drew most of its trade from the region between Sarawak and Kimanis. It wanted the exercise of extraterritorial jurisdiction over British subjects, through the appointment of its administrators as officers under the additional article of the treaty of 1847; 'countenance and protection' for the company from consular, naval and colonial officers; support 'with respect to controul of foreigners', resident or visiting, 'so that the Company may be relieved of any difficulties arising with foreign Governments in relation to their respective subjects or citizens'. It also wanted 'a Charter of incorporation and regulation'. Such would give the company the benefits of incorporation, 'without being fettered by the provisions of the legislation relating to Companies constituted merely for purposes of gain'; and the Government could 'impose terms and conditions'. Dent and Overbeck would agree that the company should be British, that it should not transfer its territories and powers without British consent, that any difference between it and the Sultans should be referred to the British Government, that the appointment of its governor should be subject to British approval, and that the company should afford facilities for Her Majesty's ships.¹⁶⁰

The suspended draft to the Law Officers was now elaborated. The new reference, sent in January 1879, gave a résumé of British relations with Sulu, and also brought in the grant to Dent and Overbeck of Sulu claims in Borneo, the Colonial Office's opposition to Spanish extension, and the assurances made to Layard in Madrid. Could the British Government protest against the new Spanish treaty in regard to the archipelago, to the north-east coast of Borneo, or to the whole of the Sultan's dominions?¹⁶¹ The Law Officers still felt that there was no basis for a British protest either in the protocol of 1877 or in the antecedent treaties. Furthermore, if the north-east coast of Borneo were a dependency of Sulu, that, too, came under Spanish sovereignty by the treaty of 1878. The rights of Dent and Overbeck there should thus be confirmed by Spain; but the British Government should probably not put them forward, since that would admit Spanish claims. 'Mr Dent and Baron Overbeck may therefore take their own course, as they may be advised, in their interest in a private undertaking out of Her Majesty's Dominions....'¹⁶²

Pauncefote suggested to Tenterden a conference with F.S. Reilly, the Dent lawyer. Reilly agreed with the Law Officers that the 1878 treaty could

not be opposed on the basis of the 1877 protocol, though some notice should be taken of the assumption of a sovereignty that Britain had not so far recognized. As for north-east Borneo, it was not within the protocol, and the same kind of difficulties might arise as had arisen over the archipelago. The Colonial Office had during the negotiations desired the exclusion of the Spaniards. The Foreign Office had declined to seek this 'for reasons which, in present circumstances, have lost part, at least, of their force....' Some answer must be given to Dent and Overbeck. To support them would, at the moment, offend Spain; while their grants 'cannot be set up as having priority to the Spanish claims', since those claims were not merely based on the treaty of 1878. The proper answer was surely a compromise. 'Might not Her Majesty's Government set off Sulu against Borneo, that is to say, recognise the sovereignty of Spain over Sulu and the adjacent islands, in consideration of the abandonment of the Spanish claim of sovereignty over the north-east coast of Borneo?' The Sulus would lose nothing, since Britain had not supported them; Borneo would be relieved of Spanish interference; and the Government would be free to deal with Dent and Overbeck or others on their merits. Over the archipelago, it would be necessary to act with Germany, co-signatory of the protocol. Pouncefote adhered to his original opinion about the relationship of protocol and treaty: 'and if we wish a compromise, the best way to get it is to take up the position asserted in my proposed Draft to the C.O., whether it be legally sustainable or not....'¹⁶³ Tenterden and Salisbury approved.¹⁶⁴

This pointed out that, despite the opinion of 1874, the Foreign Office had, out of policy, continued to resist the Spaniards' claim to sovereignty over Sulu. The rights claimed under the treaty of 1878 were in excess of those intended to be conceded in the protocol of 1877; and 'still graver' was their attempt to extend their authority to north-east Borneo, which the Colonial Office had opposed, and which would not even be covered by the protocol. If, it was added, the Dalrymple treaties of 1761 and 1764 had indeed lapsed, what of Trotter's agreement of 1769? Finally the letter to the Colonial Office indicated that Salisbury considered that the Government could properly support the Dent-Overbeck undertaking 'if the claims of Spain to the territory ceded to them can be disposed of....'¹⁶⁵ Pouncefote, as his minute made clear, had now determined on his compromise, whether or not the legal position helped him: islands, once sought by Overbeck, were to be traded for mainland. At the same time the Colonial Office were, rather obliquely, invited to accept some provisional commitment to the Dent-Overbeck undertaking.

Tenterden and Salisbury, like Reilly, saw that the Germans must be involved because of the protocol, their views on which seemed to be like Pouncefote's. Their pressure would be useful in regard to Spain. 'We should get the Germans to support us by backing them up in their arguments upon the Protocol in regard to the Islands, in return for their support in regard to our views as to Borneo....'¹⁶⁶ It was assumed that the protocol did not apply to Borneo: otherwise the Germans might seem likely to lose by the

compromise. But certainly the German government had displayed a continued interest. It had intended its consul in Singapore to join Treacher on his visit to Sulu in mid-1878. The chargé in Madrid had been concerned that Silvela had communicated the new treaty to West but not to his German colleague.¹⁶⁷ Salisbury had instructed the British envoy in Berlin to tell Bülow that Britain and Germany should jointly consider the compatibility of the protocol and the treaty, and to draw his attention to Silvela's explanation over Borneo.¹⁶⁸ In January the German ambassador in London declared that the German government believed that treaty and protocol were inconsistent and wished to act jointly and without delay.¹⁶⁹ The day after Pauncefote's letter was sent to the Colonial Office, Salisbury expressed readiness to do so, and asked about the form of the proposed German protest against the treaty.¹⁷⁰

Meanwhile Dent had drawn attention to the Spaniards' proceedings at Sandakan and their intention to claim 'the whole of North Borneo'. The charter might require consideration: could the British flag be hoisted meanwhile?¹⁷¹ Pauncefote took the opportunity to suggest some commitment to the company. He suggested that the Spaniards might incite the natives against it. Dent could perhaps be told 'that there is no objection to the Company hoisting the British flag as *indicating their nationality*'; and the vice-consular appointment at Sandakan, cancelled during 1878, should be reinstated. 'It would be desirable also to send a man of war to *Sandakan* to report on the action of the Spaniards....as it is held that our Treaty with Sulu of 1849 is invalid, we have no Power to object to the cession of the Sultan's Borneo Territory to Dent and Co. and the latter have the right to hoist the British Flag, being a British Coy....'¹⁷² But Pauncefote's colleagues did not go along with all this. A visit by a man-of-war might be useful if it produced an impartial report, Tenterden thought. 'These Sulu affairs and this question of Messrs Dents concession in Borneo are rather obscured by the personal interests of the people whose accounts we are receiving....' He and Salisbury decided on a reference to the Colonial Office.¹⁷³

The Colonial Office had received further memoranda from Ussher, recapitulating his objections to the Dent-Overbeck scheme. Spain claimed Sandakan and part of north Borneo. That claim should be denied: but 'are we prepared to allow a company of adventurers to complicate matters further? Perhaps before supporting them we had better square matters with Spain about Sulu?....'¹⁷⁴ Like Ussher, the Colonial Office were in a weak position over the Spanish claim. But they followed the line at which he hinted, that Spain's claim should be settled first, which was not quite what Pauncefote intended. Opposing Spain was in his view necessary in order to preserve north Borneo: the company might be used in, as well as helped by, this process. The Colonial Office did not see the matter this way.

De Robeck agreed with the Foreign Office's approach to Spain. In the archipelago Great Britain and Germany should insist on the protocol. As for the mainland the Law Officers' opinion should be disregarded, as in 1874. But he thought that the Dent-Overbeck scheme 'cannot be touched until the

Spaniards are disposed of....' Meade agreed that it might be possible to recognize the Spaniards' acquisitions in the Sulu islands, 'giving us of course the facilities we already possess under the Protocol, for our Trade on condition that they finally recede from any pretensions on the mainland'. But it could not 'be expedient to take up, as a protection agst. the Spaniards, a scheme such as that of Overbeck and Dent, which would land us in worse difficulties'. Spain itself, 'a regularly constituted Govt.', would be preferable to 'an anomalous and speculative undertaking....' The Colonial Office should leave the matter to the Foreign Office, but suggest a reference to the Cabinet. The Lord Chancellor might be consulted on the status of the company and the problems of international law 'which may arise out of the patronage of this scheme....' Herbert also agreed 'in disliking and distrusting this scheme. If it is sanctioned, the Foreign Office should have the entire responsibility of it....' But again he qualified his view.

It is of course possible that a British Company strongly controlled from home, and unable to take any step without the concurrence of official Directors on the spot, might promote British Trade and beneficially counteract Spanish influence in Borneo, without making it probable that this country would be involved in war or other difficulties. But without such a controlling power I think the Company would very soon give trouble: and the Govt. should fully consider what the proposal of Messrs Dent and Overbeck *may* lead to even if so regulated.

The reply Hicks Beach prescribed indicated that the Colonial Office thought that the Spanish claim should first be disposed of, and Dent and Overbeck not dealt with until it was; that he adhered to his earlier views on the question; and that 'though feeling that the matter is one for the consideration of Lord Salisbury rather than for mine, I should not wish to press these views against his decided opinion, I trust that before taking a step involving serious responsibilities he will think it right to take the opinion of the Cabinet....'¹⁷⁵

Before the reply had been sent, the Colonial Office received the Foreign Office's proposal to send a man-of-war to the area. De Robeck agreed with the idea, but thought the suggestion over the flag was 'F.O. business'. 'Apparently we are to fight the Spaniards as well as the natives in order to put money into the Pockets of these adventurers', Meade commented. Sending a ship would only mean delay: 'the matter is ripe for a decision....' Hicks Beach, however, thought that even a visit of enquiry might check the Spaniards.¹⁷⁶ The amended reply suggested referring the question of the flag to the Cabinet, and added 'that care should be taken to avoid any action that might lead Messrs Overbeck and Dent to suppose, before a decision had been arrived at upon their request, that the presence of the man of war was intended in any degree to lend countenance or encouragement to their undertaking....'¹⁷⁷

Rather conveniently, a despatch from Treacher arrived soon after, with a report from Pretzman at Tempasuk that in late December a Spanish gunboat had attempted to induce the person in charge of a timber cutting establishment at Gaya to hoist the Spanish flag.¹⁷⁸ The Foreign Office's letter to the Admiralty gained pungency. The ship-of-war was to obtain accurate

information and to protest 'on the spot' against further attempts to hoist the Spanish flag.¹⁷⁹ Pauncefote suggested that Treacher might visit the Sultan of Sulu in the man-of-war, and inform him that the British Government objected to the Spaniards' claim to hoist their flag in Borneo. 'He might then proceed to Sandakan and inform the Chief there and at Marudu Bay and Gaya Island....' Pauncefote thought that 'this would be by far the most effectual course, as I understand that the Spaniards are now endeavouring to persuade the Sultan to order one of the Sandakan chiefs (Harun-ar-Rashid) to hoist the Spanish flag instead of doing it themselves.... I heard this from Mr Dent....'¹⁸⁰ The Colonial Office agreed, and at once sent off a telegram to Treacher. But at Meade's suggestion this included a declaration that the despatch of a man-of-war did not mean recognition of Dent and Overbeck. As soon as the telegram had gone, Meade ordered, 'send a copy to F.O....'¹⁸¹ Not surprisingly Pauncefote wished that the Foreign Office had given Treacher his instructions.¹⁸²

In fact, rather to Spain's alarm,¹⁸³ two ships went to the area. The Admiralty's telegram to its officers arrived in the East before the Colonial Office's and the corvette *Modeste*. Capt. John Mead, proceeded to Sandakan to protest. Then the Colonial Office telegram arrived on the gunboat, *Kestrel*, Cr. Edwards, and Treacher went to Sandakan also. Thence he went to Maimbung, arriving on 16 April. He told the Sultan in a letter that his visit had no reference to the cession to Dent and Overbeck, whose proceedings had not yet been approved by the Queen. The next day he had an audience with the Sultan. The Spanish visit to Sandakan, the latter said, had been without his sanction. The treaty 'related solely to the Island of Sulu', he declared, and 'no mention was made therein of any of the other islands comprising the Sulu Archipelago, nor of the portion of Borneo tributary to Sulu....' The Spaniards had remonstrated over the Dent-Overbeck cession, and he told them 'that if they interfered in the matter it would be entirely on their responsibility, explaining that he was powerless to prevent them from interfering....' Treacher asked him if he wished to reply to the British communication, and, after hesitating, he said yes, and that Datu Harun, his cousin, 'a partisan of the Spaniards', would visit the gun vessel for the purpose. The Sultan was, Treacher thought, 'evidently afraid of compromising himself with the Spaniards', and Harun never appeared. On 18 April the *Kestrel* arrived back in Sandakan, and Treacher sent a letter ashore to Gomba and the other chief men. However, they were away with Pryer on the Kinabatangan, and a *nakib* called Bontong, who had been sent by the Sultan to announce the cession, was asked to open the letter. Treacher and the two captains landed at his house and explained the reasons for coming. Mead read the British protest, and an English copy was left at Pryer's residence. On 21 April the *Kestrel* visited Marudu, and a letter and protest was sent to Sharif Yasin. On 23 April Treacher met Pangiran Abdul Roup at Mengkabong, and found that he was not aware of the Spanish visit to Gaya earlier reported.¹⁸⁴ That report indeed was never fully verified, and Pryer thought there was nothing in it.¹⁸⁵

Pauncefote had meanwhile prepared a draft protest against the new Spanish treaty: it was not 'consistent with the spirit of the Protocol'. In addition, the attempt to hoist the flag in Borneo called for 'grave remonstrance', in the light of Silvela's assurances, and also in the light of Britain's earlier claims, concluding with the sale of 1769. The British Government protested against the Spanish claim to sovereignty 'over any part of Borneo, and as regards the new Treaty generally, they reserve to themselves the faculty of declining to recognize it so far as it purports to confer on Spain any rights over the Sulu Archipelago not expressly conceded to her by the Protocol...and which may conflict with the interests of Great Britain....' Salisbury approved the draft, but wanted it divided into two documents—'one of which might deal with the Sulu—the second with the Borneo question—the advantage of this procedure would be that Germany might join us in the first—but not in the second....'¹⁸⁶ The revised drafts were approved by the Colonial Office,¹⁸⁷ and then communicated to the Germans, the Sulu one, as Salisbury instructed, for concurrence, the Borneo one for information.¹⁸⁸ The Germans agreed to the Sulu protest. Bülow's instructions especially referred to that article of the treaty of 1878 that permitted the Sultan to levy duties in places not occupied by Spain: it made over to him 'rights whereof the exercise by Spain herself would be incompatible with the protocol....'¹⁸⁹ Pauncefote reported that the Germans also agreed with the British views on Borneo,¹⁹⁰ and both sets of instructions went to West on 20 May.¹⁹¹ But, though Pauncefote thought that it might 'strengthen our hands by showing that public interest is taken in the question, and affording a ground for pressing the Spanish Government for an immediate reply', Salisbury was unwilling at this point to receive a deputation proposed by Sir R. Alcock,¹⁹² a retired diplomat who now headed the provisional association.

De Robeck had wondered why the Foreign Office did not get the Netherlands to make common cause with Britain and Germany.¹⁹³ The Dutch had discussed the claim back in May 1878. According to Edward Dent, Pauncefote had seen the Dutch envoy, Bylandt, and found him 'not at all opposed to our company so long as the territory was not annexed to Great Britain....'¹⁹⁴ Later Edward Dent reported to his brother a declaration in the States General 'that our part of Borneo had nothing whatever to do with the Dutch Government and that...it would be rather to the latter's advantage if the territory was developed....'¹⁹⁵ In September Pauncefote seemed to think that the news of Alejo's visit to Sandakan would not only bring the Colonial Office round, but that the Dutch 'would be of the same view'.¹⁹⁶ Earlier that month Bylandt had communicated a memorandum by the Dutch foreign minister, which referred to the May conversation, and asked for further information about British policy towards the Dent undertaking. The Netherlands, it added, claimed the east coast up to Batu Tinagat, and it might be that the Sultan of Sulu had encroached upon its frontier.¹⁹⁷ The Sultan claimed and had granted Sibuko, which was south of Batu Tinagat, the Foreign Office noted. The question was the basis of the Dutch claim. In 1849

Brooke had suggested that the Dutch claim to Gunung Tabor (Kuran) and Bulongan was set up to deny Belcher's treaties, but they did not afford 'very solid ground' for opposing the Dutch. The treaty of 1824, as interpreted by Aberdeen, was held not to apply to Borneo, it was added. Thus Her Majesty's Government had a precedent for resisting any Dutch objection to the Dent-Overbeck concession 'on this score'.¹⁹⁸ But as Edward Dent hinted, Pauncefote thought that these were grounds for cooperation, not argument. The news of the Sandakan episode was communicated to the Dutch.¹⁹⁹

As the May conversation had implied, however, once the British Government became more interested, the Dutch government became more concerned. In May 1879 the *Nieuwe Rotterdamsche Courant*, associated with the ruling party, claimed that the establishment of a company exercising sovereign rights would be an infraction of the treaty of 1824. If the Netherlands gave way to Great Britain, Germany would play the same game.²⁰⁰ 'It is important to resist very firmly the pretensions of Holland in this matter', wrote Pauncefote.²⁰¹ The chargé in The Hague was told that the British Government had persistently held that the treaty of 1824 did not apply to Borneo, and that it contained nothing to prevent the formation of British settlements where the Dutch were not established.²⁰² The idea that the Dutch might assist against Spain was displaced by the fear that they might oppose Dent and Overbeck. Pauncefote had to consider another contender. Its attitude gave extra point to the concept of protecting British interests more firmly than in the past, but, through a chartered company, indirectly.

In Madrid the new Spanish foreign minister, Tetuan, denied any knowledge of attempts to hoist the flag in Borneo, and said he was anxious to avoid 'fresh complications'. West suggested 'peremptory orders' to Moriones in view of the representations he had made earlier. Tetuan replied that he had only just taken office and did not know what had passed between West and his predecessors. But he hoped that 'the sincere desire manifested on both sides of avoiding complications would meet the difficulties....'²⁰³ Pauncefote thought this 'satisfactory'. Dent had told him that the protest arrived 'just in time' to prevent a further attempt to hoist the flag through the medium of Harun. 'They do not however disavow their claim in Borneo,' Salisbury added.²⁰⁴

Pauncefote considered that Tetuan's ignorance of the past might be remedied by communicating a copy of the letter which Martínez had written to Overbeck on 22 July 1878 and which Dent had communicated, and explaining that Overbeck was the agent of a British company. Salisbury agreed.²⁰⁵ With this the Foreign Office moved a further step towards backing Dent and Overbeck and involving them in the contestation of the Spanish claim. West was told to press Tetuan 'to state whether this official document has ever been brought to the knowledge of the Spanish Govt., and what steps they propose to take in the matter....'²⁰⁶ From Manila, Consul Pauli reported that the authorities claimed the right to hoist their flag on north-east Borneo, 'and pretend to disbelieve that England or any other Power, could make objections'. He thought 'that the Government at Madrid find it very

convenient that such claims should be asserted...at Manila, which they can support or repudiate according to the opposition shown by other countries....' The Madrid authorities were really quite in control.²⁰⁷

In early September Dent urged a decision on the cessions, hoping for a charter. No definite replies had been received from Spain, and Pauncefoot suggested pressing for them. 'Mr Dent is incurring great expense.' Salisbury assented,²⁰⁸ and a despatch went to Madrid.²⁰⁹ Tetuan told the chargé that the answers were prepared, but their despatch awaited Salisbury's return to London, and West's to Madrid. He added that neither the preceding nor the present cabinet 'entertained...any intention of occupying the North East Coast of Borneo, but that the Government was quite unable to make any declaration renouncing the suzerainty which Spain exercised by right over the Sultan of Sulu and his possessions, and which possessions extended, as was admitted he said by Her Majesty's Government, to the North Eastern portion of Borneo....' His information on Spanish naval proceedings at Sandakan differed from the British Government's.²¹⁰

In October, at Tetuan's request, West saw Silvela. The latter referred to the British claim that the treaty was contrary to the spirit of the protocol. In the protocol negotiations, sovereignty over Sulu was "'une question écartée'", but 'this surely did not involve a renunciation of it on the part of the Spanish Government any more than it did a renunciation on the part of Her Majesty's Government of their determination not to recognise it....' Spain had made the protocol when still at war with Sulu, but, though the war terminated in its resuming sovereignty, Spain was still ready to adhere to the stipulations of the protocol 'ignoring that sovereignty' made when that resumption seemed doubtful. West commented

that Her Majesty's Government had all along distinctly stated that the Spanish claim to Sovereignty over the Sulu Archipelago would not be recognised, and it was not therefore likely that they would have favourably received the communication of a document which directly asserted this sovereignty. Senor Silvela... said that if the opinion of any number of juriconsults was taken upon the stipulations of the protocol and more especially upon the article which accorded to Spain the right, upon giving due notice, of occupying any points not occupied of the Sultan's territory, and of establishing customs regulations at such points, they would give it in favour of the tacit admission on the part of England and Germany of a jurisdiction in time of war to be exercised by Spain in the Sulu Archipelago which he could not dissociate from the Sovereignty which Her Majesty's Government were now protesting when peace had been concluded and when Spain had acquired undoubted treaty rights. It is admitted that the stipulations of the Treaty which secured peace do not alter the Protocol but it is asserted at the same time that they confer upon Spain rights which under the provisions of the protocol she would not have been entitled to exercise, but the Spanish Government is prepared to maintain that the exercise of these rights was provided for by the very instrument which it is contended precludes them. The direct question of Sovereignty had never been raised under the protocol and the understanding that it should not be raised had been kept. But the Spanish Government had never entered into any engagement by the protocol not to assert a sovereignty which it might acquire

subsequently by treaty and its pretensions to which had never been renounced....

As for Borneo, Spain never intended to occupy it. The object of the delay in replying, as of the interview, was to ascertain whether the British Government would reconsider its communications. West told Tetuan to send the replies at once.²¹¹

The first Spanish reply questioned whether Great Britain had denied Spanish sovereignty. How could Spain sign a protocol if it had no rights?²¹² As for the Martinez letter, Overbeck had 'illegally entered into' a contract 'with one who had no right to pledge himself....'²¹³ The Spanish reply to the German protest denied that treaty conflicted with protocol. The Sultan was not a delegate of Spain, and tariffs for Spanish benefit would be collected only in places occupied by Spain: in unoccupied places, the Sultan collected as before.²¹⁴ A further reply to the British was conveyed through the Spanish ambassador in London. This mentioned the additional capitulations of August 1850—which Overbeck had ignored—and added that the Sultan of Sulu had already given Overbeck notice in April on his failing to fulfil the contract. Spain did not intend to found an establishment in north Borneo, but to maintain its rights to sovereignty in parts tributary to the Sultan.²¹⁵

Spain had not yielded. But the Foreign Office did take a further step. On reading the charge's despatch of September, Salisbury asked for a memorandum for the Cabinet, 'stating briefly Mr Dent's requests and attitude of Spain; and let me have proof'.²¹⁶ The memorandum was prepared by Eliot. As for the Brunei cessions, which included parts under Sulu control, 'neither the Spanish nor any other foreign Government, except, perhaps, the Dutch, have any concern in the matter; and it is merely a question whether Her Majesty's Government think it advisable to encourage the formation of a Company exercising powers of the nature described in the Concessions....' The objections were that 'it would ruin the trade of Labuan; that at present there is nothing to prevent the transfer of this Concession to a foreign Company or a foreign Power; and that, supposing the Concession to remain in British hands, Her Majesty's Government might be drawn by the action of persons over whom they have no control, into complications which it would be desirable to avoid'. The two last objections might be overcome by a charter, as suggested by the Dent-Overbeck memorandum of December. But the claims of Spain caused additional difficulty in regard to the Sulu cession. 'The limits of the territory are very uncertain, and the exact nature of the authority exercised over it by the Sultan of Sulu equally so....' The Sultan of Brunei claimed the territory, and the Sultan of Sulu seemed to exercise authority only south of Marudu. But the cessions of the 1760s suggested that Great Britain then recognized the Sulu right to cede. The 1877 protocol avoided all mention of Spain's claim to sovereignty over Sulu, but recognized its right to establish customs houses at ports occupied or to be occupied. It 'contained no express stipulation that Spanish rights should not extend to Borneo, but care was taken to exclude any expression that might be construed as a recognition of such an extension', and Calderón told Layard that the ministry had no designs

on Borneo, only on 'Sulu and adjacent islands'. It was hoped that the protocol 'would have the effect of practically securing the interests of foreign trade in Sulu, without wounding the susceptibilities of Spain. But it soon appeared that the Spanish Government was not prepared to let the matter rest on this basis....' In the new treaty Spain secured recognition of its sovereignty in Sulu and its dependencies.²¹⁷

Salisbury's own memorandum described the grants to Dent and Overbeck as implying

all but an alienation of the territory. The government of the country will practically be with them, under the suzerainty of the Sultan of Brunei. In respect to a portion of this territory they have also obtained similar powers from the Sultan of Sulu. The territory to which the two grants are applicable belonged in old time to the Sultan of Brunei, and in more recent times has been administered by the Sultan of Sulu. With which of these potentates the right to the territory really lies it is not possible here to determine.

Dent and Overbeck wanted 'a certain amount of countenance', and sought various concessions including a charter of incorporation. Should Great Britain concede any or all of their requests? 'The undertakings which the Company offer in exchange for these concessions...do not seem to me', Salisbury commented, 'to affect closely the point at issue. For if it is right to make these concessions at all, the opportunity of opening trade through an English company with the interior of Borneo would be a sufficient motive for making them.' Three inconveniences were apprehended. First, the claims of Raja Brooke: but no doubt a compromise could be reached over any disputed territory. Second, the destruction of Labuan's trade: but 'it would not be fair to discourage enterprise, to restrict trade, to postpone the development of a fertile country, merely to spare the Colony of Labuan from a dangerous competitor'. The third objection was

the most important. It is essential to consider how far, by making these concessions to the Company, we shall be pledging the military and naval force of this country, and risking collision with other powers or peoples. If the protection of the Queen's Government is openly and avowedly given to these new colonists, it is a question for discussion whether, in case they are attacked by any native chiefs or by either of the two Sultans with whom they have negotiated, any obligation will be upon the English Govt. to assist them, or whether such an obligation may not at all events be pretended, and be made ground of a claim against England....

The position of Spain was 'a matter of some delicacy'. The Spaniards disclaimed an intention to settle on the coast of Borneo, but would 'not renounce their claim to be considered as the suzerains of the Sultan of Sulu, even with regard to the mainland....' Some friction might result if the Dent-Overbeck requests were granted: Spain might challenge Britain's right to recognize the government of a company 'professing to hold under a grant from Sulu whom she claims as her feudatory'; and she might object to measures taken in regard to her nationals if they settled in the territory. But 'there must be no doubt of the importance of the coast in question', stressed by Admiral Keppel, Sir R. Alcock, and those 'acquainted with the China trade'.

The issue was whether the benefits were

worth a possible disagreement with Spain, and a possible claim for defence against the natives of the Island. The attention of all other countries is at the present time so much turned to the occupation of important strategic positions in the Pacific, that if this opportunity is allowed to pass by it seems very probable that some other nation would interpose claims which would prevent it from being renewed.²¹⁸

The Foreign Secretary clearly believed that north Borneo should be preserved from other powers. That might still involve a dispute with Spain whose claims had not yet been 'disposed of', and a responsibility to uphold the company against the natives.

The Foreign Office did not have it all its own way, however. The Admiralty was doubtful. The Hydrographer, to whom the First Lord referred the papers, admitted the strategic value of Labuan, and thus of keeping Gaya and the north-west coast free of another power; but doubted the value of Sandakan, which lay on a route not much used even by ships plying between Australia and China.²¹⁹ The First Lord himself thought that Dent and Overbeck should supply more information on their resources, their contemplated revenue, and the powers they proposed to exercise. 'It might be inconvenient if the North West Coast of Borneo fell into hostile or unfriendly hands, but as much could be said of a great many other parts of the world which we do not dream now of occupying.' On the whole he felt 'that no additional responsibility should be accepted by England in respect of this Cession and if a Charter means a Gun boat for protection against any Enemy I should not be willing to give the "countenance and support" which is implied by a Charter'.²²⁰

No decision was reached. But in the East support was indirectly given to the Dent-Overbeck undertaking. Late in September the Foreign Office was told of a telegram from Singapore that announced that Datu Harun, who received a subsidy under the Spanish treaty of 1878, had returned to Sandakan. Dent feared that there would be a raid on the town, and quoted the precedent of the raid on Balambangan.²²¹ The Admiralty was asked to send a ship-of-war frequently to Sandakan and Borneo and gave orders accordingly.²²² In fact the *Kestrel* had already been active. In June 1879 Treacher had reported that Balanini and Ilanun pirates from Tungku were damaging the trade of the coast and the islands.²²³ In August Commander Edwards visited Marudu and Sandakan, and satisfied himself that the Balanini and Ilanun, settled in the villages of Sebat, Taribas and Tungku, kidnapped Bajau fishermen and sold them into slavery at Bulongan and elsewhere. 'The general adoption of steam...., and the vigorous action taken by the Dutch and Spaniards of late years, have caused the pirates to change their mode of operation and they now no longer put to sea in fleets of large praus....' The village of Taribas was shelled and its boats destroyed. Edwards visited the Sultan of Sulu and reported what he had done. The Sultan said he was himself organizing an expedition against Tungku.²²⁴ That expedition was to prove a flop.²²⁵

Early in September Treacher had reported rumours that the Spaniards were raising 'a native force to accompany their gunboats' in an attack on

Tungku.²²⁶ The *Kestrel's* attack may have been designed to anticipate this one. At the same time Treacher reported on Harun's moves. He had been conveyed in a Spanish gunboat to Cagayan Sulu, and then found his way on a prau to Sandakan. His intention, Treacher learned, was to collect duties at Sandakan and then go to Palawan to open up the country. Though this was a less alarmist report than the one Dent conveyed to the Foreign Office, the *Kestrel's* visit may also have been designed to deter Harun from whatever scheme he had in mind at Sandakan. Harun himself told Edwards that he had accompanied two Spanish gunboats to Balabac to suppress a reported insurrection, that the report turned out to be false, and that he had come to see his wives at Sandakan.²²⁷ Pryer's version was that the Spaniards had decided, in view of the British protest, to stop their expedition in Balabac. The Datu came on on his own, but the arrival of the *Kestrel* led him to leave for Palawan, 'quite realising that the game was up....'²²⁸ The Sultan later sent his expedition to Tungku. His attempt, as de Robeck put it, 'to do some good by putting his sovereignty into practice has failed....'²²⁹ There was no active Spanish support, though Martinez told Treacher he would have supplied the expedition with a gunboat if he had been asked.²³⁰ Treacher doubted if even the *Kestrel's* attack had much effect on the pirates, though, while Taribas was quickly rebuilt, the commander of the *Egeria* found the inhabitants more amenable in 1880 than they had been in 1879.²³¹ But the episode illustrated the position in north Borneo: the British authorities were rather indirectly supporting the Dent-Overbeck authorities; the Spaniards, deterred from overt action by the British, had not dropped their claims; the Sultan of Sulu still perhaps asserted his sovereignty; and Harun was playing a double game if not a multiple one.

Salisbury's memorandum for the Cabinet had not discussed the Dutch. But again in September, their vessel, *Macassar*, had visited north Borneo, and the commander had told Treacher that their claims extended to Batu Tinagat.²³² In a debate in the States General the same sort of views were expressed as earlier in the Rotterdam newspaper. Attention had been called to the need to exclude foreigners from the Archipelago. In the case of the Dent-Overbeck undertaking, the Dutch colonial minister 'went so far as to say that if it had been a question of a settlement by the British Government instead of by a private Company the Netherlands Government might appeal to the general tenor of the Treaty of 1824 to show that a common occupation by England and Holland of the same Island in the Indian Archipelago should be avoided....'²³³ Soon after, the Dutch sought an assurance that no decision would be taken 'sans entente préalable avec nous....' Salisbury wrote: 'I do not understand what the Dutch have to do with it....'²³⁴ In his reply, however, he agreed to examine any representation the Dutch might put forward, but made no pledge on the decision that might be taken. Baron de Lynden, the foreign minister, said that he was 'particularly anxious to obtain an assurance...that the decision of Her Majesty's Government, whatever it might be, should be made known to the Netherlands Government, before being communicated to

Messrs Dent and Overbeck....²³⁵ The Dutch, in fact, wanted more than this: before a decision was taken, they wanted a confidential exchange of ideas in accordance with the traditional confidence between the two powers in the Indian archipelago.²³⁶ The Foreign Office stopped well short of such a promise. Bylandt was told that if the Netherlands government was basing itself on the treaty of 1824, the British Government could not depart from Aberdeen's view thereof: it 'recognised no rights over the North East of Borneo except those of the Sultans of Sulu and Brunei, and at present the object of Her Majesty's Govt. was not to do anything in derogation of their rights....' But perhaps the Netherlands government was basing itself simply on the fact that its territory was adjacent to the Dent-Overbeck concessions. In that case, Salisbury said, the British Government would certainly communicate its intention when settled. 'Count de Bylandt used several times the words British dominion and British protectorate and I thought it therefore desirable to state to him that, without prejudicing any question of right, as a matter of fact Her Majesty's Govt. had no present intention of assuming any attitude with respect to that Territory at all corresponding to such phrases....' At the most the Government would not go further than was justified by the precedents of Sarawak or of chartered companies.²³⁷

The Spaniards early in November delivered a further statement on the Overbeck case, appending the Overbeck-Martinez correspondence of July 1878. The statement insisted on Spanish rights over Sulu and its dependencies, based on discovery, conquest, 'universal belief', the additional capitulations of 1850, the treaty of 1851. The protocol did not deny those rights. The Sultan had been in rebellion in 1878: there were rebellions in British India, too. Overbeck had no right to receive a concession; and it was doubtful in any case if he had fulfilled the conditions or paid the price. The treaty of 1763 was unknown to Spain; but it might well have lapsed. Had occupation been real and effective?²³⁸

To this attempt to turn British arguments against Britain, the Foreign Office drafted a reply, of which the Colonial Office approved. Her Majesty's Government could not modify its views of May and renewed its protest especially against Spanish sovereignty over Borneo. The Government 'do not wish it to be understood that in entering this protest they have in view the establishment of any British dominion or rights of sovereignty over any portion of that island....' That was not the reason for quoting the grant of 1769. 'But as an evident result of that conveyance, as well as other more recent engagements, Her Majesty's Government feel bound to declare that if the independence of the Sultan of Sulu in Borneo is to terminate in favour of any European power—an issue which they earnestly deprecate—Great Britain is the only power which possesses a legitimate claim to take his place.' If the territory belonged to Brunei, the treaty of 1847 applied.²³⁹ The reply was sent in January.²⁴⁰

While the decision on a charter was still deferred, other powers—now Holland as well as Spain—were warned off. But in so doing the Foreign Office

gave certain assurances. It was stressed that, for the time being at least, the British Government did not contemplate protectorate or dominion. Salisbury's memorandum for the Cabinet had already referred to the Dent-Overbeck undertaking as acting under the Sultan's suzerainty. The need to appease other powers, if not the source of this emphasis, strengthened it. The main battle would still be won: a chartered company would preserve British interests without establishing British dominion. In the long run, of course, the position, Pauncefote no doubt saw, could change, either simply by the passage of time, or by decision and arrangement, or both. Meanwhile, the failure of the Conservative administration to decide for the charter was succeeded by a period of general political uncertainty and a change of ministry. But at least it had not decided against a charter. Pauncefote continued to devote himself, on the one hand, to fending off other powers and preparing the way for a deal with Spain, and, on the other hand, to securing from the British Government an element of support, if not commitment, to the Dent-Overbeck enterprise.

So far as Spain was concerned, it was necessary both to deny its claims and to prevent its establishment in north Borneo, and to resist its extension in the Sulu archipelago beyond the alleged limits of the protocol. In October Treacher had reported that, according to the Sultan of Sulu's secretary, Martinez had visited the Sultan in September and asked him for a document, 'antedated for the purpose, handing over to Spain His Highness' possessions in Borneo. The Sultan refused....'²⁴¹ In fact it seems that what Martinez secured was a declaration that north Borneo had owed tribute to Sulu since 1105 A.H.²⁴² Consul Pauli suggested the accrediting of a British agent to the Sultan and a Brooke-style treaty.²⁴³ This, of course, was out of the question. Pauncefote considered that Britain 'should rest on the Protocol as regards the Archipelago of Sulu. But as regards the East Coast of Borneo and its appurtenances (Balabac, Palawan, etc.) it would be very desirable to obtain a formal Declaration from the Sultan that he has not ceded those Territories to Spain, and that he engages not to cede them to any Country or Person without the consent of Great Britain.' Salisbury agreed, replacing 'Spain' by 'any European Power'.²⁴⁴ But no instructions appear to have been issued.

Early in 1880 Pauli reported that two Spanish vessels, carrying a letter from the Sultan of Sulu, also carrying his son and various other datus, had hoisted the Spanish flag on twenty-five islands in the Sulu archipelago, and secured an undertaking from the local chiefs to display the flag to every visiting vessel and to cause it to be respected. The islands concerned included the Samales, Tawi-Tawi, and Cagayan groups.²⁴⁵ H.M.S. *Encounter* visited a number of the islands and confirmed that the flags were flying. The Sultan told Captain Denison on 7 April that he had sent the Sulu chiefs aboard only on compulsion.²⁴⁶ He told Treacher that he had not sanctioned the hoisting of Spanish flags, and his agent, Haji Omar, apparently wanted to know if Great Britain would interfere.²⁴⁷

Pauncefote thought that the Spaniards would endeavour to justify their proceedings under the treaty of 1878. But Britain and Germany had 'declined

to recognise the Treaty in so far as it purports to confer on Spain greater rights than were conceded to her in the Sulu Archipelago under the Protocol.... I think we should invite Germany to join in protesting against this hoisting of the Spanish flag over 25 Sulu Islands not being authorised by the terms of the Protocol....'²⁴⁸ The Colonial Office agreed,²⁴⁹ and a despatch to Lord Odo Russell pointed out that the hoisting of flags on the islands whenever a foreign vessel appeared was not in accordance with the protocol since no Spanish authority was established: 'as Great Britain and Germany have declined to recognise the Treaty between Spain and Sulu of March 6, 1878, in so far as it purports to confer on Spain greater rights than were conceded to her by the Protocol', this should not go unnoticed.²⁵⁰ A long silence ensued in Berlin. The German chargé in Madrid said in August that his government was communicating with its agents in the East. He also asked if there were any agreement between Spain and Great Britain over Borneo.²⁵¹ Overbeck, the Spaniards had told him, was in Berlin. The chargé assured them that the German government would not confirm Overbeck's rights, and had no wish to exercise sovereignty in Borneo, but did not acknowledge Spanish claims. He wanted to know what the British position was. The British chargé told him that his government had no wish to exercise sovereignty, had protested against the pretensions of the Spaniards, and had declared that if any power had a claim it was Britain, by virtue of cessions to the East India Company.²⁵²

The Germans, clearly, might be more of a problem in regard to Borneo than the earlier decision merely to keep them informed suggested. Eliot wrote in August that the German remonstrance over the islands, 'if made at all, will be rather out of date. As regards Borneo, I rather doubt whether either Spain or Germany will look upon the proposed Charter to Mr. Dent, as quite consistent with our assurances that Her Majesty's Government do not wish to exercise Sovereignty over any portion of N.E. Borneo.' This Pauncefote dismissed: there was no

inconsistency. H.M.G. have no intention whatever of exercising sovereignty in N.E. Borneo, whether Mr Dent's association is incorporated by Charter, or under the Joint Stock Companies Act. In the former case H.M.G. can impose a control and restraint on the Company; in the latter case it cannot—and in neither case will H.M.G. acquire any rights of governing or exercising sovereign rights over the country, unless they accept from Mr Dent a transfer of his concession, which they do not propose to do.²⁵³

As these proceedings suggest, Pauncefote had, on the formation of the Gladstone ministry in April, again taken up the cause of the Dent-Overbeck undertaking.

Yet a further power had meanwhile become involved. In February Commodore R.W. Shufeldt of U.S.S. *Ticonderoga* had called on W.H. Read, agent of the undertaking in Singapore. The U.S. government, he declared, did not acknowledge the competency of the Sultan of Brunei to cede or lease to individuals or companies any part of his dominions in disparagement of his treaty with the U.S., 'and this notwithstanding the fact that one of the Companies which obtained grants of territory in Borneo was called the

American Trading Comp^y....²⁵⁴ Then the *Ticonderoga* proceeded to Labuan. Shufeldt discussed with Treacher the extent of the Spanish claims and the status of the Dent-Overbeck concessions. 'I informed him that I knew nothing whatever of the intentions of Her Majesty's Government in the matter, but I instanced Sarawak, and suggested it was possible that the new Company might be treated in a similar manner. He replied, very emphatically, that he did not think so, and it would have to be a government affair....' The U.S. view, Treacher reported, was that the concessions could not be acknowledged

on the ground, apparently, that those parties enjoy exclusive privileges and advantages with respect to commerce and the right to trade and also levying taxes and duties and otherwise exercising sovereign powers, and denying to others the full liberty heretofore enjoyed of acquiring property, residing in, trading with, and passing with their merchandise through *all parts* of His Highness' dominions,

secured to U.S. citizens by the American treaty with Brunei of 1850. The U.S. would not have objected to a cession to a recognized sovereign power, for then the treaty might have been modified accordingly. Treacher seems to have assisted the Sultan of Brunei in preparing a reply to Shufeldt's complaints. It pointed out that U.S. treaty of 1850 did not contain the same stipulation against cessions as the British treaty of 1847, and that the U.S. had not objected to the subsequent Sarawak cessions nor the Moses-Torrey cession of 1865. This reply, Pauncefote said, seemed 'conclusive'.²⁵⁵ The U.S. President responded to it by expressing the hope that the Sultan would not grant exclusive privileges in conflict with the treaty.²⁵⁶ But there was no formal American protest to Britain. 'We have had no complaint nor any communication, on the subject', Pauncefote was to write in 1882.²⁵⁷

At the Colonial Office de Robeck had written in May 1880 that the U.S. objections were 'in some respects...similar to Colonial office objections'. 'The United States join the Spanish the Dutch and the Colonial Office in their protests', Meade agreed. 'We do not know whether the F.O. have recognised Messrs Dent and Overbeck, but should imagine that no definite step has been taken unless just as Ld. Salisbury quitted office.' Ebden spoke to Pauncefote.

He says that Overbeck is returning.... Otherwise matters are in statu quo. Shortly before Lord Salisbury left office Dent and Company pressed him for a letter to the effect that in the opinion of H.M.G. the Sultan was justified in making the concession or that the concession was valid. Lord Salisbury had no doubt upon the point but left the matter for his successor. Sir Charles Dilke is now going to take it up.²⁵⁸

Dent's letter, written in April, had alluded to the further delay likely to result from a change in ministry. It sought, pending a charter, assurances from Her Majesty's Government, in order to relieve 'the uncertainty of our present position', and resolve 'the doubt ruling at Sulu and Brunei as to the attitude of Her Majesty's Government towards us....' Alcock called at the Foreign Office, and Pauncefote recommended meeting Dent's requests: 'we have already for political reasons supported his title as against the pretensions of

Spain and Holland....' But Salisbury declined: 'I think this should not be decided by an outgoing Government.'²⁵⁹ Pauncefote had, however, enjoyed one success before Salisbury left office. 'Now that we have disposed of the Spanish and Dutch pretensions', he had written in January, 'I would suggest that Mr Pryer be restored to the functions of Consular Agent....' This was now done. Pauncefote argued that this would 'negative any ideas of British annexation....'²⁶⁰ But clearly it meant support for the company. Indeed, when the agent at Papar, A.H. Everett, fell out with the local Bajaus, Pauncefote suggested that it might 'by and by' be 'desirable' to give the other residents the same status as Pryer, 'as it will afford them security while rebuffing any presumption of annexation....'²⁶¹

A further effort awaited the installation of the Gladstone government. Of it Dent may have had doubts: even its Conservative predecessor had not given him all that was necessary, despite Pauncefote's efforts. During April he offered to sell out to Overbeck if the latter could raise the money,²⁶² and, subsequently, as the German charge in Madrid had indicated, Overbeck tried to interest German capitalists.²⁶³ Sir Steven Runciman suggests that Dent was afraid that the Liberals would not help him,²⁶⁴ while L.R. Wright suggests that his action was a device, possibly known to Pauncefote, to press the Liberals to help him²⁶⁵—the sort of device, perhaps, Edward Dent had written of in 1878. But the offer may also have resulted from continued differences between Overbeck and Dent over the buying out of the former, an operation not yet, *pace* Pauncefote, concluded. Dent's offer was preceded by a letter from Overbeck suggesting that their differences could be reduced either by Dent's buying out Overbeck, or Overbeck's buying out Dent.²⁶⁶

At all events Dent called on Pauncefote and referred to Salisbury's reply to his earlier request. He had spent £40,000, he declared, and if the Government would not support him he would reluctantly have to dispose of his concession. There were rumours of a German company, and Spain and Holland, even Russia, might be interested. But in what Dent called 'a *powerful memo*',²⁶⁷ urging a decision on the Liberals, Pauncefote insisted that no difficulty would occur with other powers, even the U.S., if no annexation took place.

The F.O. and the C.O. concur in the opinion that although it is not desirable that a British Protectorate should be established over this territory, it is of great importance to British interests that no foreign Power should obtain possession of it, or indeed exercise any influence there. This applies notably to Spain.... The only practical mode (short of British annexation or Protectorate) of excluding the influence of Foreign Govts. ...is to secure its *occupation* by British Subjects under such a concession as is held by Mr Dent....

The long delay, and rumours of difficulties with Her Majesty's Government, led Dent to think that a joint stock company could not carry out the scheme. But a syndicate of wealthy friends would go ahead if granted a charter, and Overbeck would retire. This, Pauncefote thought, was the proper way to deal with the case, not only in the interests of the association, but also in those of

Great Britain. Conditions could be inserted in a charter securing the Government 'against any political difficulties. It is clear that so long as the territory is not annexed by Great Britain, (and such intention has been officially repudiated)..., no difficulty need be apprehended from any Foreign Power, except so far as any Treaty Rights which they may claim in the territory, should be infringed by the new Proprietors....' To obviate this a clause might be inserted binding the company to obey the Secretary of State's directions as regards relations with foreign states. Other clauses could be included as in Dent's statement of 1878. And as for jurisdiction, it could be exercised under the Foreign Jurisdiction Acts; or it could be exercised in the name of the Sultans, 'under whose Suzerainty they hold the territory, as in the case of Raja Brooke at Sarawak....'²⁶⁸

The scheme clearly involved some measure of British responsibility. Pauncefote had all along tried to play it down. As Tenterden put it, however, 'if a Charter is granted we shall have to protect the Company in the exercise of its rights under it....' But he admitted that it was 'desirable to encourage English enterprize and to prevent this territory falling into foreign possession',²⁶⁹ Sir Charles Dilke, the Parliamentary Under-Secretary, rather hostile when in opposition, was doubtful. Pauncefote told him that he did not consider that the grant of a Charter will give the Company any greater claim to the Protection of H.M. Ships than they would be entitled to expect if they were simply constituted under the Joint Stock Companies acts, or that they expect any further Protection than is usually accorded to British Subjects resorting to uncivilized Regions such as the Oil Rivers on the West Coast of Africa; and if thought desirable a declarn, to that effect can be inserted in the Charter.²⁷⁰

The question went back to the Colonial Office. There Kimberley, once more Colonial Secretary, once more dismissed the question of possible injury to Labuan. The question was whether the inconveniences earlier pointed out by the Colonial Office were 'outweighed by the inconvenience which would be caused by this territory falling into the hands of another European power, and by the advantages of a fresh outlet for trade'. Normally, Kimberley wrote, 'I should look with comparative indifference on acquisitions of territory by foreign powers in the East, but I do not feel certain that this case is not an exception....' Possible occupants included the Netherlands. But under the convention of 1871, 'we have lately given over to the Dutch all Sumatra, and I should be sorry to see a further extension of their power'. Nor was it at all for Britain's advantage 'that Germany should intrude herself into these regions. Her policy is Protectionist. She is not a weak state like the Netherlands whom we can easily influence, and her presence near the Malay Peninsula might seriously weaken and embarrass our position by unsettling the minds of the natives.' As for Spain, 'I think there is no power whose territorial extension in the East is less desirable. We have recently resisted in a peremptory manner her claims in the Sulu Archipelago and it would be very inconsistent to let her set foot in Borneo. She is intensely illiberal and Protectionist, and will shut out our trade wherever she can....' Lastly there was Italy: a non-penal colony

might not 'do us any special harm'. Another problem mentioned by the Colonial Office had been the 'difficulties of administration'. But 'the success of Sarawak' showed that 'the natives of Borneo can be managed by a few Englishmen' Thus 'I do not think the general objections to an English Company undertaking to govern this portion of the Sultan's territory are insuperable, if any extension of our responsibilities in the East is held to be admissible'.²⁷¹ Since he had previously dealt with the matter, Kimberley's views on Spain, and perhaps on Italy, had not changed. He had become more hostile to the Dutch, perhaps because of the Acheh war. He had become more hostile to the Germans, too, who had in 1879 become more protectionist,²⁷² though he had always been nervous over their or others' proximity to the Peninsula.²⁷³ Kimberley ended by modifying the earlier Colonial Office opposition to chartering the Dent company, while adhering to its long-standing opposition to the establishment of foreign powers in northern Borneo. Dent became confident. He wrote to R. B. Read in Singapore: 'it is now settled that we are to have a "non-political" (!) charter....'²⁷⁴

The Foreign Office indeed now referred Dent's application to the Law Officers. Apart from its awareness of the advantages in opening new outlets to British trade, the Government, they were told, did not wish the area to fall into the hands of other powers; nor did it wish to increase its 'responsibilities in the East by the annexation or protectorate of new territories, which, moreover, in the case of North Borneo, could hardly fail to excite political jealousies....' It thus favoured the Dent application. Was there any valid objection in international law to an association 'as the governing power over these territories under the grants from the Sultans...'? The Americans had claimed that the grant was in disparagement of Balestier's treaty, but had not objected to grants to Sarawak. If there were no objections to an association of this sort, was there any objection to giving the company a charter, which would 'declare the recognition by Her Majesty's Government of the validity of the cessions made to it by the Sultans, and...secure a power of control over its proceedings', especially in regard to foreign states and their subjects?²⁷⁵ The Law Officers saw no objection. But they thought that the clause binding the company to obey the Secretary of State's instructions on relations with foreign states might be modified: otherwise the British Government could hardly 'avoid responsibility to foreign Powers for the acts of the agents of the Association....' Instead there should be a clause providing that Her Majesty's Government might object to any of the company's dealings with foreign states, and binding the company to take notice of any suggestion founded on such objection. Pauncefote suggested reference to Colonial Office. Lord Granville, the Foreign Secretary, agreed, and added, 'circulate draft to Cabinet'.²⁷⁶

Dilke had told Granville late in July that he was 'getting nervous' about the charter. 'I've told Pauncefote that Dent has told an M.P. that he has got his Charter!...I don't object to the Charter but I'm nervous because it will not be

an easy thing to defend in the present H^o of Commons....²⁷⁷ In September he wrote that Gladstone's attention should be called to the draft about to "go round" the cabinet, 'professing to give a Charter to the North Borneo Company, as it may cause trouble with the Dutch and with the House of Commons. I am not opposed to it myself.'²⁷⁸

The opinions of the Gladstone Cabinet were obtained during October. As Dent, informed no doubt by Pauncefote, was to put it, the bigwigs were in favour, some 'Ultra Radicals' opposed.²⁷⁹ Harcourt feared 'difficult complications', 'obvious embarrassments', and 'ultimate annexation'. Chamberlain agreed with Harcourt, and thought 'serious objections' would be taken 'by Liberal members below the gangway'. Granting the charter, Childers suggested, would risk 'complications with three Foreign Governments' and 'injury to our Colony of Labuan'.²⁸⁰ At this point Pauncefote observed that Gladstone, Hartington, Forster, and Northbrook had, on the other hand, 'made no objection'. He suggested that the papers should next go to Kimberley, 'as he may like to express his opinion before they go further....'²⁸¹

The Colonial Secretary duly supported the charter. 'The N.W. part of Borneo must fall under the influence of some civilised Power....' The Dutch pursued

a very monopolising exclusive commercial policy.... The Spaniards are thoroughly hostile to our trade, and we have already decided that we are opposed to the extension of their dominion in Borneo.

The Germans would be a too powerful neighbour, and their presence in Borneo would exercise a disturbing influence in the Malay Peninsula, our position in which would be unfavourably affected by the establishment of any of the three States I have mentioned in N.W. Borneo....

The complications to be apprehended with regard to Spain and the Netherlands were not serious. Britain had made 'most liberal and extensive concessions to the Netherlands seven years ago as to Sumatra. We have never admitted that Borneo came within the scope of the Treaty of 1824....' It was 'improbable that after the recent correspondence about Sulu' Spain would interfere, 'and she has quite enough to do to justify her high-handed proceedings in the Sulu Archipelago without interfering with us....' Probably the U.S. would not cause difficulty, provided that 'American trade is treated on the same footing as other trade....' Sarawak's example showed that 'the natives are easily managed....' There would be advantages to British trade. Labuan was 'worth really nothing except for its coal mines. Considering our position in the Malay Peninsula on the one side, and Australia on the other', a footing in north Borneo was important, and the opportunity of obtaining it should not be lost.²⁸²

Selborne agreed: Britain would incur no more responsibility than by acknowledging the government of Sarawak. Bright did not accept this parallel, and felt that a company might bring about pressure difficult to resist in support of 'objects in which Government and Country are really not interested....'²⁸³ Pauncefote asked if the papers needed to go to Lord Spencer,

who was in Ireland. Otherwise he thought that the proposed draft to the Colonial Office should proceed. Granville initialled this suggestion. Dilke seems, however, to have proposed sending all the papers to Gladstone again. Granville asked to be given them for the next Cabinet. An undated pencil note in Dilke's writing follows this in the records, and reads: 'Mr Gladstone decides that it is to go on, but did not write. Ld. Granville directs that it is to go on.'²⁸⁴

The draft went ahead on 22 November, and the Colonial Office agreed on 3 December that Dent should be told that Her Majesty's Government was willing to grant the application.²⁸⁵ He was told on 12 December.²⁸⁶ The charter was to be drafted by Dent's lawyer, and submitted with a petition for the charter to the Council Office. Then it would be referred to the Foreign Office and the Law Officers. At that point, Pauncefote suggested, a copy could be furnished to the Dutch government, about which Granville had asked. 'I have verbally informed Count Bylandt of this and he seemed satisfied....'²⁸⁷

Before this process was completed, the Dutch in April 1881 raised strong objections. At this juncture, it seems, Dilke suggested that the papers on the Netherlands position should go round the Cabinet. 'The decision to grant the Charter was strongly opposed in minutes by several members of the Cabinet. There is likely to be trouble with it in Parliament.'²⁸⁸ The draft charter, wrote Pauncefote, was before the Council Office. Then it would go to the Law Officers and to Count Bylandt. 'The Papers will then be in a proper shape to submit to the Cabinet.'²⁸⁹

The Council Office referred the draft charter to the Colonial Office in May. John Bramston, its legal expert, had at first found it hard to understand, for the 'territory would seem to have been alienated by the Sultans of Brunei and Sulu [—] both the possession and the sovereign rights over it, and yet it had not become British....' But perusing the papers, 'I perceive that F.O. hold that the Sultans are suzerains over the Company....' Certain problems remained. Could British subjects acquire sovereign rights except from the Queen? If Her Majesty recognized the grants, was she thereby becoming sovereign of north Borneo? The point had not apparently been put to the Law Officers. The only precedent was Raja Brooke, 'and I was under the impression that F.O. had ignored him so as to avoid the inconvenience of recognising him....' Herbert commented: 'The Sultan purports to *delegate* his sovereign rights in consideration of an annual payment, and not to cede them absolutely, and I conclude that this has been considered to prevent the full sovereignty from vesting in a British subject....' Kimberley thought it 'very unfortunate' that the Colonial Office had not raised 'these questions of prerogative' before concurring that the charter should be granted. The matter should, however, be mentioned to the Foreign Office.²⁹⁰ Herbert privately told Pauncefote that Bramston's points seemed to be 'mare's nests'.²⁹¹ He, of course, agreed:

it was clearly explained to the L.O. ...that the territory was to be administered by the Company 'under the Suzerainty of the Sultans of Sulu and Brunei' from whom they hold it as Lessees paying rent or tribute, as in the case of the Raja of Sarawak.

No question arises therefore of the territory vesting in the Crown, as is the case when

British Subjects take possession of a territory not claimed by any Government and to which the Crown may desire to assert a title....²⁹²

This stance Pauncefote found useful, not only in regard to other powers, but also in regard to the last Meade-style objections of the Colonial Office. His view was confirmed, however, by the Law Officers: Her Majesty would not become sovereign by granting the charter; the Sultans would be suzerains.²⁹³

The War Office, also consulted, asked 'whether the British Government would be expected to undertake the Military Defence of the territory ..., which apparently will vest in the Company in full Sovereignty....' Pauncefote repeated that the territory would 'remain under the Suzerainty of the Sultans....' The company was to receive 'such protection to life and property as is usually afforded to British Subjects in uncivilized places out of H.M. Dominions....'²⁹⁴ The Admiralty's comments related to unsettled boundaries with the Dutch and to the omission of Balambangan from the cession.²⁹⁵ Boundaries would be settled under a clause of the charter, Pauncefote wrote, and Balambangan borne in mind.²⁹⁶ After also considering a communication from the Netherlands government,²⁹⁷ the Council approved the charter by an order of 26 August.²⁹⁸ The committee of the Council included Granville, Spencer, Northbrook, Kimberley, Childers.²⁹⁹

Earlier Pauncefote seems to have envisaged the charter's going to the Cabinet again. It had not done so. Perhaps it is not surprising that Dilke became more restless than ever, though still somewhat ambivalent. He had opposed it when in opposition, he reminded Granville in December; he agreed not to oppose it if the new Cabinet approved it. In August Spencer had asked him if the Borneo charter were "'in a great hurry'", and said he had not heard of it before. 'I now hear that Mr Gladstone also never in fact had his attention called to it.' Dilke did not wholly oppose the charter: Spain had no rights, and Gaya should not go to a foreign power. But these were not sufficient grounds for a defence of the charter in debate; and he felt that he could not defend it.³⁰⁰ Granville sought a reference to a Cabinet discussion. But none could be found in Gladstone's reports to the Queen.³⁰¹ Kimberley was certain that it came before the Cabinet, and that the opposition was 'not very strong'.³⁰² Granville's reply to Dilke quoted his memorandum of September 1880 and referred to the minutes of the Cabinet members, and to Spencer's being out of town. He also said that, as the minutes revealed a difference of opinion, he had brought the matter before Cabinet and, after discussion, Gladstone had summed up in favour. He quoted Dilke's minute — 'Mr Gladstone decided it is go on...' — as 'probably written at the time....'³⁰³ Dilke replied that he felt that the business could be justified from a Foreign Office point of view — vis-à-vis Holland and Spain — but doubted it 'on the English or Colonial ground.... I thought I had done all I could do when Pauncefote told me that after the Cabinet you went into his room and said "Mr Gladstone agrees, and the matter may go forward"....' But the position was changed when he found that it was 'doubtful whether any member of the cabinet in the commons is in favour of the charter....'³⁰⁴ It seems possible,

indeed, that there was no formal Cabinet discussion; that what Kimberley and Granville recalled was the minutes; that the decision rested upon the minutes; and that at most Granville and Gladstone discussed the matter *en passant* before or after a Cabinet meeting—and even that appears to rest upon Pauncefote's statement.

Gladstone, moreover, could not remember the episode. Dilke sent Gladstone a copy of his letter, and Granville told the Prime Minister his facts were wrong.³⁰⁵ 'I have in vain striven to recall to my mind any of the arguments upon it', Gladstone wrote. Late 1880 was, however, 'a most anxious time, and this may account for the faintness of my impressions....'³⁰⁶ Further papers could still 'revive' no recollection of the proceedings in the Prime Minister's mind. He presumed it was done at the Cabinet of 25 November 1880, as that was the only one between the Foreign Office letter of 22 November and the Colonial Office reply of 3 December. He was apprehensive about the responsibility Great Britain would incur.³⁰⁷ Pauncefote told Granville that the Prime Minister's letter was 'satisfactory'.³⁰⁸ The Foreign Secretary stressed in his reply the anxiety about Ireland in November 1880, and played down the responsibility involved.³⁰⁹ Twenty-five November may indeed have been the occasion of decision: Dent wrote to R. B. Read the following day that he had heard privately that the Cabinet had agreed to grant the charter.³¹⁰ But it may not have been the result of Cabinet discussions.

Dilke tried to get over the Parliamentary difficulty. He talked to Pauncefote, and suggested including in the Blue Book a long expository despatch to the ministers at Madrid and The Hague.³¹¹ This Pauncefote drafted in the latter part of January.³¹² Though the dates do not correspond, this is presumably the origin of the despatch to Sir Robert Morier in Madrid of 7 January 1882.³¹³ The Government and the charter survived the debate, which came in March.³¹⁴ Whatever effect it had on that, the despatch was later used in the twentieth-century debate between Great Britain and the Philippines. It recapitulated the circumstances under which the Government agreed to the charter and explained its legal effect. 'North Borneo lies in the fair way of an immense British maritime trade between China, Australia, India, and the United Kingdom. Its occupation by a foreign Power would be a source of disquietude to this country....' Hence, the despatch argued, the clauses in the treaties of 1847 and 1849, the protest of 1852. But by the charter, the despatch insisted, the Crown 'assumes no dominion or sovereignty over the territories occupied by the Company, nor does it purport to grant to the Company any powers of government whatever....' Sovereignty remained vested with the Sultans, the despatch repeated.

Pauncefote had not entirely succeeded in dismissing the opposition of other powers. Indeed, inasmuch as the scheme was designed to keep them out of northern Borneo, that could hardly be expected. But he argued that a chartered company would in effect achieve this while not only minimizing the risk of British involvement with natives, but also, he increasingly stressed, the opposition of other powers. He had overcome opposition at home to a

charter—from the Colonial Office, from some elements in Parliament and the Cabinet—even before a final resolution of difficulties with foreign powers. With the charter, negotiations with them were put on a different footing. Having used the argument over foreign powers to help secure the charter, he was now in a stronger position to bargain. The Spaniards were soon to accept the Reilly compromise; the Germans finally agreed to put up with it; the Dutch objections continued, but continued to be overruled. A settlement of the Dutch frontier followed only after the establishment of a British protectorate. To this, despite earlier assurances over its current intention, the British Government quickly moved, pushed by the fear that Brunei would collapse altogether and others intervene.

The Protocol of 1885

So far as the Dutch were concerned, there were two issues: the status of the Company and the boundaries of its territory. In the East they staked out their claim over the latter. In September 1879 the *Macassar* hoisted their flag at Batu Tinagat.³¹⁵ Baron Verschuier, the commander, considered the mouth of the Sibuko, the boundary of the Sulu concession to Dent and Overbeck, was south of the Dutch boundary. According to Commander Johnstone of H.M.S. *Egeria*, Batu Tinagat was indeed at the north point of the northern mouth of the Sibuko, and the Tawau, where the Dutch had placed a flag, was a tributary of the Sibuko inside Batu Tinagat. Captain Wickers of the Dutch ship *Atjeh* considered Tawau and Batu Tinagat as the Dutch limits, on the basis of the claims of their vassal, the Sultan of Bulongan.³¹⁶

Late in 1879 Salisbury had undertaken to communicate with the Netherlands government in Europe when Britain's intentions over the company had been settled. When Pauncefote revived the question of a charter in July 1880, Dilke thought Bylandt 'had better be sounded before a charter is issued',³¹⁷ and complained that Dent regarded the matter as a *fait accompli*. In fact, after Kimberley's favourable comments had been received, the Netherlands minister had been told 'that it had been decided to grant a Charter of Incorporation to a British association in course of formation for the development of the resources of the northern part of Borneo under certain territorial grants acquired from the Sultans of Sulu and Brunei by Mr Alfred Dent....' The charter would 'have no political character....' The communication was made on the ground of neighbourhood. Bylandt thought that the Dutch had 'a right to claim an interest in Borneo', and to be informed of all the British Government's proceedings. Granville replied that it was 'unnecessary' to enter this discussion, 'as the communication I had just made to him involved no political considerations such as would flow from the annexation or Protectorate of the Country by Great Britain....'³¹⁸ Bylandt's request for detailed information about the charter was declined on the ground that it had not yet been drafted. 'We don't recognize the right of the Dutch to meddle in this matter', Pauncefote wrote.³¹⁹

A despatch from de Lynden de Sandenburg, communicated by Bylandt early in August, expressed great regret that a decision had been taken despite his request for prior consultation and *entente préalable*. Eliot noted that the matter had in fact been referred to the Law Officers.³²⁰ Pauncefote saw Granville, and the Foreign Secretary saw Bylandt again. 'I told Count Bylandt that I saw no use in going over the old ground as to whether the Dutch Gov. could claim to be informed of any proceedings of H.M. Gov. in regard to Borneo....' As 'a matter of courtesy', he would inform Bylandt of the tenor of the charter before it was accorded.³²¹ De Lynden told the British minister in The Hague that he needed timely information because politicians in the States General were alive to any supposed slighting of Dutch rights. But he expressed himself satisfied with Granville's statement, 'supposing that the intended Association will be purely Commercial and have no political character....'³²²

In October he had a further conversation with Stuart, covering boundary as well as status. So far, the Dutch foreign minister said, he had no information of the nature or extent of the concession, nor of the charter; and, he again stressed, he wanted timely information, 'as the establishment of an European Settlement in the immediate neighbourhood of Netherlands Territory in Borneo might be a matter of considerable importance' to Dutch interests. The Netherlands government, he said, respected the independence of the Sultans of Sulu and Brunei, but thought it important that it should be recognized by other powers. Without information, 'it was impossible for him to feel certain that those Sultans might not have ceded some of their Sovereign rights, or even that they might not have included some of their Neighbours rights in the concession'. Another doubt in the Baron's mind was whether the British Government 'might not by their charter encroach upon the rights of the two Sultans....' He regretted he had not been treated with more 'friendship' and 'confidence'. The Dutch, Pauncefote commented, 'don't like the Progress of their annexations northwards being stopped. I think some of Baron Lynden's remarks are almost offensive considering that they have no Treaty right to interfere in the matter....' Stuart was told that the charter was not yet sufficiently prepared for showing to the Dutch.³²³

The reports received from the East and Hertslet's comments upon them only confirmed Pauncefote's views. The Dutch claim in 1846 did not go beyond the Atas, 3° 20', the Librarian wrote. Subsequent maps advanced the territory north, but the claim to sovereignty as far north as Batu Tinagat was raised only in September 1878.³²⁴ When Dent was told in December 1880 that the charter would be granted, and the Admiralty asked for instructions on 'the line to be taken', Pauncefote recommended that it should be told that the Dutch claim would be arranged between the British and Netherlands governments. Meanwhile Dutch proceedings north of Sibuko should be watched. Generally the Commander-in-Chief should afford British subjects 'protection to life and property', but refer home by telegram 'where there is the possibility of conflict or difficulty with a Foreign Power....'³²⁵ The Admiral was told to watch Dutch proceedings on and north of the Sibuko.³²⁶

Dent, Alcock, Pauncefote and Hertslet discussed the boundary issues in January. 'There can be no doubt', wrote Pauncefote, 'that since the Cessions to Mr Dent became known, the Dutch have put forward preposterous claims to part of the Territory ceded, without any show of Title whatever, and in conflict with their official Publications....' The question would have to be settled between the two governments. 'When we show them the draft Charter we should be prepared to call on them to substantiate their new claims or for ever hold their peace....' 'Yes', said Granville, '—but please remember the promise that the Dutch should see the charter before it was decided.'³²⁷ Treacher brought up the Belcher treaty with Bulongan. But this, Hertslet said, was of no value. The territory belonging to the Sultan was south of the Atas. Though the treaty was hardly a treaty, it might have been used to show Bulongan's independence in 1845. But 'Bulongan is quite outside the present Question....'³²⁸ Neither Pauncefote nor Hertslet was quite accurate. *Pace* the former, Dutch moves preceded the cession of 1878, as the *Egeria's* visit of 1876 had shown, but the British had failed to object. What was in question was the Bulongan claims over the Tidong lands, and Hertslet was wrong here. But it was true that the claim to Batu Tinagat was asserted only in 1879. For Pauncefote at least, the spirit was in any case more important than the letter.

While the charter was still under discussion, the Dutch obtained copies of the grants made by the Sultans and found, so de la Sarraz told Bylandt, that they conferred 'le droit de souveraineté le plus absolu'. This renewed their apprehensions. If Dutch inquietude were to be removed, a charter granted to a company with such grants would have to be 'd'une portée très restreinte et redigée de façon à enlever clairement et incontestablement toute signification politique aux entreprises en question....' Bylandt reminded Granville of his promise.³²⁹ Of this, in fact, the Foreign Secretary had just reminded Pauncefote.

The next Dutch move, made in April, still preceded the promised communication of the charter. Bylandt had secured several documents from Dent, 'redigées évidemment sous l'empire d'un ordre des idées entièrement différent de celui dont votre Excellence s'est inspirée dans ses conversations avec moi', as he told Granville. There was the boundary issue. The concession extended to the Sibuko; but the Dutch claimed it as part of the Tidong tributaries of Bulongan, and also the islands of Tarakan, Nanukan, and Sebatik. There was also, more important, the question of status. The draft charter included provisions for the British Government's approval of principal Company appointments; for the exercise of extraterritorial jurisdiction by the Company; for the British Government's assuming responsibility in any conflicts between company and foreign nationals. Such provisions hardly supported the concept that the company was purely commercial. The provision that the company could not dispose of the territories to third parties without British consent assumed jurisdiction between the native princes and the concessionaires; and gave the British Government not only the role of protector of the company, but of its

representative vis-à-vis foreign governments: 'il existe un droit de souveraineté occulte, déguisé, de la Couronne Anglaise sur les territoires de la Société....' The terms of this communication Pauncefote thought 'quite unwarrantable and offensive'. The Netherlands government deserved 'a "setting down"....' It had no right to oppose even annexation.

We have told them that neither an annexation nor a Protectorate are intended, but it is clear that we intend to protect the Company in the exercise of its legitimate rights and the enjoyment of its territorial possessions, and per contra, to reserve a Control over their Proceedings in the interests of the native population, and on questions that may arise between them and foreign Govts.

Count Bylandt's letter however assumes the right of his Government to take exception to any assertions of authority in those territories and accuses us of deep and occult designs.

He should be asked to withdraw his letter as 'premature' and 'unwarrantable'. The Dutch foreign office had become 'most arrogant obstinate and offensive....'³³⁰ Pauncefote's protest was perhaps especially bitter because Bylandt's accusation contained a measure of truth. But he had his way. A very much more moderate note was substituted. The close contacts of the two countries, rather than Dutch treaty rights, were alleged as the motive for the communication. The charter, it stated, seemed likely to give the Company 'dans une certaine mesure une signification politique....'³³¹

Late in July, following the Foreign Office's receipt of a favourable opinion from the Law Officers, the draft charter was referred to Bylandt.³³² The Dutch, repeating some of their withdrawn despatch, pointed out that the Sultans had ceded Dent rights of sovereignty, and that the charter prohibited their transfer to others without British consent; that it provided for compulsory reference to the British Government of disputes between Sultans and concessionaires; that it gave that Government a right to impose a certain direction on the Company's transactions in relation to natives and foreign powers; that it envisaged the Company's employees exercising jurisdiction in the name of the Queen; submitted the nomination of the chief authority and approval of the flag to the British Government; and allowed it to be involved in negotiations between the Company and third parties over the limits of the concessions. All this was hard to reconcile with the intention that the enterprise should have no political character: the 'immixtion constante' of the British Government amounted to the exercise of sovereignty. The treaty of 1824 had been designed to avoid 'la confusion d'influences Européennes dans l'archipel Indien'; but the hybrid position in north Borneo was likely to give trouble. Moreover, the concessionaires had misunderstood the Dutch frontier.³³³ Pauncefote, of course, denied that the charter militated against the assurances given by Salisbury and Granville. 'The violence with which they attack the undertaking is due to the fact that had they been more awake to their own interests they might have secured the territory themselves and that they will no doubt be reproached in their chambers with having been asleep....' Britain should reply that the Company would operate under the

suzerainty of the Sultans, 'to whom they have agreed to pay a yearly tribute.... The British Government assumes no sovereign rights whatever in Borneo, and indeed the charter contemplates the appointment of British consuls in the territories of the Company.' But while it approved of the undertaking, it required certain guarantees and imposed certain controls. One provision in the charter simply repeated the provisions of the treaty of 1847. Others aimed at obviating political difficulties, ensuring proper administration, and settling the boundary question.³³⁴

No reply was sent to the Dutch, but the charter was issued, and indeed published in the *Gazette*. Rochussen told Stuart he was 'greatly disappointed and depressed....' Publication without explanation was 'likely to produce a painful impression', and to have 'an injurious effect' upon the government's position in the States General.³³⁵ Pauncefote repeated that the attitude of the Dutch throughout had been 'most unjustifiable'. Their views were considered by the Privy Council and 'overruled'.³³⁶ A reply was now sent, based on his earlier minute.³³⁷ The Dutch still sought to argue that the spirit of the treaty of 1824 was incompatible with the establishment of British authority in Borneo. In their reply, therefore, they accepted, in this context, British assurances over sovereignty.³³⁸ 'We should have the last word....' wrote Granville, 'showing where they are wrong, reserving our rights, but courteously repeating our assurances.'³³⁹ A reply to Bylandt denied that article 12 of the treaty of 1824 applied, but insisted that the charter did not 'in any way imply the assumption of Sovereign rights in north Borneo....'³⁴⁰ The date on the reply was the same as that affixed to the despatch to Morier, 7 January 1882.

In a note of May Bylandt shifted to the boundary issue. The reference to the line 3° 20' N. in the decree of 1846—on which the British had based their comments—was suppressed in the final notification in 1849, and correspondence presented to the Second Chamber indicated that the Bulongan lands extended up to 4° 20'. The official journal of 1877 established that Tidong and the three islands came under Bulongan.³⁴¹ Hertslet stressed that the new Bulongan treaty was made in July 1878—after the concessions—and communicated only in 1880.³⁴² The British thus insisted that the Dutch arguments did not validate a boundary claim beyond 3° 20'.³⁴³ The Dutch in reply insisted on their claim up to Batu Tinagat.³⁴⁴

Alcock suggested late in December 1882 that Dutch and British commissioners might meet on the spot and draw a boundary line. The idea was put to the Dutch: as an alternative arbitration was suggested.³⁴⁶ No reply ensued, and Pauncefote took up Alcock's new suggestion that there should be a 'compromise' settlement on a line of latitude, for example 4°, perhaps additionally desirable because of the uncertainty of the course of the rivers.³⁴⁷ A ministerial crisis foreshadowed delay: any Netherlands government would 'probably require some time for deliberating upon a proposal involving the abandonment of a Post upon which the Dutch Flag has been planted for nearly four years'.³⁴⁸ In fact a reply came promptly. Stuart had been 'afraid from the first that if we got an early answer from the present Ministers, it

would be a refusal'.³⁴⁹ The Netherlands government, unlike the concessionaires, was not uncertain of its frontier: there was no call for enquiry on the spot. Nor could it sacrifice its rights by agreeing to the proposal for a compromise.³⁵⁰

Bylandt and Pauncefote had rather a heated discussion. The former insisted that the British had no right to interfere, 'as North Borneo was not British territory, and their dispute was not with us, but with a private association....' Pauncefote insisted that Britain 'had the right to protect British Subjects', and that the Dutch could not at once refuse to negotiate with Britain because it had *no locus standi* and with the Company because it was commercial. Bylandt hoped Granville could make some new proposal: 'public feeling was greatly excited in Holland....' 'This is not at all a pretty quarrel as it stands', wrote Granville. 'The Dutch are obstinate and shrewd. They are aware that it would be very difficult for us to go to extremities in favour of the Borneo Co. Cannot the latter make a bargain with them, or could we in any way get the Germans to help us?'³⁵¹ A further note from Bylandt restated the Dutch case. It argued that the decree of 1846 was based on the idea that Tidong was independent; but in 1849 it was discovered that the Bulongan chiefs claimed the islands and rivers up to and including Sibuko. This was incorporated in a Bulongan contract of 1850, not communicated, since Bulongan was deemed to be part of Berau, already part of Dutch dominions.³⁵² The next step was in the East. But it was possibly an attempt to provoke a settlement.

The Austrian explorer Witti had been murdered apparently in debatable territory.³⁵³ The month after Granville's despairing minute, the Directors instructed Treacher, now Governor of North Borneo, to take steps to punish the murderers, exploring the Sibuko at the same time, and protesting against any Dutch objection.³⁵⁴ Treacher was also instructed to investigate the independence of Bulongan: had the Sultan of Sulu ever recognized it? Belcher made treaties with Gunung Tabor and Bulongan as independent; if they were tributary to Sulu, that would equally exclude the Dutch.³⁵⁵ Treacher sent C.A. Bampfylde to Sulu. The new young Sultan, Badar-ud-Din II, was not much help in this attempt to utilize the Sultanate's claims, already eroded, as Overbeck had after all recognized in 1878. He was vague as to the former boundaries of Sulu, and only fixed on Balik Papan and Kaniungan when Bampfylde mentioned them.³⁵⁶

Treacher himself visited the Sibuko in September. What he visited was, he maintained, the true Sibuko, whose position was to the south of the Kalabakan, which was marked as Sibuko on the charts. The Dutch flag at Tawau was thus well inside Company territory. He hoisted the Company's flag on the south side of the 'true' Sibuko. The Dutch, he added, had done good work in suppressing the slave trade: hitherto Bulongan and other ports had been marts for slaves brought from the Sulu islands. But they seemed to have destroyed legitimate trade also. The chief of Tawau thought that the Sultan of Sulu's claim to Balik Papan was absurd, 'that formerly Tidong was a tributary to Sulu', but 'for a long time past its allegiance has been paid to the

Raja of Bulongan....³⁵⁷ The Directors asked the Government, 'singly or conjointly with the Netherlands Government', to fix by a survey the position of the true Sibuko as the Company's boundary. In the interior they would agree to any parallel at or south of 4° that would give a suitable frontier line.³⁵⁸

At Hertslet's suggestion, a note was sent to Bylandt, giving an account of Treacher's proceedings. Surely the Dutch Government would now see the necessity for surveying the coast with a view to laying down a line of demarcation?³⁵⁹ But the revival of the suggestions of 1883 made no impression. Possibly the Dent/Overbeck concessions meant the river marked as Sibuko, replied the Dutch, and not the 'true' Sibuko. In any case the Dutch claimed the Sibuko south of Batu Tinagat and there was no purpose in enquiry. Nor would they submit to arbitration a difference with a private concern. If it was a government matter, then the British Government should reply to the Dutch arguments, instead of simply repeating earlier proposals. 'Is there any good answer?' asked Granville.³⁶⁰ Alcock did his best. Extension of Dutch authority over Tidong was not based on regular contracts. The Dutch contract with Bulongan was dated 2 June 1878. The late Sultan of Sulu's father, who made the cession, wanted its boundary fixed at Balik Papan.³⁶¹ Hertslet did not find this 'a very satisfactory reply'.³⁶² The *Nisero* dispute had meanwhile introduced a period of strained relations with the Dutch,³⁶³ and the Berlin African conference meant a further delay.³⁶⁴ In July 1886 Hertslet suggested accepting the Dutch line. But Pauncefote thought that this 'should stand over until it has been decided whether the proposal of the C.O. to proclaim North Borneo under British protection is adopted. If it is we shall be in a better position to settle the matter with the Dutch....'³⁶⁵ He had hoped that the charter would lead to a settlement. But the Dutch, disliking the charter, had become more obstinate over the boundary question, and were indeed disposed to use the uncertain status of the Company as an argument against settling it.

The Dutch had tried to strengthen their opposition to the Company, Pauncefote had alleged late in 1881, 'by urging the Spaniards to object....'³⁶⁶ Perhaps they did not need to be urged. In June 1880 the Minister of State had hoped that the matter would rest, with the indication that neither Spain nor Great Britain intended to occupy Borneo.³⁶⁷ No doubt the chartering of the Company would hardly be regarded as letting the matter rest. But it was true that the Spanish protest followed that of the Dutch in April 1881. In May the Spanish ambassador called at the Foreign Office 'to express the regret with which his Government had learned that notwithstanding their observations, it was the intention of Her Majesty's Government to confer a Charter on Messrs Dent and Overbeck....'³⁶⁸ On the publication of the charter a formal protest was made, and the British Government was asked to 'cancel the authorization granted to the Company, at least inasmuch as it relates to its establishment in the part of North Borneo alleged to have been granted by the Sultan of Sulu....'³⁶⁹ Whether or not Pauncefote was right, the Spaniards were to prove

more amenable to compromise than the Dutch.

True, he had tried to keep open the challenge to Spain in the archipelago by securing German cooperation against the wholesale hoisting of Spanish flags there. Early in 1881, following a visit to the area by the *Egeria*, the Germans were asked for an answer to the request for cooperation.³⁷⁰ They thought that the protocol had not been violated and that it was expedient to rest satisfied with the protocol and the protest notes of May 1879.³⁷¹ In August 1880, as Pauncefote noted, the Germans had told Spain that they did not acknowledge Spanish rights in north-east Borneo. 'The Germans Govt. have grown more lukewarm, however, about Spanish sovereignty in the *Archipelago*, so long as the Protocol at Madrid is observed....' Perhaps, under these circumstances, it would be best to take the opportunity 'to effect a compromise and settlement of the whole question by recognising Spanish Sovereignty in the *Archipelago*, on condition of their abandoning all claims to Borneo and observing the Madrid Protocol....'³⁷² There was, on the one hand, little use in German cooperation. On the other, the charter had now been granted. Pauncefote determined to attempt the 'Reilly plan'.

At Walmer Granville discussed the matter with Casa la Iglesia, the Spanish ambassador, and suggested the compromise to him. It would, of course, require German concurrence, he added.³⁷³ The idea was favourably received in Madrid,³⁷⁴ but it was asked whether all the stipulations of the 1877 protocol should still apply in Sulu. Granville thought some general wording might suffice that aimed at 'retaining all those rights of commerce and navigation' secured by the protocol.³⁷⁵ Münster, however, told Granville that, while the German government had no objection to make over British proceedings in regard to the Company, it was not prepared to agree to the proposed arrangement over Sulu.³⁷⁶ In fact Benomar, the Spanish ambassador in Berlin, had been sounding Hatzfeldt: he had been ready to welcome the proposal if the protocol were maintained intact. It appeared, however, from Granville's conversation that the Spaniards wanted substantial modification, and so the talks were broken off. The Spanish foreign minister, Armijo, was ready to agree to the German terms if by the maintenance of the protocol was meant 'the maintenance, and no more, of the full and entire liberty of commerce recorded in that instrument....' He hoped this might restore the negotiations, Morier reported.³⁷⁷

Morier thought Armijo 'hopelessly puzzleheaded....' In the resumé of the proceedings he had read to the British ambassador, 'the Protocol had been talked of as if, taken in conjunction with our recognition of Spanish jurisdiction in the Archipelago, it would create a limited sovereignty to which Spain would be a consenting party. I said I was quite unable to discover anything derogatory to Sovereignty in the provisions of the Protocol....' Spain signed it as sovereign, though not so recognized by Great Britain. Armijo seemed also to fear, Morier wrote, that if the protocol were maintained intact, there would be no guarantee against further Overbeck-type concessions. 'Puzzleheadedness could scarcely reach further': for Overbeck's

concession was from a sovereign whose independence Britain recognized. 'Another extraordinary difficulty seemed to have presented itself to Armijo's mind. As he could not see (Germany having no interest in Borneo such as we had since the creation of the company) what advantage Germany would derive from accepting our proposals, he seemed to think that what we proposed to call upon her to do was merely to assent to *our* recognition, apparently without calling upon her to do the same....' In fact, Morier explained, Britain was really offering to use good offices to get German recognition.³⁷⁸ Perhaps Armijo was not quite so 'puzzleheaded' as he seemed to Morier: he wished, presumably, to rid himself of the requirements of 'occupation' involved in the protocol; and what Germany would gain by the arrangement was indeed hard to see.

In fact the Germans were prepared to agree, Granville understood, provided 'the facilities and immunities secured to commerce and navigation by the Protocol' were maintained 'intact'.³⁷⁹ The Spanish ambassador asked if Britain wished Spain to recognize British claims to sovereignty in Borneo. Granville said that this was not desired. The Spanish ambassador also suggested that the 'immunities' clause might be made reciprocal. Granville 'pointed out...that in granting the Charter to the North Borneo Company, we had laid no claim to sovereignty either on behalf of H.M. Gov. or of the Company. The sovereignty in our view vested in the Sultans and was merely delegated by them to the Company by their concessions....'³⁸⁰ Morier thought the 'craving for reciprocity' 'morbid': it could be answered by suggesting reciprocity of duties.³⁸¹

A despatch to Lord Amphill (as Odo Russell had become), also sent to Casa la Iglesia,³⁸² asked him to submit the proposal formally to the German government. In defining the limits for the recognition of Spanish sovereignty and the application of the stipulations of the protocol, it referred to the treaty of 1836, and, at Spain's request, specifically included Balabac and Cagayan Sulu. That got rid of the reference to Sulu and adjacent islands and was an 'intelligible' basis of negotiations, Pauncefote thought. The Borneo territory was defined as including all territories tributary to the Sultan of Sulu and the islands of Balambangan, Banggi and Malawali, and all those within three marine leagues of the coast,³⁸³ thus adopting the language of the grants, despite Dent's hope that the Spaniards would be 'kept at from 15 to 20 miles from our shores....'³⁸⁴ Notwithstanding the earlier exchanges, the despatch referred to maintaining the stipulations of the protocol. And it said nothing about reciprocity. This issue the Germans, hitherto apparently gaining little, took up. They were ready to join in the arrangement, Münster said, but 'added...that the liberty of commerce secured by the Madrid Protocol as regards the archipelago should be guaranteed to the same extent as regards the territory on the mainland ceded by the Sultan of Sulu to the English Company....'³⁸⁵ Pauncefote thought that 'we must be careful to avoid any Declaration extending the Madrid Protocol which is quite inapplicable to Borneo. A mere Declaration of the freedom of commerce and navigation in

the territories granted by the Sultan to the British North Borneo Coy. would suffice....' Münster told him 'that all the Germans want is that they should not be shut out by the Borneo Coy. of their trade at Sandakan which is considerable'.³⁸⁶ The matter was referred to Berlin.³⁸⁷ A long delay ensued. Early in 1883 Amphyll learned that Hatzfeldt was awaiting Spain's signature of a commercial treaty with Germany before moving further in the Sulu negotiation.³⁸⁸

In April 1881 the Sultan of Sulu who had made the 1878 grant, Jamal-ul-A'zam, had died. Apparently he had nominated his third son as successor, but his eldest son, Badar-ud-Din, had caused himself to be proclaimed Sultan, and had been recognized by the Jolo authorities. An amok had occurred in Tianggi (Jolo), and the new Sultan punished those responsible. But, opposed by the mother of his half-brother, Amir-ul-Kiram, the new Sultan 'became inconsistent and seemed at times to lack confidence in the Spanish Government'. He planned a trip to Sandakan, but the Spaniards warned him against it.³⁸⁹ The Spaniards' moves to establish themselves at Bongao in Tawi-Tawi did not improve relations.³⁹⁰ The Sultan spoke bitterly of the occupation,³⁹¹ and Pryer thought further outbreaks likely. Desultory attacks on the Spaniards indeed continued, 'often made under the influence of religious fanaticism', and punitive raids ensued. The representatives of the young Sultan, who had gone to Mekka, denied any intention of renewed hostilities: they blamed semi-independent datus, acting without authority from the Sultan or his representatives.³⁹² A Spanish station was formed at Siassi,³⁹³ and one at Tata'an at the end of 1882.³⁹⁴ During 1883 the Sultan wrote to Granville a letter which came by post from Singapore. In 1878, he declared, his father had given the Spaniards only Tianggi, but they had set up their flag in Siassi and Tawi-Tawi. He and his people recalled the treaty of 1761, asked for aid, and suggested that a British man-of-war should come to enquire. Pauncefote noted that Leys, now Consul-General at Brunei, had reported that the Sultan was at odds with many of his datus. Dent had also reported that he had led a dissipated life in Singapore, and was really under Spanish control. The British Government should in reply regret that the 1878 treaty had not ended the differences between Spain and Sulu, but declare that it was not aware of any circumstances that would justify its intervention. An answer was accordingly despatched.³⁹⁵

It was pointed out in the Foreign Office that it was hardly consistent with current policy to take up the Sultan's cause.³⁹⁶ The Spaniards, on the other hand, had been asked, following a suggestion of Pauncefote's,³⁹⁷ if they proposed to set up customs establishments in Siassi and Tawi-Tawi under the protocol's provisions for effective occupation.³⁹⁸ The Spanish ambassador thought so. But the protocol was about to be replaced by one not containing the provisions.³⁹⁹

Only, however, in September 1883, following the ratification of the German-Spanish commercial treaty, did the Foreign Office find itself able again to take up the Sulu negotiations.⁴⁰⁰ Even so the Germans did not

respond to a British reminder till December: and then they merely stated, according to a telegram from Amphill, that they were 'awaiting a formal request on the part of the Spanish Government....' This, as Pauncefote said, was 'not a polite answer especially after so long a delay. We have hitherto been discussing the subject with them and they now suddenly turn round and say that they will negotiate in concert with us as soon as requested by Spain....'⁴⁰¹ Amphill detected 'a systematic avoidance of settling the question. Count Hatzfeldt, whenever I have spoken to him on the subject, has invariably made use of his brilliant conversational Powers to avoid entering into the question at all....' The telegram he had sent only resulted from a talk with the under-secretary. Now Hatzfeldt said that the Spanish request had been announced but not received: there could be no objection to Granville's talking to the Spanish ambassador in London. Amphill talked to his Spanish colleague, Benomar. 'He told me *in strict confidence* that the late Spanish Minister for Foreign Affairs, who accompanied King Alfonso to the German Manoeuvres last September had thought the opportunity favourable to a discussion of the subject with Count Hatzfeldt at Homburg and had himself proposed to address a formal and official request to the German Government for the recognition of the Sovereignty of the King of Spain over the Sulu Archipelago....' The change of government in Madrid had delayed the note. 'It remains to be seen whether Count Hatzfeldt on receiving the promised Note may discover some reason in it for further delay.'⁴⁰²

In June 1884 Casa la Iglesia told Granville that the Spanish communication had now been presented at Berlin and that Germany expected signature in Madrid. He asked for similar instructions to the British envoy there.⁴⁰³ According to a conversation Granville had with Münster, the terms proposed by Germany included the recognition of Spanish sovereignty in the Sulu archipelago and Spain's abandonment of all claims over the north-eastern portion of Borneo 'formerly belonging to the Sultan of Sulu', with 'the freedom of Trade and commercial advantages stipulated in the Madrid Protocol' remaining in force in all the territories mentioned.⁴⁰⁴ Not noticing, perhaps, the implications of this formulation, Pauncefote thought it 'all plain sailing now', and assented to negotiations on this basis at Madrid. The extent of the archipelago should be defined, however, as in the British despatch of February 1883.⁴⁰⁵

The extent to which the protocol was to be retained, somewhat vague under Armijo's compromise formula, was soon raised again in Madrid. The Spanish government sought to maintain the protocol 'solely as regards liberty of commerce and navigation', considering that other stipulations would improperly limit their sovereignty. The German minister wanted the entire protocol expressly maintained.⁴⁰⁶ Elduayen, the Spanish foreign minister, wished no longer to observe 'the obligation...to inform the other signatory powers of the efficient occupation of any new island in the Archipelago. I think it also probable', wrote de Bunsen, the British chargé, 'that the Spanish Government are anxious now that this question has been unfortunately

mooted, to obliterate the distinction established by the protocol of 1877 between occupied and non-occupied islands.' Bunsen had suggested a compromise rather like Armijo's to the German chargé, Solms—that Spain should respect the stipulations concerned with liberty of commerce and navigation—which seemed to fit Granville's statement of January 1882 and the recent instructions from Berlin as imparted by Münster. The distinction between occupied and non-occupied in any case mattered less than in 1877 in view of the extension of Spanish occupation outside the main island in the meantime. The notification of fresh occupations was also of less significance 'in view of the natural diffusion of such intelligence...by means of the vessels which are now allowed...to visit all parts of the Archipelago....' The other articles in the project Bunsen referred to London included the recognition of Spanish sovereignty in the archipelago, defined according to the treaty of 1836 (articles 1 and 2), Spain's renunciation, vis-à-vis the British Government, of all claims over Borneo that now belonged or in the past had belonged to the Sultan of Sulu (article 3), and the application of the liberty of commerce and navigation established by the 1877 protocol in the Borneo territories (article 5).⁴⁰⁷

Like the Germans, Pauncefote took a firm line on the protocol: it was to be maintained, he wrote in July.⁴⁰⁸ He also took a firm line with the Spanish ambassador in London over the definition of the Borneo territories. This included Balambangan, Banggi, Malawali, and the islands within three maritime leagues off the coast. The last phrase Casa la Iglesia objected to 'as forming a precedent for a new maritime zone'. But in fact, Pauncefote wrote in September, 'the limits in question relate to the Islands within them' and were in the grant and the charter. They had nothing to do with a maritime zone, but fixed 'the limit within which all *Islands* are to be deemed appurtenant to the Coast and to form part of the territory of the British North Borneo Company'. Pauncefote did, however, go on to reconsider the 1877 protocol. The demand to maintain it was justified by a reading of the correspondence of early 1882. But he now suggested that in the new agreement Spain should undertake to allow free and direct trade throughout the archipelago; to levy duties only if effective occupation had taken place, and then only after six months had passed; and to give foreign traders most-favoured-nation treatment. 'There would be nothing in the above engagements to wound the susceptibilities of Spain as they are simply commercial clauses which might be inserted in a Treaty and do not detract from the rights of sovereignty which she claims.' The stipulation applying the protocol to Borneo Pauncefote thought 'quite inadmissible'. The British Government was ready to assent to a declaration in favour of freedom of trade. But Borneo was excepted from the 1877 protocol, and the Government had 'no power to impose fresh terms' on the Company. 'The sovereignty of North Borneo is vested in the Sultan of Sulu', he declared, and any stipulation Britain might make 'respecting that territory must have the previous assent of the Sultan signified by him through the Coy. who administer the Country as his mandatories'.⁴⁰⁹ 'We must be

careful', as Pauncefote had said earlier, '... to preserve the Sultan's status as a Sovereign in regard to the East Coast of Borneo.'⁴¹⁰

Instructions went to Morier according to Pauncefote's suggestions,⁴¹¹ while the German minister was told to maintain the protocol.⁴¹² The Marques del Pazo de la Merced 'said Spain could never agree', and maintained that the Germans had accepted Armijo's definition.⁴¹³ He declared that the Borneo article was a German one, but 'very soon showed how keenly desirous he was that the limitation of sovereignty which he declared we were imposing upon Spain should equally be imposed upon us....' Morier claimed that the cases were 'wholly different': Britain did not claim sovereignty in Borneo; and the 'geographical circumstances' were radically dissimilar.⁴¹⁴ Certainly the Germans wanted the clause, too. Solms told Morier:

you have to deal with us because if we make ourselves parties to a contract, in which you obtain a direct advantage such as that of this abandonment by Spain of her rights in Borneo in your favour, we have a right to ask an equivalent and to be perfectly assured that we shall have equal facilities in dealing with the British and Spanish territories in that part of the world. I said that was a different thing from asking such impossible conditions as those of the Protocol of 1877....

Morier thought it difficult to have in relation to territory controlled by the British crown—a control Pauncefote, in commenting, contested—a declaration in favour of free trade; but tried to draw up a clause 'placing Her Majesty's Government as it were outside the Company and its territory, and saying that they would see that the Company so long as they administered the territory, did not act in contravention to the well known principles of Her Majesty's Government....' The British Government would '*veiller à ce qu'il y ait pleine liberté de commerce et de navigation*' in the North Borneo territories while the Company administered them in the name of the Sultan of Sulu.

In his conversation with Morier, Solms made what the British ambassador called 'a curious revelation'.⁴¹⁵ In the course of 1882 Armijo had in fact gone back on his 'compromise' suggestion, and had agreed to accept the maintenance of the protocol in return for the recognition of Spanish sovereignty. He had also made some undertaking to support the German efforts to apply it to North Borneo,⁴¹⁶ though this Solms apparently did not reveal. Armijo's main aim had no doubt been to ensure Germany's assent to the agreement, from which that power indeed stood to gain little. Now Spain could hardly hold out over the protocol, despite the Marques' attempt to do so. Luckily Britain enabled him more or less to fulfil the Borneo part of the bargain.

In some further conversations Morier found the Marques in a different mood. The latter had clearly gone to the cabinet, and 'the justice of our claims had been admitted'. Elduayen proposed recognition of Spanish sovereignty over points occupied, as well as those to be occupied, and this was agreed to. He accepted three maritime leagues as the delimitation of the Borneo islands. He proposed to pass over the controversy over the 1877 protocol and simply to insert its first three stipulations in the new agreement. This Solms accepted,

and so finally did Morier. The others accepted his new Borneo article.⁴¹⁷

In London the Foreign Office preferred the phrase 'English leagues', and the Company suggested that the reference to the Sultan of Sulu be omitted from the new Borneo article, as it claimed the territory under a grant from Brunei as well.⁴¹⁸ The Spaniards preferred 'maritime leagues', and so did Morier. A maritime league was three nautical miles; the 'English league' was unknown. The Foreign Office accepted this.⁴¹⁹ The German Chancellor was still unhappy over the Borneo article.⁴²⁰ Münster stated that it was the German view that the 1877 protocol applied to Borneo; the new article was an inadequate substitute; it modified German rights by attaching their existence to that of a company.⁴²¹ Pauncefote again denied that the protocol applied to Borneo: it had been kept out of the negotiations.⁴²² In the event the German government agreed to a simple clause by which the British Government agreed to watch that there should be full liberty of commerce and navigation in the Borneo territory administered by the Company.⁴²³

This did not, however, mean signature. On Boxing Day Morier reported that the agreement was about to be signed when the German chargé said he had orders not to sign. The Germans maintained, and the Spaniards denied, 'that the signature of the Sulu Protocol had always been made conditional on the simultaneous signature of certain other agreements, one, I believe, the final protocol about the coaling station accorded to Germany at Fernando Po, another the granting certain rights of occupation to German settlers in the Sulu Archipelago....'⁴²⁴ The agreement was signed only in March, following a Spanish promise to grant Germans the right to hold lands in the Sulu islands on the same terms as Spaniards.⁴²⁵

In London the *Standard* had pointed to Bismarck's association with France in Africa, his change of attitude towards Spain, his antagonism to Britain,⁴²⁶ and such factors may explain the development of his policy over Sulu. But it was also true that the Germans gained nothing from the new arrangement, as Meade had observed;⁴²⁷ nothing, except perhaps the guarantees over trade in North Borneo.

Pauncefote had enjoyed another success. The Reilly plan had been carried out. The Spaniards had accepted a frontier that fell short of giving them the shores of the Sulu sea, and the Germans had agreed. There remained the problem of the Dutch.

The British Protectorate

During these discussions Pauncefote had continued to insist—as in the Borneo clause—that the North Borneo territory was administered by the Company under the suzerainty of the Sultans and was not British. This view, which helped to deflect the opposition of other powers and deflate the criticism of other opponents, was sustained in other ways also.

Edward Dent had in May 1878 wanted at least temporarily to reduce the sums payable for the territory, \$20,000, and had considered the payment of a

lump sum. The latter might do away with the re-entry clause, which he feared would deter land purchases.⁴²⁸ Negotiations at Brunei during 1880-1 achieved a reduction of the sums payable, but not absolute perpetuity of tenure. William Pretyman and Sheikh Rejab, acting as agents for Dent and Overbeck, had sought the capitalization of the Brunei rent for Sabah by payment of a lump sum. But Treacher, then acting as Governor/Consul-General, thought that such an arrangement would not be in 'the real interests of the Country', that is Brunei, and that it would also 'alter, to some extent, the nature of the tenure' of Dent and Overbeck. He suggested that the Sultan and the Temenggong, who had asked for British advice, should await the arrival of a new Consul-General.⁴²⁹ The Company's negotiations then shifted to a reduction in the rent, already in arrears. This A.H. Everett sought to negotiate in Brunei in December. On the rejection of his proposals, he told Sultan Abdul Mumin that he would advise Dent to return the leases of the less valuable districts.⁴³⁰ Early in 1881, however, the Sultan and the Temenggong finally assented to a reduction to \$7500 p.a., retrospective to 1880.⁴³¹ Everett apparently raised the idea of restoring the full payment when the Company should make a profit. Many years later some Brunei claims were put in which appear, however, to have been forgeries.⁴³²

The case of Sulu was rather different. On the one hand, its grant, unlike Brunei's, contained no re-entry clause. On the other hand, whatever had been discussed with the Sultan during 1878, no reduction of the lease money was made, and the company continued on the basis of the grant of 22 January. Dent, still struggling to set it going, found the burden heavy. The new Sultan, he wrote in 1881, would no doubt be 'a mere puppet in the hands of the Spaniards and I was rather hoping that these latter would assume the Sovereignty of the whole country themselves and thus give us the chance of escaping from the \$5000 subsidy....'⁴³³ In April 1882 Treacher, now the Company's Governor, learned from Cowie that the Spaniards were negotiating with the new Sultan for a new treaty expressing his subjection, he presumed, 'in more decided terms', and probably transferring 'any rights of Suzerainty over North Borneo....' Haji Omar, an agent to the previous Sultan—sly and slithery, according to the Company's agent in Singapore—had been invested by the new Sultan with extraordinary powers: he posed as viceroy, and had opened the question of the Sultan's right to a residence in North Borneo. 'Under these circumstances it would perhaps be politic to endeavour to persuade the Sultan to capitalize for a lump sum the annual cession money, on his signing a document abrogating the right of the Sultan of Sulu to interfere in any manner in the Government of the country for ever....'⁴³⁴ This proposal, however, Dent decided not to approve: as Treacher, when acting Consul-General, had seen in the Brunei case, such would imply a change in the Company's tenure. By capitalization, 'we should...be buying the Sultan out entirely and consuiting ourselves the sovereigns of the country; in which case it seems very doubtful whether the British Government would recognise us and give us the support which it now does as an English Company

holding the land under a lease from the Sultan of Sulu....⁴³⁵ The fear of Spanish intervention, or of involvement with Spain through the Sultan's flight to North Borneo, could not be deflected by capitalization.

In July Treacher visited the Sultan, who 'as usual expressed his great friendship for the English and his hatred of the Spanish....' He announced his intention to visit Mekka, via Sandakan and Singapore, and Spanish opposition to this made him more determined to go. Treacher tried to persuade him not to go: Sulu was unsettled, the Spaniards were active. The Governor also feared that a visit to Singapore, together with Badar-ud-Din's wish to present a pearl to Queen Victoria, would cause complications for the Company, in view of his subordination to Spain. 'I then proceeded to the business of the cession money.' In May Haji Omar had given Pryer a chop signed and sealed by the Sultan, in which the latter was made to say that his father had declined to strengthen the grant of 1878 unless the cession money was raised to \$15,000, and a district containing two rivers was returned to him, in which the Sulu flag could be raised. Haji Omar had also been to Singapore and asked the agents to pay him the balance of the current cession money. Treacher asked Badar-ud-Din if he wished it so paid, or paid to himself on the spot.

The Sultan replied that he wished to have the money on the spot, that Haji Omar had deceived him, that he wrote long letters in Malay, which the Sultan cannot read, and without permission attached to them, His Highness' Chop, which he was able to get at as he was trusted by the Sultan, that the Haji was in debt to him several thousand dollars, that he much preferred the money being paid annually to himself personally in Sulu, and that he did not wish the Haji to be considered any longer as his agent.... Treacher then paid him \$2575, the balance due on cession money at \$5000 p.a., and the Sultan chopped the receipt, 'making no reference or allusion in any way to the alleged promise of its being increased to \$15,000 nor to the question of the Sulu flag in Sabah....' It was an informal interview, and no salutes were exchanged: but should the Sultan visit Sandakan, Treacher thought, he should have a salute of 21 guns.⁴³⁶

The previous Sultan's request for increased subsidy had been denied not only by Overbeck but also by Dent: it '*never can be increased*', he had written in 1880.⁴³⁷ Treacher's account of his dealings with the new Sultan reads as if he were anxious to bring an end to the matter, by paying up on the basis of the \$5000 p.a. and obtaining a receipt 'in full of all claims on account of the Cession of territory in North Borneo....'⁴³⁸ Sultan Badar-ud-Din thus accepted the terms of 1878. No doubt he was in a weak position. But the Company stopped short of trying to change its tenure altogether by capitalization.

The Sultan did go to Mekka and saw Dent in Singapore.⁴³⁹ The latter was on a visit to the East. He had been worried by the Company's granting 999-year leases of land while subject to the Brunei re-entry clause.⁴⁴⁰ A further attempt at perpetuity, so far as Brunei was concerned, was one of his tasks during 1883. 'The Right of Re-entry on failure of payment of the annual

subsidy for 3 years', he found, however, the Sultan of Brunei was unwilling to waive. He may do so later on, but after all the matter is not of so much importance to the Company as is supposed in some quarters. As regards Lessees of Land for 999 years or any term, they are no doubt aware that we derive all our powers including the power to deal with land, from the Sultan, who in the event of the collapse of the Company would be bound to respect all leases granted by us, as his delegates....

British subjects were further protected by the treaty of 1847.⁴⁴¹ The negotiations of this period did, however, begin the Brunei practice of capitalizing part of the subsidies.⁴⁴²

The Company authorities were restrained in part by the views of the British Government and the need for its support. Indeed Pauncefote sought to sustain in its dealings with the Company the character he represented their having in his communications with foreign governments. Clause 13 of the charter involved the Government's approving the appointment of the Company's principal representative in Borneo. The first appointment the Company made was Treacher's, and Alcock had sought Kimberley's approval of Treacher as Governor of British North Borneo. This the Colonial Office referred to the Foreign Office: 'The Compy. is a child of the F.O.....'⁴⁴³ At the Foreign Office Pauncefote observed: 'They may call Mr Treacher Governor of North Borneo but not of *British* North Borneo - and whatever they call him, we can only approve the appointment as that of "the Company's principal Repve. in Borneo"....' The approval was sent on the terms Pauncefote suggested.⁴⁴⁴

Another issue was the provision for the exercise of extraterritorial jurisdiction by the Company's officers under clause 11 of the charter. Britain and the U.S. could claim extraterritorial rights under their treaties with Brunei of 1847 and 1850: other foreigners were subject to the territorial jurisdiction vested in the Company under the powers of government conferred by the Sultans. It was suggested that, subject to the treaty rights of U.S. citizens, a uniform jurisdiction should be conferred on officers of the Company, with provision for appeal to the Supreme Court of the Straits Settlements and ultimately to the Privy Council. This would assist the Company, it was argued. Alternatively, the Queen's extraterritorial jurisdiction might be vested in the Company's officers: but then British subjects would have a right of appeal denied to other foreigners who would be under the territorial jurisdiction. The Queen might waive her jurisdiction: but that would deprive British subjects of the right of appeal. U.S. citizens, too, might be more disinclined to submit to local jurisdiction than they would be if there were right of appeal.⁴⁴⁵ The Law Officers doubted, however, that any power could transfer its jurisdiction over foreigners in its territory except to the state to which foreigners belonged. They also doubted that an official of the country could exercise the Queen's jurisdiction, and thought the best course was to leave British subjects, like other foreigners, to the Company's courts, with no appeal to the Queen.⁴⁴⁶ The Company agreed that a waiver of extraterritorial rights was best, and undertook to organize proper tribunals and administer

laws not repugnant to English laws.⁴⁴⁷ In fact, on the Law Officers' advice, the waiver was not specifically announced.⁴⁴⁸ The Company was left to administer justice, even to British subjects, by virtue of the sovereign powers acquired from the Sultans.

Over extradition, Pauncefote insisted—in a memorandum written after the 1885 protocol—that North Borneo was 'a part of the State of Sulu'. The Fugitive Offenders Orders of 1879, which referred to foreign states, thus applied.⁴⁴⁹ He argued with the Law Officers, who recommended a new Order-in-Council on the ground that the Company was not 'a foreign State'. The Company, he declared, were 'merely the administrators of a Foreign State, viz. Sulu....' A Law Officers' draft, which recognized the Company as a foreign state, was 'quite inadmissible', and inconsistent with the legal status of the Company as defined in the despatch to Morier of 7 January 1882.⁴⁵⁰ Pauncefote's view prevailed: though the instructions to the Governor of the Straits merely declared the Company administrators of a foreign state, without mentioning Sulu.⁴⁵¹

In this period, too, the Foreign Office had assured other powers, not only that Great Britain had not taken over North Borneo, but that it did not intend at present to exercise a protectorate. The latter view, however, changed rather quickly in the mid-1880s. To this change the decay of Brunei, and its further partition between Sarawak and the Company, contributed. The British also feared that other powers might intervene, Germany, for instance: it was the time of the Berlin conference over Africa and of the delays over the Sulu protocol. By August 1886 Pauncefote was writing of 'the great importance of extending in a formal manner, British Protection over these territories, viz. North Borneo, Brunei and Sarawak, which by virtue of Treaties, Charters, Declarations and Agreements are virtually under British control, but not sufficiently to exclude the pretensions of other Foreign Powers seeking some footing in those important regions....'⁴⁵²

Early in 1887 the Foreign Office formally wrote to the Colonial Office. The Government, it declared, must be vigilant in view of the 'remarkable activity' recently displayed by 'some Foreign Powers in the acquisition of colonies and new outlets for trade....' Commercial interests and 'the strategical position of the territories in question...render it a matter of great moment that every precaution should be taken to prevent any doubt arising as to the prior claims of Great Britain over that Coast and to secure that no part of it shall fall under the Dominion of any foreign Power....' Britain had claims arising from various treaties, charters and agreements, and these should be strengthened and consolidated by 'the formal Declaration of a British Protectorate over North Borneo, Brunei and Sarawak, whereby the rights of this country would be fully secured without involving any interference with the internal administration of those countries by their present Rulers....' The 'entire Borneo protectorate', the letter added, would be supervised by the Governor of the Straits Settlements as High Commissioner. 'The high position of that functionary would add great weight to his authority in the settlement of any

difficulties which might arise in the Protectorate, and the frequent communications between Borneo and Singapore would afford ample facilities for the discharge of his new functions....⁴⁵³ The Straits government was now to be given the formal link with Borneo vetoed in the days of East India Company administration.

'We have long thought it important in view of the colonizing propensities of Germany to safeguard our rights on the Borneo Coast, and prevent Sarawak getting into foreign hands', Pauncefote wrote to Salisbury.⁴⁵⁴ The proposal was put to members of the Cabinet that 'conventions should be entered into with the Rulers of North Borneo, Brunei and Sarawak, securing the independence of those States under the protection of Great Britain....' The territories were commercially and strategically important, and the conventions would give Britain control of their foreign relations and their relations with one another. 'The proposed British Protectorate being thus of a limited character would entail no responsibility beyond that of maintaining order and of defending the protected states against foreign aggression....' The Government had already required substantial control, and 'the object of the proposed limited Protectorate is only to strengthen and consolidate British rights over those states, and to secure the recognition of those rights internationally'.⁴⁵⁵

As a result of a Cabinet request the Foreign Office in March drafted protectorate agreements. Pauncefote included a clause permitting 'the establishment of Consulates by the Protecting Power...in order to establish more clearly that the states remain independent of us as regards their internal Government....' This the agreements also stated. The Colonial Office furthermore deleted a phrase obliging the protector to assist in 'the suppression of internal disorders'. The Cabinet had indeed queried the reference in the earlier memorandum to 'maintaining order'. Herbert told Sir H. Holland, the Colonial Secretary, that he 'understood the words to refer to the settlement of differences between the several members of the Protectorate rather than the obligation to interfere at any time to assist the local Governments in putting down civil disorders....' But the reference disappeared, since the Government was anxious to minimize its commitments. Hertslet, the Foreign Office Librarian, cut out the further definition relating to foreign aggression. 'The extension of European Protectorates over distant parts of the globe renders it more than ever important that the obligation of a Protectorate should not be precisely defined....' By this time the implication was that the protectorate entailed 'no responsibility'. This Pauncefote thought was going too far. 'I don't like much laying down that the Protectorates "will entail no responsibility". There will be a certain amount but very slight compared to the advantages to be secured....' The final version of the explanatory memorandum omitted this paragraph altogether.⁴⁵⁶

The inauguration of the protectorates was delayed, rather than advanced, by the mission of the Governor of the Straits Settlements, Sir Frederick Weld, who sought an administrative protectorate of Brunei, rather than any further

partition between Sarawak and North Borneo.⁴⁵⁷ But this idea was dismissed in London: the three protectorates were to go ahead as planned. Pauncefoot anticipated some difficulty from the Dutch 'by reason of the preposterous claim which they advanced at the time of the grant of the Borneo Charter, that Great Britain is precluded by the terms of the Treaty with Holland of 1824 from exercising any dominion or protectorate over any part of Borneo'. This view the British had always contested, though stating in 1879 that they had no 'present intention' of assuming dominion or protectorate. Lately, Pauncefoot wrote, Bylandt had been 'very inquisitive', and had said that a British protectorate would be a breach of British promises. 'But we made no promises.'⁴⁵⁸ Indeed the Netherlands ambassador had called at the Foreign Office in August 1887 to ask if Weld had authority to proclaim a protectorate over the Sultan's territories.⁴⁵⁹ Meade said he also had visited the Colonial Office on 'a fishing expedn.' and was told that Great Britain already had 'de facto... such an influence... that it might be considered almost tantamount to a Protectorate....'⁴⁶⁰

Agreements with the Company and Sarawak might be worded, Salisbury suggested, 'so as to avoid giving umbrage to Holland....'⁴⁶¹ Hertslet then discussed the treaty of 1824. The Dutch, he thought, would object to explicit 'protection' in the agreements with North Borneo and Sarawak: perhaps the words could be omitted, the spirit retained. There must, he thought, be a simultaneous agreement with the Sultan of Brunei: otherwise, despite the treaty of 1847, he might turn to another power 'so as to avoid his absorption by his neighbours....'⁴⁶² At the Colonial Office Herbert also discussed 'the ill-founded pretension of the Netherlands Government to interfere with what we desire to do in the way of controlling British subjects and the Chiefs whose territory, Brunei, is surrounded by the British territories of the Raja and the Company'. He thought there would be

no ultimate advantage in modifying the proposed agreements in order to avoid giving umbrage to Holland....

The progress of British interests in North Borneo compels us to establish that Protectorate which we have always had a full right, both by the letter and the spirit of our relations with Holland, to declare. We must face, I think, the dislike of Holland (if it is real) to what it is not entitled to object to.

The Colonial Secretary agreed,⁴⁶³ and as a result the protectorate agreements were submitted to the Cabinet early in March 1888 with the revised introductory memorandum. The Netherlands, it was added, had, in Lord Salisbury's view, no ground for objecting, as it had formerly done under the treaty of 1824.⁴⁶⁴

By late 1888 the protectorate agreements had been signed by all parties and were ready to be laid before Parliament. A confidential communication had been made to the Dutch in November.⁴⁶⁵ They had asked for prior warning: it was a question of 'standing well with the Dutch Public....'⁴⁶⁶ The Dutch had in addition made sure that the protectorate agreements did not include a boundary definition. They were told that negotiations would follow their

conclusion.⁴⁶⁷ In Pauncefote's view the Dutch had earlier evaded negotiations, and protection would put the British Government in a better position to settle the matter. The Netherlands Government would now, he said, have to negotiate with the British Government.⁴⁶⁸

The main reason for proceeding with the protectorates was to strengthen Britain's position in the area in view of the partition of Brunei and the possible intervention of other powers. A settlement with the Dutch was an incidental benefit. No doubt they recognized that, with the chartering of the Company, their chance of entirely excluding the British Government from Borneo was lost. Their recognition of reality was aided, not only by the establishment of the protectorates, but by their own concern with other powers. Even in 1881 some speakers in the States General observed that the charter kept Germany out, while the treaty of 1824 would not keep Britain out.⁴⁶⁹ Declining a boundary agreement because of unreadiness to admit the British interpretation of the treaty of 1824 might have disastrous consequences. Thus, when the confidential communication led the Dutch foreign minister again to raise the boundary question, he said that an agreement was desirable 'which would not leave room for any third Power to step in at any time and claim territory there as being *res nullius*....'⁴⁷⁰

In February he commented that 'it would fortunately be easier to arrive at an understanding with Her Majesty's Government respecting the disputed boundary than it would have been in treating with a Private Company....'⁴⁷¹ A compromise was hammered out in discussions that began in London that year, and in 1891 a convention was signed that covered the whole island. Under it Tawau was put on the Company's side of the frontier, and the Dutch left Batu Tinagat.⁴⁷² The Dutch foreign minister told the States General that the controversy over the treaty of 1824 had been virtually settled back in 1845. The matter was 'one that called for compromise, and the results obtained were favourable for this Country, the position of the Netherlands in Borneo towards England being now definitely regulated....'⁴⁷³ 'It was a great thing', the British ambassador was told, '...for the Dutch to be certain at this time of universal scrambling for Colonial territories, that they would have no neighbours but England. We might admit to ourselves, he added, that our respective nations were the only ones who understood the management of colonies. Besides which, our commercial principles were the same.'⁴⁷⁴ The episode ended thus with renewed testimony of Anglo-Dutch harmony. This was based on the principle that other powers were to be excluded from the Archipelago. In turn this was ensured by the charter and the protectorate, though the Dutch had to accept that they, too, were excluded from northern Borneo by them.

The wording of the protectorate agreement still, of course, did not imply British sovereignty. Nor did it positively state, or even imply, the sovereignty of the Company. It stated that 'all rights of sovereignty' were vested in the Company, which governed and administered the territories as 'an independent State, hereinafter referred to as "the State of North Borneo"'.⁴⁷⁵ The

wording did, however, suggest a change of emphasis, a change of attitude. Britain was not sovereign; but the sovereignty of the Sultans was played down, too.

The Island of Palawan

Other boundary matters were also raised during these years. One was the disposition of Balambangan which, as the Admiralty put it, commanded, with Banggi, the passage between the Sulu and the China Seas, but, it pointed out in commenting on the draft charter, was not included in the cession.⁴⁷⁶ It was thus specifically mentioned in the draft convention with Spain drawn up in February 1882, and the Company's flag was raised there later that year.⁴⁷⁷

Another issue had been raised, rather obscurely, in the actual negotiations with Spain. When Casa la Iglesia told Granville early in 1882 that his Walmer idea—the Reilly compromise—was favourably received in Madrid, the Spanish ambassador also 'said that the Spanish Government had received information of the establishment by the British Company of Factories in the smaller Islands, that this news had produced a painful impression.... and he wished to know whether I would authorize him to tell his Government, that we would remonstrate with the Company on this point'. Granville agreed to enquire.⁴⁷⁸ Dent told Pauncefote:

We have not sent any instructions to the Company's representatives abroad that would authorize them in any way to form settlements on Islands not included in the grants (which comprise the islands within 3 leagues of the coast); and as far as I am aware we have as yet no settlements in any Islands at all.

We lately suggested to Mr Treacher the advisability of hoisting the Company's flag tacitly on Balambangan (so as to forestall any similar action on behalf of any European power) assuming that the only European power we should ultimately have to consult in the matter would be that of Great Britain, owing to her previous occupation thereof through the East India Company....

Certainly the flag had not been hoisted in the Sulu archipelago: though perhaps natives had done so in Tawi-Tawi and Sibu on their own responsibility, hoping thereby to secure the rule of the Company rather than of Spain. In 1865, according to the American deeds, Palawan and Balabac were considered as belonging to the native Sultans. 'We omitted these islands on finding Spain had commenced asserting pretensions to them....' Cagayan Sulu was now, Dent understood, also occupied by Spain. The Spanish minister was told he must have been misinformed.⁴⁷⁹

Possibly the Spaniards had in mind the islands off Sandakan. Though no 'factories' had been established there, some authority was exercised on the Company's behalf. After the signature of the 1885 protocol, Treacher indeed raised with the Directors the question of Taganac and Baguan, islands that lay outside the three-league zone, but in a manner commanded the harbour of Sandakan. They were, he said, uninhabited, except occasionally by turtle fishers, but disputes had been appealed to the Company authorities, and the

Resident at Sandakan had lately granted permits to fish to boats flying the Company flag.⁴⁸⁰ The Directors regretted that the protocol did not make a special exception of these islands. But they were certainly administered by the Company, and they considered that they should continue to be so administered. No reference was made, however, to the Foreign Office.⁴⁸¹

The status of Palawan had been considered at the Foreign Office in 1878, when it was learned that the inhabitants had shown kindness to the crew of a wrecked British barque, the *Queensberry*. What acknowledgement should be made? Mackenzie, acting Consul in Manila, suggested that 'Palawan being under Spanish jurisdiction,...the Spanish Authorities would rather not have any acknowledgement made to the natives in question....'⁴⁸² A memorandum by Augustus Oakes tried to clarify the position of Palawan. Though Brunei had sought to cede the south to Moses and Torrey in 1865, and Spain had been seeking to annex that area also, the weight of evidence, he thought, was on the side of Spain in the north and of Sulu in the south.⁴⁸³ The Foreign Office decided to drop the idea of acknowledging kindness to the shipwrecked. 'It is not worth raising a dispute as to whom the Palawan Islands belong to, on the lesser point of how we can acke. the kindness shown by the inhabitants to shipwrecked sailors', and 'the question would probably arise if we pursue our first intention....'⁴⁸⁴

The following year Treacher raised the question. He was commenting on the two despatches to West that respectively contained instructions to protest against Spain's proceedings in Sulu and in Borneo. Were Palawan and Balabac to be considered 'as forming part of the Sulu archipelago, or as belonging to the Borneon possessions of the Sultan of Sulu'? In a geographical, geological, and botanical point of view, he suggested, they belonged to Borneo, and the Sultan of Brunei claimed them, as he also claimed Sandakan and other parts of the coast long governed by Sulu officials. Spaniards were settled at Labuan Ajong on Balabac, and at Port Royalist (Princesa) on north-east Palawan, and Datu Harun of Sulu, regarded as a Spanish client, was said to be going to open up south-west Palawan. At the Foreign Office, Dashwood drew attention to the Balabac protest of 1858, but suggested that the Spaniards had subsequently evacuated because of ill-health. The Dalrymple treaties had 'lapsed'. Perhaps Treacher could be told that the Government considered that Palawan and Balabac were under the Sultan of Sulu. Pauncefote asked if the islands formed part of the 'Archipelago of Sulu' as in the protocol of 1877. Hertslet denied this. The Spanish Government had insisted on this phrase, but said it meant the same as 'adjacent islands', and they were not adjacent. The Sulu archipelago included Basilan, Sulu, Tawi-Tawi. Balabac and Palawan were formerly included within the 'Dominions' of the Sultan of Sulu, but never within the 'Archipelago of Sulu'. Pauncefote suggested replying that Balabac and Palawan were not within the protocol, and the Government did not recognize the right of Spain to occupy them.⁴⁸⁵ He included the islands among the areas in relation to which a promise not to cede without British consent might be

obtained. At this time he was trying to limit Spain's rights under the protocol: hence, presumably, his view. But if Spain did occupy the islands, it would, if adhered to, limit Britain's ability to claim its rights under the protocol. The reply to Treacher was, however, not in fact sent, any more than a declaration from the Sultan was sought.

In 1883 Peter Leys, administrator of Labuan, raised the question again. The British steamer *Royalist*, chartered by a Chinese, was denied direct trade with Balabac: it was stated that it must first go to Zamboanga. The protocol of 1877 should be applied, Leys believed, as also to Palawan. Before the Spanish occupation Balabac was under Sulu; it was included in the grant of 1769; and in 1874 Sulus had attacked the garrison. Palawan, in Leys's view, was ceded in the treaty of 1836, and Balabac was 'an appendage' of it.⁴⁸⁶ The status of the islands and the applicability of the protocol had, Hertslet observed, 'never yet been clearly decided'. Treacher had not been answered in 1879. The 1882 proposal specifically mentioned Balabac and Cagayan. But southern Palawan was claimed by the two Sultans.⁴⁸⁷ Morier was told to ask if the Spanish government had sanctioned the treatment of the *Royalist*.⁴⁸⁸

No reply had apparently been received when the following year Treacher brought the matter up again. Were Cagayan Sulu and Palawan included in the territory in which Great Britain and Germany were planning to recognize Spanish sovereignty? Pauncefote thought that Treacher should be told that the negotiations covered Cagayan Sulu and Palawan, and that meanwhile they were covered by the protocol of 1877.⁴⁸⁹ The Spaniards were reminded of the query over the *Royalist*.⁴⁹⁰ Their reply insisted that Port Alfonso on Balabac was open only for the discharge of coals. The definition of February 1882, specifically mentioning Balabac and Cagayan Sulu, and adopted to avoid cases of this sort, must be included in the new protocol, Pauncefote insisted.⁴⁹¹ That definition did not in fact clearly include Palawan, in as much as the treaty of 1836, to which it referred, mentioned it as one of the limits of the Sulu archipelago. Pauncefote was perhaps now more prepared than before to apply the protocol to all the islands, since North Borneo had been secured, and a new protocol was in prospect.

In Sulu the young Sultan Badar-ud-Din II had, according to Pryer, 'managed to turn the feelings of his people from himself to a large extent', and Datu Aliyudin, the son of Datu Israel and grandson of Sultan Shakirullah, in some authority while the Sultan was in Mekka, opposed him allegedly with Spanish support.⁴⁹² In February 1884 the Sultan died and his brother, Amir-ul-Kiram, was chosen Sultan.⁴⁹³ Fighting seemed possible, since Aliyudin also claimed the sultanate.⁴⁹⁴ He was supported by the people of the islands, Treacher wrote in June, while, so far as Amir-ul-Kiram was concerned, the Sulus were weary of young rulers: the deceased Sultan, after visiting Singapore and Mekka, had introduced Sikh police, European carriages, Turkish attendants, squandered his revenues, done 'nothing to advance the interests of his subjects....' Conflict was spreading, but the Spaniards were neutral.⁴⁹⁵ In July Treacher reported that the Spaniards were 'said to be still holding

aloof'.⁴⁹⁶ At the end of the year he was more doubtful. Datu Harun, 'a Sulu noble of Royal rank, who for some time past has resided in the southern portion of the Island of Palawan', wrote to him from Tianggi that he was mediating. It was possible, Treacher thought, that the Spaniards would make him Sultan. In that case, 'they would probably claim through him the sovereignty over the southern portion of Palawan', though he had no claim beyond residence, 'the principal noble in the south being Datu Kassim, of mixed Sulu and Palawan parentage'. Treacher claimed not to be interfering because he was aware that Spanish sovereignty was about to be recognized.⁴⁹⁷ But he did prompt the Colonial Office to refer the Foreign Office to the trade in rotan and damar between southern Palawan, Labuan and Singapore carried on the steamers *Royalist* and *Banca*.⁴⁹⁸ A considerable trade in jungle produce had indeed developed between Palawan and Labuan.⁴⁹⁹

In May 1885 Treacher reported on a long letter received from Harun. This declared that 'many of the nobles and people, as also the Spaniards wish him to be elected Sultan', and asked for the views of Queen Victoria. Treacher assured him that the British Government would not interfere with a free election.⁵⁰⁰ A few days later the Governor, then also acting Consul-General, sent back to London a chop by which the Sultan of Brunei included Palawan in his 1877 cession to the Company. 'For a long time past the Brunei Government have had no relations with Palawan, but the Island was included in the cession to the American Company....' The chop, sealed by the Sultan and the Pengiran di-Gadong, was dated 6 April 1885.⁵⁰¹ This measure did not impress the Foreign Office, which had ceased to oppose Spanish sovereignty even to the extent that it had earlier. Hertslet doubted if Spain would 'tacitly' accept the Brunei cession, especially as the protocol gave it Balabac, which was between Palawan and North Borneo.⁵⁰² 'The right of sovereignty over the island of Palawan appears to be a disputed one', wrote C.B. Robertson; 'and a "chop" procured from the imbecile and now deceased Sultan of Brunei can hardly be said to decide the question.' The form of cession, which declared the island accidentally omitted from the cession of 1877, was 'at least, peculiar'. Probably it would involve complications with Spain, if not Germany. 'I believe I am right', Pauncefoot added, 'in saying that the Coy. do not pretend to claim Palawan. It is not included in their cession, nor in their Charter, nor in their Maps, and we could not possibly support the claim as against that of Spain to that Isld. which we have practically admitted. I don't think we shall hear any more about it....' But he had the matter referred to the Colonial Office.⁵⁰³ There Bramston noted that the protocol made Palawan the western boundary of the Sulu archipelago, 'but does not say who it belongs to. Spain however has for years been in occupation of the Northern part of the island and has been extending its occupation to the southern portion...so the Company's claim is clearly not of a nature to be recognised....'⁵⁰⁴ Dent, who appears to have given Treacher instructions to obtain the chop, had recognized that it could not be upheld.⁵⁰⁵ The new Sultan of Brunei, previously the Temenggong, Hashim, brought the matter up again in a post-

protectorate discussion of his boundary with the Dutch. He wanted Salisbury told that the islands of Palawan, Balabac and Cagayan Sulu formerly belonged to Brunei. The acting Consul-General 'said I would do as he wished but that this had nothing to do with the point at issue....'⁵⁰⁶

In August 1885, a Sandakan trader, Allen, flying the Company flag, British by birth but rumoured a naturalized American, was murdered at Sirinao, on the west coast of Palawan, by Sulu thieves. Treacher, currently acting as Consul-General, thought that a British gun-vessel should investigate, and the Spanish government punish the offenders and exact compensation. Palawan, he said, was part of the Spanish dominions, and he had asked the consul in Manila to refer to the Governor there.⁵⁰⁷ At the same place some months before the shop of a British subject, Cheng Hee of Labuan, had been burned and looted, despite a document from the late Datu Kassim, giving him permission to settle.⁵⁰⁸ In October Treacher went to investigate on H.M.S. *Merlin*. He touched at Balabac to inform the governor of his intention, but learned that Palawan was not under his jurisdiction, but under that of the authorities at Puerta Princesa. At Culasian he took on Datu Tambutu and thirty followers, a datu ready to assist the English but not, though the son of Harun, to acknowledge Spain. Two men implicated in the Allen affair were captured by the Sulu authorities, and the Datu and a panglima presided over a public enquiry on the deck of the *Merlin*. The influx of Sulus had, in the absence of Harun, led to much disorder and stealing, from which Allen suffered. He fired the first shot and killed a native, whose death was avenged. The man who actually cut Allen down was acquitted, but a noted thief was handed over to the Spaniards at Balabac. The latter, though knowing of the episode, had done nothing. No witnesses could be found in the Cheng Hee affair.⁵⁰⁹

Hertslet meanwhile questioned both Treacher's and Pauncefote's view of the status of Palawan. 'I think it is clear that Palawan—that is to say the whole of the Island, and particularly the Western portion of it,—is not "effectively occupied" by Spain, and that it would be doubtful Policy, therefore, to remonstrate with the Spanish Government on the outrageous proceedings which have recently taken place there, for to do so, would be to recognise the Sovereign rights of Spain over the whole of the Island....' The protocol of 1885 did not clearly recognize that Palawan was Spanish, though it was lately stated that Great Britain had 'virtually admitted' Spanish rights over the island. Until Spain had extended its authority over it, and given 'satisfactory assurances' that it had done so, 'it appears to me that it is the local chief who should be called to account....'⁵¹⁰ Hertslet doubted if the protocol applied: all the more reason for not accepting Spanish authority, not yet established. Pauncefote found the issue awkward. Palawan was 'almost part of the Philippines Group. Mr Treacher has actually applied to the Governor General....It is certain that we don't want Palawan and it is better that there should be some protecting Power there....'⁵¹¹ Pauncefote now felt that Palawan should be regarded as Spanish. Though he no longer seemed so certain that the protocol applied, the Spaniards should have the responsibility

that went with sovereignty.

News came of the *Merlin* visit. Pauncefote asked if the Cheng Hee case had been referred to Manila,⁵¹² and the Colonial Office wanted action in the interests of Labuan.⁵¹³ A telegram was sent to Alexander Gollan in Manila: he was to press the Governor-General for reparation for the looting of the store, 'if as H.M.Gt. presume the Span. Authorities claim the whole island of Palawan....'⁵¹⁴ The presumption was correct.⁵¹⁵ An investigation was promised.⁵¹⁶ The result was a report that the fire was 'not intentional'. The Captain-General also declared that the Chinese had not obtained a proper licence to open a shop, and had not notified the authorities of the island of Palawan of his establishing himself at Sirinao. His claim was groundless. Pauncefote suggested obtaining a certificate of the permit to settle to which Treacher had referred.⁵¹⁷ A further representation followed early in 1887.⁵¹⁸ Another case was meanwhile reported. Sulus had looted a shop belonging to a Labuan Chinese at Keelangan and murdered his household. The case was investigated by Captain Hope of the *Zephyr*, with Datu Harun, collected at nearby Culasian, and D.D. Daly, a Company official. The Spanish Governor at Balabac was informed afterwards.⁵¹⁹ Gollan was told to press the Governor-General for reparation, and Sir Clare Ford, the ambassador in Madrid, was told to urge the government there to take measures to protect traders in Palawan where 'great lawlessness' apparently prevailed.⁵²⁰

'The Spaniards must take the responsibility of conquest or annexation....' So Pauncefote had written.⁵²¹ The stress at the Foreign Office was on accepting Spanish authority, but getting Spanish action. So also in the East there was stress on accepting Spanish authority. But, as the Commander-in-Chief pointed out, the proceedings had not completely coincided with this: action had been taken and the Spaniards informed, and he thought they should have been asked first. They had not, however, objected, the Foreign Office noted.⁵²² No doubt the Spaniards feared to challenge British action. But the result once more was to hasten measures for Spanish occupation.

In February 1887 Leys received a letter from the Sultan of Sulu asking him to tell Labuan and Sandakan traders that they must collect a port clearance from Tianggi before proceeding to Palawan. The object, it was later stated, was to avoid the injuring of British traders by disorderly Sulus. But Leys declined to meet the request, on the ground that it was opposed to the protocol of 1885.⁵²³ A similar protest came from Treacher and the Company.⁵²⁴ Hertslet did not think that it could be said 'without fear of contradiction' that Palawan was part of the Sulu archipelago and under the stipulations of 1885. But a clause in article 4 of the protocol—which prohibited Spain from requiring foreign trade proceeding to or from Sulu to go to any particular port—would prohibit Spain from requiring British vessels to go to any particular port if they wished to trade between Sulu and Palawan. Nor, if Spain's claims over Palawan were accepted, could the Sultan be allowed any such right.⁵²⁵ Ford was told to make a representation in Madrid.⁵²⁶ No attempt to find an argument in treaty obligations lay behind the next

representation. Leys reported that the Sultan, through his son as governor, charged British traders in Palawan 10 per cent on exports, and \$300 p.a. ground rent per door.⁵²⁷ Spain was simply asked to 'put a stop to the imposition of the duties in question'.⁵²⁸ More and more it was a matter of putting pressure on Spain to deal with proceedings in one of its possessions. Spain sought to put itself in a position to do so.

In July Leys reported that Chinese traders in Palawan had been told by the Spanish authorities that four or five additional settlements, open to traders of all nationalities, would soon be established on the island.⁵²⁹ In November he reported the stationing of 'Asiatic' troops and European officers at Sirinao (Triple Top), Culasian, Togassan (Brooke Point) and Bukit Lubong (? Taniongbobog). But they were

quite unable to restrain the few fierce Sulumen, generally only about twenty in number, at each village from continuing such exorbitant demands on trade as to hamper and curtail it to a very great degree.

These few Sulumen scattered all along the coast are an idle, lawless, reckless class of men who under the plea of being followers of the Sultan of Sulu — will not permit direct trade of any kind or of the smallest amount between any trader whatever and the peaceful inhabitants, called Dusuns, of the Island, but demand that all articles should first be sold to them as middlemen, and thus exact, besides the 10% ad valorem charge on all exports from the Traders, a profit of from 20 to 200 per cent from the inhabitants on all articles they sell or buy....⁵³⁰

The Foreign Office asked the Spanish government to end these heavy and unwarrantable duties, 'and to remove such causes of exaction at any rate at those places where the Spanish Government have effected Settlements'.⁵³¹ A reply came in October 1888: the Governor General had ordered that the native chiefs in Palawan should not 'practise the exactions...complained of....'⁵³²

The Sultan discussed in these exchanges was Harun. The conflict between Amir-ul-Kiram and Aliyudin had continued, incidentally involving, in 1884, the alleged destruction at Siassi of a house built by T.H. Haynes, who, as agent of the London pearl merchant, E.W. Streeter, had gone to Sulu early the previous year.⁵³³ By late 1885 Leys believed that Amir-ul-Kiram had come out on top.⁵³⁴ It was reported from Madrid that the Spanish government had recognized him on condition that he went to Manila.⁵³⁵ The young Sultan, whose mother, perhaps recalling an eighteenth-century precedent, feared treachery,⁵³⁶ was doubtful about going. He wrote to Governor Weld of the Straits Settlements, asking if the alleged recognition was genuine and soliciting advice. Weld advised him to go, but wrote only privately, as he put it, since Queen Victoria had agreed not to interfere in the Sulu region.⁵³⁷ The Sultan also asked Haynes's advice. 'I do not think the Sultan was entirely averse to going', Haynes later recalled, 'as it was obvious that the Spaniards had the power to suspend the subsidy; but he was afraid. The night before the formal refusal he asked me if I would accompany him to Manila; but my plans would not permit me to do so....'⁵³⁸ The young Sultan also objected to another condition of recognition: that Harun should be sub-Sultan.⁵³⁹ He did

not go to Manila, and on Governor Arolas' advice, and with Madrid's authority, Harun was nominated Sultan.⁵⁴⁰ The Spanish government notified its recognition of him to the British ambassador.⁵⁴¹

The appointment of Harun as Sultan Governor Treacher considered 'unjust' and 'unpolitic', unless it was the Spaniards' aim 'to foment a rebellion and to avail of it to destroy the Treaty and abolish the semblance of independence now enjoyed by the Sulus'. Amir-ul-Kiram had the best claim. But, after alluding to outrages in Palawan, Treacher added: 'As Europeans in possession of a Sulu and Malay country it is to our interests that the European power in Sulu should emphatically assert its superiority over the natives. The feeble manner in which the Spanish have hitherto conducted their operations against the Sulus... cannot have tended to raise the Europeans' prestige with the Sulus and Bajaus....'⁵⁴² Treacher had come to the same conclusion as Pauncefote. What had been done to support the independence of the sultanate had been sufficient to exact from Spain terms for the recognition of its authority in Sulu. Now Spanish authority in the archipelago should be effective: and this would assist the establishment of the Company's authority on the mainland. Indeed, even in 1881, Treacher had commented after a discussion at Jolo that the Spaniards' object was 'to exert control over the Sulus and so prevent the extensive kidnapping of the natives under their rule in the Philippines, by which the slave markets of Sulu and North Borneo were formerly supplied'. He thought it 'fortunate for Sabah' that Spain was established in Sulu. What James Brooke and Henry Keppel accomplished to the south, 'the Spanish are, with less complete success, endeavouring to accomplish in the north....'⁵⁴³

During 1887 Spanish arms backed up Sultan Harun. In April Arolas destroyed Maimbung, Amir-ul-Kiram's capital: 'very unfortunate', de Robeck thought.⁵⁴⁴ In May he attacked the Panglima of Tapul, killed him, and secured the submission of the inhabitants to Harun.⁵⁴⁵ Early in 1888 Patikul, Datu Aliyudin's town, was destroyed.⁵⁴⁶ These vigorous moves coincided, not only with the new establishments in Palawan, but with new activities in Mindanao. These, the Spanish foreign minister, Moret, told Sir Clare Ford, were designed to open up the country between Zamboanga and Cotabato.⁵⁴⁷ But the Harun venture was in vain. Moret had earlier expressed some doubts about Spanish military officers, who fomented trouble to gain distinction.⁵⁴⁸ However much Madrid had supported or failed to support Arolas' policy, it did not produce the pacification of Sulu. Nor did the diplomatic efforts of Haji Butu, a Sulu who had served Badar-ud-Din and then Harun.⁵⁴⁹ H.M.S. *Wanderer* in 1890 found Sultan Harun living near the Spanish town in a fortified house; Amir-ul-Kiram at Maimbung. 'The Spaniards appear to be only just holding their own; and to be making no efforts to advance into the island, or to settle the Sultanate. The island generally seems to be in a state of anarchy....'⁵⁵⁰ In 1893 Arolas left Jolo,⁵⁵¹ and early the following year the Governor-General visited the island and accepted the abdication of Harun and the nomination of Amir-ul-Kiram,⁵⁵²

who became Jamal-ul-Kiram II.

Meanwhile the Directors of the Company had suspended the payment of the lease money. They had in 1884 suggested that, if 'a rightful heir or successor be displaced', or 'a mere puppet' of the Spaniards took over, the subsidy might cease, unless policy suggested otherwise. There were certainly reasons for not stopping the subsidy, Treacher commented: the Company's position on the east coast was still too weak to risk exciting 'the ill feelings of the Sulu chiefs....' The Court agreed that payment should be made to the proper claimant,⁵⁵³ though Alcock expected some definite Spanish action on the signature of the protocol, either the elevation of a rival Sultan or annexation, 'when the question of our continuing to pay a yearly subsidy will have to be decided'.⁵⁵⁴ In June 1885 Treacher reported to the Foreign Office that 'the young Sultan of Maimbung had sent to Sandakan demanding his annual tribute of \$5000 from the British North Borneo Company. It was explained to him that the money would be paid directly it was ascertained that he was recognized as Sultan, and he was recommended to procure a written recognition from the Spanish Governor of Sulu....'⁵⁵⁵ Alcock asked the advice of the Foreign Office under the clause in the charter that referred differences between the Sultans and the Company to the Secretary of State. The Foreign Office, wrote Pauncefote, did not have to give advice. But he followed Treacher's line. The Sultan formally recognized the suzerainty of Spain, and Great Britain should ask Spain which pretender it recognized.⁵⁵⁶ This was done.⁵⁵⁷ A further request was made in March 1886, following a further letter from the Company.⁵⁵⁸ At the end of the year Spain indicated that it had recognized Harun,⁵⁵⁹ and the Company was informed.⁵⁶⁰ The Court, however, told its Governor not to pay him for the time being.⁵⁶¹

In July 1887 Leys reported enquiries from the Sultan about the Sabah cession money.⁵⁶² The letter was referred to the Company, which asked if the subsidy should be paid to Harun.⁵⁶³ At Pauncefote's suggestion, the Foreign Office indicated that the subsidy should be paid to Harun from the date of his accession. If desired, the Foreign Office would enquire if His Highness claimed the arrears due at the date of his accession.⁵⁶⁴ The Company replied that instructions had been sent, and that there was no need for enquiry.⁵⁶⁵ The instructions to the Governor, sent following consultation with Pauncefote, had indicated that payment should commence from the date of recognition.⁵⁶⁶ Early in 1888 the Spanish ambassador asked if the arrears due since the death of the previous Sultan in 1884 had been paid; if so, to whom.⁵⁶⁷ The Court's comment was that it did not 'admit any right on the part of the Spanish Government to intervene in any question which may arise between the Company and the Sultan of Sulu'. At the Foreign Office opinion was divided. Robertson thought the Court's view doubtful. Harvey thought that Spain had no right to interfere in view of the 1885 protocol; perhaps Spain should be told that the Company had paid the arrears from 1886; but what of the period since 1884? Pauncefote suggested that the reply could be general: 'that Lord Salisbury is informed that all arrears due to the Sultan of Sulu have recently

been paid....' In fact the reply sent referred, more straightforwardly, to the arrears since 1886.⁵⁶⁸

The remaining arrears, some \$12,000, Governor Creagh sought to persuade Harun to renounce: an annuity might then be paid to Amir-ul-Kiram in an attempt to secure his neutrality. For some months the Company indeed paid him an annuity, but it lapsed without the permanent arrangement being concluded.⁵⁶⁹ Subsequently Creagh agreed, on Harun's renouncing all claims, to pay the money to Amir-ul-Kiram.⁵⁷⁰ But this arrangement also proved difficult to carry out. Amir-ul-Kiram, his mother, and his young brothers, 'all may have some claim to share it, and I cannot procure a satisfactory receipt in full from each of them', acting Governor Beaufort wrote.⁵⁷¹ The sum seems to have been handed over, however, when Amir-ul-Kiram finally succeeded.⁵⁷²

In 1891, while Sultan, Harun had announced his intention to visit Sandakan. 'I have informed him that he will be welcome but I have no house to offer him', Beaufort reported. 'I expect he only wants money and will run into debt here....'⁵⁷³ He came in November. By Christmas Beaufort was puzzled: the object of his visit was still 'a mystery', since he had not asked for a loan. But he had asked for money to buy food and, though the expense was small, 'the benefit is incommensurate....' A Chinese trader had fitted up a house for him, and two police were supplied as sentries.⁵⁷⁴ Early in 1892 he was still in Sandakan, and thence he wrote direct to Sir Alfred Dent. North Borneo, he said, had prospered; Sulu and Palawan had not, for Spain could not 'open and populate'. Draw the attention of British merchants to Sulu and Palawan, he urged: their development will benefit North Borneo. Before becoming Sultan of Sulu, Harun claimed, he had ordered his people to obey the Company's government and directed the greater part of the Palawan trade into the Company's territory. He had also assisted Dent when he visited Sulu with Overbeck, and Dent had promised him \$1000 p.a. as Datu of Palawan: 'this money we have only received once from the hand of Mr Pryer....' It should be paid to his son, now the Datu of Palawan. The Directors did not respond favourably. The Company had never had notice of this subsidy; and it was extraordinary to apply for it only after fourteen years had elapsed.⁵⁷⁵

The issue dropped with the displacement of Harun. It is possible, however, that it related to the negotiations over the 1878 grant. In the event no adjustments had been made to it, and the Company remained in possession of Sabah on the terms the grant originally specified. Partly for reasons of expediency—one was, paradoxically, the need to ensure its own control of the east coast—the Company continued to pay the subsidy to the Sultan of Sulu, and endeavoured to treat him as an independent ruler. But the Court found this somewhat at odds with the concept that Spanish recognition was needed to determine the claimant to the sultanate.

The contradiction was indeed one aspect of the political changes through which the area was passing, and which were productive of anomalies. The imperialism of the 1880s had a major impact upon sultanates in decline. Earlier Palgrave had pointed to the need for Britain to join with Spain to

exclude Germany from a region which seemed to be ripe for European acquisition. In fact, the emphasis on British policy had been upon joining with Germany to impose conditions on Spanish extension. North Borneo, however, Great Britain had long sought to preserve from other powers. The Company, acting under the suzerainty of the Sultans, was a means, so far as the Foreign Office, and especially Pauncefoot, were concerned, of doing this in a manner least offensive to them and to those at home unwilling to expand British responsibilities. The other powers accepted it, and boundary agreements were negotiated. Its Governor welcomed the consolidation of neighbouring European régimes, even that of the Spaniards; he sought a pacification of the area based on the new imperialist partition under which the territory became one of several colonial fragments. But, while North Borneo became a British protectorate, and was treated in the protectorate agreement of 1888 more or less as a state, its status retained the anomalous mark of its birth. The suzerainty of the Sultans was no longer emphasized, but the subsidies remained. There remained other links also, some seeming to the Company to be of value, some not. The partition cut through the old realm of Sulu, but did not sever mainland and archipelago entirely.

1. Ussher to Derby, 27 November 1876, Consular No. 26, F.O. 71/8; also in Treacher to Carnavon, 4 December, No. 81, C.O. 144/46 (744).
2. Memorandum, 18 January 1877, F.O. 71/8.
3. Palgrave to Derby, 4 May 1877, No. 30, F.O. 72/1477.
4. Palgrave to Derby, 7 June 1877, No. 33, F.O. 72/1477.
5. Palgrave to Derby, 1 May 1877, No. 26, F.O. 71/11.
6. Palgrave to Derby, 9 June 1877, No. 34, F.O. 71/12; also in Foreign Office to Colonial Office, 10 August, C.O. 144/49 (9720).
7. Ussher to Derby, 27 April 1877, Political No. 9, F.O. 71/11.
8. Palgrave to Derby, 12 June 1877, Political No. 2, F.O. 71/12; also in Foreign Office to Colonial Office, 8 August, C.O. 144/49 (9624).
9. Schück to Palgrave, 23 April 1877, in Palgrave to Derby, 7 May, No. 31, F.O. 71/11; also in Foreign Office to Colonial Office, 10 July, C.O. 144/49 (8368). Ussher to Derby, 7 February 1877, No. 2, F.O. 72/1562; also in Foreign Office to Colonial Office, 28 March, C.O. 144/49 (3681).
10. Ussher to Derby, 12 March 1877, Political Nos. 3, 4, F.O. 71/11; also in Ussher to Carnavon, s.d., Nos. 17, 18, C.O. 144/48 (4157, 8).
11. Ussher to Derby, 13 March 1877, Political No. 5, F.O. 71/11; also in Ussher to Carnavon, s.d., No. 24, C.O. 144/48 (4979).
12. Palgrave to Derby, 7 May 1877, No. 31, F.O. 71/11; also in Foreign Office to Colonial Office, 10 July, C.O. 144/49 (8368).
13. Minutes, 11, 30 July 1877, on C.O. 144/49 (8368).
14. Colonial Office to Foreign Office, 4 August 1877, on C.O. 144/49 (8368); F.O. 71/11.
15. Colonial Office to Foreign Office, 14 August 1877, on Foreign Office to Colonial Office, 8 August, C.O. 144/49 (9024); F.O. 71/12.
16. Foreign Office to Palgrave, 23, 25 August 1877, Nos. 7, 8, F.O. 71/12; both also in Foreign Office to Colonial Office, 28 August, C.O. 144/49 (10546), with minutes.

17. Minutes on Palgrave to Derby, 7 June 1877, No. 34, F.O. 71/12.
18. Ussher to Derby, 23 August 1877, No. 13, F.O. 12/24; also in Ussher to Carnavon, s.d., C.O. 144/48 (12459).
19. Foreign Office to Ussher, 23 October 1877, No. 8, F.O. 71/12.
20. Palgrave to Derby, 22 September 1877, No. 9, F.O. 71/12.
21. Palgrave to Derby, 6 October 1877, No. 12, F.O. 71/12; also in Foreign Office to Colonial Office, 20 November, C.O. 144/49 (14024).
22. Palgrave to Derby, 22 November 1877, No. 15, F.O. 71/12.
23. Minute, 6 November 1877, on Foreign Office to Colonial Office, 20 October, C.O. 144/49 (12799).
24. N. Tarling, *British Policy in the Malay Peninsula and Archipelago, 1824-1871*, Kuala Lumpur, 1969, p. 153.
25. Ussher to Carnavon, 2 June 1877, No. 49, C.O. 144/48 (8818); also in Ussher to Derby, 4 June, No. 11, F.O. 71/12.
26. Minutes on Foreign Office to Colonial Office, 16 April 1877, C.O. 144/49 (4537).
27. Foreign Office to Admiralty, 3 May 1877, F.O. 71/11.
28. Ussher to Derby, 22 June 1877, No. 12, F.O. 71/12; also in Ussher to Carnavon, 30 June, No. 61, C.O. 144/48 (10160).
29. Palgrave to Derby, 27 July 1877, No. 3, F.O. 71/12.
30. Ussher to Derby, 9 August 1877, confidential, F.O. 71/12; also in Ussher to Carnavon, 14 August, C.O. 144/48 (11708). Ussher to Church, 2 August, F.O. 71/12; in C.O. 144/48 (11708); also in Foreign Office to Colonial Office, 6 February 1878, C.O. 144/51 (1547).
31. As note 18; also Ussher to Derby, 1 September 1877, Political No. 14, and enclosures, F.O. 71/12; also in Ussher to Carnavon, s.d., No. 80, C.O. 144/48 (12755).
32. Palgrave to Derby, 7 September 1877, No. 7, F.O. 71/12; F.O. 72/1477; also in Foreign Office to Colonial Office, 8 December, C.O. 144/49 (14623).
33. Palgrave to Derby, 12 September 1877, No. 8, in C.O. 144/49 (14623).
34. Minute, 22 October 1877; Foreign Office to Macdonnell, 26 October, No. 370, F.O. 71/12.
35. Derby to Ussher, 6 November 1877, No. 9, F.O. 71/12.
36. Memorandum for Münster, 23 November 1877, F.O. 71/12; also in C.O. 144/49 (14623).
37. Minutes, 29 November 1877, n.d., n.d., F.O. 71/12.
38. Meade's minute, 18 December 1877, on C.O. 144/49 (14623). Colonial Office to Foreign Office, 21 December, on *ibid.*, F.O. 71/12. Foreign Office to Colonial Office, 31 December, F.O. 71/12.
39. Church to Ryder, 11 September 1877, F.O. 71/12; also in Foreign Office to Colonial Office, 6 February, C.O. 144/51 (1547).
40. Palgrave to Derby, 21 November 1877, Political No. 14, F.O. 71/12.
41. Palgrave to Derby, 30 November 1877, Political No. 16, F.O. 71/12; also in Foreign Office to Colonial Office, 17 January 1878, C.O. 144/51 (718).
42. Minutes on Church to Ryder, 11 September 1877, F.O. 71/12; Foreign Office to Admiralty, 2 February 1878, F.O. 71/13; also in Foreign Office to Colonial Office, 6 February, C.O. 144/51 (1547).
43. Treacher to Derby, 24 November 1877, Political No. 15, and enclosure, F.O. 71/12; also in Treacher to Carnavon, s.d., No. 105, C.O. 144/49 (155).
44. Treacher to Derby, 12 December 1877, Political No. 16, and enclosure, F.O. 71/12; also in Treacher to Carnavon, s.d., No. 111, C.O. 144/49 (1192).
45. As note 43, and minute on C.O. 144/49 (155).
46. Palgrave to Derby, 13 December 1877, No. 18, F.O. 71/12.
47. Palgrave to Derby, 20 December 1877, No. 19, F.O. 71/12.
48. Mackenzie to Derby, 27 January 1878, No. 2, F.O. 71/13; also in Foreign Office to Colonial

- Office, 27 March, C.O. 144/51 (3807).
49. Mackenzie to Derby, 14 February 1878, No. 4, F.O. 71/13.
 50. Walsham to Derby, 12 March 1878, No. 25, F.O. 71/13; also in Foreign Office to Colonial Office, 19 March, C.O. 144/51 (3363).
 51. Pauli to Salisbury, 27 June 1879, Political No. 1, F.O. 71/15.
 52. Note, s.d., on Paigrove to Derby, 7 September 1877, No. 7, F.O. 72/1477.
 53. Treacher to Derby, 31 January 1878, Political No. 1, F.O. 71/13; also in Treacher to Carnavon, 14 February, No. 6, C.O. 144/50 (3591).
 54. Low to Derby, 1 June 1875, Consular No. 11, F.O. 12/41; 15 July, Consular No. 14, F.O. 71/6.
 55. Low to Derby, 6 July 1875, Consular No. 12, F.O. 12/41; also in Low to Carnavon, s.d., No. 47, C.O. 144/44 (9929).
 56. K.G. Tregonning, 'American Activity in North Borneo, 1865-81', *Pacific Historical Review*, XXIII, 4 (November 1954), 366.
 57. *ibid.*, 367.
 58. Low to Derby, 6 December 1875, Consular No. 23, F.O. 12/41; also in Foreign Office to Colonial Office, 19 January 1876, C.O. 144/47 (761).
 59. Treacher to Derby, 20 December 1876, Consular No. 27, F.O. 12/43.
 60. Tregonning, 368. O. Rutter, *British North Borneo*, London, 1922, pp. 118-19.
 61. Tregonning, 368.
 62. Treacher to Derby, 2 January 1878, Consular No. 1, confidential, and enclosures, F.O. 12/53; also in Treacher to Carnavon, 7 January, C.O. 144/50 (2011).
 63. Edward Dent to Alfred Dent, 13 February 1878, C.O. 874/180.
 64. Overbeck to Treacher, 1 January 1878, enclosed in Treacher to Derby, 2 January, as note 62.
 65. E. Dent to A. Dent, 17 January 1878, C.O. 874/180. See also A. Dent to E. Dent, 18 February, *ibid.*
 66. E.W. Streeter, *Pearls and Pearling Life*. London, 1886, pp. 128-9.
 67. Notes for a second edition of Ada Pryer's *A Decade in Borneo*, C.O. 874/187; also in C.O. 874/177.
 68. Treacher to Derby, 22 January 1878, Consular No. 3, and enclosures, F.O. 12/53; also in Treacher to Carnavon, 14 February, C.O. 144/50 (3590).
 69. Translation of grant, 22 January 1878, in *ibid.*
 70. Bernabe Africa, 'The Legal Status of the British Occupation of North Borneo', *Philippine International Law Journal*, II, 3 (1963), 404.
 71. Enclosure in West to Salisbury, 6 November 1879, No. 208, F.O. 12/54; also in Foreign Office to Colonial Office, 11 December, C.O. 144/52 (19626). See also *Philippine Claim to North Borneo (Sabah)*, Manila, Bureau of Printing, reprint, 1968, I, 58-60.
 72. *ibid.*, 63-4.
 73. J.K. Reynolds, 'Towards an Account of Sulu and its Borneo Dependencies', M.A. thesis, University of Wisconsin, 1970, p. 111.
 74. Sultan to Captain-General, 4 July 1878, in West to Salisbury, 6 November 1879, as note 71; *Philippine Claim*, I, 69.
 75. Memorandum, 30 November 1872, in Bulwer to Kimberley, 15 January 1873, No. 3, C.O. 144/40 (2920).
 76. As note 74.
 77. Pacifico A Ortiz, 'Legal Aspects of the North Borneo Question', *Philippine Studies*, XI, 1 (January 1963), 25.
 78. I.D. Black, 'Native Administration by the British North Borneo Chartered Company 1878-1915', Ph.D. thesis, Australian National University, 1970, pp. 47-8.
 79. *Philippine Claim*, I, 62-4.

80. As note 53.
81. Telegram in Colonial Office to Foreign Office, 25 February 1878, F.O. 71/13.
82. Memorandum, n.d., on Ussher's nos. 17, 19, 20, 1876, F.O. 71/8.
83. A. Dent to E. Dent, 29 December 1877, C.O. 874/180.
84. E. Dent to A. Dent, 13 February 1878, C.O. 874/180.
85. A. Dent to E. Dent, 4 April 1878, C.O. 874/180.
86. Treacher to Salisbury, 15 July 1878, Consular No. 12, F.O. 12/53; also in Treacher to Colonial Office, 16 July, No. 59, C.O. 144/50 (10887).
87. As note 62.
88. A. Dent to Saunders, 15 February 1878, C.O. 874/180.
89. Minutes, 3, 5 September 1878, on C.O. 144/50 (10887).
90. Tarling, *Britain, the Brookes and Brunei*, p. 119.
91. L.R. Wright, 'The Foreign Office and North Borneo', *Journal of Oriental Studies*, VII, 1 (January 1969), 83.
92. Ussher to Colonial Office, 15 March 1878, C.O. 144/51 (3242); F.O. 12/53.
93. Minutes on C.O. 144/50 (2011).
94. As note 92.
95. Minutes on C.O. 144/51 (3242). Colonial Office to Foreign Office, 24 April 1878, on *ibid.*; also F.O. 12/53. Treacher to Derby, 5 February 1878, Consular No. 4, F.O. 12/45.
96. Ussher to Colonial Office, 24 January 1878, C.O. 144/51 (1051); F.O. 71/13.
97. Minutes on C.O. 144/51 (1051). Colonial Office to Foreign Office, 10 April 1878, on 1051; F.O. 71/13.
98. Salisbury to Russell, 17 April 1878, F.O. 71/13.
99. Telegram to Treacher, 11 May 1878; Bülow to Bieber, 29 May, F.O. 71/13.
100. Treacher to Derby, 20 April 1878, Political No. 3, F.O. 71/13; also in Treacher to Hicks Beach, 22 April, No. 33, C.O. 144/50 (6917).
101. N.M. Saleeby, *The History of Sulu*, Manila, 1963, pp.125, 127.
102. Pauli to Salisbury, 13 October 1879, Political No. 5, F.O. 71/15.
103. Minutes on C.O. 144/50 (6917).
104. Treacher to Salisbury, 31 May 1878, Political No. 4, F.O. 71/13; also in Treacher to Hicks Beach, 5 June, No. 43, C.O. 144/50 (8916).
105. Minutes on C.O. 144/50 (8916). Colonial Office to Foreign Office, 29 July 1878, on *ibid.*; F.O. 71/14.
106. Telegram, 12 June 1878, F.O. 71/14.
107. Draft to Colonial Office, June 1878, F.O. 71/14.
108. Foreign Office to Law Officers, 16 July 1878, F.O. 71/14.
109. Law Officers to Salisbury, 8 August 1878, and minute thereon, F.O. 71/14.
110. Minute, 24 May, on Mackenzie to Derby, 5 April 1878, Political No. 6, F.O. 12/53.
111. West to Salisbury, 13 September 1878, No. 169, F.O. 71/14.
112. West to Salisbury, 18 September 1878, No. 174, very confidential, F.O. 71/14.
113. West to Salisbury, 21 October 1878, No. 206, F.O. 71/14.
114. Drafts to Law Officers, 8 November 1878, and to Colonial Office, November 1878, with notes thereon, F.O. 71/14.
115. Memoranda, 7 May 1878, F.O. 12/53.
116. Memorandum, 24 May 1878; Foreign Office to Brooke, 3 June, F.O. 12/53.
117. Treacher to Derby, 17 April 1878, Consular No. 7, F.O. 12/53; also in Treacher to Hicks Beach, 20 April, No. 32, C.O. 144/50 (6916).
118. Dent to E. Dent, 24, 31 May 1878, C.O. 874/180.

119. E. Dent to A. Dent, 18 April 1878, C.O. 874/180.
120. E. Dent to A. Dent, 10 May 1878, C.O. 874/180.
121. E. Dent to Overbeck, 10 May 1878, C.O. 874/180.
122. E. Dent to Pauncefote, 16 May 1878, F.O. 12/53; C.O. 874/180.
123. E. Dent to A. Dent, 16 May 1878, C.O. 874/180.
124. E. Dent to A. Dent, 7 June 1878, C.O. 874/180.
125. Ussher to Meade, 23 May 1878, C.O. 144/51 (6445); F.O. 12/53. Minute on 6445.
126. Mencarini to Colonial Secretary, 22 February 1878, F.O. 12/53; also in Robinson to Carnavon, 27 February, No. 52, C.O. 273/93 (4297).
127. Mackenzie to Derby, 5 April 1878, Political No. 6, F.O. 12/53; to Robinson, s.d., in Robinson to Hicks Beach, 20 April, No. 111, C.O. 273/93 (6797).
128. Treacher to Derby, 14 May 1878, Consular No. 9, and enclosures, F.O. 12/53; also in Treacher to Hicks Beach, s.d., No. 39, C.O. 144/50 (8190).
129. Treacher to Salisbury, 22 June 1878, Consular No. 10, F.O. 12/53; also in Treacher to Hicks Beach, s.d., No. 51, C.O. 144/50 (10162).
130. Sultan of Sulu to Treacher, 26 June 1878, in Treacher to Salisbury, 15 July, as note 86.
131. Pryer's diary, 29 April 1878, C.O. 874/67.
132. Treacher to Carnavon, 18 February 1878, No. 12, C.O. 144/50 (3758), with minute.
133. As note 86.
134. A. Dent to E. Dent, 26 June 1878, C.O. 874/180.
135. A. Dent to E. Dent, 2 July 1878, C.O. 874/180.
136. Treacher to Salisbury, 5 August 1878, Political No. 5, F.O. 71/14; also in Treacher to Hicks Beach, s.d., No. 64, C.O. 144/50 (12050).
137. Treacher to Salisbury, 8 August 1878, Consular No. 14, F.O. 12/53; also in Treacher to Hicks Beach, 10 August, No. 67, C.O. 144/50 (12053).
138. Treacher to Salisbury, 9 August 1878, Political No. 7, and enclosure, F.O. 71/14; also in Treacher to Hicks Beach, s.d., No. 66, C.O. 144/50 (12052).
139. Treacher to Salisbury, 24 August 1878, Consular No. 16, F.O. 12/53; also in Treacher to Hicks Beach, s.d., No. 70, C.O. 144/50 (12860).
140. Treacher to Salisbury, 24 August 1878, Political No. 8, with enclosure, F.O. 71/14; also in C.O. 144/50 (12860).
141. Sultan to Overbeck, 22 July 1878; Martinez to Overbeck, s.d.; Overbeck to Martinez, 24 July; Martinez to Overbeck, s.d.; Overbeck to Martinez, 25 July, C.O. 874/185. The letters are also in West to Salisbury, 6 November 1879, No. 208, F.O. 12/54; also in Foreign Office to Colonial Office, 11 December, C.O. 144/52 (19626). Some of the letters are also in *Philippine Claim*, I, 70 ff.
142. A. Dent to E. Dent, 28 July 1878, C.O. 874/180.
143. Sultan to Treacher, 29 July 1878, in Treacher to Salisbury, 8 August, as note 137.
144. E. Dent to A. Dent, 10 May 1878, C.O. 874/180.
145. Overbeck to Pryer, 26 August 1878, C.O. 874/187; 8 November 1878, C.O. 874/110.
146. Minute on C.O. 144/50 (12860).
147. Memorandum on Treacher to Salisbury, 5 August 1878, Political No. 5, F.O. 71/14.
148. E. Dent to W.H. Read, 20 September 1878, C.O. 874/180.
149. Minute, 25 September, on C.O. 144/50 (12050).
150. Minutes on C.O. 144/50 (12052).
151. Treacher to Salisbury, 18 September 1878, Political No. 11, F.O. 71/14. Pryer's diary, 4-7 September, C.O. 874/68. See also Ada Pryer, *A Decade in Borneo*. London, 1893, pp. 29-31.
152. Telegram, 24 September 1878, F.O. 71/14; also in Foreign Office to Colonial Office, s.d., 114/51 (12269).

153. Salisbury to West, 1 October 1878, No. 126, F.O. 71/14.
154. West to Salisbury, 9 October 1878, No. 191, confidential, F.O. 71/14.
155. E. Dent to W.H. Read, 26 September 1878, C.O. 874/180.
156. West to Salisbury, 5 November 1878, No. 209, confidential, F.O. 71/14; Dent to Salisbury, 10 October, F.O. 12/53.
157. A. Dent to E. Dent, 31 May 1878, C.O. 874/180.
158. As note 86.
159. E. Dent to A. Dent, 30 August 1878, C.O. 874/180.
160. Statement and application in Dent to Salisbury, 2 December 1878, F.O. 12/53.
161. Foreign Office to Law Officers and Dr. Dean, 14 January 1879, F.O. 71/15.
162. Law Officers to Salisbury, 3 February 1879, F.O. 71/15.
163. Memoranda by Reilly, 20 February 1879; by Pauncefote, 24 February, F.O. 71/15.
164. Memoranda, 25, 26 February 1879, F.O. 71/15.
165. Foreign Office to Colonial Office, 27 February 1879, F.O. 71/15; C.O. 144/52 (3199).
166. As note 164.
167. West to Salisbury, 12 October 1878, No. 195, confidential, F.O. 71/14.
168. Salisbury to Dering, 21 October 1878, No. 470, F.O. 71/14.
169. Salisbury to Russell, 21 January 1879, No. 30; 3 February, No. 57A, F.O. 71/15.
170. Salisbury to Russell, 28 February 1879, No. 113, F.O. 71/15.
171. Dent to Salisbury, 12 February 1879, F.O. 12/54.
172. Memorandum by Pauncefote, 28 February 1879, F.O. 12/54.
173. Memoranda, 1, 3 March 1879, F.O. 12/54. Foreign Office to Colonial Office, 13 March, F.O. 12/54; C.O. 144/52 (4002).
174. Memorandum, 17 February 1879, F.O. 12/54.
175. Minutes on C.O. 144/52 (3199).
176. Minutes on C.O. 144/52 (4002).
177. Colonial Office to Foreign Office, 21 March 1879, on C.O. 144/52 (3199); F.O. 12/54.
178. Treacher to Salisbury, 7 February 1879, Political No. 1, F.O. 71/15; also in Treacher to Hicks Beach, s.d., No. 6, C.O. 144/52 (4794).
179. Foreign Office to Admiralty, 29 March 1879, F.O. 71/15.
180. Memorandum, 31 March 1879, F.O. 71/15.
181. Minutes on Foreign Office to Colonial Office, 2 April 1879, C.O. 144/52 (5293). Telegram, 5 April, on *ibid*; also in Colonial Office to Foreign Office, 7 April, F.O. 71/15.
182. Minute, 8 April 1879, F.O. 71/15.
183. Salisbury to West, 10 June 1879, No. 65, F.O. 71/15.
184. Treacher to Colonial Office, 25 April 1879, No. 20, C.O. 144/52 (8912); also in Treacher to Foreign Office, 6 May, Political No. 3, F.O. 71/15.
185. Treacher to Foreign Office, 15 August 1879, No. 4, F.O. 71/15; also in Treacher to Hicks Beach, s.d., No. 57, C.O. 144/52 (15295). Treacher to Foreign Office, 19 January 1880, Political No. 1, F.O. 71/16; also in Treacher to Hicks Beach, 23 January, No. 12, C.O. 144/53 (3285). Pryer's notes, C.O. 874/177, p. 65.
186. Memoranda, 22, 23 March, and proposed draft to West, March 1879, F.O. 71/15.
187. Colonial Office to Foreign Office, 7 April 1879, on C.O. 144/52 (5293); F.O. 71/15.
188. Memorandum, 20 April 1879, F.O. 71/15.
189. Münster to Salisbury, 12 May 1879, F.O. 71/15.
190. Memorandum, 16 May 1879, F.O. 71/15.
191. Salisbury to West, 20 May 1879, Nos. 58, 59, F.O. 71/15.

192. Alcock to Salisbury, 9 June 1879; Memoranda by Pouncefote, Salisbury, 9 May, F.O. 12/54.
193. Minute, 4 March 1879, on C.O. 144/52 (3199).
194. E. Dent to A. Dent, 16 May 1878, C.O. 874/180.
195. E. Dent to A. Dent, 30 May 1878, C.O. 874/180.
196. E. Dent to Read, 26 September 1878, C.O. 874/180.
197. Memorandum by Van Bosse, 29 August 1878, communicated 6 September, F.O. 12/53.
198. Memorandum by C. Hill, 28 September 1878, F.O. 12/53.
199. Stuart to Salisbury, 7 October 1878, Nos. 82, 83, F.O. 71/14.
200. Fenton to Salisbury, 9 May 1879, No. 58, and enclosure, F.O. 12/54; also in Foreign Office to Colonial Office, 27 May, C.O. 144/52 (8488).
201. Memorandum, 13 May 1879, F.O. 12/54.
202. Salisbury to Fenton, 20 May 1879, No. 26, F.O. 12/54; also in C.O. 144/52 (8488).
203. West to Salisbury, 15 June 1879, No. 89, F.O. 71/15; also in Foreign Office to Colonial Office, 21 June, C.O. 144/52 (10045).
204. Memoranda, n.d., 19 June 1879, F.O. 71/15.
205. Memoranda, 28 June 1879, F.O. 71/15.
206. Foreign Office to West, 5 July 1879, No. 77, F.O. 12/54; also in Foreign Office to Colonial Office, 19 July, C.O. 144/52 (11597).
207. Pauli to Salisbury, 7 August 1879, Political No. 4, F.O. 71/15.
208. Dent to Salisbury, 2 September 1879, and notes thereon, F.O. 12/54.
209. Foreign Office to Wyndham, 11 September 1879, No. 97, F.O. 71/15.
210. Wyndham to Salisbury, 18 September 1879, No. 163, F.O. 71/15.
211. West to Salisbury, 9 October 1879, No. 179, confidential, F.O. 71/15; also in Foreign Office to Colonial Office, 12 November, C.O. 144/52 (17844).
212. Note, 9 October 1879, in West to Salisbury, 11 October, No. 182, F.O. 71/15; also in C.O. 144/52 (17844).
213. Note, 9 October 1879, in West to Salisbury, 11 October, No. 183, F.O. 71/15; also in C.O. 144/52 (17844).
214. Enclosure in West to Salisbury, 13 October 1879, No. 186, F.O. 71/15; also in C.O. 144/52 (17844).
215. Tetuan to Casa la Iglesia, 9 October 1879, communicated 20 October, F.O. 71/15; also in C.O. 144/52 (17844).
216. Memorandum, 23 September 1879, F.O. 71/15.
217. Memorandum, 6 October 1879, F.O. 12/54.
218. Memorandum, 11 October 1879, F.O. 12/54.
219. Report by F.J. Evans, 20 October 1879, F.O. 12/54.
220. Memorandum by W.H.S [mith], 21 October 1879, F.O. 12/54.
221. Dent to Salisbury, 23 September 1879, F.O. 12/54.
222. Admiralty to Foreign Office, 8 October 1879, F.O. 12/54.
223. Treacher to Hicks Beach, 30 June 1879, No. 43, C.O. 144/52 (13205); also in Treacher to Foreign Office, s.d., Consular No. 11, F.O. 12/47.
224. Treacher to Foreign Office, 19 September 1879, Consular No. 13, F.O. 12/47; also in Treacher to Hicks Beach, s.d., No. 64, C.O. 144/52 (17212).
225. Treacher to Foreign Office, 25 November 1879, Consular No. 22, F.O. 12/47; also in Treacher to Hicks Beach, s.d., No. 88, C.O. 144/52 (71), and Foreign Office to Colonial Office, 14 January 1880, C.O. 144/54 (811).
226. Treacher to Foreign Office, 8 September 1879, Political No. 5, F.O. 71/15.
227. Edwards to Denison, 29 September 1879, in Admiralty to Colonial Office, 7 January 1880,

C.O. 144/54 (301).

228. Ada Pryer, pp. 39-41.
229. Minute, 2 January 1880, on C.O. 144/52 (71).
230. Treacher to Foreign Office, 19 January 1880, Political No. 1, F.O. 71/16; also in Treacher to Hicks Beach, 23 January, No. 12, C.O. 144/53 (3285).
231. Johnstone to Lees, 4 September 1880, in Lees to Foreign Office, 7 September, Consular No. 14, F.O. 12/55.
232. Treacher to Salisbury, 26 September 1879, Consular No. 19, F.O. 12/54; also in Treacher to Hicks Beach, s.d., No. 70, C.O. 144/52 (17388).
233. Stuart to Salisbury, 24 October 1879, No. 136, F.O. 12/54.
234. Telegram from de Lynden to Bylandt, 25 October 1879, and note thereon, F.O. 12/54.
235. Stuart to Salisbury, 4 November 1879, No. 141, F.O. 12/54.
236. De Lynden to Bylandt, 11 November 1879, F.O. 12/54.
237. Salisbury to Stuart, 24 November 1879, No. 52, F.O. 12/54.
238. Memorandum, 5 November 1879, enclosed in West to Salisbury, 6 November, No. 208, F.O. 12/54; also in Foreign Office to Colonial Office, 11 December, C.O. 144/52 (19626).
239. Draft, 7 December 1879, F.O. 71/15; also in Foreign Office to Colonial Office, 11 December, C.O. 144/52 (19626).
240. Salisbury to West, 8 January 1880, No. 3, F.O. 12/55.
241. Treacher to Foreign Office, 15 October 1879, Political No. 6, F.O. 71/15; also in Treacher to Hicks Beach, s.d., No. 75, C.O. 144/52 (18570).
242. Montero, II, 586.
243. Pauli to Salisbury, 10 November 1879, Political No. 6, F.O. 71/15.
244. Memoranda, 20, 23 December 1879, F.O. 71/15.
245. Pauli to Salisbury, 24 February 1880, Political No. 1, F.O. 71/16.
246. Treacher to Foreign Secretary, 14 April 1880, Political No. 3, F.O. 71/6; also in Treacher to Hicks Beach, s.d., No. 37, C.O. 144/53 (8164).
247. Lees to Foreign Office, 11 May 1880, Political No. 4, F.O. 71/16; also in Lees to Colonial Office, 12 May, No. 43, C.O. 144/53 (9497).
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249. Memoranda on Foreign Office to Colonial Office, 24 May 1880, C.O. 144/54 (7771).
250. Foreign Office to Russell, 26 June 1880, No. 309, F.O. 71/16.
251. Wyndham to Granville, 24 August 1880, No. 223, F.O. 71/16.
252. Wyndham to Granville, 27 August 1880, No. 229, F.O. 71/16.
253. Memoranda, 30 August 1880, n.d., F.O. 71/16.
254. Shufeldt to Read, 21 February 1880, C.O. 874/136.
255. Treacher to Foreign Office, 8 March 1880, Consular No. 3, F.O. 12/55, with Pauncefote's note; also in Treacher to Hicks Beach, s.d., No. 29, C.O. 144/53 (6486).
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267. Dent to R.B. Read, 9 July 1880, C.O. 874/112.
268. Memorandum, 3 July 1880, F.O. 12/55.
269. Memorandum, 7 July 1880, F.O. 12/55.
270. Memorandum on Lees to Foreign Secretary, 19 May 1880, Consular No. 8, F.O. 12/55.
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275. Foreign Office to Law Officers, 29 July 1880, F.O. 12/55.
276. Law Officers to Foreign Office, 17 September 1880, and notes thereon, F.O. 12/55.
277. Dilke to Granville, 24 July 1880, Granville Papers, P.R.O. 30/29/121, Public Record Office.
278. Memorandum, n.d., copy, received 23 September 1880, P.R.O. 30/29/143.
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280. Memoranda, 2, 4, 4 October 1880, PRO 30/29/143.
281. Memorandum, 14 October 1880, PRO 30/29/143.
282. Memorandum, 22 October 1880, PRO 30/29/143.
283. Memoranda, 29 October 1880, n.d., PRO 30/19/143.
284. Memoranda by Pauncefote, 5, 13 November 1880, and notes attached, PRO 30/29/143.
285. Foreign Office to Colonial Office, 22 November 1880; reply, 3 December, F.O. 12/55.
286. Foreign Office to Dent, 16 December 1880, F.O. 12/55.
287. Memorandum, n.d. [December 1880], F.O. 12/55.
288. Memorandum, n.d., F.O. 12/56.
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294. War Office to Council Office, 20 July 1881, and note thereon, F.O. 12/56.
295. Admiralty to Council Office, 8 July 1881, F.O. 12/56.
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297. Pauncefote to Peel, 16 August 1881, F.O. 12/56.
298. Council Office to Foreign Office, 3 August 1881, F.O. 12/56.
299. Pauncefote's note, 28 July 1881, on Granville to Bylandt, 29 July, F.O. 12/56.
300. Dilke to Granville, 14 December 1881, PRO 30/29/121.
301. Hamilton to Sanderson, 19 December 1881, PRO 30/29/124.
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319. Bylandt to Granville, 21 July 1880, and note thereon, F.O. 12/55.
320. De Lynden to Bylandt, 2 August 1880, and note thereon, F.O. 12/55.
321. Granville to Stuart, 10 August 1880, No. 67, F.O. 12/55.
322. Stuart to Granville, 17 August 1880, No. 79, F.O. 12/55.
323. Stuart to Granville, 9 October 1880, No. 94, and note thereon; Granville to Stuart, 25 October, No. 77, F.O. 12/55.
324. Memoranda, 29 October, 2 November 1880, F.O. 12/55.
325. Memorandum, 25 December 1880, F.O. 12/55.
326. Foreign Office to Admiralty, 11 January 1881, F.O. 12/56.
327. Memorandum by Pauncefote, 6 January 1881, and note thereon, F.O. 12/55.
328. Treacher to Pauncefote, 3 January 1881; memorandum by Hertslet, 5 January, F.O. 12/56.
329. De la Sarraz to Bylandt, 22 January 1881, communicated 27 January, and note thereon, F.O. 12/56.
330. Bylandt to Granville, 8 April 1881, and note thereon, F.O. 12/56.
331. Bylandt, 8 April 1881, substituted for previous note, F.O. 12/56. See also Granville to Stuart, 27 May, No. 33, F.O. 12/56.
332. Granville to Bylandt, 29 July 1881, F.O. 12/56.
333. De la Sarraz to Bylandt, 11 August 1881, F.O. 12/56.
334. Memorandum by Pauncefote, 15 August 1881, F.O. 12/56.
335. Stuart to Granville, 14 November 1881, No. 168, F.O. 12/58.
336. Memorandum, 16 November 1881, F.O. 12/58.
337. Granville to Bylandt, 21 November 1881, F.O. 12/58.
338. Rochussen to Bylandt, 12 December 1881, F.O. 12/58.
339. Memorandum, n.d., F.O. 12/58.
340. Granville to Bylandt, 7 January 1882, F.O. 12/58.
341. Bylandt to Granville, 31 May 1882, F.O. 12/58.
342. Memorandum, 20 June 1882, F.O. 12/58. See also Bylandt to Salisbury, 17 January 1880, F.O. 37/644.
343. Granville to Bylandt, 31 August 1882, F.O. 12/58.
344. Memorandum by Hertslet, 9 January 1889, F.O. 12/81.
345. Alcock to Pauncefote, 22 December 1882, F.O. 12/58.
346. Foreign Office to Stuart, 6 January 1883, No. 3, F.O. 12/60.
347. Alcock to Granville, 26 February 1883, two letters; Memorandum by Pauncefote, 5 March;

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348. Stuart to Granville, 16 March 1883, and note thereon; Stuart to Pouncefote, s.d., private, F.O. 12/60.
349. Stuart to Pouncefote, 26 March 1883, F.O. 12/60.
350. Rochussen to Bylandt, 23 August 1883, F.O. 12/60.
351. Memoranda, 28 March 1883, n.d., F.O. 12/60.
352. Memorandum communicated by Bylandt, 6 April 1883, F.O. 12/60.
353. Alcock to Granville, 26 February 1883, F.O. 12/60.
354. Alcock to Treacher, 25 April 1883, Nos. 192, 194, C.O. 874/293.
355. Alcock to Treacher, 26 April 1883, No. 195, C.O. 874/293.
356. Treacher to Alcock, 5 July 1883, No. 191, and enclosures, C.O. 874/234.
357. Treacher to Alcock, 10 September 1883, No. 264, F.O. 12/86.
358. Alcock to Granville, 20 December 1883, F.O. 12/60.
359. Memorandum, 26 December 1883; Granville to Bylandt, 24 January 1884, F.O. 12/67.
360. Van der Does de Willebois to Bylandt, 13 March 1884, and note thereon, F.O. 12/67.
361. Memorandum by Alcock, 5 July 1884, F.O. 12/67.
362. Memorandum, 16 July 1884, F.O. 12/67.
363. Foreign Office to Law Officers, 7 April 1884, F.O. 37/692. A.J.S. Reid, *The Contest for North Sumatra*, Kuala Lumpur, 1969, pp. 218 ff.
364. Pouncefote to Hertslet, received 7 June 1886, F.O. 12/76.
365. Memoranda, 26 July 1886, 27 August, F.O. 12/72.
366. Memorandum, 16 November 1881, F.O. 12/58.
367. West to Granville, 10 June 1880, No. 139, F.O. 72/1566.
368. Foreign Office to West, 23 May 1881, No. 50, F.O. 12/56.
369. Vega de Armijo to Casa la Iglesia, 16 November 1881, communicated 3 December 1881, F.O. 12/81; also in Montero, II, 599-601.
370. Foreign Office to Russell, 18 January 1881, No. 26, F.O. 71/16.
371. Memorandum, received 7 February 1881, F.O. 71/16.
372. Memorandum, 5 December 1881, F.O. 12/58.
373. Granville to Morier, 7 December 1881, No. 144, F.O. 12/58.
374. Granville to Morier, 6 January 1882, No. 3, F.O. 71/16.
375. Granville to Morier, 16 January 1882, No. 13, F.O. 71/16.
376. Granville to Amptill, 23 January 1882, No. 33, F.O. 71/16.
377. Morier to Granville, 9 February 1882, No. 11, confidential, F.O. 71/16.
378. Morier to Granville, 10 February 1882, private, PRO 30/29/187.
379. Granville to Morier, 14 February 1882, No. 23, F.O. 71/16.
380. Granville to Morier, 17 February 1882, No. 23 A, F.O. 71/16.
381. Morier to Granville, 19 March 1852, PRO 30.29.187.
382. Granville to Casa la Iglesia, 22 February 1882, F.O. 71/16.
383. Granville to Amptill, 27 February 1882, No. 84, F.O. 71/16, with note; also in Foreign Office to Colonial Office, 7 July 1884, C.O. 144/58 (11533).
384. Dent to W.H. Read, 24 February 1882, C.O. 874/113.
385. Granville to Amptill, 20 May 1882, No. 208A, F.O. 71/16.
386. Note, on Bases for a Protocol, etc., F.O. 71/16.
387. Granville to Walsham, 6 September 1882, No. 389, F.O. 71/16.
388. Amptill to Granville, 26 January 1883, No. 36, Most Confidential, F.O. 71/17.

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391. Enclosure in Admiralty to Foreign Office, 19 August 1882, F.O. 71/16.
392. Leys to Foreign Secretary, 13 October, 17 November 1882, Political Nos. 6, 7, F.O. 71/16. Leys to Foreign Secretary, 13 January 1883, Political No. 1, F.O. 71/17; also in Leys to Derby, 20 February, No. 19, C.O. 144/57 (5154).
393. Leys to Foreign Secretary, 5 June 1882, Political No. 4, F.O. 71/16; Hope to Day, 20 August, F.O. 71/16.
394. Leys to Foreign Secretary, 20 February 1883, Political No. 2, F.O. 71/17; McQuhae to Willes, 31 December 1882, F.O. 71/17.
395. Leys to Foreign Secretary, 29 August 1883, Political No. 10, F.O. 12/59. Sultan to Granville, 30 July, and notes thereon; reply, 3 November, F.O. 71/17.
396. Note, 1 October 1883, on Sultan to Granville, 30 July, F.O. 71/17.
397. Memorandum, 27 July 1882, F.O. 71/16.
398. Granville to Casa la Iglesia, 23 August 1882, F.O. 71/16.
399. Casa la Iglesia to Granville, 5 September 1882, F.O. 71/16.
400. Memorandum by Stavely, 10 September 1883; Granville to Ampthill, 21 September, No. 339, F.O. 71/17.
401. Telegram, 4 December 1883; Memorandum by Pauncefote, s.d., F.O. 71/17.
402. Ampthill to Granville, 21 December 1883, No. 359, Secret, F.O. 71/17.
403. Casa la Iglesia to Granville, 16 June 1884, F.O. 71/17; also in Foreign Office to Colonial Office, 4 July, C.O. 144/58 (11381).
404. Granville to Ampthill, 27 June 1884, No. 188 A, confidential, F.O. 71/17; also in C.O. 144/58 (11381).
405. Memorandum by Pauncefote, 30 June 1884, F.O. 71/17. Granville to Bunsen, 7 July, No. 89, F.O. 71/17; also in Foreign Office to Colonial Office, s.d., C.O. 144/58 (11533). Granville to Bunsen, 16 July, No. 91, F.O. 71/17.
406. Telegram from Bunsen, 21 July 1884, F.O. 71/17.
407. Bunsen to Granville, 21 July 1884, No. 78, and enclosure, F.O. 71/17.
408. Memorandum, 22 July 1884, F.O. 71/17.
409. Memorandum, 10 September 1884, F.O. 71/17.
410. Memorandum, n.d., PRO 30/29/187.
411. Granville to Morier, 26 September 1884, No. 115, confidential, F.O. 71/17.
412. Telegram from Morier, 30 September 1884, F.O. 71/17.
413. Morier to Granville, 8 October 1884, No. 111, confidential, F.O. 71/17.
414. Morier to Granville, 9 October 1884, No. 113, confidential, F.O. 71/17.
415. Morier to Granville, 9 October 1884, No. 114, confidential; Memorandum by Pauncefote, 15 October, F.O. 71/17.
416. Montero, II, 614-16, 624-5.
417. Morier to Granville, 16 October 1884, No. 118, confidential, F.O. 71/17.
418. Alcock to Pauncefote, 22 October 1884, F.O. 12/67. Granville to Morier, 25 October, No. 127, F.O. 71/17.
419. Morier to Granville, 7 November 1884, No. 125; Foreign Office to Morier, s.d., No. 132, F.O. 71/17.
420. Morier to Granville, 13 November 1884, No. 128, F.O. 71/17.
421. Minute of conversation with Count Münster, 14 November 1884, F.O. 71/17.
422. Observations on Count Münster's communication of 14 November, 1884, 4 December

- 1884, F.O. 71/17.
423. Draft Article V, communicated by Count Münster, 11 December 1884, F.O. 71/17.
424. Morier to Granville, 26 December 1884, No. 147, confidential, F.O. 71/17.
425. Bunsen to Granville, 4 March 1885, No. 20; telegram from Morier, 7 March, F.O. 71/18.
426. *Standard*, 31 December 1884.
427. Minute, 28 July 1884, on Foreign Office to Colonial Office, 7 July, C.O. 144/58 (11533).
428. E. Dent to W.H. Read, 20 September 1878, C.O. 874/180.
429. Treacher to Foreign Secretary, 12 February 1880, Consular No. 2, F.O. 12/55; also in Treacher to Hicks Beach, s.d., No. 17, C.O. 144/53 (5468).
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431. Lees to Foreign Secretary, 22 March 1881, Consular No. 15, F.O. 12/56.
432. Case and Counsel opinion, 4 November 1916, C.O. 874/709.
433. A. Dent to W.H. Read, 29 April 1881, C.O. 874/112.
434. Treacher to Chairman, 11 April 1882, No. 112, C.O. 874/230.
435. A. Dent to W.H. Read, 21 April 1882, C.O. 874/113.
436. Treacher to Chairman, 4 July 1882, No. 183, and enclosures, C.O. 874/23. See also Read to Treacher, 12 June 1882, C.O. 874/136.
437. A. Dent to Pryer, 4 June 1880, C.O. 874/110.
438. Receipt, 3 July 1882, in Treacher to Chairman, 4 July, as note 436.
439. W.H. Read to Treacher, 18 January 1883, C.O. 874/136.
440. A. Dent to W.H. Read, 3 March 1882, C.O. 874/113.
441. Report by Mr A. Dent, 21 July 1883, C.O. 874/146.
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445. Foreign Office to Law Officers, 21 August 1882, F.O. 12/58; C.O. 874/995.
446. Law Officers to Foreign Office, 18 September 1882, F.O. 12/58.
447. Alcock to Granville, 10 November 1882, F.O. 12/58.
448. Law Officers to Granville, 5 September 1883, F.O. 12/60.
449. Memorandum, 24 April 1885, F.O. 12/65.
450. Memorandum, 15 July 1885, F.O. 12/65.
451. Colonial Office to Foreign Office, 10 December 1885, F.O. 12/65.
452. Memorandum, 27 August 1886, F.O. 12/70.
453. Foreign Office to Colonial Office, 13 January 1887, F.O. 12/75; C.O. 144/64 (848).
454. Memorandum, 28 January 1887, F.O. 12/76.
455. Memorandum, 'Borneo Protectorate', 27 January 1887, F.O. 12/76.
456. Drafts and memoranda, F.O. 12/75.
457. N. Tarling, *Britain, the Brookes and Brunei*, pp. 364 ff. See also J.M. Williams, 'A Political Biography of Sir Frederick Weld', Ph.D. thesis, University of Auckland, 1973, pp. 600-5.
458. Memorandum, 30 December 1887, F.O. 12/77.
459. Foreign Office to Stuart, 23 August 1887, No. 46, F.O. 12/77; also in Foreign Office to Colonial Office, 21 September, C.O. 144/64 (19322).
460. Minute, 23 September 1887, on C.O. 144/64 (19322).
461. Memorandum, 1 January 1888, F.O. 12/78.

462. Memorandum, 12 January 1888, F.O. 12/78; also attached to C.O. 144/64 (19322). Another version in F.O. 12/79.
463. Memorandum, 31 January 1888, F.O. 12/78.
464. Minute, 6 March 1888, F.O. 12/78.
465. Telegram to Rumbold, 16 November 1888, F.O. 12/79.
466. Cockerell to Pauncefote, 22 August 1888, F.O. 12/79.
467. Foreign Office to Rumbold, 14 August 1888, No. 35A; to Fenton, 13 September, No. 47, F.O. 12/79; also in Foreign Office to Colonial Office, 24 September, C.O. 144/66 (19149).
468. Memorandum, 15 August 1888, F.O. 12/79.
469. Stuart to Granville, 9 December 1881, No. 188, F.O. 12/58.
470. Rumbold to Salisbury, 19 November 1888, No. 138, confidential, F.O. 12/79.
471. Rumbold to Salisbury, 11 February 1889, No. 40, F.O. 12/81.
472. W.G. Maxwell and W.S. Gibson, *Treaties and Engagements affecting the Malay States and Borneo*. London, 1924, pp. 215-17.
473. Rumbold to Salisbury, 9 March 1892, No. 23, F.O. 12/90.
474. Rumbold to Salisbury, 18 March 1892, No. 24, F.O. 12/90.
475. Maxwell and Gibson, pp. 160-71.
476. Admiralty to Colonial Office, 8 July 1881, F.O. 12/56.
477. Treacher to Dent, 24 June 1882, F.O. 71/17.
478. Granville to Morier, 6 January 1882, No. 3, F.O. 71/16.
479. Dent to Pauncefote, 9 January 1882, and minutes thereon, F.O. 12/58.
480. Treacher to Alcock, 17 July 1885, No. 94, confidential, C.O. 874/239.
481. Mayne to Treacher, 4 September 1885, No. 197, confidential, C.O. 874/296.
482. Foreign Office to Mackenzie, 25 March 1878, No. 4; Mackenzie to Derby, 15 May, No. 13, F.O. 72/1510.
483. Memorandum, 15 July 1878, F.O. 71/14; also in Foreign Office to Colonial Office, 10 July, C.O. 144/60 (12149).
484. Memorandum, 1 August 1878, F.O. 72/1510.
485. Treacher to Foreign Office, 15 October 1879, Political No. 6, with memoranda thereon, F.O. 71/15; also in Treacher to Hicks Beach, s.d., No. 75, C.O. 144/52 (18570). Hertslet's memorandum, 22 December, is also in F.O. 12/52.
486. Leys to Foreign Office, 27 September 1883, Political No. 12, F.O. 71/17; also in Leys to Foreign Office, s.d., No. 61, C.O. 144/57 (19130).
487. Memorandum, 23 November 1883, F.O. 71/17.
488. Foreign Office to Morier, 7 December 1883, No. 122, F.O. 71/17.
489. Treacher to Foreign Secretary, 11 April 1884, Political No. 7, and note thereon, F.O. 71/17; also in Treacher to Derby, s.d., No. 31, C.O. 144/58 (8426).
490. Granville to Bunsen, 27 May 1884, No. 67, F.O. 71/17.
491. Elduayen to Bunsen, 25 June 1884; note by Pauncefote, 8 July; Granville to Bunsen, 16 July, No. 91, F.O. 71/17.
492. Pryer to Leys, 3 September 1883, F.O. 71/17; also in Foreign Office to Colonial Office, 18 October, C.O. 144/57 (17812).
493. Kindersley to Granville, 13 March 1884, F.O. 12/67. Treacher to Foreign Secretary, 9 March, Political No. 5, F.O. 71/17; also in Foreign Office to Colonial Office, 15 April, C.O. 144/58 (6289).
494. As note 489.
495. Treacher to Derby, 9 June 1884, No. 56, C.O. 144/58 (12262). To Foreign Secretary, s.d., Political No. 12, F.O. 71/18.
496. Treacher to Derby, 27 July 1884, No. 68, C.O. 144/58 (15247).

497. Treacher to Foreign Secretary, 27 December 1884, Political No. 27, F.O. 71/17.
498. Treacher to Derby, 27 December 1884, No. 109, C.O. 144/58 (1885); F.O. 71/18. Colonial Office to Foreign Office, 4 February 1885, on 1885; F.O. 71/18.
499. Leys to Governor of Straits, 29 May 1882, in Leys to Colonial Office, s.d., No. 36, C.O. 144/56 (12899).
500. Treacher to Foreign Secretary, 1 May 1885, No. 25, F.O. 71/18; also in Foreign Office to Colonial Office, 10 June, C.O. 144/60 (10319).
501. Treacher to Foreign Secretary, 13 May 1885, No. 26, F.O. 71/18.
502. Memorandum, 1 July 1885, F.O. 71/18; also in Foreign Office to Colonial Office, 10 July, C.O. 144/60 (12149).
503. Memorandum, 2, 3 July 1885, F.O. 71/18.
504. Minute, 16 July 1885, on C.O. 144/60 (12149).
505. Treacher to Alcock, 28 April 1885, confidential, and note thereon, C.O. 874/238.
506. Hamilton to Salisbury, 5 November 1889, Political No. 6, F.O. 12/82.
507. Treacher to Foreign Secretary, 5 October 1885, Consular No. 18, F.O. 71/18; also in Foreign Office to Colonial Office, 19 December, C.O. 144/60 (21946).
508. Treacher to Foreign Secretary, 9 October 1885, Consular No. 19, F.O. 71/18; also in C.O. 144/60 (21946).
509. Treacher to Foreign Secretary, 11 November 1885, Consular No. 22, and enclosure, F.O. 71/18; also, without enclosure, in Foreign Office to Colonial Office, 14 January 1886, C.O. 144/62 (866).
510. Memorandum, 19 November 1885, F.O. 71/18.
511. Memorandum, 22 November 1885, F.O. 71/18.
512. Admiralty to Foreign Office, 24 November 1885, and memorandum thereon, F.O. 71/18.
513. Colonial Office to Foreign Office, 1 December 1885, on Treacher to Stanley, 9 October 1885, No. 61, C.O. 144/59 (20098); F.O. 71/18.
514. Telegram to Gollan, 26 January 1886, F.O. 71/18.
515. Gollan to Salisbury, 28 January 1886, Political No. 1, F.O. 71/18; also in Foreign Office to Colonial Office, 17 March, C.O. 144/62 (4630).
516. Gollan to Foreign Secretary, 9 February 1886, Political No. 2, F.O. 71/18; also in Foreign Office to Colonial Office, 14 April, C.O. 144/62 (6478).
517. Gollan to Rosebery, 30 April 1886, Political No. 5, and note thereon, F.O. 71/18, also in Foreign Office to Colonial Office, 2 July, C.O. 144/62 (11779).
518. Ford to Salisbury, 9 February 1887, No. 16, F.O. 71/19.
519. Leys to Foreign Secretary, 30 June 1886, Political No. 21, and enclosure, F.O. 12/69; also in Foreign Office to Colonial Office, 1 September, C.O. 144/62 (15833).
520. Telegram to Gollan, 31 July 1886; Foreign Office to Ford, s.d., No. 77, F.O. 71/18.
521. Memorandum on Leys to Foreign Secretary, 17 November 1886, Political No. 32, F.O. 12/69.
522. Memoranda by Robertson and Pauncefote, n.d., 4, 9 December 1886, F.O. 12/70.
523. Leys to Salisbury, 23 March 1887, Political No. 19, F.O. 71/19; also in Foreign Office to Colonial Office, 21 May, C.O. 144/64 (9887). Leys to Salisbury, 27 July, Political No. 38, F.O. 12/74; also in Foreign Office to Colonial Office, 21 September, C.O. 144/64 (19316).
524. Van Donop to Alcock, 15 March 1887, No. 37, C.O. 874/243; Company to Foreign Office, 20 May, F.O. 12/77; also in Foreign Office to Colonial Office, 25 June, C.O. 144/64 (12542).
525. Memorandum, 26 May 1887, F.O. 12/74.
526. Salisbury to Ford, 3 June 1887, No. 79, F.O. 71/19; also in C.O. 144/64 (12542).
527. Leys to Salisbury, 20 April 1887, Political No. 26, F.O. 12/74; also in Foreign Office to Colonial Office, 6 July, C.O. 144/64 (13349).
528. Salisbury to Ford, 25 June 1887, No. 91, F.O. 71/19; also in C.O. 144/64 (13349).

529. Leys to Salisbury, 4 July 1887, Political No. 34, F.O. 12/74; also in Foreign Office to Colonial Office, 30 August, C.O. 144/64 (17569).
530. Leys to Salisbury, 30 November 1887, Political No. 61, F.O. 12/74; also in Leys to Holland, s.d., No. 68, C.O. 144/63 (553).
531. Ford to Salisbury, 30 January 1888, No. 11, and enclosure, F.O. 71/19; also in Foreign Office to Colonial Office, 22 February, C.O. 144/66 (3784).
532. Ford to Foreign Office, 21 October 1888, No. 137, and enclosure, F.O. 71/19; also in Foreign Office to Colonial Office, 2 November, C.O. 144/66 (21718).
533. Streeter to Salisbury, 7 October 1885, and enclosure, F.O. 71/18; also in Foreign Office to Colonial Office, 10 July 1886, C.O. 144/62 (12182). Treacher to Alcock, 27 January 1883, No. 20, C.O. 874/233. See also Streeter, pp.xiii, xv, plate opposite p. 142.
534. Leys to Foreign Secretary, 1 December 1885, Political No. 45, F.O. 71/18; also in Foreign Office to Colonial Office, 16 January 1886, C.O. 144/42.
535. Ford to Rosebery, 27 March 1886, No. 34, F.O. 71/18; also in Foreign Office to Colonial Office, 8 April, C.O. 144/62 (6123).
536. Crocker to Alcock, 9 May 1887, No. 1, C.O. 874/243.
537. Enclosure in Weld to Granville, 31 May 1886, confidential, C.O. 273/140 (12379).
538. Haynes to Collins, 29 December 1928, C.O. 874/1029.
539. Saleeby, p. 139.
540. *ibid.*, p. 139. Gollan to Foreign Secretary, 25 September 1886, Political No. 11, F.O. 71/18; also in Foreign Office to Colonial Office, 1 December, C.O. 144/62 (21870).
541. Ford to Iddesleigh, 20 November 1886, No. 121, and enclosure, F.O. 71/18; also in Foreign Office to Colonial Office, 13 December, C.O. 144/62 (22527).
542. Treacher to Alcock, 19 November 1886, No. 109, C.O. 874/242.
543. Treacher to Dent, 14 September 1881, No. 29, C.O. 874/228.
544. Gollan to Salisbury, 30 April 1887, Political No. 4, and enclosure, F.O. 71/19; also in Foreign Office to Colonial Office, 23 June, with minute, C.O. 144/64 (12098). Crocker to Alcock, 30 April, No. 93, and enclosure, C.O. 874/243.
545. Gollan to Salisbury, 9 June 1887, Political No. 6, and enclosure, F.O. 71/19; also in Foreign Office to Colonial Office, 5 August, C.O. 144/64 (15550).
546. Gollan to Salisbury, 14 April 1888, Political No. 5, and enclosure, F.O. 71/19; also in Foreign Office to Colonial Office, 9 June, C.O. 144/66 (11607).
547. Ford to Salisbury, 13 February 1887, No. 19, F.O. 71/19; also in Foreign Office to Colonial Office, s.d., C.O. 144/64 (3875).
548. Ford to Iddesleigh, 29 December 1886, No. 133, confidential, F.O. 71/18.
549. S.Y. Orosa, *The Sulu Archipelago and its People*, London and Yonkers, 1923, pp. 104-6.
550. Giffard to Gollan, 1 July 1890, in Gollan to Salisbury, 30 July, Political No. 2, F.O. 72/1869.
551. Saleeby, p. 144.
552. Stigand to Kimberley, 16 May 1894, No. 1, F.O. 72/1961.
553. Précis in C.O. 874/942.
554. Alcock to Treacher, 16 January 1885, No. 11, C.O. 874/295.
555. Treacher to Foreign Secretary, 4 June 1885, Political No. 31, F.O. 71/18; also in Foreign Office to Colonial Office, 10 August, C.O. 144/60 (14248).
556. Alcock to Salisbury, 9 October 1885, F.O. 12/68; also in Foreign Office to Colonial Office, 16 January 1886, C.O. 144/62 (898). Memorandum by Pauncefote, 17 October 1885, F.O. 12/68.
557. Foreign Office to Bunsen, 27 October 1885, No. 114, F.O. 71/18; also in C.O. 144/62 (898).
558. Alcock to Rosebery, 25 February 1886, F.O. 12/71. Foreign Office to Ford, 5 March, No. 26, F.O. 71/18.
559. Ford to Iddesleigh, 20 November 1886, No. 121; also in C.O. 144/62 (22527).

560. Foreign Office to Company, 30 November 1886, F.O. 12/73.
561. As note 553.
562. Leys to Salisbury, 19 July 1887, Political No. 36, F.O. 12/77; also in Foreign Office to Colonial Office, 21 September, C.O. 144/64 (19323).
563. Kindersley to Pauncefote, 4 October 1887, F.O. 12/77.
564. Foreign Office to Company, 24 November 1887, F.O. 12/77.
565. Company to Foreign Office, 1 December 1887, F.O. 12/77.
566. As note 553.
567. Foreign Office to Company, 26 January 1888, F.O. 12/79.
568. Company to Pauncefote, 2 February 1888, F.O. 12/79; also in Foreign Office to Colonial Office, 24 February, C.O. 144/66 (3785). Memoranda and draft on F.O. version.
569. Creagh to Alcock, 10 April 1890, No. 50; 25 April, No. 71; 20 May, No. 83; 26 July, No. 114, C.O. 874/249.
570. Creagh to Alcock, 7 April 1891, No. 87, C.O. 874/251.
571. Beaufort to Alcock, 23 July 1891, No. 224, C.O. 874/251.
572. Beaufort to Martin, 22 June 1898, C.O. 874/262.
573. Beaufort to Martin, 11 September 1891, No. 274, C.O. 874/251.
574. Beaufort to Martin, 19 December 1891, No. 362, C.O. 874/252.
575. Harun to Dent, 20 January 1892; Kindersley to Beaufort, 8 April 1892, No. 74, C.O. 874/303.



5 Group photo: Haji Butu, W.C. Cowie, Sultan Jamal-ul-Kiram and Alexander Cook



6 C.F.C. Macaskie

THE STATE OF NORTH BORNEO

The American Acquisition of the Philippines

THE Company's rule in North Borneo faced a major challenge in the 1890s, the Mat Salleh revolt. It was, as Black has argued, 'less a reaction to Company rule than a traditional political phenomenon, still possible in the context of the Company's inadequacies....'¹ The Company indeed faced economic difficulties in the early 1890s, and sought to meet them in part by retrenchment. Its subsequent expansion, guided by Cowie, who became managing director, focused on the west coast, and on the development of the railway there, rather than on overall government.² The revolt was to bring the cession of the remaining rivers by Brunei and a strengthening of the administration.

In ending the revolt, Cowie sought the aid of the Sultan of Sulu. By the late 1890s the European régimes had, neither in North Borneo nor in Sulu, attained the consolidation that Treacher had envisaged. No buffer state had been created, as envisaged earlier. But in Sulu Spanish control remained limited, even after, and partly because of, the violence of Arolas. The position was affected after 1896 by the revolt against Spanish authority in Luzon. After 1898 it was profoundly changed by the advent of American power: no longer was the U.S. represented merely by merchants and adventurers, as already in Borneo, but also by a modern navy and by administrators informed with a sense of manifest destiny. The rift among the imperial powers in the 1890s seemed for a moment to bring into question the distribution of power and territory of the 1880s. In the prospects for change the Sultans displayed an interest: Sultan Jamal-ul-Kiram certainly hoped to preserve, if not increase his independence. But the Company was probably the chief instigator of the moves for change. The Spaniards had failed to obtain a frontier coterminous with that of Sulu. But the partition was not entirely satisfactory to the Company. Its realm would be easier to rule, and more profitable, if it extended further into the islands. The British Government agreed that the islands should not go to Germany. But, if they were not to remain Spanish, it was

prepared for them to go to the United States.

It had been reported in 1894 that the Spaniards considered that the free trade at Sulu assisted the supply of arms to Mindanao, where both attempts to establish Spanish control and also resistance continued.³ In 1872 the Sulu affair had been related to the outbreak of the Cavite mutiny. These disturbances, and those in Cuba, again meant that there were few troops in the Manila area in the year of rebellion, 1896; but, as many were disaffected, and Mindanao drained them off, it may not have been a major factor in the relative success of the rebels.⁴ In 1897 the Spaniards sought a modification of the protocol of 1885, so as to permit the prohibition of trade in arms, munitions, and alcohol in the Sulu archipelago. This the Foreign and Colonial Offices accepted.⁵

The intervention of the U.S. in the Philippines, following the outbreak of the Spanish American war, implied much greater changes. At the Foreign and Colonial Offices early in 1898, R.B. Martin, the Chairman of the Company, discussed a territorial redistribution that might follow American conquest of the Philippines. The Court of Directors was under the assumption that Harun was still Sultan: his replacement, though rumoured, had not been confirmed. If the Philippines became a U.S. possession, 'it is doubtful whether that country would wish to definitely retain them, in which case Great Britain would appear to have as good, if not a better, claim to them than any other European Power. It is of course impossible to predict what may happen', Martin told Governor Beaufort, 'but it is thought possible that the United States Government might at any rate so far as regards the Sulu Islands and Palawan, give the Sultan the choice of flag.' Haynes, who formerly lived in Sulu, had written to the U.S. Ambassador about the succession. He 'cherishes the hope that the United States may recognize the injustice to which the young Sultan (Amir-ul-Kiram) was subjected, and that they will do so more readily as Datu Harun was the nominee of the Spaniards....' In any case both Foreign Office and Colonial Office were 'quite alive to the importance of keeping a close watch upon the development of events in the Pacific....' So should Beaufort. The Court 'had in mind the possibility of the Company ultimately acquiring, by lease or otherwise, the islands of Sulu and Palawan, and...you might, if such a course were possible approach Amir-ul-Kiram and his mother, the sultana with a view to removing any grudge occasioned by the Company not taking any part in the question of his succession'. The Court had been 'practically in the hands of the Foreign Office', who had intimated that Harun was recognized by Spain.⁶ An interest in acquiring the islands dated back to 1878; perhaps, too, the Court had reread Harun's vain request for assistance in 1892. It coupled a renewed interest in the islands with the idea of replacing him. Quite what Jamal-ul-Kiram's position was to be is unclear. Nor was the forecast of American policy to prove accurate.

Harun had, of course, been deposed some years earlier: Jamal-ul-Kiram was in fact on the throne⁷ and Haji Butu had become his prime minister.⁸ The Sultan, too, was on good terms with the Company, and had, it seemed,

endeavoured to assist during the Mat Salleh uprising. Late in 1897 the Officer-in-Charge at Sandakan, Alexander Cook, had learned of the Sultan's proposed visit to Mekka and desire for a loan.⁹ Jamal-ul-Kiram arrived at Sandakan *en route* on 28 December, with Haji Butu and about sixty other followers, and was given a salute of 17 guns, which was said to be usual, though the London office declared he should have 21.¹⁰ The Sultan visited Cook and then went to stay with Enche Awang, Haji Omar's son.¹¹ A guard of honour was posted at his door. On 30 December he called on Cook again and asked, in vain, for an advance of two years' cession money.¹² A difficulty arose. On 2 January one of the Sultan's bodyguards was identified as a notorious escaped prisoner, Lepai. The Sultan was asked to hand him over, but did not. The Commandant arrested Lepai. Haji Butu and others expressed the Sultan's indignation. No disturbances occurred, however, and by 5 January Cook thought that he had calmed down.¹³ But Cowie, then in Borneo, went to Sandakan, fearing 'serious consequences'.¹⁴

Before leaving London Cowie had expressed apprehension over a connexion between Mat Salleh, who had recently sacked Gaya, and the Sulus on the east coast over whose allegiance Treacher had earlier been concerned. 'In connection with the recent attack on Gaya', he told Beaufort,

...in view of the treacherous and revengeful nature of the Sulus steps should be taken to transfer prisoners of that nationality now in Sandakan Gaol to Labuan or Mempakul. This course would have the effect of minimising the risk of any attempt on the part of Sulus in or around Sandakan, to effect the escape of those of their race who might be undergoing terms of imprisonment in that Gaol. Such action if resorted to might have serious consequences. You are no doubt aware that the East India Company were twice ousted by the Sulus from Balambangan and it is considered possible that in the event of the capture of Mat Salleh some reprisals might be attempted.

The Court are given to understand that he is connected by marriage with the Sultan of Sulu and, if this is so, it is quite likely that the sympathies of the race may be with him....¹⁵

'Mr Cowie's visit at this moment', the official *British North Borneo Herald* commented on 16 January, 'is most opportune in view of the random statements flying about as to Sulu sympathies with our troublesome petty chief up North.'¹⁶ Jamal-ul-Kiram's manner, according to Cowie, was 'almost affectionate'. The Managing Director advanced him \$10,000, at 6 per cent, for his Mekka visit, and gave him a silver inkstand, 'so he went off quite happy....' Later the Sultan complained of the way he had been treated over Lepai, and said he would have given him up 'if he had been given time and had been asked in a proper manner....'¹⁷ Jamal-ul-Kiram, Cowie and Cook were all photographed at Government House, and on 21 January the Sultan was preparing to go, Cook promising him six chairs and coolies.¹⁸ 'He...said Goodbye to Mr Pryer by the telephone....'¹⁹ But it had not been merely a matter of avoiding a challenge to the Company's authority on the east coast: the Company's friendly gestures had a positive as well as a negative side. The Sultan provided Cowie with a letter which was used in an attempt to open

negotiations with Mat Salleh in March. It was addressed to his wife, Dayang Bandang. The Sultan addressed her as 'My dear mother': in fact the Sultan's father was first cousin to Dayang Bandang's mother. In the letter Jamal-ul-Kiram announced that he looked upon Cowie as a father. 'All my Sulu chiefs are very friendly with him, as were yr. father and mother because being a very good man all people trust him.... you will do well to see him....' Cowie himself explained that he had known the Dayang's father well when he had been trading on the coast.²⁰

The agreement Cowie negotiated with Mat Salleh in April was a controversial venture. Beaufort developed doubts about Jamal-ul-Kiram as well. In his comments on Martin's proposals, he pointed out that the Company's officers had done their best to efface the unpleasant memory of the Lepai episode, and he noted that the cession money accruing between the death of Sultan Badar-ud-Din and the accession of Sultan Harun had already been handed to Jamal-ul-Kiram. He expected to see the Sultan on his way back from Mekka.

But I regret to say that I am in doubt as to his bona fides. I have lately been handed a letter purporting to come from the Sultan, but not bearing his 'chop', to Mat Salleh, telling the latter to disregard the Sultan's letter to him that he was sending by Mr Cowie, and to keep on fighting till he returned to Borneo from Mekka.... I cannot say if it is genuine. The evidence is clear that his principal henchman handed it to a man to give to Mat Salleh; but it may be the handwork of the servant and written without the Sultan's knowledge....²¹

Cowie had hoped to use the remnant of the Sultan's authority to consolidate the Company's: others may have hoped to use it to challenge the Company's.

That the Sultan was involved seems, however, unlikely: his interests clashed with Mat Salleh's. A letter received from Mat Salleh early in July made out, it seemed to Beaufort,

that his agreement was conditional on our consenting to refer to the Sultans of Brunei and Sulu the question of his title to the interior of the country. That is a claim entirely unfounded in fact. He was positively told several times that he might dispute with the Sultans as much as he liked, but he could not hope ever to have the interior or to be allowed to live in the district known as the Ulu Labuk or Sugut: that the Company owned the country and would keep it....²²

Such a communication could hardly confirm Beaufort's suspicions of the Sultan: though fanatics might hope to use his name, and the fact that he was going to Mekka, Jamal-ul-Kiram was not likely to countenance a claim that would damage his relations with the Company and impede the flow of cession-money.

Indeed Beaufort reached this conclusion when he met the Sultan in Sandakan on his way back from Mekka later in July. He was received by a guard and given his customary salute.

...I laid before him the letter supposed to have been written by one of his suite, at his instigation but not chopped by him, urging Mat Salleh to continue to fight. His

Highness expressed himself as greatly obliged for the consideration shown, and his Secretary was satisfied from internal evidence—the expressions used in the letter—that it had not been written by a Sulu. They were evidently extremely surprised and I have no doubt were really ignorant of the whole thing which they described as a trap to bring them, as well as the Chief who was asked to forward it, into disgrace. But they were unable to suggest the name of the writer.

His Highness further argued that he had no interest in countenancing Mat Salleh (in rebellion) and it was unlikely. Moreover, the English had always helped him and he would help them. This he followed up with an offer, if asked, to write a further letter to Mat Salleh, and if it should at any time become necessary to attack him, himself to send over sufficient Sulus to efface him completely....

On this, Cowie, back in London, commented: 'This is the man who was so grossly insulted.' Beaufort himself said the Sultan 'made a favourable impression—his manner having improved and his mind enlarged by his journey'. He was allowed \$10 p.d. for expenses in Sandakan, and granted an advance of \$1000 in cash.

The Sultan and Governor had also discussed the Spanish-American war: he said that the Foreign Consuls in Singapore had been talking to him, and he had seen the (Acting) Governor three times. He is anxious, naturally, to see Sulu quit of the Spaniards, but has no desire for mere independence. He stated that he had informed the Governor as to the wishes of the Sulus; said he would communicate further with his people, and if necessary would ask me to forward a formal statement of their hopes...²³

At the same time Beaufort commented further on Martin's letter of early May. The Sultan had asked

what should be his attitude towards the Spaniards. I told him on no account to attack or fight them, but to give them every assistance to leave the Country if they desired to do so: and, if he was not properly treated, to write to me so that I could forward his complaint. He is somewhat afraid, as he has news that his younger brother has been arrogating the place of Sultan during his absence on the Hegira—his mother neither agreeing nor dissenting but standing by inactive or neutral; and that people have been warning the Spaniards that he intends to attack them. But his going with his wives, and without arms, to Tianggi, and meeting the Governor there before going on to Maimbung—as I advised him to do—should set this straight.

The Sultan then told me point blank...that he was very much afraid of his country being handed over to the Germans, and that his only hope lay in its being given to this or some other English Company. The word 'company', I may remind you, is frequently synonymous with them for 'Government'. He expressly mentioned this Government, and his wish is that, if this Government does not take over the country, the British Flag shall somehow or other be hoisted to protect his dominions and to secure their development 'like'—he said—'Penang Singapore and Colombo'.

He complains of the treatment of the Spaniards—that they have not adhered to the Treaty and have done nothing to develop the country, but have unjustly shut up all places but Tianggi, Bongao, Tata'an, and one or two others, for trading. In particular he stated that he was most anxious to see the Islands Balabac, Palawan, Cagayan Sulu, Basilan, and Tawi-Tawi abandoned by or taken over from Spain and held by England.

He asked Beaufort to tell the British Government, and the Governor sent to

London a telegram, asking it not to allow a German take-over, and indicating his wish to 'grant or lease' the archipelago to the Company or to Great Britain.²⁴ This telegram was received in the Company's Office on 4 August,²⁵ and conveyed to the Foreign Office the next day.²⁶

Following the conversation in May, the Foreign Office had told J.A. Swettenham, acting Governor of the Straits and Consul-General for the Borneo protectorates, that Martin had suggested that Germany might claim the Sulu Archipelago. He was to report any indication of foreign claims to the Philippines.²⁷ C.P. Lucas of the Colonial Office, who had seen Martin and F.H. Villiers of the Foreign Office in May, had pointed to the earlier German interest in the area and recognition of Spanish claims. 'The title of the North Borneo company is in part derived from the Sultan of Sulu and if the Sulu Islands cease to be Spanish, they would like them to come under the company—certainly not to pass into German hands.' Sir Edward Wingfield commented: 'It must be a case of Hands off if the Germans try to cut in.'²⁸ A prime reason for the Colonial Office's attitude, it seems, was, as in Kimberley's day, German protectionism.

On his way to and from Mekka, Sultan Jamal-ul-Kiram stopped in Singapore. These visits, as the *Straits Times* later reported, led to 'the enlargement of his previous ideas...'²⁹ Possibly he was also influenced by Haynes, who wrote to the Sultan suggesting that he seek the protection of the British flag.³⁰ Swettenham saw him early in June on the return route. He 'hints at British Protection', Swettenham telegraphed to the Foreign Office. 'Shall I give encouragement.' Villiers felt it 'undesirable, at all events just now, to encourage the idea of British protection. Anything in this direction wd. certainly become known...'³¹ At the Colonial Office T.H. Macnaghten doubted if Spain had ever effectively occupied the archipelago: he also wondered what state 'Spanish misrule' might have left it in.

We certainly cannot allow these Islands to get under German protection, since any trade they may have would then in all probability be restricted to German subjects.

But while the war is still in progress and until we know what action America proposes taking with regard to Spanish possessions in the Pacific, action in the matter would, I think, be premature.

He suggested 'an encouraging reply in general terms saying that Mr Chamberlain considers it would be most undesirable that the paramount power in the Sulu Archipelago should pass to Germany but that pending the further development of the war between Spain and U.S.A. the time has not arrived for definite action'. Hamilton thought that any expression of views must be 'very general', especially as, for the time being, Sulu must be regarded 'as belonging to a certain extent to the Philippines, and until the Philippines are broken up the exact status of the Sulu Islands cannot be very clearly defined'. But the Sultan should have some encouragement: 'we might go so far as to say that in the event of any change taking place in the existing sovereignty over the Sulu Islands, H.M. Govt. would be prepared to consider any proposals that might be put forward by the Sultan'. Lucas considered that

Swettenham should assure the Sultan of British friendship, but say that it was premature to discuss a British protectorate. Wingfield agreed: 'in the face of our recognition of the Sovereignty of Spain we cannot say anything about a Protectorate at present—but the very large naval German force at Manila looks as if they were prepared to make a grab at something.' Chamberlain assumed that the Admiralty were watching German proceedings. Letters were sent to the Foreign Office and Admiralty according to these minutes,³² and instructions to Swettenham³³ and to the Commander-in-Chief followed.³⁴ British policy, indeed, was aimed at excluding the Germans from the Philippines, but only in the last resort by the interposition of British power. In July Salisbury was to tell the Spanish Ambassador that Britain would approve Spanish or American possession of the Philippines, but oppose possession by any other European power.³⁵ The minutes of June prefigured this statement and indicated its implications for Sulu.

In fact in the Sultan's interview with Swettenham on 20 June, the topic of protection had been avoided. But Jamal-ul-Kiram 'expressed his fear that he might find a German squadron at Cagayan Sulu at the present time. I told him the three German vessels were still at Manila....' He also 'manifested some anxiety that the exact state of his relations with Spain should be known in Europe', and 'demurred to the correctness' of the published translation of the Spanish treaty of 22 July 1878.³⁶ As he was shortly after to tell Beaufort, the Sultan had no desire for 'mere independence'; but he clearly did not wish to lose such independence as he had in the process of a territorial redistribution among the imperial powers. He wanted protectorate not annexation.

Early in August the results of the Beaufort interview reached London, and a few days later the Governor reported by telegram a belief that the Germans had made a firm offer for Sulu and Palawan.³⁷ This also went to the Foreign Office,³⁸ which telegraphed to Swettenham. But he had no such information. He did, however, report that the Consul in Brunei had picked up a rumour that the Sultan of Sulu had requested protection of the American Ambassador in London.³⁹

Certainly some approaches had been made to John Hay, earlier by Haynes, and now by F.B. Forbes. A memorandum dated 6 August 1898 declared that the 'State of North Borneo' held its territory, 'under an annual payment of royalty', from the Sultan of Sulu, 'who, himself, continues to rule over the small groups of Sulu and Palawan Islands....' No real Spanish control had been established. 'It appears that, some time ago, the Sultan of Sulu was ready to come to a friendly arrangement whereby the State of North Borneo should acquire these outlying Islands but that the British Government withheld its sanction, in order to avoid possible complications with Spain....' Recently the Sultan had asked for British protection. The Directors wished to help the Sultan to keep order and to protect North Borneo from piracy. If, in a peace with Spain, the U.S. assumed control over all the Philippine Islands, the Sultan's interests would be protected. 'If, on the other hand, the U.S. in assuming a Philippine protectorate, should wish to relieve themselves of the

care of these small islands, the North Borneo Company and State would be prepared to cooperate with the Sultan of Sulu in placing them under British protection....' Would the U.S. Government object to North Borneo now entering negotiations with the Sultan for the acquisition of Sulu and Palawan, the outcome to be subject to its subsequent approval? At the Foreign Office W.L. Langley noted that Forbes had no official connexion with the Company. But Villiers presumed that the communication was made with its knowledge or approval. If the U.S. Embassy enquired, the British Government should state that it had nothing to do with the proposal. Salisbury changed that to 'not responsible for'. At the Colonial Office Alexander Fiddian regarded it as a Company memorandum. 'Obviously someone will be on the look out to grab Sulu and Palawan; and it has already been admitted that it would be undesirable for that archipelago to pass into German hands. There seems no particular reason why the BNBCo should not have it. The F.O. are silent as to their opinion, and apparently do not ask for ours....' 'It seems strange', Wingfield wrote, 'that the Company should communicate direct with the U.S.A. Ambassador—but if F.O. don't object we need not.'⁴⁰ Indeed, under the charter, the Government had control of the Company's foreign relations, in the sense that it could dissent from or object to its dealings with foreign powers. It did not dissent. Possibly—especially in view of the conversations of May—the Foreign Office was in fact aware of the approach, as Salisbury's change of wording perhaps implied. It did not need to dissent because it was not a Company initiative. It may have been prepared simply to allow the Company indirectly to try this approach which did not challenge the presumption that the Philippines would be at the disposal of the Americans. An article in *The Globe* late in October—perhaps inspired by the Company—supported the idea.⁴¹ By then the peace negotiations had begun in Paris.

The imperialist partition of the area was being challenged: earlier Brunei claims were revived. The Consul there, Arthur Keyser, wrote in December that Sultan Hashim was preparing an application for Palawan, Cagayan Sulu and Balabac: if the Spaniards left, they should revert to Brunei. 'The Americans are not likely to take much notice of the claim', wrote Villiers, 'nor would it be desirable for them to do so.'⁴² All the islands in question, the Foreign Office pointed out, had been recognized as Spanish or claimed by Spain and were within the limits of the peace treaty now drawn up, and so ceded to the U.S.⁴³ There was, of course, no wish to challenge the U.S.: additionally most officials shared a low opinion of Sultan Hashim and anticipated a final disposal of Brunei in one way or another. At the Colonial Office Macnaghten wrote: 'whatever the claims of Brunei are I do not think they should be recognized, unless indeed Brunei is likely shortly to become a British Colony, tho' even in that case I do not know that these Islands which are geographically part of the Philippines would be of special value to us'. The Sultan of Brunei was 'a hopelessly effete and incompetent Ruler', always ready to dispose of his territories; and if he obtained the islands, he might try

to dispose of them to 'the highest bidder (possibly Germany)' despite the protectorate agreement of 1888. The area might, however, be of strategic importance, and possibly the Colonial Office should suggest that the Company should 'be given some say in the matter'. Lucas thought nothing should be said. 'We have nothing to say. We cannot and do not, as far as I know, wish to prevent the Americans having these islands. If the North Borneo company want any of them, I do not see why they should not hold them under the U.S. govnt.' Wingfield also thought that nothing should be said: 'it is not likely that the U.S.A. will recognize any claim of the Sultan of Brunei to these islands'. Chamberlain agreed,⁴⁴ and Keyser was told not to reply.⁴⁵

Macnaghten had suggested a reference to the Company. But it is possible that the idea that the Sultan of Brunei should apply to the U.S. was an invention of its officials. The matter had indeed been raised during Governor Beaufort's visit to the Sultan of Brunei in December; and Beaufort was apparently Keyser's source. The islands, Beaufort pointed out, were included in the Torrey cession, and he hoped that none of them would go to Germany. Cagayan Sulu, as he had earlier told Martin, was treated as part of North Borneo territory, and had asked for Company rule; Palawan was the scene of a thriving trade.⁴⁶ Possibly, as Keyser thought,⁴⁷ Company officials had initiated the suggestion that the Sultan should appeal to the U.S. The object may have been to find a further means of at least avoiding German rule, if not also establishing Company control. Indeed Hashim indicated his readiness to cede the three islands to the Company.⁴⁸ In a letter to the Foreign Office referring to Keyser's report, the Court declared that it did not propose 'to make any comment at present with regard to the future control of the islands in question': it did, however, stress the strategic importance of North Borneo in general. The Foreign Office's reply said that the islands were within the limits of article 3 of the peace treaty and had been ceded to the U.S. The Court decided not to forward to the Foreign Office the Sultan of Brunei's offer, and told Beaufort to inform him of the Government's views.⁴⁹

The British Government was prepared to see the Spaniards continue to rule the Philippines, despite its reservations over their treatment of foreign commerce. If Spanish rule was to end, it was prepared to accept a take-over by the U.S., thought to be dedicated to an 'open-door' policy in East Asia. It was opposed to Germany's obtaining all or any of the Philippines. Any indication of British interest would encourage Germany to seek a share.⁵⁰ Any move to realize the Company's aims must be indirect and within this context: the Forbes proposal might be, the Brunei claim was certainly not. The Company might thus hope to see the Germans excluded: it would have little chance of protecting or occupying any of the islands unless the U.S. agreed.

Britain's caution over U.S. claims in the area had also been illustrated by its reaction to events in Balabac and Palawan. Late in 1898 the Governor at Balabac and other Spaniards were massacred.⁵¹ The Spaniards left Puerto Princesa (Port Royalist), and the Chinese traders on the Palawan coast were

left unprotected. A Sandakan Chinese chartered S.S. *Labuan*, Captain Pfort, to bring relief to his friends on the island.⁵² Sir Charles Mitchell, Governor of the Straits Settlements, telegraphed to the Foreign Office late in January 1899: 'In view of present affairs Sulu group and possible interference of Germany suggest presence of ship of war there.' Foreign Office officials thought this vague: which particular places should the ship visit? what British interests required protection? Mitchell suggested that the chief interest was the Company; and he thought the ship should visit Maimbung and the Spanish naval station. At the Foreign Office Langley thought that the Sultan of Sulu was probably 'looking about for a Protector and the arrival of a British ship may raise his hopes'. The commander of any vessel sent should 'make it clear that his visit is only intended to enquire into and if necessary protect British interests....' The Sulu archipelago was ceded to the U.S.⁵³ A letter went to the Admiralty accordingly.⁵⁴

In February the Government in London learned by a telegram from the Straits that the Governor of North Borneo had reported that the British flag had been hoisted in Port Royalist. Villiers found this 'most improper and inconvenient....'⁵⁵ The Company could give no information.⁵⁶ Mitchell was told to have it removed.⁵⁷ The explanation was given by Captain Pfort. The Spaniards had left Port Royalist in December, turning adrift native soldiers and convicts, and the peaceful citizens had been left to their own resources. Fearing the advent, moreover, of the Sulus, the rebels' 'President' had asked for the protection of the Governor of Sandakan, and Pfort had given them a British merchant ensign. H.M.S. *Archer* arrived early in March. Commander Charles H. Dane told the townsmen that they had no right to raise it, as the island had been ceded to the U.S.⁵⁸

Meanwhile in January 1899 a North Borneo official had been to Sulu in the *Normanhurst* to deliver a casket to Sultan Jamal-ul-Kiram on behalf of the Company (one also went to Brunei). Officers of the Spanish gunboat *Cardanero* boarded at Tianggi and were most anxious for news about the massacre on Balabac. The *Cardanero* had just returned from Siassi and the neighbouring islands, 'whence all the Spaniards had been removed to Sulu'. The Governor at Tianggi was awaiting either 'transport to remove the garrison, or the arrival of the Americans, when he would hand over to them': he 'was uncertain which to expect first but everyone was ready to leave at a moment's notice. The Governor invited the Sultan who was living just outside Tianggi to receive the casket at Government House....' He 'and his people were very friendly with the Spaniards', and he was 'prepared to take over Tianggi if evacuated and hold it for the Americans, but some trouble was anticipated from Datu Tulkani the Sultan's brother who disputes the throne....'⁵⁹ According to Beaufort the Sultan was anxious for the arrival of the Americans. Datu Tulkani was 'believed to be prepared to seize all he can should the Americans not arrive before the Spaniards leave....'⁶⁰ The Sultan no doubt recognized that he had to accept an American protectorate: the presence of a rival only reinforced such a conclusion. But his presence in

Tianggi and his good relations with the departing Spaniards were not based merely on these considerations: he recognized that Sulu had a better chance of preserving a remnant of independence if he appeared to be in control.

In March H.M.S. *Rattler* visited the area, following the Admiralty's instructions, and G.H. Hardinge, the commander, reported visiting Maimbung, where he found the Sultan, at first fearful of annexation. The *Rattler* went on to Tianggi; to Siassi, evacuated by the Spaniards a month before and flying the Sulu flag; to Tata'an and Bongao, also evacuated. There was no evidence of German activity.⁶¹ Soon after the *Rattler's* departure, however, a German gunboat, the *Moeve*, allegedly visited Sulu, and the captain called on the Sultan at Maimbung. This news, reported by Cook at Sandakan, was confirmed by Eddie Schück, son of the late Captain Schück. He and his brothers 'were practically brought up in Sulu and were playmates of the present Sultan', Cook added: they were influential with him, with his brother, and with his 'sometime antagonist and rival', Datu Tulkani. According to Schück, the Sultan would prefer German protection, but would accept that of the British or the Americans. The Sultan's messenger, Datu Utu, declared that they would prefer the British. The German community in Borneo, Keyser reported, 'place considerable confidence in the fact that the Holt line of steamers has been acquired by a German Firm', and intended to represent the importance of Sulu to their government.⁶²

An English syndicate, Keyser also reported, planned to bring about a reconstitution of the North Borneo Company, and include Sulu and Palawan. It was intended to approach the U.S. and pension the Sultan. Schück was interested in this, but would no doubt withdraw if the German government showed interest in Sulu. This syndicate was perhaps the one about which an Australian, Harold G. Parsons, interviewed St John Brodrick in July. Palawan, he declared, might give trouble to the Americans, but 'could be worked profitably and without trouble by my Syndicate, under friendly arrangement with the natives'. Sulu he would like to have leased from the Sultan, and then the syndicate could have operated under the American and British flags conjointly. But Keyser had suggested that any precipitancy might arouse U.S. suspicions. Perhaps his proposal could be forwarded to the U.S. government. The Foreign Office told him to apply direct.⁶³ There was still some hope that after all the Americans would not wish to administer the islands. Whether or not this was shared by the Company is unclear, though the *British North Borneo Herald* discussed the idea of British protection of the 'outlying islands', should the U.S. not wish to administer them.⁶⁴ The Company's connexion with Parsons, if any, is also unclear. What is clear is that the Foreign Office would not intervene, though it did not obstruct.

By this time, indeed, the Americans had taken over. Cook learned in May that American troops had arrived in Sulu. This he found satisfactory, and he hoped they would soon land in Palawan, Balabac, Tawi-Tawi, Siassi and the other islands.⁶⁵ Late in June Jacob G. Schurman, one of the American Commissioners, arrived in Sandakan, and met Cook and Pfort. There was no

desire to part with any of the Philippine or Sulu islands, Cook reported.

Referring to affairs in the island of Sulu the Americans have been welcomed there, but Mr Schurman foresees probable difficulties owing to the fact that American rights do not extend beyond what the Spaniards held by Treaty. Mr Schurman admits that this is only a strip of the island formerly held by the Spaniards, with Siassi, Tawi-Tawi, Balabac and Palawan; though of course Spain claimed Sovereignty over all the Sulu Archipelago. The Sultan flies his own flag. A new treaty will probably be negotiated. The Sultan asked for Siassi Island for himself.

Mr Cook strongly urged the importance of America having stations at Siassi and at Bongao and Tata'an in Tawi-Tawi because of the slavery and piracy that is rampant there. There is a regular slave route from Sulu to Dutch Territory via Siassi, Tawi-Tawi and Omadal which our Stations on the mainland, can only partially check.

Mr Cook also suggested that a U.S. gunboat should patrol the above sea route and we hope that in the near future, mutual arrangements will be made to effectually stamp out the lawlessness which has been rampant for many years and from which our subjects have suffered on several occasions.⁶⁶

It was clear that any idea of a repartition was over: the Americans were claiming what the Spaniards had claimed. Cook quickly reverted to the advantages for the mainland régime in cooperating with a strong régime in the islands that Treacher had earlier urged.

In August the U.S.-Sulu treaty was signed by John C. Bates and by an unenthusiastic Sultan.⁶⁷ It provided for the recognition of U.S. sovereignty over 'the Archipelago of Jolo, and its dependencies', and for the use of the U.S. flag there. 'The rights and dignities of His Highness the Sultan and his Datus shall be fully respected; the Moros shall not be interfered with on account of their religion...' (Article 3). 'While the United States may occupy and control such points in the Archipelago of Jolo as public interests seem to demand, encroachment will not be made upon the lands immediately about the residence of His Highness the Sultan unless military necessity requires such occupations in case of war with a foreign power....' (Article 4). Other articles provided for free trade with the Philippines and for cooperation against piracy; prohibited the introduction of firearms except under the Governor-General's authority; and declared that crimes and offences done by Moros to Moros were to be dealt with by the Sultan. Under article 14 the U.S. undertook not to sell Jolo or any other island in the archipelago to any foreign nation without the Sultan's consent. Monthly salaries were to be paid to the Sultan and other datus.⁶⁸

Keyser was told by Commander Sperry of U.S.S. *Yorktown* that the chiefs were friendly, but—though he was to receive \$250 p.m.—the Sultan 'holds aloof and is difficult to deal with'. Possibly, Keyser thought, he was 'anxious to obtain better terms by embarking on intrigues to involve the interests of other countries'. The American General was dependent on a German merchant for his information and he acted as interpreter. Keyser hoped to assist the U.S. government by letting the Sultan discover that the British Government was in accord with it.⁶⁹ He was implying that Germany might be involved. It was consistent with British policy to prefer the U.S. to Germany,

just as it was consistent with Company policy to welcome a regular government in Sulu if it could not be its own. The Foreign Office approved Keyser's line.⁷⁰ The Bates treaty was said by one observer to be 'as good and fair as was possible to get under the circumstances, the Americans at that time being anxious to avoid fighting the Sulus and Magindanaos, and everything having to be done in order to conciliate those Mahommedan tribes temporarily and prevent them from arising....' The Americans were now at war with the Filipinos in the north. The Sultan, it seems, had wanted a treaty more on Malayan lines.⁷¹ In fact the Bates treaty was very much like the treaty of 1878.

One reason for British opposition to Germany in East Asia was its protectionist policy. But the British Government was prepared to accept from the Americans even the loss of the privileges under the protocols of 1877 and 1885 which it had battled so hard to obtain from the Spaniards. In November the *Yorktown* visited Sandakan, and Sperry gave Cook 'a letter informing me that all trade with ports in the Sulu Archipelago, except Jolo Bongao and Siassi is forbidden. I refer him to Treaty of 7th March 1885 and protest against any violation....'⁷² A case had already been brought before the Foreign Office and compensation had been sought.⁷³ But the British Government subsequently accepted that the protocols had ceased to operate. When J.A. Swettenham raised the matter in 1900, Foreign Office comments read: 'Of course these Treaties came to an end quâ the Philippines when Spanish sovereignty expired....' 'One cannot anticipate the possible vagaries of eminent Colonial officials when they put courageously out to sea on the stormy waters of international law.'⁷⁴

Germany had purchased the Marianas from Spain,⁷⁵ but acquired no island in the Sulu group. The fear that it might yet do so arose when the application of the treaty of Paris was disputed. In October 1899 Keyser had reported that Cagayan Sulu was mentioned in the treaty, but lay outside the geographical limits recognized by the U.S. government as the boundary of their new possessions; and that Sperry had therefore gone to annex it.⁷⁶ In April Hugh Clifford, the new Governor of North Borneo, reported a rumour that the U.S. was returning Cagayan Sulu and Sibutu to Spain and pointed to the danger of their becoming Germany's.⁷⁷ Martin and Cowie had already warned the Foreign Office, and Martin now called again, to find the officials there 'quite alive' to the importance of the matter.⁷⁸ In fact, Pauncefote, now ambassador in Washington, had reported on the American-Spanish discussions. Spain contended that the islands were not among those ceded by article 3 of the treaty. The U.S. maintained that the intention was to cede them all and feared that Spain was backed by Germany with a view to purchase. The Company, the Foreign Office had found, was willing to administer Sibutu, though not to acquire it, for it commanded Darvel Bay to some extent and, more completely, the Sulu passage.⁷⁹ The Admiralty, however, thought neither island of much value, and doubted if the U.S. would create a harbour at Sibutu.⁸⁰ News that the U.S. intended to retain the islands, paying Spain if necessary,⁸¹ was clearly

not unsatisfactory. Such a sale—of islands belonging to the Philippines but outside the Paris limits—was in the event effected.⁸²

The Company continued to be nervous over German influence, more especially in view of the presence of Schück. Cook had learned from the Sultan, received with a royal salute at Sandakan *en route* for Singapore, that he was leasing Palawan to a planting syndicate, and that he was ready also to lease Cagayan Sulu, Sibutu, and Basilan. This matter, Villiers thought, could be left to the U.S.⁸³ In fact the position of Palawan, Balabac and Cagayan was resolved, though the Sultan of Brunei, struggling to avoid Consul Hewett's pressure for the partitioning of the remainder of his realm, made them the basis of an appeal to the U.S. in 1903.⁸⁴ One other boundary problem remained. The displacement of Spain had raised the prospect of a changed delimitation of territorial authority. In fact the new imperial power asserted its full rights, while yet not admitting the concessions Spain had made to secure their recognition. This brought up, too, the question of the small islands off Sandakan, administered by the Company although, as Treacher had pointed out, not within the limit of the 1885 protocol. The amount of correspondence about them was to be in inverse relationship to their size. They had entertainment value: the Creaghs gave a picnic on Taganac in July 1894, 'some indulging in sea-bathing, while many, who have been recently seized with the craze, were off with their nets to catch the gay butterfly....'⁸⁵ They also came to have a symbolic as well as a strategic significance.

The Turtle and Mangsi Islands

The upset of the Spanish régime, and the challenge it implied to the territorial arrangements of the 1880s, revived the Sultan of Sulu's interest in the islands lying off Sandakan. When he saw Cowie early in 1898, he raised the question of Baguan and Taganac. Early in 1899 he wrote: 'I sincerely hope my friend will permit me to ask leave now to look after those islands which were not included and are outside the agreement.'⁸⁶ Cowie replied that any negotiations would require the sanction of the British Government. 'After so long a period there is little or no probability that any such suggestion would be entertained.' The islands, in any case, brought in no revenue, 'except some insignificant sum paid for the right to collect turtle eggs....'⁸⁷

With Haji Butu Jamal-ul-Kiram called on J.A. Swettenham in Singapore and brought up the question. Swettenham asked Clifford about the Company's title to islands which lay fifteen miles off the coast. The Governor told him that they had been administered by the Company since 'the original concession': it was, so far as he knew, a matter of 'long usage'. The Sultan had not mentioned the matter in interviews before leaving for Singapore. But he was currently

engaged in an attempt to dispose of any territory or rights that he may possess by sale, witness the case of the island of Palawan, and I would submit that it would be highly prejudicial to the interests, not only of this Company, but of the British Government,

were the islands to which the Sultan now lays claim to pass into the possession of any person or corporation belonging to a foreign nation.

The present claim was instigated by Datu Timbang, headman of the Sandakan Sulus. 'He recently had a dispute with certain Bajaus as to the right to collect turtle-eggs in these islands, and as he considered himself aggrieved by the decision given, he is said to have stirred up the Sultan, to put in a claim for them.' The revenue was insignificant, 'but their geographical position in close neighbourhood to Sandakan and the mainland renders it important to us that they should continue to remain under our direct control'. If, after all, the Sultan made good his claim, the Company should have first chance of purchase.⁸⁸

The Court approved this answer. It claimed by prescriptive right to rule these islands and others in Darvel Bay. Significantly, however, the claim was only raised in relation to those about which Datu Timbang had a dispute.

Moreover it is doubtful whether prior to his visit to Sandakan the Sultan even knew the distance from the mainland of Taganac and Baguan and what is more important still, although the Spaniards claimed and administered Cagayan and Sibutu they never claimed or questioned the right of the Company to control the islands referred to, and what belonged to the Sultan was claimed by the Spaniards.⁸⁹

The Court thus ignored the Spaniards' complaint of 1882 and the correspondence of 1885.

At the Foreign Office C. A. Hopwood minuted that the islands were outside the limits of the treaty of 1898, and Villiers suggested that it was a matter for the Sultan and the Company to settle.⁹⁰ The Company was duly informed: the Government would be disposed to recognize any agreement reached.⁹¹ But Cowie did not like the idea of negotiation. 'The Sultan of Sulu might possibly treat with others just as the Spaniards have treated with the Americans for Cagayan and Sibutu, and the result might be very prejudicial both to the British Empire and the interests of the Company...' The claim was prescriptive. Swettenham should delay telling the Sultan.⁹² The Acting High Commissioner was simply informed that the Company wished to deal direct with the Sultan. 'Please therefore do not communicate to him contents of Foreign Office letter to Company and if possible avoid any discussion of the matter.'⁹³

Swettenham was indeed unlikely to help the Company, which he had severely criticized over its handling of the Mat Salleh affair. On receiving Clifford's letter he had declared that he could not reconcile it with Dent's assurances to Pauncefote in 1882.⁹⁴ On receiving his instructions from the Foreign Office, he replied that he thought that direct negotiation between Company and Sultan was a breach of the protectorate agreement.⁹⁵

Jamal-ul-Kiram, back from Singapore, asked again for the islands; and when Governor Clifford declared that he had earlier made no claim, he 'objected that immediately after his father's death Sulu had been so distracted by civil war that all minor matters had necessarily to be left for future consideration....' Clifford feared that he would accept no reasonable offer for

lease or purchase. 'The Sultan has recently granted concessions on a large scale to American companies, and I fancy that the prices which he has obtained have been altogether out of proportion to the value of these grants. This has rather turned his head, and has set him looking for places which are capable of being disposed of to like advantage.' The opening-up of the islands would bring trade to Sandakan. 'On the other hand the existence of these islands under alien rule might constitute a serious danger to us unless we had full power to secure the arrest of any criminals who might escape and seek shelter in them.' Any claim to arrears of revenue should be resisted.⁹⁶ In 1891 Taganac had been declared a Government Reserve, Clifford added: no protest had been received, though notification was published in the *Gazette*.⁹⁷ The Governor wrote to the Sultan, passing on the Foreign Office's idea of a negotiation. Jamal-ul-Kiram suggested 'a fair and strong agreement'. Clifford in reply proposed a lease. But nothing was concluded.⁹⁸

In May 1901 Cowie sent Clifford's successor, E.W. Birch, the supplementary treaty between the U.S. and Spain, over which the Company had consulted the Foreign Office. 'At first blush' it appeared to include Taganac, Baguan and the islands to the north-west administered by the Company since the occupation of Sandakan; but a careful reading showed it to cover those islands of the Philippine archipelago formerly claimed by Spain. 'It was therefore decided to let sleeping dogs lie by not raising any question as to what comprised the Philippines and what belonged to North Borneo....' But Birch was to take every opportunity to keep the flag flying—giving flags to fishermen and egg collectors—without arousing American suspicions. Any U.S. attempt to take over should be protested.⁹⁹ The Sultan had asked for an advance of cession-money and Birch reopened the question of an agreement over the islands.¹⁰⁰ He also visited them. He found turtles and coconuts, and in Baguan some Sandakan men, collecting turtle eggs, to whom he gave the North Borneo flag. He did not think it worth paying a large sum to acquire the islands, though they might become valuable if a syndicate were formed to plant them with coconuts.¹⁰¹ The Sultan asked \$200 p.m.: an 'absurd' amount, Birch thought.¹⁰²

In November Cook reported that the U.S. gunboat *Samar* had visited Sandakan. He learned from Lt. Cr. Bisset that the U.S. Government was enquiring as to islands outside the nine-mile limit, more especially Baguan and Taganac. Cook said that the Company had been in occupation for twenty-one years and that Spain had never claimed them; but he admitted that the Sultan had raised the matter—at the instigation of Haji Butu, 'who also, I continued, sold the surface rights of Palawan without the knowledge of the Government of the U.S.... Of course it is always desirable to be on friendly terms with the Sultan of Sulu, I said, therefore while not admitting that he had any claim we are willing to give him something to stop any further question. "Well" said Commander Bisset "we just want to see that nobody else comes round looking for Islands"....' Cook thought that, so far as Baguan and Taganac were concerned, it would be desirable to have 'a friendly admission from the Sultan

endorsed by the Americans that they belong to North Borneo....' Birch added that the Sultan had apparently commissioned two of the worst characters on the east coast to visit Dinawan and Omdal, two islands at the entrance of Darvel Bay, and to collect taxes there: they had been arrested and the American authorities had been asked to enquire whether the Sultan had in fact chopped their commission. The Governor thought it best 'to say with no uncertain voice that the islands are ours': the islands flew the North Borneo flag; the chiefs had been in a North Borneo prison. The cession-money could be held back if the Sultan interfered. The case of Taganac and Baguan was different, 'for we prolonged an offer to pay the Sultan for them....' Possibly the Company should ask the Government to settle a difference with the Sultan under the charter. But a general settlement was desirable, and that must be arranged through the Americans.¹⁰³ This, of course, Cowie did not approve. The offer over Taganac and Baguan had been made 'simply to avoid further discussion....' The question of the other islands should not be raised. Birch was to try 'to retain the friendship of one who was always shown himself, when not influenced by cunning third parties, amenable to reason....' The cession-money must certainly not be held back. If the matter could not be dropped, the Court preferred to deal with the Sultan, and not with the Americans.¹⁰⁴

Birch had, of course, indirectly brought the matter before the Americans already by asking them to ascertain whether the Sultan had chopped the Dinawan/Omdal commission. In February Jamal-ul-Kiram made a statement to the interpreter, Charles Schück, at Jolo, declaring that the Omdal people wished to be under the jurisdiction of the U.S., not of the Company. He thought Omdal was outside the three-league limit, like Dinawan and P. Gaya (near Semporna). Admiral Robley Evans, U.S.N., called at Labuan, and said that it was necessary to mark the three-league line on the chart, so that the U.S. might know what belonged to it, 'because Germany was always "sniffing around"....' Omdal, Dinawan, P. Gaya, were all the Company's, Birch replied. But Cook telegraphed to say that the Sultan was ready to negotiate, and Birch assumed that this was in accordance with the Court's instructions.

Personally I believe that the Court is taking a wrong course. The Americans are very friendly and they don't want these islands and know that they have no claims to them. If approached thro the Foreign Office they would I feel sure make an agreement recognizing them as the property of the chartered Company, whereas if we can now get an agreement from the Sultan of Sulu they are quite likely to say that we had no right to deal with him except through them....¹⁰⁵

A few days later Cook made his agreement in Sandakan. This enumerated the islands between Banggi and Sibuko which the Sultan stated that he had ceded, including Muliangin, Muliangin Kechil, Malawali, Tagabu, Bilian, Tegaypil, Langaan, Boaan, Lihiman, Bakkungan, Bakkungan Kechil, Libaran, Taganac, Baguan, Mantabuan, Gaya, Omdal, Si-amil, Mabol, Kapalai and Dinawan. The names of the islands, it was stated, were not mentioned in the agreement of 22 January 1878, but it was understood that they were included in the cessions then made. Three thousand two hundred

dollars was paid on account of arrears; \$300 p.a. was to be paid in future. Birch approved.

The only doubt I have is that after the Sultan has said in the presence of the American interpreter that the Islands are American Territory it may not be agreeable to the American authorities to learn that His Highness has now signed this agreement.

I propose to write to the American Governor at Zamboanga sending a copy of the agreement and saying that it is only a ratification of the view always taken by the Chartered Company... and asking the American Government to say that they take no exception to the Sultan's action on the matter....

But he would wait till the Court telegraphed.¹⁰⁶

Not surprisingly the Court telegraphed that he should not communicate with the Americans till further advised.¹⁰⁷ It was glad that the Sultan had waived his claim: 'but as these Islands were ours by virtue of possession etc. it would be a most impolitic proceeding to place the Americans in the position to question our rights in connection therewith'. A copy of the agreement was being given to the Foreign Office, 'but it is unlikely that it will be communicated to the American Government. Our only reason for authorizing an additional payment to the Sultan for his acquiescence in our view of the case, was solely because we wished to shew him that we are not unappreciative of his goodwill and friendship....'¹⁰⁸ Martin saw Villiers, and Cowie told Birch that the Foreign Office agreed 'that it would be most impolitic to place the Americans in a position to question our right to the Islands....'¹⁰⁹

The position was changed by a telegram from Birch reporting that an American man-of-war had visited a number of the islands and erected tablets and flags.¹¹⁰ Birch wrote regretting that the Court had not dealt frankly with the Americans.¹¹¹ Cowie and Martin went to the Foreign Office and protested against this 'somewhat highhanded' act. Representations would be made through the ambassador, they subsequently told Birch. Meanwhile he was to do nothing. 'Any movement on our part might imply that we felt some weakness as to our undoubted right and title to these islands.' The Government could 'speak with much greater effect than we can....'¹¹² Following Villiers's suggestion Martin wrote a long letter setting out the position. This stressed the continuity of the Company's jurisdiction and the Foreign Office's earlier decision to leave it to the Company to deal directly with the Sultan.¹¹³ The Foreign and Colonial Offices agreed on an approach to the U.S., asking if it would consent to Company jurisdiction over the islands in view of their importance to the maintenance of security and order.¹¹⁴ At odds with the Managing Director, Birch had already written to Lucas on the matter: it was Cowie 'who will not be open and above board....'¹¹⁵ At the Colonial Office, R.E. Stubbs thought that the Company had 'put themselves hopelessly in the wrong' and made it difficult to adopt the new approach, and Ommanney blamed Cowie.¹¹⁶ The Foreign Office perhaps recognized it had a share of the blame, though its sanction for direct negotiations between Sultan and Company predated the supplementary Spain-U.S. treaty. At all events a despatch went to Washington, and a note

was sent in to the U.S. Government. It declared that the Company had administered the islands for years, cleared them of pirates, needed them for protection; and asked if the U.S. would 'refrain from pressing their claim.... and...consent to the re-establishment within carefully presented limits of jurisdiction by the British North Borneo Company'.¹¹⁷

In February Sir Mortimer Durand, the Ambassador, spoke to the Secretary of State. President Roosevelt, John Hay said, had asked him to refer to the authorities on the spot.¹¹⁸ Later in the year the British raised the matter again as a result of an enquiry from the Intelligence Division.¹¹⁹ The Americans had done nothing to make good the title, Hay commented, since late 1903, and no report had been received. He pointed out, however, that under the convention of November 1900, Spain relinquished all claim to the islands belonging to the Philippine archipelago not specifically included in the treaty of Paris, and particularly to Cagayan Sulu and Sibutu. Spain's claims in the Sulu archipelago, of which Cagayan and Sibutu formed part, were stated in general terms in the protocols of 1877, 1885 and 1897, from which it appeared that Spain relinquished to Britain title to the islands within a zone of three marine leagues off the coast of Borneo. No demarcation had actually taken place, however, and in view of the nature of the coastline, and of the possibility of taking into account 'considerations of mutual convenience', Hay suggested an examination of the neighbourhood by two experts 'under instructions to agree if possible upon a tentative line which shall conveniently and fairly represent the intention of the parties to the Protocol of 1885....' Then the Governments could settle the matter. The proposal, Hopwood noted at the Foreign Office, 'goes somewhat beyond what we contemplated. I do not think that we wished to support a claim by the British North Borneo Company to the possession of the Islands, but to ascertain whether the American Government would be disposed to allow the Company to administer the Islands in question, within carefully prescribed limits....' An examination by experts, Villiers agreed, was unlikely to effect the Company's object. But he consulted Cowie.¹²⁰

Cowie did not oppose Hay's suggestions. The experts, however, should not confine themselves to interpreting the 1885 protocol: they should consider the fact of occupation, the geographical position of the islands, the deed of 1903. He also argued—as had Cook and Birch¹²¹—that Overbeck's commission of 1878 covered all the islands without specifying a geographical limit. 'The transfer of the administration of the islands to the United States Government after such a lapse of time would not only have a very prejudicial effect upon the native mind as to the status of Great Britain in those regions but would inevitably have a detrimental effect upon our revenue owing to the facilities which would be afforded for smuggling excisable goods from the islands into our Territory....'¹²² Cowie also argued that the wording of the protocol of 1885 did not mean that, while Spain renounced its claims to all the islands within three marine leagues of the coast, it claimed 'the islands administered by us outside the limit'. Balabac and Cagayan Sulu, moreover, were specified as part of the archipelago. 'If there had been an intention by Spain to claim,

regardless of our rights, every island outside the three league zone, there would have been no necessity to say that it was understood that the islands above mentioned formed part of Spanish possessions, because Cagayan Island is situated some fifty miles from our coast, and Balabac nearly as many....¹²⁴ But this was a shaky line of argument. A Foreign Office memorandum indeed made short work of the Company's claims. Spain's rights to all the islands outside the limit were recognized in the protocol. Cagayan and Balabac were specifically mentioned because Great Britain and Germany wished Spain to recognize them as part of the Sulu archipelago in which free trade was guaranteed. Nor was it clear that the Company had administered the islands since 1878: the memorandum pointed to Dent's letter to Pauncefote of 1882 which Swettenham had earlier adduced. The 1903 deed could not affect the issue. The aim was not to contest U.S. rights, but to ask the U.S. government if it would forego them.¹²⁴

In September the Foreign Office replied to Durand's despatch of nine months earlier. The British Government did not desire to question the American title: the object of the communication to the American Government was to ascertain whether they would be willing to forego their right to the islands out of consideration for the fact that the Company had, during many years, carried on their administration under the apparent belief that they formed part of their own territory, and attached importance to being permitted to retain control over them....¹²⁵ The American Secretary of State suggested something like a 99-year lease, in return for a concession to American trade.¹²⁶ In November Villiers saw Cowie, who thought that the proposal 'would not be altogether satisfactory and would necessitate the drafting of a document of a very complicated nature....' The U.S. government might be asked to leave the Company in undisturbed possession of all the islands. 'If they would agree to this we would be prepared to recognize their strictly legal right from an international point of view by an annual payment of \$150', half the amount which was being paid to the Sultan.¹²⁷ The idea was communicated to the American Secretary of State and accepted by him, on the understanding that a chart should be prepared showing the islands in question; that the arrangement should be terminable on a year's notice; and that the U.S. should be exempt from any responsibility or claim for acts done on the islands by the Company's administration.¹²⁸ The Company feared that a chart implied an expensive delimitation. Their proposal was simpler, and designed also to leave their administration undisturbed.¹²⁹ If the U.S. would not agree to it, the Company would prefer to continue the administration of the islands on 25-year renewable leases at the nominal rent suggested, the U.S. undertaking in case of denunciation to recognize titles and concessions granted by the Company and to pay the Company for improvements effected.¹³⁰

A long delay ensued in Washington. A conventional delimitation, Elihu Root considered, was difficult, since North Borneo was not a British possession, but held by a Company under grant from native Sultans and under

British protection.

If this be so I can discern impediments to an international convention between our two countries for establishing a boundary line between their respective sovereignties—and I can equally see that objections might be raised to undertaking to fix that boundary by agreement between this Government and a chartered corporation having *per se* no national status.

Something of the same difficulty might arise in the case of the U.S. undertaking to lease the islands to a chartered Company not having the standing of a Government....

The Company's suggestion that it should grant titles and concessions binding on the U.S. illustrated the point. On the whole the Company's proposition seemed 'preferable and safer'; in other words, to preserve the *status quo* at the pleasure of the two parties, the U.S. in the meantime waiving its rights in favour of the Company without any detailed agreement. Such an understanding might be between the U.S. government and the British Government acting on behalf of British subjects; it would not involve territorial rights like grants and concessions; it would be based on a map Cowie had produced; and it would continue till the two governments agreed to delimit the boundary of their 'domains', or until one year's notice was given by either government.¹³¹ The U.S. government seemed prepared to recognize a British 'domain', but not, explicitly, a Company government.

This proposal the Company accepted, and it was agreed to record it in an exchange of notes.¹³² Root made some small modifications: any grant or licence made by the Company was to cease when the Company's occupation ceased; and any public buildings put up by the Company could be removed in case of denunciation, but the U.S. would not be liable for compensation.¹³³ These terms were accepted by the Company,¹³⁴ and the notes exchanged in July 1907.¹³⁵ It was, as Cowie had put it, 'a satisfactory termination to somewhat protracted negotiations, and the settlement now arrived at will in all probability be allowed to remain unaltered for years to come'.¹³⁶

One of the Company's concerns had been the possibility of smuggling. But in 1915 the Manila government itself complained that opium was being smuggled into the Philippines from North Borneo.¹³⁷ The Company insisted that, now that it had assumed control of the trade, smuggling was prevented.¹³⁸ The Governor-General of the Philippines, F.B. Harrison, protagonist of Filipino independence, considered that the opium trade in North Borneo was 'a positive scandal' and the Company's answer he described as 'playing for time', 'full of cynicism'.¹³⁹

In subsequent years the complaints were repeated in a different context of international opinion, and the question of the administration of the islands was revived. The 1920 report of the Insular Collector of Customs referred to 'small foreign vessels' engaged reportedly in fishing, but more likely in illegal traffic, in the smuggling of immigrants and firearms, even in plundering the coasts, and recommended the building-up of the coastguard service.¹⁴⁰ The 1921 report insisted on the use of Baguan 'as a vantage point and as a base of operations of customs cutters and launches for the suppression of illegal

traffic of opium indulged in by the Moros, as well as the clandestine entrance of undesirable aliens into the southern islands in violation of the immigration laws....¹⁴¹ This recommendation was reported by the British Consul-General in Manila, Thomas Harrington, to the Governor of North Borneo.¹⁴²

Already in 1920 the U.S. Ambassador in London had again complained about the smuggling of opium from North Borneo into the Philippines. 'It is understood that a large part of the revenue of Sandakan comes from the existing opium monopoly there, and that this circumstance has favored an increase in the quantity of opium coming into the hands of agents of opium smugglers into the Philippine Islands....'¹⁴³ The Company detailed its attempts to check smuggling in opium, but emphasized that the duty of preventing its being landed rested with the Philippines Government, whose revenue cutters were given every facility even if they infringed territorial waters.¹⁴⁴ The U.S. also complained about the immigration of Chinese from North Borneo into the Philippines.¹⁴⁵ The Company admitted that Chinese, largely from Hong Kong, moved into the Philippines through Sandakan. Reasonable precautions were taken, but again, as Governor A.C. Pearson put it, the Company had no duty to take 'any special steps' to assist in enforcing the Chinese exclusion laws; it was for the Philippine authorities 'to establish an effective control of their coasts'.¹⁴⁶

In 1921 the U.S. government returned to the attack on the opium issue. It quoted a number of captures in the years 1915, 1917, 1920. Vintas cleared for sparsely settled points in North Borneo, and then slipped through the chain of islands to Cebu, Leyte, Jolo. Chinese residents of Sandakan were active in procuring and selling the drug to Moros. Laxity in the Sandakan harbour regulations was at fault. Evidence of the infringement of territorial waters should be precise, it was added. Aware of the interest of the League of Nations, and of the U.S., in suppressing the opium traffic, the Foreign Office was anxious for reassurance.¹⁴⁷ A letter was drafted by Sir West Ridgway, the President of the Company, and Sir George Grindle of the Colonial Office.¹⁴⁸ The reply sent to the U.S. as a result insisted that the quantities were small; that vessels were searched; that smuggling had diminished. The movements of revenue cutters in territorial waters were generally accepted, not complained of.¹⁴⁹ The suggestion that in the past Filipinos on the revenue cutters had been themselves involved¹⁵⁰ was not used.

Besides protesting over opium smuggling, the U.S. government also sought to end the 1907 arrangement. In 1918 the Governor of Jolo had indicated to the Resident at Sandakan that the U.S. would assume the administration of the islands.¹⁵¹ A note sent by the State Department in 1921 was lost in the British Embassy. Rediscovered, it proved to be a request to terminate the 1907 arrangement in relation to certain of the islands, leaving the rest under the Company, pending a delimitation. The change was proposed for reasons of public order and control, and to complete the organization of local government in the southern Philippines,¹⁵² 'diplomatic camouflage', as W.J. Worth put it at the Company's office.¹⁵³ It might, the Foreign Office saw,

'have something to do with the opium traffic....'¹⁵⁴ If, the Company commented, the U.S. request was limited to Baguan,

the question can easily be settled to the satisfaction of the U.S. Government. But there are other islands which are very important from a strategical point of view, and it should be borne in mind that the U.S. Government are pledged to restore the independence of the Philippine Islands, possibly in the course of two or three years, and in that case certain other islands—for instance the Island of Taganac which commands the entrance to Sandakan Bay—would fall into the hands not of the U.S. Government but of a Government which might in the course of time become hostile or which might sell them to a third power, for instance Japan.

The Admiralty would no doubt be opposed to an arrangement which would make Sandakan useless in time of war.¹⁵⁵ A subsequent letter from Pearson was doubtful even about Baguan. Manila newspapers had suggested the take-over of both Baguan and Taganac before, he wrote, and 'our visit to Baguio' in 1920 was said by some to be with the object of discussing the transfer. The press and at least one of the parties would back up any pressure from the Collector of Customs. Baguan provided only 'profits from the lease of the turtle-egg rights....' But 'an American station practically at the front door of our capital will be a constant source of irritation, and the transfer of the islands may convey a wrong impression to the native mind....' The Court was inclined to adhere to its view, as Baguan was 26 miles from Sandakan, but awaited Pearson's arrival in England. Presumably the Americans' object was to put down the opium traffic, but that had now ceased, the Court declared; and indeed the Collector's report for the year was to admit the decline of the traffic.¹⁵⁶ In any case, the Directors added, if the Americans took over Baguan, 'they will be expected to observe the limit of our territorial waters, namely nine miles', over which they were now given 'considerable license'.¹⁵⁷

The last sentence of the Company's letter attracted attention at the Foreign Office: 'we obviously could not make the recognition of such a limit the condition of handing over the island to the U.S. Govt. when we are always impressing on them and other Governments that we cannot admit the extension of territorial limits beyond the three mile limit'.¹⁵⁸ In fact the Company was referring to the 'three maritime leagues' of the 1885 protocol.¹⁵⁹ At the Colonial Office Sir John Paskin thought that it was implying that it had jurisdiction over the waters up to the same limit. Sir John Risley considered this unacceptable, and feared that such a claim would prejudice the legitimate claim to the islands within three leagues from the coast.¹⁶⁰ The Company accepted the Colonial Office's view, but argued that, since the seas of North Borneo were 'studded with numerous islands', the line between territorial waters and high seas would be 'extremely irregular and at places indeterminate'. A limit of territorial waters running at a fixed distance from the mainland might be preferable. But the Colonial Office would not pursue this idea.¹⁶¹

The embassy in Washington had now ascertained which islands the U.S. was concerned about: they included Boaan, Lihiman, Langaan, Great and

Little Bakkungan, Taganac and Baguan, that is, those off Labuk Bay, the Turtle group.¹⁶² The Company reminded the Government that Taganac was 'of Imperial importance', and if 'allowed to fall into the hands of any Foreign Power the strategic value of North Borneo will be gravely imperilled if not destroyed'.¹⁶³ Pearson, now back in England, thought that the Company should stress that it was erecting a lighthouse on Taganac in connexion with the port of Sandakan, which the Americans were unlikely to do.¹⁶⁴ The Foreign Office was not impressed. 'The strategic importance of the islands', wrote Maurice Peterson, 'has been greatly reduced, if not entirely destroyed, by Article XIX of the Washington Naval Treaty (once that instrument is ratified) which prohibits the construction of new fortifications or naval bases in the Pacific.'¹⁶⁵ The lighthouse had 'no real bearing on the question at issue'.¹⁶⁶

The Admiralty's comments were obtained. These undermined the assumption that the U.S. claim was entirely valid. If the nine-mile limit were measured from low water mark, the Company could claim part, if not all of Great Bakkungan, and even if it were measured from high-water mark, it could claim all Little Bakkungan. If the nine-mile limit were drawn, as a three-mile limit would be, from the coastline of any inshore islands, the U.S. would lose its claim to several other islands, though not Taganac and Baguan. But the Admiralty considered the islands 'of no strategic significance' and 'of little commercial importance'.¹⁶⁷ The Colonial Office decided that only the U.S. claim to the two Bakkungan islands was open to question, and proposed negotiations on this basis.¹⁶⁸ The Foreign Office agreed.¹⁶⁹

The Company's comments appeared to have 'carried no weight...'.¹⁷⁰ The President wrote privately to Admiral F.C. Learmonth in the Hydrographic Department of the Admiralty.¹⁷¹ The latter said that the Admiralty's comments were not meant to imply that it thought Sandakan had no strategic value. The Washington treaty had 'somewhat altered the perspective', he added: neither Great Britain nor the U.S. could erect fortifications in the area.¹⁷² Ridgway replied that the islands would come into the hands of the Filipinos 'sooner or later—probably very soon'; and they were not signatories to the Washington convention.¹⁷³ The reply to the Colonial Office suggested that the nine-mile limit should be drawn from the coastline of the offshore islands and not the mainland; and that the three-mile limit of territorial waters should extend from any of the islands. These, however, were apparently seen as negotiating points. For the reply continued by stating that the Court had no desire to question the U.S. claim 'on purely technical grounds', and would not object to the islands 'definitely claimed' by the U.S. being handed over, provided that Taganac was left in the Company's possession by long lease or otherwise, and not surrendered to the Philippines.¹⁷⁴

Again the matter went to the Admiralty. M.W. Elphinstone, the Vice-President, wrote personally to Amery, the First Lord. The reply was that the Naval Staff did not attach any particular value to Taganac. 'This is, of course, not to say that the strategical importance of Sandakan Harbour itself is

under-rated, but an enemy holding command of the sea in those waters, without which Taganac could be of no use to him, could more easily make use of the Island if it were British than if it belonged to a neutral Power....' The building of the lighthouse might be used as an argument, however.¹⁷⁵ The official letter repeated these views. Sandakan was by no means negligible. But Taganac was another question. It would enable an enemy to close Sandakan only if he had command of the sea; and if he had command of the sea, he could do that anyway. Presumably the Americans could not dispose of, or recognize the independence of the Philippines without a stipulation applying article 19 of the Washington treaty; and if Japan acquired the island, it would also come under the treaty. The lighthouse would provide the best argument. Drawing the nine-mile line from the coastline of offshore islands would involve 'a very strained construction' of the 1885 protocol, while the claim for a three-mile limit of territorial waters from such islands would not involve claiming any island within such a limit but outside the nine-mile limit.¹⁷⁶ The Foreign Office attached little value even to the lighthouse argument: the U.S. would not oppose the Company's erecting one on American territory.¹⁷⁷

Pearson, now the Company's secretary, thought this remark 'superficial'.¹⁷⁸ A further letter to the Colonial Office pointed to the problem of maintaining the light. Possibly the U.S. thought Taganac useful for preventing opium smuggling, it added. In fact opium now came from China and elsewhere. But the Court, if allowed to retain Taganac, would permit an American customs post on the island.¹⁷⁹ At the Foreign Office, the Company's reasons for wanting a lease of Taganac were considered 'not very clear'. The best line of approach might be that suggested at the end of the Company's letter. But nothing had been heard from the U.S. since April 1922; 'it is to be inferred that they have discovered that Taganac is not used for smuggling opium'; and so it might be best to leave the matter alone.¹⁸⁰ The Company agreed not to pursue the matter 'at its present stage'.¹⁸¹

The U.S. Government brought it up again in April 1925: it restated its wish to modify the existing agreement by taking over the Turtle Islands. The Foreign Office proposed to agree, provided that the U.S. would recognize that the islands, if re-transferred to any other power, would still be subject to the Washington treaty; and to endeavour to persuade the U.S. either to grant the Company a lease of Taganac or permit it to erect a lighthouse there.¹⁸² Pearson and Elphinstone called on Grindle at the Colonial Office. Pearson argued that the islands were part of Borneo, 'and illustrated the fact by mentioning that Taganac is a resort much favoured by the Europeans of Sandakan as a picnic and bathing place'. He also stressed a point he thought had not been brought forward—it had indeed not been brought forward, it seems, since 1900—'that the islands will become a refuge for our criminals, who with a favourable wind, can reach them in under three hours from Sandakan....' Grindle believed that the Company should 'hand over the islands with a good grace'; but that it should urge that they be effectively occupied, with a police station on one of them, and ask for a lease of Taganac

for the lighthouse.¹⁸³ As a result, the Company agreed, though hardly with a good grace, to hand over five of the seven islands in question, Boaan, Lihiman, Langaan, Taganac and Baguan. In addition it stated that it did not wish to press its claims to the Bakkungan islands 'unless it is considered that the United States Government would be prepared, in consideration of their surrender, to exclude the Island of Taganac....' The Court's letter stressed three other main issues: the application of the Washington treaty, the lighthouse, the need for effective police.¹⁸⁴

At the Foreign Office it was thought impossible to seek the retention of Taganac. The U.S. should be asked for facilities to maintain the light and for effective police, and for a confirmation of the application of the Washington treaty. After some discussion it was decided to raise the claim to the Bakkungan islands as 'a bargaining point', though it was recognized that, back in 1905, the British Government had accepted the American claim.¹⁸⁵ Pearson, now again in Borneo, indicated the facilities required for the maintenance of the light: a two-acre lease; a right to inspect it; a right to import spare parts; non-interference with staff.¹⁸⁶ The Foreign Office modified these suggestions, and then sent a despatch to Washington.¹⁸⁷ A long delay ensued while Washington referred to Manila. As Worth put it, 'so far as we are concerned the longer the change is delayed the better'.¹⁸⁸

In August 1927 the U.S. finally replied. It now proposed, not a modification of the 1907 agreement, but the determination of the boundaries: the line might go between the two Bakkungan islands, leaving Little Bakkungan on the Borneo side. The Philippines government, it added, was prepared to take over and maintain the Taganac lighthouse.¹⁸⁹ Worth saw some advantages in a fixed boundary. He recognized, as did the Admiralty, that the line the U.S. proposed gave the Company some islands to which it had no real claim.¹⁹⁰ In its official comments the Company pointed out that the police question had been ignored; so also the Washington treaty. Presumably, it added, compensation would be sought for the lighthouse.¹⁹¹ The Americans agreed to a negotiation which might cover these points. Frank McIntyre, Chief of the Bureau of Insular Affairs, would be involved, as well as officers of the State Department.¹⁹² Officials at the Foreign Office decided that Sir Esme Howard would need the help of an expert:¹⁹³ a 'surprise demand' was possible; they feared to be 'out-manoeuvred'.¹⁹⁴ The Company suggested F.W. Fraser, who had thirty years' experience in North Borneo.¹⁹⁵ Government and Company agreed to share his expenses.¹⁹⁶

In February Governor Humphreys enclosed a memorandum on the points to be submitted on behalf of North Borneo. This was by D.R. Maxwell. About 220 people lived on the Turtle islands, he pointed out, 120 of them on Taganac.

It is not equitable merely to consider the legal aspect of old treaties drawn up long before local conditions were understood or fully appreciated. Sandakan is the natural import and export centre for the Turtle Islands and must continue so; to remove these Islands from the jurisdiction of this Government must result in

hardship on the inhabitants....

There was no recent evidence of opium smuggling. The U.S. government would gain little by a take-over, while it would mean 'administrative difficulties' for North Borneo. Again, if the Mangsi Islands, close to Banggi, also came on the North Borneo side of the line, it would avoid hardship to the inhabitants. The Governor thought that, 'if the case were properly represented', the U.S. might take a generous view and cede the islands or allow them to remain under North Borneo jurisdiction. Possibly the Company could offer to purchase them for \$40,000 or more. He added that a number of permanent titles had been granted before the arrival in North Borneo of the 1907 notes.¹⁹⁷ McIntyre, Worth noted, had, while in the area, indicated a special interest in the land titles, some of which were granted only shortly before the notes. Overall he thought that the Company and the Government had agreed that the islands were lost; but one last effort might be made.¹⁹⁸ The Company so wrote to the Colonial Office.¹⁹⁹ It was not the U.S., therefore, that was to raise surprise demands.

The negotiations began in Washington in late July 1929. Howard decided to attempt to induce the U.S. to agree to the cession, sale or lease of the islands to the Company. The Americans agreed that opium smuggling had ceased, though McIntyre suggested that it was 'chiefly owing to the high price of opium from North Borneo'. The Americans also admitted that the islands were of little value. But cession or sale or even lease 'would present insurmountable difficulties owing to the attitude in such matters of the United States Senate, and also, they led us to believe, to opposition on the part of the Philippine Government....' But they were ready for indefinite administration by the Company, subject to one year's notice, if a delimitation were carried out according to the note of 1927. On the question of the lighthouse, the continuance of pre-1907 land titles, policing, 'the attitude taken by the United States representatives was that they could be satisfactorily adjusted if and when the United States took over the administration but that it was unnecessary to have any written agreement about them. Their reason for this was evidently reluctance to commit the Philippine Government in case that Government attained independence....' It was decided that while the convention should cover delimitation and the application of the Washington treaty to all the islands concerned, that is, the Turtle and Mangsi groups, with the exception of Little Bakkungan, the other points would be covered by an exchange of notes. On transfer the U.S. would consider compensation for the lighthouse and provide for its maintenance; it would take note of the British Government's wish that grants made in good faith should stand and of the Company's wish for a police post; and it would commend these wishes to any third power to which the islands might be made over.²⁰⁰ The administration, Elphinstone gathered, would continue with the Company 'indefinitely or until (if ever) the Philippines get their independence.'²⁰¹ The agreement was finally signed, and the notes exchanged, early in 1930.²⁰²

The new Governor, A.F. Richards, pointed out that Sultan Jamal-ul-

Kiram had since 1903 received \$300 p.m. for islands 'which in fact it was not within his power to cede.... So long, however, as the Government of North Borneo continue to administer these islands it would probably be unwise to withdraw the payment of this cession money....'²⁰³ Worth agreed with this view,²⁰⁴ and so did the Court.²⁰⁵

The question of the islands had been raised when the partition of the 1880s was challenged in the 1890s. Now the imperial powers had delimited the boundary, though not changed the actual administration of the islands. The discussion in the interim had illustrated the shifting distribution of power in the Pacific and the growing influence of international opinion. But other circumstances added significance to the discussion. These included the development of an independence movement in the American-occupied Philippines: the question had to be seen in this context also. Indeed yet a further circumstance was simply the passage of time. The Company, under Cowie, had argued for prescriptive right. In the 1920s, with Maxwell, it stressed the possible hardship to the inhabitants involved in transferring the islands. The tension between practice and legality was present also in the larger question of the Sulu grant itself. Sultan Jamal-ul-Kiram raised questions about this; and Filipino nationalists were ready to raise questions about it as well, though not always the same ones. Yet the questions could not now be solely questions of legal interpretation.

Filipino Nationalism

On his way back from Mekka in 1898, Sultan Jamal-ul-Kiram had been robbed in Singapore. According to a statement made by him on 20 June, he was staying at a house off Arab St. 'About 4.30 this morning he woke to find a man standing by his bedroom window, which he had left open on going to bed....' He called out, and the man tried to escape. The Sultan seized him, but he slipped away. 'The Sultan believes that the thief was a Malay....' Alarm was raised, and the police on duty gave search for the thief but without avail. The Sultan said jewellery and money to the value of \$13,815 was lost, including the crown, and 'a treaty between himself and the Government of Sandakan....' The *Straits Times* suggested that the Sultan should apply for help to the American Consul, 'unless His Highness favours the alleged German designs on Sulu....' It was 'deplorable...that robbers should grow so bold in Singapore as even to snatch his crown from a passing monarch',²⁰⁶ the paper added: its pages contained many other reports of thefts at this time. Two days later a Javanese, Seman, and two Malays, Sallay and Tamimil, were charged with the theft, though the property had not been found.²⁰⁷

The theft was reported also in the *British North Borneo Herald* in July.²⁰⁸ Soon after, the Sultan arrived in Sandakan and, according to the *Herald*, 'expressed himself in the warmest terms in speaking of the B.N.B. Government and of the British generally....' The *Herald* quoted a report from the *Straits Times* of the trial in Singapore. The three men were brought before

a magistrate on a charge of housebreaking and theft of jewellery. 'Inspector Bourne explained that the Sultan declined to prosecute personally, though he did not object to do so by proxy. As this would not satisfy the requirements of the law, the prisoners were discharged.' The *Herald* commented 'that nobody acknowledged as a sovereign prince is ever required in such cases to prosecute in person. The Sultan has been so recognized or saluted and guards of honour would not be accorded to him. We sympathize with the Sultan.'²⁰⁹

Jamal-ul-Kiram also had a satisfactory interview with Governor Beaufort and, though the Lepai episode left a bad taste, this was, on the whole, a period of friendly feeling between Company and Sultan. Their interests did not altogether coincide. But the Company was anxious for the Sultan's friendship, especially during the Mat Salleh rebellion, and the Sultan was anxious for the Company's countenance especially against the threat of German intervention. The Bates treaty—with which the Company could not, and the British Government would not, interfere—was a disappointment to him. Worse was to come. He was unable to avoid conflict between Sulus and the American forces.²¹⁰ In 1904 the Bates treaty was abrogated. Foreman suggested that, while the Sultan had signed it 'in the spirit of Micawber', it was a wise move for the Americans: his inability to enforce it justified their setting it aside and turning to coercion.²¹¹ The struggle was a long one.²¹² In the course of it Haynes appealed to the U.S. Ambassador in London and urged the adopting of a system like that of the Malay States.²¹³

Meanwhile payments to the Sultan and datus continued at the pleasure of the Philippine Commission.²¹⁴ The Governor-General had indeed assured Jamal-ul-Kiram in 1904 that lands and allowances would be granted to him, the datus and other leaders, and that he 'would continue to be recognised as the ecclesiastical or spiritual head of the Sulu Mohammedans....' 'No acknowledgement in writing was made by the Sultan of American sovereignty—complete or partial—subsequent to the abrogation of the Bates treaty', Governor Carpenter reported in 1916.

The Sultan appears to have continued to exercise those prerogatives of sovereignty which he could without serious conflict with the American authorities, and on various occasions offered to establish and maintain peace and public order in Sulu if permitted to reorganize and rehabilitate his army. These offers were of course declined, although on various occasions his services were utilized in conference with recalcitrant datus and other leaders. The Sultan at all times had refrained from armed conflict or even active opposition to the United States Government, and therefore contended that he had not lost sovereignty through conquest. In conferences he repeatedly claimed that he had on no occasion abdicated or renounced his sovereignty except in so far as concerned relations with foreign Governments as to affairs in, and the territory of, the Sulu Archipelago. His treaties with the British Government as to his territorial possessions in British North Borneo have always been as they are, direct and without intervention of Spain or of the United States....²¹⁵

In the context of poor relations with the U.S. during these years, it was not surprising that the Sultan again looked to the Company. He even proposed

the capitalization of the lease money. This the Company rejected, as earlier, though now less because of a concern to maintain its existing status, than because of a belief that better terms could be obtained later, when its status, already changing, would have changed still further. In August 1911 the Sultan had visited Sandakan. Though given the 1913 payment in advance, he was short of money, and asked Ag. Governor Pearson if the Company would purchase his cession 'outright'. He was told that the matter would be referred home, 'but that the Government has many calls on their capital at present, and I considered it unlikely that they would consider the question just now. I do not think it would be at all in our interests to effect this purchase, as circumstances will probably be very different on the death of the present Sultan.' Jamal-ul-Kiram

also expressed a desire to build or purchase a house in Sandakan, presumably with the idea of coming over here whenever his relations with the American Government are not cordial. He claims 40 acres of land here under an old treaty which I cannot trace, but the matter is under investigation. It would be most undesirable to have the Sultan constantly over in our territory, and a mere pied-à-terre would probably develop into a permanent Sulu Court which would be a nest of intrigue. I discouraged His Highness as much as possible, explaining that the responsibility of safeguarding a ruling Sovereign would be great, and that his subjects in Sulu would not prosper without their Sultan.

The Sultan said many would come with him, and this led the Acting Governor to suggest that the Americans might object. 'He declined to allow that the American Government had any say in the matter, and has expressed his intention of purchasing Mr Cook's bungalow, which is now on the market....'²¹⁶ The Foreign Office, asked its advice, would not sanction anything to which the U.S. might object. A court held by the Sultan in North Borneo would indeed be 'a nest of intrigue', and it was undesirable for him to establish himself there.²¹⁷ But in any case Pearson's comments hardly bear out the comments later made by F.B. Harrison. 'Among the various efforts made during those years by the governors of the British North Borneo Company to acquire a good title to the ownership of these territories', he wrote in 1949, 'were the attempts made to induce Sultan Jamal-ul-Kiram to take up his residence in Sandakan where a palace was offered him by the government—in hopes, no doubt, of persuading him to place himself under their protection....'²¹⁸ The initiative lay with the Sultan. The Company was far from doubtful about its title, and the Foreign Office wished to avoid conflict with the Americans. A new agreement between them and the Sultan, however, caused the Company some concern.

According to the Carpenter report, the extension of government outside the towns of Jolo, Siassi and Bongao 'constantly encountered activities of the Sultan in the exercise of his claim of de jure sovereignty as to internal affairs and that he had a de facto government except as it was crowded aside by the American authorities'. His exercise of jurisdiction, and taxation of pearl and turtle fisheries and so forth, 'compelled a determination of the entire matter'. He and his advisers were therefore summoned to Zamboanga in March 1915.

At the time of the treaty of Paris, Spain exercised sovereignty over the Sulu Archipelago in all matters involving relations with foreign Governments, and as to de facto local administration only at the ports of Jolo, Siassi, Bongao, and perhaps one or two minor coast stations. Otherwise the government of the Sultan seems to have existed both de jure and de facto, and at the ports and stations named the Sultan had the status of a protected sovereign rather than a subject individual, as evidenced by the military honors and other distinctions with which he was received.

The Bates treaty involved a recognition of U.S. sovereignty 'as to foreign relations rather than internal administration'. The abrogation was based on the failure of the Sultan and datus to fulfil the terms of the treaty. But the Sultan did not formally accept the abrogation, and so it merely restored the *status quo* 'in so far as concerned the contention of the Sultan as to his de jure sovereignty'. The failure to maintain order he blamed on the American authorities, who had declined to permit him 'to arm his followers and punish recalcitrant datus....' Neither the Sultan nor his advisers 'were able to present his case in a coherent and intelligible manner....' But the facts were readily available,

and it merely remained for the Sultan sooner or later to secure the services of an astute attorney to present his case in a proper manner as the basis of a claim for large financial compensation on account of inland revenue of which he had been deprived..., as well as in monetary satisfaction of all he had suffered in privation of the exercise of his sovereignty over his people at the ancestral seat of the sultanate and the territory which from time immemorial had been ruled by him and his successors. He had carefully avoided being at war or otherwise offering armed opposition to the sovereignty of the United States, and therefore had not forfeited by conquest his own. Neither had he abdicated or renounced his sovereignty.

Thus, Carpenter wrote, it was 'necessary and opportune definitely to extinguish all claims of the Sultan to any degree of temporal sovereignty'. In the agreement made on 22 March 1915, signed, among others, by Haji Butu, now Special Assistant to the Provincial Governor of Sulu, the Sultan, 'on his own account and in behalf of his adherents in the Sulu Archipelago and elsewhere within American territory', confirmed his recognition of U.S. sovereignty and the exercise by the Governor-General of all the attributes of sovereign government. It was, however, agreed that the Sultan should be 'the titular spiritual head of the Mohammedan church in the Sulu Archipelago', and the allowances, though not specifically provided for, apparently continued to be paid. Following the agreement, Carpenter added, the chief problem was 'the trial of cases growing out of domestic relations which fall within the purview of government and in accordance with the Sultan's contention, ecclesiastical (Mohammedan) courts as well....'²¹⁹ A further definition of the Sultan's religious jurisdiction was given in a letter written in July 1920 by Teopisto Guingona, Director of the Bureau of Non-Christian Tribes.²²⁰

'So ends the Sultanate of Sulu', Governor-General Harrison was to write in

his self-congratulatory work of 1922, *The Cornerstone of Philippine Independence*.²²¹ Pearson had meanwhile drawn the attention of the Court of Directors to the Carpenter report and to the agreement of 1915. 'It is not clear what effect this agreement has on the position of the Sultan as lessor of parts of British North Borneo to this Government, but it seems that in the unlikely event of our failure to pay the Cession Money or to fulfil our part of the Cession agreement, the sovereign rights over this territory would become the property of the U.S. Government.' Pearson apparently based this conclusion on the Sultan's recognition of U.S. sovereignty over Sulu and its dependencies in the Bates treaty.²²² The Foreign Office, asked for its observations, pointed out that the treaty of 1915 referred 'specifically to American territory alone' and questioned whether it was 'desirable that any communication should be addressed to the United States Government on the subject'.²²³

At the Company's office, C.F. Collins had indeed suggested that the Governor's fears were 'not well grounded. Any concessions the Sultan of Sulu may have made to the Americans would, I submit, exclude any concessions made by him previously....' 'Surely', asked the President, Sir West Ridgway, 'if we failed to pay the cession money etc. we would lose the sovereignty?' 'Yes, undoubtedly, but, what I intended to question was whether the Sovereignty would go to America. It occurred to me that it would revert to the Sultan. The Sultan of Brunei claimed sovereignty over much of the territory comprised in the Cession from the Sultan of Sulu.'²²⁴ So far the discussion had centred on Pearson's despatch. Only some weeks later did a copy of the actual report arrive. Collins noted the sentence in it indicating that the Sultan's North Borneo treaties were 'without intervention of Spain or of the United States': it was, he thought, 'an admission on the part of the United States that they do not consider that they have any claim to sovereignty in North Borneo. If this is so, the failure of the Chartered Company to pay the Cession Money would mean not that the Territory would automatically be subject to the sovereignty of the United States but that it would revert to the Sultan.' Collins also pointed out Pearson's mistake in quoting the Bates treaty rather than the 1915 agreement. 'Judging from the general tenour of the negotiations as reported..., I do not think there is any ground to anticipate American interference in North Borneo affairs. While the cession money is regularly paid the question cannot arise, and it would seem impolitic to anticipate trouble in this connection....' The Government 'would not thank us for unnecessarily raising this question at the present time', wrote Ridgway: the time was May 1917.²²⁵ The matter had been referred to the Government. But when the Foreign Office comment arrived the Company agreed that nothing should be done.²²⁶ That the interpretation of the American view given by Collins and by the Foreign Office was correct—despite Harrison's assertion that the sultanate had ended—is suggested also by a letter of Carpenter's: the termination of the Sultan's temporal sovereignty in American territory was 'wholly without prejudice or effect as to the temporal sovereignty and ecclesiastical authority of the Sultanate beyond the territorial jurisdiction of

the United States Government especially with reference to that portion of the Island of Borneo which as a dependency of the Sultanate of Sulu is understood to be held under lease by the chartered company....²²⁷

The Company's territory was a protectorate, a state; time had passed; it had endured and it felt confident of its position. But for one reason and another, though tempted at times to stop it or to capitalize, it continued the 'subsidy'. The Sulu link overlaid the imperial frontiers of 1885-1898-1903-1907. It might be used to challenge them; or they might be ignored. Of these prospects the Company was wary, more especially with the rise of Filipino nationalism. One precaution was, rather paradoxically, to abide strictly by the 1878 agreement so far as the payment went, but to play down the element of sovereignty. And certainly the cause of the Sultan was not identical with the cause of Filipino nationalism.

Carpenter's establishment of American authority in the south coincided with attempts to stop the opium traffic. But Harrison, then Governor-General, was also a proponent of Philippine independence, and the negotiations over the Turtle Islands are to be seen in that context also, and not merely in regard to article 19 of the Washington treaty. In the early 1920s the whole question of North Borneo was raised in the Philippines in association with a revival of the concept of a pan-Malaysian confederation that had been in the minds of some of the revolutionaries of the 1890s.²²⁸ This the Foreign Office saw as a spur to hasten a settlement over the islands: in order, as it were, to consolidate the settlement of 1885 in face of a new challenge or the revival of an old. The United States was not expected to take up the claim to North Borneo. But it was recognized that it would respond in some sense to Filipino pressures: though the Republican administration did not follow the Democrats' policies, nor Wood Harrison's, that did not mean that the Americans would not take up issues in which Filipino nationalists were interested. The British Admiralty indeed suggested in 1927 'that nine-tenths of such friction as has arisen between the United States Authorities in the Philippines and officials of the British North Borneo Company has its origin in the jealous susceptibilities and ambitions of the Filipinos....'²²⁹ The Sultan's own position was somewhat equivocal. Nationalist support might be useful: but not if it displaced his own claims in North Borneo.

In November 1922 the *Philippines Herald* reported that Representative Guillermo Villanueva of Occidental Negros wanted to set up, jointly with the Senate, a committee which would take steps for the 'return' of North Borneo, 'logically...part of the Philippine Archipelago', 'at present leased to the British Government through the Sultan of Sulu....' The people, it was claimed, were 'entirely Moros', and the area commercially associated with the archipelago in the pre-Spanish period. 'It is stated by the author of the resolution that the acquisition of Borneo would be a step towards the formation of a greater Philippines, and would bring the day nearer when the proposed Pan-Malayan association of federated peoples would be realised....' Villanueva also argued that the contract of lease would expire in 1923. The

legislature should seek the permission of the U.S. Congress 'to probe into the lease with a view to returning that part of Borneo to the Sultan of Sulu and eventually to the Philippines, to which by right it belongs'.²³⁰

The Consul-General in Manila reported that Lt. Wood, a.d.c. to the Governor-General, had in August made a casual remark about the expiry of the lease in 1923, 'as though he expected the district concerned to revert to the Ruler whose territory is now an integral part of the Philippine Islands'. Harrington mentioned this to Governor Pearson, who was passing through Manila, but he could suggest no ground for it.

Recently Mr Acting Vice-Consul de Bunsen mentioned to me some remarks in general conversation by Governor-General Wood to the effect that an emissary of the Sultan of Sulu made a trip a short time ago to Borneo to discuss the question of the termination of the lease, it did not appear whether this was a spontaneous act on the part of the Sultan or whether the Government were cognisant of it at the time, but Mr de Bunsen got the impression the Governor-General spoke slightly of the episode, as if it were of no importance.

Nothing had been published to explain the grounds for expecting the lease to terminate, nor to indicate 'any flaw or limitation' in the 1878 cession or the 1885 protocol. But some seemed to think the reversion attainable. 'There is a feeling in some Filipino quarters that they would, when independent, be the most advanced of the Malay countries and the leaders, possibly, of a future Malay confederation; and the idea of a claim to a portion of Borneo, thus extending Philippine territory, would greatly appeal to them, perhaps leading the Legislature to urge the United States to press a claim in the interest of their country....'²³¹

The Villanueva proposal produced a controversy in the Philippines. Teopisto Guingona, now a Senator, considered it an interference with the Sultan's property. Even supposing that the government of the Philippines owned the Borneo possessions, 'the Sultans of Sulu have the right to claim them as their private real property inasmuch as they have held them under title publicly and peacefully and acquired them under prescription'. Guingona, Villanueva commented, was the Sultan's private attorney. The issue, he added, was in part a moral one: the blood of the population of North Borneo was 'our blood, their interests are our interests....' If the territory were the Sultan's private property, the government could lease it. But it was not private property: the Sultan 'holds that property in trust, in sacred trust, of the people he rules....' Guingona responded. Not all the territory was the Sultan's; not many Visayans and Joloanos lived there. The lease was perpetual: the only possible adjustment was to increase the sum payable in view of the development of the territory. Villanueva denied that the Sultan would be despoiled: his interests would be protected; at present, indeed, he obtained little. Haji Butu, also a Senator, claimed that the lease was for 999 years, and his son and secretary, Haji Gulamu Rasul, insisted that it was private property. The Sultan had already lost much by the incorporation of the Sulu archipelago into the Philippines and had received only a pittance from the

government since the abrogation of the Bates treaty.²³²

In January the London *Times* carried a report on the issue.²³³ But no further reference appeared in the Manila papers. 'I have heard indirectly', Harrington reported, 'that the Governor-General is in possession of the text of the documents regarding the cession of the Sultan's Borneo territory and the discontinuance of the discussion by the Filipino Members of the Legislature concerned may be due to them now having more reliable information as to the position....'²³⁴

In the Foreign Office Charles Dodd thought that the U.S. government 'will take no notice of any representations from Manila regarding Borneo'. But Maurice Peterson suggested that it might 'galvanise the Colonial Office into activity with regard to the undoubted claim of the U.S. to the return of some of the islands....'²³⁵ The Foreign Office told the Colonial Office that it considered that the Philippines could raise no claim to North Borneo, either directly or through the U.S. Government; but it urged a reply over the islands.²³⁶ The following month, however, Peterson suggested that the Colonial Office, in writing to the Company, should state 'that we have not the slightest reason to suppose that the U.S. Government will present any claim to the mainland of N. Borneo....'²³⁷ Clearly the Foreign Office did not think that the larger claim would be pressed; but there may have been some feeling that it was as well to resolve the islands issue promptly, and so satisfy the Americans.

The Company itself was not in fact unduly worried over the reports from Manila. Collins pointed to Villanueva's inaccuracy, and thought 'the matter must fizzle out'.²³⁸ In arguing for the retention of Taganac, Elphinstone quoted one of Wood's staff as saying that 'the American claim was largely based on the Philipino national feeling and their desire to acquire possession of as much as possible in those seas (the Philipinos are feeling their oats rather strongly at present)'; but that the American government would put no difficulty in the way of a reasonable settlement.²³⁹ One of the arguments for the possession of Taganac the Company put forward in October was that an independent Philippines would use it as 'a lever' for realizing a 'preposterous claim' to North Borneo.²⁴⁰ There was little hope, however, of making this argument work. At the Foreign Office E.R. Warner declared North Borneo 'unquestionably British' under the 1885 protocol,²⁴¹ and the Office had noted that the discussion in Manila had died down earlier in the year.²⁴²

The Office had urged a decision over the islands in favour of the Americans in order, perhaps, to ensure that they did not take up the larger issue. The Company had argued that the larger issue was an argument against the transfer at least of Taganac. In the discussion there was an undercurrent of concern over the implications of the rise of nationalism in the Philippines. It was not surprising that the movement towards independence was carefully watched.

The dispute among the members of the legislature indicated that the Sultan was by no means at one with the nationalists. Possibly he hoped, however, to benefit by their pressure. In any case, frustrated by the Carpenter agreement in

Sulu itself, he had already sought an increase in his Borneo cession money. Discussing this with him in Sandakan early in 1921, Pearson admitted that the Company's revenue had increased, but attributed this to its investment in development and its skilful administration, and said that the Company's President could not recommend any increase 'at present'. The Sultan was not satisfied. He also claimed, following 'some American book of reference', that the sum payable was £5000 p.a. not \$5000, and argued that the clause in the 1878 agreement forbidding sale or transfer to foreign companies also forbade the Company's sale of land. 'His Highness brushed aside my explanation and expressed his opinion that a 999 years' lease was in effect a sale....' He was 'shortly proceeding to Manila and I suggested that he should take his Cession agreement to the American officer charged with his interests, and get an opinion from him as to his various claims'.²⁴³ The Sultan had asked to see the agreement, but declined to look at the printed copy of the English version Pearson offered. He wanted the original documents examined, for he was convinced there was a mistake in translation, and he should be receiving pounds sterling.²⁴⁴ Pearson's advice to get an American opinion was thus rather unhelpful. But the deed was in any case in London. The U.S. Embassy relayed to the Company a request from a Filipino Senator for a copy of the agreement, the Sultan having mislaid copies 'needed for the proper compliance of its terms....' A copy of the English translation was supplied.²⁴⁵ Again this was not what the Sultan wanted. Perhaps, however, it was useful to Senator Guingona in his arguments with Villanueva. The Sultan's cause was, after all, complicated more than supported by the intervention of the nationalists.

In 1925 the U.S. revived the islands negotiation. In London there was again some feeling that it might be taking up a nationalist cause. This was not necessarily in conflict with the Republicans' opposition to early independence for the Philippines. Col. Carmi Thompson visited the Philippines in 1925, and reported against it.²⁴⁶ But one of the British Government's arguments for associating an expert with the ambassador in the negotiation over the islands was a concern over North Borneo as a whole. The U.S. might spring some surprise. 'I mentioned the possibility of the Americans putting forward a claim to further concessions based on the shadowy rights of the Sultan of Sulu', wrote E. Caine of the Colonial Office. 'Although the Foreign Office had not actually thought of this they said it was the sort of thing they had in mind....'²⁴⁷ Company officials believed that the claim to the islands was itself a response to Filipino nationalism. Maxwell wrote: 'Apart from any desire to satisfy Filipino ambitions it is not clear what the United States of America can gain by taking over these islands....'²⁴⁸ Worth agreed. Opium smuggling had ceased. 'What lies at the root of the demand for the transfer of these islands is Filipino aspirations....' It might be, however, that as the U.S. government had declined to yield over independence, it might also refuse to support the demands over the islands.²⁴⁹ In fact it accepted their continued administration by the Company: like independence, the actual transfer was deferred, though

the principle was not denied.

The Sultan had meanwhile renewed his request for increased cession money. He also asked Governor Humphreys for agricultural land rent-free near Sandakan and for an istana to use during his visits. The Governor was opposed. There was no reason to increase the cession-money; granting the other requests 'would encourage visits that are neither politically desirable nor edifying as examples of good behaviour....'²⁵⁰ The Company agreed with its Governor.²⁵¹ But the Sultan had meanwhile appealed to Sir Hugh Clifford, now Governor/High Commissioner/Agent in Singapore. 'He contended that certain territories, which were leased by his predecessors to the British North Borneo Company, were allowed to go to the latter—owing to the complete ignorance of the Malayan Rajas of that period—on ridiculously unfavourable terms, judged from the stand-point of the descendants of the Grantors....' The Sultan argued that the concessions defined the term of the lease by reference to the revolution of the sun and the moon, and that this had in fact ceased, since the sun meant the Sultan who had signed the concession and the moon the Company. He added that 'the normal term for any concession, throughout the British Empire, is 50 years....' This Clifford, and also the Sultan of Perak, who was present, denied. Jamal-ul-Alam then urged that revision was 'demanded in the name of equity and fair-play', and proposed, if the Company declined his requests, to give the concessions to King George V as a free gift in admiration of his subjects' work in the Malay Peninsula and Archipelago. Writing to the new President, Sir Neill Malcolm, Clifford made what appears to be an allusion to his old antagonist, Cowie:

judging from what I remember of the original *documents* and, I add reluctantly, of some of the persons who contrived to persuade the Native Authorities in Sulu to part with the birth-right of themselves, their Heirs, their Chiefs and their people for a series of Messes of Pottage—the rights so obtained were paid for quite inadequately. The most enlightened people in the Sulu Islands of that time were perfectly ignorant of affairs and of values; and in addition to that, as we all know, the cost of living has enormously increased, while the purchasing value of money has proportionately decreased since the Great War broke out in August 1914....

Clifford said that the Sultan proposed to urge his views. He felt it his duty to pass them on to the Company, and also to the Colonial Office.²⁵² In reply to Sir Hugh, Sir Neill insisted that the increased prosperity of the territory was due to the Company's efforts, and its shareholders had received only low dividends. Some of the territory, he added, was acquired from Brunei.²⁵³

Another voice from the past was that of T.H. Haynes. Carmi Thompson had referred to differences between Christian Filipinos and Muslims in Mindanao and Sulu. Haynes thought it 'the height of folly to think of subjecting a race like the Sulu Islanders to the domination of Filipino officials or a Filipino parliamentary majority....' He questioned the justice of the American assertion of sovereignty: 'Subservience to a Filipino parliament would be the last straw.'²⁵⁴ The ideal solution was a 'Federated Sulu States Union', including Mindanao, Sulu, Basilan, southern Palawan, and Sabah,

'under a protective flag of their own choice'.²⁵⁵ 'Visionary' was Haynes's own word for his scheme. It depended upon a challenge to the territorial settlement of the 1880s. His ideas had made no progress in 1898. The prospect of Philippine independence suggested another attempt, just as, on the other hand, Filipinos sought to challenge the settlement by incorporating North Borneo in the Philippines. Haynes sent his papers to the U.S. Embassy.²⁵⁶ He again made no progress. He was dubious over informing the Sultan.²⁵⁷ Whether some of Haynes's ideas reached Jamal-ul-Kiram is uncertain: possibly they could have led him to suggest, in his conversation with Clifford, transferring his cessions to the King.

His appeals having failed, the Sultan turned to a publicity campaign of his own, but of a less 'visionary' variety than Haynes's. In May 1930 the *Philippines Free Press* published an interview he gave to Aleko E. Lilius, a 45-year-old U.S. citizen of Finnish origin. In this he maintained that the Company had failed to increase the sum payable to him as its own profits increased, though it was bound to do this by the contract of 1878. The Sultan had lost his copy of the contract in Singapore in 1894—'the British know more than they care to admit concerning' its 'disappearance'—and the Company declined to supply another copy. He would ask once more. If he was refused again, he would offer North Borneo to the U.S. After the interview Lilius went down to Sandakan in the *Mindoro*. He asked to see the treaty, but it could not be found. Asked why the Sultan was refused a copy, Under-Secretary E.A. Pearson, according to Lilius, 'scornfully retorted: "Oh, he always wants more money"....'²⁵⁸ *The Sphere* the following year published a similar piece, including a more elaborate account of the robbery, which blamed a visitor introduced to the Sultan by important officials in Singapore. 'On the morning of the theft he had visited the Sultan at dawn....'²⁵⁹ Certainly there had been a robbery at Singapore in 1898, and the Sultan had lost his copy of the 1878 grant. The Company had supplied a copy of the English version in 1921. Perhaps the Sultan was disappointed that it did not contain the adjustment clause that may just possibly have been considered in the abortive negotiations started by Overbeck and Dent in July 1878, of which some family memory presumably remained. His suspicions no doubt built upon his disappointment. The elaboration of his story suggested, however, a gauche attempt to impose upon the Company by creating unpleasant publicity for it. Its reaction was to have photo-copies made of the original deed in London.²⁶⁰

'Nothing authoritative has appeared in the Press recently nor in public speeches', Harrington wrote,

...the slender reports available deal with alleged current gossip of some Americans and Filipinos about the existence of the claim and the Sultan's intention to press it. One detail that has emerged with a little clearness is a report that the Sultan has lost his copy of the concession made by his predecessor to the founders of the British North Borneo Company and that the latter have refused to give a copy of their version. The implication is that the Concession contained some stipulation making the grant only a temporary one, and that by refusing to give the Sultan a copy of their text the Company are preventing him from giving evidence of his claim....

Such reports acquired interest, the Consul thought, from several circumstances. The Sultan had been appointed to the Senate as one of the appointive members for the non-Christian provinces. This 'has nothing to do with any claim outside the Philippines', but it 'will result in fairly long periods of residence in Manila and close contact with other members of the Legislature: so that should he really imagine he has any claim as to North Borneo he will be in a good position for discussion and agitation with his Filipino fellow members'. Recently the Assistant Secretary to the Government had asked if there were consuls in Borneo, 'stating that his enquiry was in connection with a letter received from the Sultan of Sulu about a claim he had against British North Borneo, in which he had referred to British Consuls there....' The enquiry 'did not suggest any support of the claim; it does, however, indicate that the latter has been raised in some form....' The article in the *Philippines Free Press*, and one or two other references, suggested that 'a certain amount of propaganda may emanate from the Sultan and his associates....' At the Foreign Office Harold Caccia abided by the 1923 view: 'no claim exists on the part of the Sultan of Sulu to a section of Borneo....'²⁶¹

At the Company's office Worth suggested that the English translation be checked.²⁶² A. F. Richards, then in England, was asked to go over it. He asked for a romanized copy. 'I do not claim to be an authoritative Malay scholar but I will get my views checked by Dr Blagden of the School of Oriental Studies.'²⁶³ S.O.A.S. provided a romanized copy, and Richards pronounced the translations accurate.²⁶⁴ 'Very satisfactory', Worth commented.²⁶⁵ It is not clear that Richards consulted Blagden. But the latter certainly saw and approved the translation later.²⁶⁶

A cable from Manila had indicated that Sultan Jamal-ul-Kiram was not satisfied with the sum paid to him by the Company and 'was proceeding to London to have the matter put right....'²⁶⁷ Harrington forwarded a cutting from the *Manila Daily Bulletin*, the leading American daily in the Philippines capital, which threw some light on the telegram. This indicated that the Sultan had laid the case before Governor-General Dwight F. Davis in 1930. 'Fearing international complications, however, Governor Davis informed the Sultan that he would not take up the matter officially but would use his influence as a private citizen to see what could be done relative to the matter....' The Sultan was, however, now preparing to go to London to seek an 'equitable' settlement. The American authorities were not giving the claim 'any serious attention', Harrington thought. But the Sultan's persistent statements might lead Filipinos, especially members of the legislature, to think 'that there is some basis for such a claim and consequently for some reversionary title of the Philippines to the territory involved', reviving the impression prevailing in 1922.²⁶⁸

The Company moved one stage further. Worth suggested that the Colonial Office—and thus the Consul-General in Manila—might be supplied with a photo-copy of the cession deed and copies of the translation. 'The Consul General would then be in a position to give the lie direct to the mendacious

statements which are being published in the Philippines press....' Worth added that the Malay document did not contain the 'sun and moon' phrase quoted by Clifford.²⁶⁹ Governor Richards was also authorized to give the Sultan photo-copies if he saw fit: it might convince him that his claims had no foundation, which would be in his and the Company's interest.²⁷⁰

In an article in a South African newspaper, Lilius now gave a further account of the robbery. The treaty was taken by Tamini, a Moro, now, he declared, a resident of Labuan and a privileged citizen of North Borneo. The Singapore police had asked the Sultan to swear on the Koran that it was Tamini with whom he had grappled, but this he could not do. 'The room had been dark, it had been dusk....' The Company had seem evasive over copies: none had come even from London, though the Sandakan authorities said it was there. Perhaps—the real point of this campaign?—the Company would prefer to revise the treaty rather than court publicity.²⁷¹ A further piece appeared in the *Bulawayo Chronicle* on the same day.²⁷² No doubt Lilius was aware that Malcolm and Elphinstone had South African connexions.

Richards sent the photo-copies to the Sultan early in 1932. He also discussed with the Acting Governor-General of the Philippines 'the question of the publication in Philippine newspapers of the allegations of the Sultan of Sulu...it was suggested that the Government of the Philippines might, if the offence was repeated, take such action as it considered proper to prevent a recurrence of such statements'. Butte replied 'that it would probably be more effective to deal with the newspapers than with the Sultan himself, adding that he would be glad to have photographic reproductions....' Richards recommended the Court to supply them: 'it will be to the advantage of this Government to enlist the sympathy of the Government of the Philippines....'²⁷³ Copies were duly sent to Sandakan.²⁷⁴

Connected was a dispute between Richards and the Sultan late the following year. The latter questioned the absence of a guard of honour and a salute on his arrival at Sandakan. Richards's explanation was that the visit was at short notice and appeared to be informal; that a guard and salute were arranged when it was learned that the Sultan considered the visit formal; that the Sultan treated the District Officer rudely and the arrangements were cancelled. 'Your Highness has no authority in this territory and the courtesy of a formal reception is only accorded to Your Highness as an act of grace, just as it would be accorded to any other Sultan who wished to pay a formal visit to this territory....' Richards demanded an apology.²⁷⁵

In fact even to treat the Sultan as an independent ruler rather implied his continued suzerainty over North Borneo. He had customarily received 21 guns. That dated back to Treacher's day, when it was desirable, both as a demonstration that Spanish sovereignty was not recognized, and as a friendly gesture. In Cowie's day the Company still saw value in the friendly gesture, but found it less desirable to insist on the Sultan's suzerainty. A guard of honour and an entertainment allowance, authorized by the Court, also dated at least from Cowie's day.²⁷⁶ Richards' later recollection was that his letter to

the Sultan was in 'most polite terms', that it told him that if he claimed to be 'the real ruler', the Governor could not receive him, and that he never came.²⁷⁷ The detail does not tally with the documents: the aim does. He wished to check the Sultan's claims lest they should be taken up in the Philippines.²⁷⁸ The Company found it difficult to maintain the courtesies during the Lilius campaign. But its harder line with the Sultan no doubt reflected a fear that he could be used to challenge its position. Worth found the Governor's reminding the Sultan that he had no authority in North Borneo 'opportune. The Sultan's behaviour seems to indicate that he still thinks he has some Status in North Borneo notwithstanding the terms of the Cession and Commission of 1878, with photostatic reproductions of which he was recently supplied.' Sir Neill Malcolm found Richard's letter 'excellent'.²⁷⁹ The line was, it seems, to maintain the subsidy, but restrict any commitment beyond it.

Even the subsidy came into question with the death of Jamal-ul-Kiram without male issue. He died on 7 June 1936. This was just before Manuel L. Quezon, President of the newly-created Commonwealth of the Philippines, had visited Jolo and, according to the acting Consul-General in Manila, L.H. Foulds,

it was announced by the Director of Non-Christian Tribes who was with the President, that the Government would not pay any pension to his successor nor recognize him as possessing any special status. About a week ago Mr Quezon confirmed to a small group in which I was present that such was his policy. Since the Sultan of Sulu has certain rights in British North Borneo I am endeavouring to obtain more detailed information from the authorities...²⁸⁰

Late in July Foulds reported that the Philippines government had decided not to recognize the continued existence of the Sultanate. This attitude was expressed to me yesterday in very emphatic language by the President...himself. He said that if the Mohammedan inhabitants of Sulu desired to choose a person as their religious leader that was entirely their own affair, and the Government would not interfere in a religious matter, but the person chosen would be merely a private citizen so far as Philippine law was concerned. He had purposely refrained from asking any questions, and did not even want to know whether Sultan Kiram was dead: he was fully determined not to have anybody in this country occupying a position of privilege. The pension which had been paid to Sultan Kiram by the Philippine Government was personal to him and would certainly not be continued to anyone else.

Immediately after the Sultan's death, quarrels 'broke out among the various datus regarding the selection of his successor'; the Director had told the Governor of Sulu that the government would not recognize one. The American aim, as described by Foreman, had been, Foulds said, to deprive the Sultan and datus of power, making them simple citizens with dominion only over personal property, and the Sultan, who became a Senator, was, he believed, never called 'His Highness'. The Philippines constitution of 1935 contained no reference to the Sultan. The Philippines government was in fact following American policy, and inasmuch as the pension was for the late Sultan alone, it was justified in ceasing to pay it.²⁸¹

Foulds did not forward any official document to support his report of Quezon's remarks. Subsequently, in a memorandum of 20 September 1937 on the administration of the affairs of southern Mindanao, Quezon stated that the Government was to deal with the people, and not 'datus, sultans, leaders or caciques'.²⁸² All this, it has been observed, does not amount to abolition of the sultanate. What it amounted to was non-recognition of any successor to Jamal-ul-Kiram as Sultan, and this seems to be confirmed by other evidence of Quezon's attitude.²⁸³

The Governor of North Borneo, D.J. Jardine, had raised with the Court the question of the Sulu cession-money, \$5300 p.a. Late in June he wrote that it had been arranged to pay the balance due up to Jamal-ul-Kiram's death to his heirs, on the application of his executor; but further payments would be withheld until the question of succession was established. There were two contestants. One was Dayang Dayang Haji Piandao, Jamal-ul-Kiram's niece, daughter of Sultan Badar-ud-Din, and married to Assemblyman Datu Ombra Amilbansa. According to the Governor of Sulu she had been 'for the time being recognised by her people as spiritual head of the Moslems of Sulu succeeding the Sultan in that capacity', though Jardine doubted if a woman could continue as such. The other contestant was the Raja Muda Muwallil Wasit, apparently supported by Haji Butu. In July the Raja Muda wrote to Jardine, first claiming, as the Sultan's only legitimate brother, the Borneo cession-money, and 'even the right to succeed him to the Sultanate'; and, a few days later, declaring that the people had proclaimed him 'Sultan of the Sulu Archipelago'. This led Jardine to telegraph Manila and obtain Foulds's comments. He concluded that, whoever might be established as religious leader of the Sulu Muslims, 'the Sultanate of Sulu has ceased to exist in the eyes of the Government in whose territory it is situated; and, in these circumstances, all rights appertaining to the Sultan of Sulu have presumably either passed elsewhere or been extinguished'. Should the Company continue to pay the cession-money, and, if so, to whom? The agreement of 1878, and by implication that of 1903, promised to pay cession-money to heirs and successors. The Sultanate had ceased to exist, and so the Sultan had no successors; but he presumably had an heir or heirs.

If a will exists, as is believed, it will presumably reveal who the heir is: he will not necessarily be the person chosen by the Mohammedan inhabitants of Sulu to be their religious leader. If no will exists, the heir or heirs will presumably be the person or persons so designated by Mohammedan law and custom. Any such person or persons should establish their claim to inheritance of the cession-money in the courts of this country.

Another possibility was not to pay it at all, as there was no Sultan. 'I do not know if such a contention would be valid in law; but, even if it were, I would deprecate such a course, as it would undoubtedly be regarded as a breach of faith by the natives in this part of the territory....' A third possibility was to take the opportunity to compound the annual payments. But ten years' purchase would be 'a heavy drain on our exiguous revenues'; no doubt the

\$53,000 would be 'frittered away'; and in any case the payments might cease 'at no very distant date owing to our inability to find anyone to whom the money can properly be paid'. Generally the Governor thought that neither religious leader nor heir should be styled Sultan, nor saluted.²⁸⁴

In the 1880s Treacher and the Court had toyed with, but rejected, the idea of stopping the subsidy. One of the arguments was repeated by Jardine: the money was due to the heirs as well as the successors, and non-payment would disturb inhabitants of North Borneo itself. Capitalization had been rejected in the 1880s, as implying too great a change of status; and in 1911 as unduly costly, more especially as circumstances might alter on the death of the Sultan. In the aftermath of the depression Jardine also wished to wait on such a change of circumstances. His recommendations on title and salute were consistent with the Company's wish, as developed over the preceding years, to play down suzerainty, but maintain subsidy.

Worth went back to the succession dispute of the 1880s: the correspondence might give the Court 'a lead'. No one, he found, had then suggested that the courts should determine the rightful recipient. The cession document was worded 'heirs *and* successors' not 'heirs *or* successors'. As for the Philippines decision, that government derived its powers from the U.S., and thus from Spain: Spanish sovereignty was recognized by Great Britain over the islands, but not over North Borneo, the territory in question. The Company's secretary thought that the heir or heirs of the late Sultan, though they might not be successors in certain respects, were the people to pay. If there were a will, the heir could be determined: 'whether he is recognized as the new Sultan by the Sulus is another matter. It would seem that the accession to the Sultanate would not necessarily establish a right to draw this cession money.' A reference to Muslim law and custom might involve 'very intricate problems'. It was agreed to refer the minute to the Governor for guidance. Sir Neill added that the Court would settle for \$53,000 if 'absolutely sure the right man is being paid and the legal position all right'.²⁸⁵

The despatch to Jardine referred to the precedent of 1888, when the Foreign Office had advised payment to the Sultan recognized by Spain. This could not be applied, since the Philippines government had decided not to recognize the continued existence of the sultanate. But certainly the Foreign Office view made recognition in North Borneo dependent on recognition in the Philippines; and so, like the latter, the former had lapsed. There was no successor, and the cession-money would go to the heir. The Court agreed with Jardine that it would not be desirable to cease payment 'on the ground that there is no longer a Sultan, although justification for such cessation might be found in the circumstance that after the death of Sultan Badar-ud-Din in February 1884, payment was suspended until his successor had been formally recognized by Spain in September 1886...'. Authoritative information was required on Sulu custom in matters of inheritance.²⁸⁶

A letter from Dayang Dayang Haji Piandao, appointed administratrix of the estate in the Court of First Instance of Jolo, took up the idea of capitalized

payment. This was referred to the Governor in relation to the earlier despatch.²⁸⁷ But no report ensued until the officer administering the Government wrote in 1937. Dayang Dayang Haji Piandao, also made administratrix by the Sessions Court in Sandakan in April, was paid the cession-money accrued at the date of Jamal-ul-Kiram's death. This elicited a protest from Muhammad Zein-al-Abidin, a claimant to the sultanate. Under the will, made in 1919, with Carpenter designated as administrator, the Sultan had made over his estate, properties and rights in the Philippines, Singapore and Borneo, to his three nieces, half to Dayang Dayang Piandao, and one-quarter each to Putli Tarhata Kiram and to Putli Sakinur-in Kiram. 'Only my Sandakan estate will be divided into four, one part I give to Datu Raja Muda my younger brother.' 'No further steps', Macaskie added, 'have been taken by anyone to establish a right to the cession-money as it becomes due in future.'²⁸⁸ The Court asked Jardine, now in England, what the position was. Obviously, he replied, the accrued cession-money was rightly paid to the beneficiaries. But he was no longer so sure as he had been earlier that they were the people to whom the cession-money should be paid in future: three nieces could certainly not be successors of a Sultan who was 'also a religious and spiritual Mohammedan leader'. The Raja Muda had died, and he had no male heirs, Jardine declared. Thus his view now was that no one would be able to establish a claim to be regarded as heir and successor within the meaning of the 1878 agreement. The best plan was for the Court

to await developments, if any; if my prediction proves correct, then in three or four years time they might consider whether the cession money might not be funded and utilized for the social benefit of the Sulus resident in the State. A gracious gesture such as this will not only be greatly appreciated by those who would benefit but would also absolve the Chartered Company from any criticism based on the fact that they acquired the country in return for an annual payment which they no longer make....²⁸⁹

In fact the Raja Muda had a son.

Late in 1937 Jardine's successor reported correspondence with the Governor of the Straits Settlements as Agent for North Borneo. H.C. Johnson, a solicitor in Sandakan, proposed to submit on behalf of Sultan Ombra Amilbanga a case under the clause in the grant of 1878, by which the Consul-General might decide any dispute between the Sultan, heirs or successors, and the Company. His client claimed the cession-money as successor to the sultanate, but the North Borneo Government declined to recognize its existence and required any claimant to establish his claim in the courts of the state of North Borneo. Sir Shenton Thomas asked for comments from that Government. Its reply was that, though it did not recognize anyone as Sultan of Sulu, it would pay the cession-money to the rightful heir. But there were several claimants, including the Raja Muda's son, Esmail Kiram, and Muhammad Zein-al-Abidin, as well as Ombra Amilbanga. There was no dispute as to payment: 'but it is absolutely essential, in view of the number of rival claimants, that full proof of a right of inheritance according to

recognized Sulu custom should be produced before payment....' Such could only be established in the courts of North Borneo. In any case, no Sultan being recognized, either by the Philippines government, 'or, therefore, by this Government', article 5 of the Company's charter—that referring to the Consul-General—would not appear to apply.²⁹⁰

Dayang Dayang Haji Piandao's husband had been proclaimed in January 1937. A few months before, some datus, led by Haji Butu, had proclaimed Datu Tambuyong, who was the great-great-grandson of Sultan Shakirullah and whose grandfather had contested Jamal-ul-A'zam in 1862, as Sultan Zein-al-Abidin.²⁹¹ On Haji Butu's death, his son, Assemblyman Haji Gulamu Rasul, took up his cause. He argued, not altogether consistently with his arguments in the 1920s, that the heirs could not claim the money, for the Sultan's rights, as ceded in 1878, 'were not private or personal rights, but belonged to the sultanate, and they should not be disposed of as personal property'. If Jamal-ul-Kiram's will covered the annual income from North Borneo, it did so improperly. The Sultanate was not extinct: the sultans were still recognized as head of the Muslim church. There was, furthermore, a successor, Sultan Zein-al-Abidin. Dayang Dayang Haji Piandao was trying to set up her husband as Sultan, who, 'though unrelated to any of the former Sultans', was now Governor of Jolo, 'and by this power he has been able to keep the sultanate somewhat divided. Enough so, that up to date the Government has refrained from recognising or certifying who is the Sultan of Sulu. And it is realized that the Borneo Government would require this certification before they would recognise the heir to the sultanate.' The Assemblyman thought that when Datu Ombra ceased to be Governor, Sultan Zein-al-Abidin II would be recognized, and suggested that meantime no steps should be taken to pay the cession-money to the heirs named in the will. In further support of his case he argued that Sultan Harun had received the cession-money while Sultan, though he was not of the house of Kiram, and pointed out that Dayang Dayang Piandao had herself tried to get the money through the sultanate with her husband as Sultan, though now she was seeking to obtain it 'through the "heir" provision'. Gulamu Rasul requested the North Borneo Government to hold the matter in abeyance till the controversy over a successor was settled. The Government Secretary replied, however, that all claimants were being told 'that any claim they may have to make should be established in the Courts of this State'.²⁹² In other words, no delay could be guaranteed.

Indeed, later in the same year, 1939, the case came on in the High Court of North Borneo. On behalf of Dayang Dayang Piandao and eight others claiming to be heirs, H.C. Johnson instituted a suit against the Company and the government for the payment of the cession-money. Johnson's clients included Putli Tarhata Kiram; Putli Sakinur-in-Kiram; Datu Punjungan Kiram, as administrator of the late Raja Muda's estate and also privately; Mora Napsa, his widow; Esmail Kiram, a son of the Raja Muda; and three of the Raja Muda's daughters. A project of partition had been filed in the Court

of First Instance of Sulu in July 1939, and that Court had ordered that the plaintiffs were entitled to the Sandakan estate or cession-monies which should be divided in the shares set out. The North Borneo government, declining to take cognizance of anyone as Sultan of Sulu, had told claimants they must prove their claim in the High Court of North Borneo. The case would be publicized in the Philippines, the Governor reported; the claim of Datu Tambuyong had been brought to the notice of the High Court.²⁹³

C.F.C. Macaskie, now Chief Justice, delivered his judgement on 18 December 1939. Sulu, he argued, had once been independent, but, after the treaty of 1851, 'its status resembled that of a Spanish protectorate'. The Sultan's right 'to make a valid cession', as in 1878, was set at rest by the protocol of 1885. Under the Bates treaty, the sovereignty passed to the U.S., and by 1915 the Sultan had been 'shorn of all temporal power....' On Sultan Jamal-ul-Kiram's death in 1936, the Philippines government, 'the successors in sovereignty of the United States of America', decided, according to the Consul-General in Manila, not to recognize the continued existence of the sultanate. One defendant, Datu Mohamed Maolana, admitted that no one had been elected Sultan, 'but he claimed that he and certain other persons were eligible for election'. Such an election had, Macaskie believed, been 'normal procedure'. The difference now was that the Philippines government would no longer recognize the title or attribute to its holder 'any of the attenuated prerogatives' of the late Sultan. Its attitude was important, as the Datu claimed that the cession was an act of sovereignty and the monies should go to the successors in sovereignty. The cession was 'a complete and irrevocable grant of territory and the right reserved was only the right to an annual payment, a right which is in the nature of movable property'. The question was whether the right descended to the successors in sovereignty of the Sultan or to his private heirs. The successors in sovereignty were clearly the Philippines government. But Calixto De Leon, a counsellor at law of the Philippines, contended for the plaintiffs 'that the decision of the Philippines courts in the administration suit relating to the late Sultan's estate precludes that government from asserting any claim to the Cession monies. In my view this is correct', Macaskie declared. 'The Philippine Government allowed Sultan Jamal-ul-Kiram to enjoy the cession monies as a private person since 1915, they have made no claim on his death and have by a judgment of a Philippine Court recognised the right of the private heirs of the Sultan to receive the cession monies....' The plaintiff argued that all the grantor obtained was 'the right to a money payment, that is, only a contractual right, personal to the Sultan and to his private heirs. I do not say that I accept the argument of the plaintiffs in its entirety on this point but where there is no claim by the successors in sovereignty then the claims of the private heirs are valid....' Succession to movables was governed by the law of the country of domicile at the time of death. The Sultan had no Sandakan estate except cession-monies and the partition approved by the Philippine Court set out their disposition. Macaskie thus accepted the partition, too. Zein-al-Abidin

had not appeared though notice was sent him, and neither he nor Mohammed Maolana had objected in the Philippine Courts. The North Borneo Court was bound by the decision given there.²⁹⁴ 'Good', wrote the President. 'I'm glad that we have reached a decision.'²⁹⁵

Company officials had alluded to the 1880s. Then indeed their predecessors had found the Foreign Office's decision—that Spanish recognition determined the recipient of the cession-money—rather unpalatable. The status of the Company then depended upon the delegated sovereignty of the Sultan. The idea that he was a puppet of the Spaniards caused some concern. The reported decision of the Philippine authorities in 1936 not to recognize any Sultan was much more acceptable. The Company was ready to pay the 'subsidy' to the heirs, or to capitalize it, if they could be determined. Where sovereignty now lay, it did not make clear. But it would seem that it saw itself as an independent sovereign state.

Macaskie's judgment did not really cover this problem. It neglected the earlier concept of a Sulu Sultan sovereign only in North Borneo. The agreement of 1878 was seen purely as a financial transaction, and the problem was the disposition of the cession-money involved. This Macaskie decided should go to the heirs. The successors in sovereignty, in his view the Philippines, did not claim it. Their attitude was inferred rather than investigated. That it was doubtful that they could claim even the money under the protocol of 1885 Macaskie did not suggest.

The Company had avoided raising any of the problems with the Colonial Office until they were 'clarified'.²⁹⁶ Perhaps it had in mind the unpalatable advice of the 1880s. Perhaps, as Richards later put it, it feared 'red tape'.²⁹⁷ In the event the Colonial Office did not raise any difficulties when, the question of the recipients decided, the Company again took up the concept of capitalization, and asked for the Government's sanction. Governor Smith referred to the suggestion Sir Neill Malcolm made in 1936, that the Court was ready to compound for \$53,000 if the right man were paid and the legal position all right. The first was now determined; 'there remains the second and more difficult point for consideration'. The attorney for the heirs thought that a proposal might be favourably received. But the legal position should be clarified, the Governor thought, with the Colonial Office's Legal Department: if the heirs agreed to commutation, would this relieve the Company of all future liability?²⁹⁸ 'We cannot, of course, give a ruling to the effect that the legal position "is all right"', wrote H. Duncan at the Colonial Office. But it was thought that the matter could be 'satisfactorily disposed of' if a formal agreement were entered into between the Company and the heirs, and scheduled to a special ordinance giving it the force of law.²⁹⁹ The latter part of this proposal was queried both by Macaskie and by the Legal Adviser in North Borneo. It had not been done in the case of the commutations of various Brunei cession-monies, and the only purpose would be 'to accord a formal funeral to the Sultanate with legislative honours. Any further claimant to be successful will have to upset the judgment of the High Court which

accepts as facts that the Sultanate is dead, "heirs" mean the beneficiaries and that the plaintiffs are these heirs. An ordinance will only add to the complication and pitfalls without making Government's position noticeably stronger.' One problem would be the transfer of the sum to the Philippines, which involved approval under the wartime exchange controls.³⁰⁰ In fact such approval was not granted: it was suggested that the North Borneo government might, however, give a bond and pay interest.³⁰¹ The scheme seems to have advanced no further before the war came to North Borneo.

The war appears also to have cut short a renewed correspondence on the Sulu claim to North Borneo. *The Philippines Free Press* reported a press conference the U.S. High Commissioner gave in September 1940 after visiting the south. 'To show that he really had the interest of the Moros at heart, Mr Sayre indicated he was interesting himself in one of the hoariest claims of the royal family of Sulu, the claim that North Borneo belongs to Sulu, not to British. The late Sultan...used to tell this tall tale to every visiting journalist....' Possibly, since the Dayang had 'signed an instrument relinquishing all her prerogatives to the Philippine Government', the Philippines or the U.S. would get part of Borneo. 'At a time when one half of the world was trying to get land from the other half, the High Commissioner apparently figured he might as well pick up some territory if he could.' The story of the lost copy was repeated by the *Press*, and it was reported that Sayre had discussed the matter with Quezon. The British Consul-General was told, on enquiry, that Sayre was 'interested solely in the legal aspects and facts of the question, and that he did not expect the press to play it up as it had'.³⁰² The Company pointed out to the Colonial Office that it had supplied copies of the cession agreement for transmission to the Governor-General and to the Sultan in 1932.³⁰³ At the end of the year the U.S. Embassy in London sought a copy of the original, not the English version it had been given in 1921. The reply, approved by the Foreign Office, referred it to the 1932 correspondence, but offered prints if needed.³⁰⁴ Copies were also sent to the Colonial Office.³⁰⁵ They were, it was decided, to be kept 'readily accessible' in case the U.S. or the Philippines raised any question in relation to the grant: relations between North Borneo and foreign countries were Britain's concern.³⁰⁶ The copies sent to the Governor-General in 1932, the Consul-General wrote, had been 'misaid or lost in the change of administration of this country'. The Governor agreed to have copies sent to him and authorized him to publish them if it seemed desirable.³⁰⁷

An earlier rumour suggested that a Japanese concern had approached a claimant Sultan for the lease of North Borneo. Possibly this was a reason for Sayre's interest. In it, the British Consul-General found, the U.S. military intelligence thought there was some truth.³⁰⁸ An adviser of the U.S. High Commissioner, however, dismissed the report as worthless. The heirs' aim was, he stated, 'mulcting the British North Borneo Company out of more money'. The State Department was inclined to agree though it sought a copy of the deed in London.³⁰⁹ To push the issue would after all only alienate the British at a crucial stage in their fortunes, upon which U.S. interests also

turned.

The Company indeed had no reason to fear that His Majesty's Government would not support its claim to North Borneo. Its unwillingness to refer the question of the subsidy to the Colonial Office until it could propose a settlement may have resulted, however, from something more than a desire to avoid a repetition of the 1888 decision or 'red tape'. The Government had not been prepared to accept some of the changes in status that the Company had assumed. It accepted more and more that North Borneo was a state, but not that it was British. Or maybe that was what Richards meant by 'red tape'.

The Japanese

In the early 1880s the Foreign Office, and in particular Sir Julian Pauncefote, had stressed that North Borneo was not British, that the Company administered it under the suzerainty of the Sultans of Sulu and Brunei, that the responsibility of the British Government was limited. In subsequent years it remained true that the territory was not regarded as British. There were some plans for a take-over of the Company, but none eventuated. The emphasis on the suzerainty of the Sultans declined, but the question of an alternative sovereignty was hardly raised, let alone resolved. With the passage of time, what the protectorate agreement of 1888 called 'the State of North Borneo', 'administered', as it put it, 'as an independent State', was increasingly looked upon as a British protected state, in itself sovereign. But no official statement was made to that effect.

During the 1880s C.P. Lucas and others at the Colonial Office had begun to look forward to a British Borneo colony, and in the 1890s to a Borneo counterpart of the Federated Malay States. But their view was not universally shared within the Colonial Office itself. The fluctuating fortunes of the Company indeed seemed to suggest that at some point it must be taken over. A plan to transfer the territory to the Raja of Sarawak following the collapse of the tobacco boom was rejected by the shareholders. Cowie epitomized their determination to continue and to succeed.³¹⁰ In the Mat Salleh crisis, the Company sought Government assistance and a request for troops was made in the Straits. The Directors were told that 'they must not expect Imperial or Colonial assistance in putting down disturbances in their territories', though the Government was prepared to send a gunboat to patrol the coast and reassure British subjects.³¹¹ But under Cowie's management the Company did not in any case wish to make itself dependent. The approach to the Governor in Singapore, Beaufort was told, was 'to be regretted on the ground that it tends to lower the prestige of the Company, and in addition, to bring the whole matter under the prominent notice of the Straits Government and the public....'³¹² Birch, one of Cowie's antagonists, suggested a Government take-over, but the idea came to nothing.³¹³ The Company survived depression and revolt, with only the limited assistance the Government afforded, and the Government did not seize any of the chances it had to take over.

The Company faced no more major internal challenges. The next crisis was the depression of the 1930s. Then Sir Cecil Clementi, Governor of the Straits Settlements, suggested that the Government should take North Borneo over and that it should become part of a new Borneo federation.³¹⁴ Dougal Malcolm told Sir Neill that 'it might be a good get out for the shareholders....'³¹⁵ But, if the depression affected the Company's fortunes, it also affected the chances of its being bought out. Neither His Majesty's Government nor the Straits Government could raise the money. The project again lapsed.³¹⁶

In the earlier negotiations with Sarawak, it had been planned that the Raja would pay the royalties due from the Company.³¹⁷ These presumably included the Sulu cession-money. In the Clementi discussion, Governor Richards suggested that 'an early opportunity might be taken to compound this payment for a lump sum', although a similar payment was still made to the Sultan of Kedah on account of Penang. 'A similar arrangement might be made with the Government of Brunei for compounding other small cession payments.'³¹⁸ He told a committee of the Straits Settlements Legislative Council that the payment to the Sultan was 'for complete sovereign rights in perpetuity so long as we pay that amount. If that amount remains in default for three years, then the property reverts, but the sum is so small that we are not likely to default.'³¹⁹ In fact Richards was in error: only the Brunei grant contained such a clause.

The take-over negotiations, it was thus thought, faced no obstacle in the claim of the Sultan of Sulu over North Borneo: the payment could be continued as a pension, or he could be paid off. This, at least, was Richards's view: 'there was a somewhat vague but genuine claim by Sulu to the overlordship of that territory, which claim had been obliterated by time and the actions of the Chartered Company assuming control of the territory under the ultimate jurisdiction of the British Government....'³²⁰ This was also the Company's view: but it was cautious over raising the matter with the British Government. The Government—or some of its servants—had contemplated transfer at times. There is, too, some evidence that it regarded Sulu suzerainty, useful in the 1880s, as virtually void. But possibly its legalistic stance on other issues suggested that the Company had nothing to gain by formally raising this issue.

One question on which the Government took a legalistic stance was the Governor's title. This had been raised back in 1900 in the rather acrimonious correspondence between Sir Alexander Swettenham and Hugh Clifford. Clifford suggested that the title 'Principal Representative', which Swettenham had applied to him, was 'somewhat cumbersome', but Swettenham insisted that it was the proper title under the Charter, and the Foreign Office supported his view.³²¹ As Langley put it, the Colonial Office often referred to 'the Governor of British North Borneo', but 'whenever the question has been formally raised the decision has been that the only official designation recognized by the Foreign Office is that of "Principal Rep^{ve}" of the British

North Borneo Co. in N. Borneo"....³²²

On the death of Edward VII in 1910, Sir John Anderson, Governor of the Straits, and also the Colonial Office's Agent for North Borneo, declined to send Governor Gueritz the proclamation of the new king. 'I have little doubt that the Court of Directors will have assumed', Gueritz commented,

that the customary honours would be paid in North Borneo, a State held under Royal Charter, which Charter itself presupposes the absence of any foreign sovereign power, and provides for a veto by His Majesty's Government on the appointment of the Chartered Company's principal representative in Borneo. Is it not to be assumed that we, as a State, owe a certain allegiance to the Sovereign whose flag we fly, with a badge, even allowing that *all* sovereign rights are not directly held by His Majesty?...³²³

The Colonial Office explained that North Borneo was not part of His Majesty's dominions and so the proclamation was not applicable. To issue it would be 'likely to give the inhabitants of the State an incorrect impression of their relation to His Majesty's Government....'³²⁴ Gueritz commented: 'there is not a native...nor an alien...who does not look upon the British Sovereign as our Ruler....'³²⁵

The question was raised again by Ridgway in 1914, following a minute of Worth's.³²⁶ A Colonial Office letter referring to 'the Governor of British North Borneo' had been called back for correction, 'and the correction made was the substitution of "the Company's principal representative" for "Governor" and "North Borneo" for "British North Borneo"'. The President did not expect the Colonial Office

formally to approve or confer the use of the designation as regards our Governor, but merely to connive in a benevolent spirit. It certainly enhances the influence and dignity of our representative, not only in the eyes of his own officers and the population of the Territory, but in the eyes of the Governors of the Philippines Java and other possessions of Foreign Powers with whom he is—socially at least—in frequent communication....

The second correction Ridgway regarded as 'a new departure, and I think from an Imperial point of view it would be decidedly a mistake if the Territory ceased to be designated as British.... I should have thought that the fact of the Company holding a Charter under the Crown and enjoying the protection of the British Government justified its claim to be called British....'³²⁷

At the Colonial Office it was thought that Sir West had 'an imperfect appreciation of the facts of the case. "The State of North Borneo" is an independent state (under H.M.'s protection) the sovereignty of which is vested in the British North Borneo Company.' The word Governor connoted a colony or dependent state of which the Governor was the administrator under the Crown. 'To employ a word suggesting that the administrator is a servant of the Crown and that the territory is not independent would be quite wrong from every point of view.' The Company was the governing body under the charter: it referred to the Company's principal representative. Sir West was 'even more incorrect' over 'British North Borneo'. The Eastern Department of the Colonial Office was 'most punctilious' in referring to 'the State of N.

Borneo'. The protectorate agreement referred to 'the State of N. Borneo', 'and "British North Borneo" is not its name though the Company have always tried to use it. In fact so long as the territory is an independent sovereign state British North Borneo is an absurd title. If we annexed the State there would of course be every reason for calling the country British North Borneo....' It was finally decided that the Colonial Office might connive at the use of the word 'Governor', telling that the Company that 'no official recognition or approval is implied'.³²⁸ It did not accept the use of 'British North Borneo', however. The G.P.O. pointed out that the Post Office of North Borneo used that title.³²⁹ The Company was asked to correct it. Worth saw 'no option but to bow to the dictates of the Colonial Office, however distasteful they may be'.³³⁰

The Colonial Office insisted that the territory was not British. But though it did not explicitly tell the Company, it more and more tended to see North Borneo as an independent state. The same view reached the Company, however, when it sought a legal opinion on its right to grant trade monopolies. 'The Company being authorised to acquire and having acquired the sovereign rights granted by the Sultan...has become a sovereign independent state and this fact is recognized by the Crown', counsel declared in 1921. 'The Company can therefore also exercise any powers and do any acts as a sovereign independent state without its acts and deeds being called in question by any person', except that the Crown might revoke the charter.³³¹ The institution of appeals from the High Court to His Majesty in Council which, deemed impossible in the 1880s, had taken place in 1914, was a matter of conferment by the state of North Borneo. It did not affect its independence, Worth noted.³³²

On a visit to the territory, the President discussed its political status with Governor Pearson early in 1922. The latter had suggested that the Colonial Office distinguished between a protected state and a protectorate.³³³ Ridgway asked Edward Gent of the Eastern Department if this were so.³³⁴ Apparently it was. Protected states were those territories, like North Borneo, in which the King possessed no jurisdiction, or possessed it but did not exercise it; protectorates were those where he possessed jurisdiction and exercised it. The chief concern at the Colonial Office was to make sure that the Company did not 'make capital' out of the reply, as Gent put it; or, as another put it, 'anything we say "may be used in evidence against us"'.³³⁵ On seeing the reply, Ridgway indeed sought to make a general point in reference to 'British protected States': the Colonial Office was always saying that the term 'British North Borneo' should not be used. Gent replied that 'our contention is that "British" is to be read with "Protected" and not with "State"....'³³⁶

In the draft of the islands convention, the word 'British' was deleted.³³⁷ In 1931 the Colonial Office reminded the Foreign Office of the proper title, 'the State of North Borneo', in relation to notes about extending the Anglo-French Civil Procedure Convention to Borneo.³³⁸ As late as 1937, the Colonial Office stopped short of offering full official recognition of the gubernatorial style of the Principal Representative. A circular drafted by the

Foreign Office, alluding to North Borneo passports, declared that they were to be issued 'in the State of North Borneo and under the authority of the Governor and Commissioner [sic] in Chief of the State of North Borneo and its dependencies'. The Colonial Office substituted, at Gent's suggestion, 'issued in the name of the British North Borneo (Chartered) Company under the authority of the Governor and Commander-in-Chief of N. Borneo and its Dependencies'.²³⁹

The insistence that North Borneo was not British was not play-acting. In the 1880s Pauncefoot had emphasized not only that it was not British, but also that the Sultans were suzerains, partly with the view of diminishing the opposition of foreign powers, partly with a view to diminishing British responsibility. The last aim was still relevant: the Colonial Office was no longer so anxious to avoid responsibility, but it did not want it if it did not have control, more particularly now that international opinion stressed the obligations of colonial powers. It corrected statements that implied that it had control: the French note of 1931 about the civil procedure convention, for instance, which referred to North Borneo and Sarawak as English colonies.³⁴⁰ But the earlier insistence on the suzerainty of the Sultans disappeared: members of the Colonial Office wrote of North Borneo as an independent state.

The Company authorities were sensitive over the title of their state and of its governor, over which they argued with the Colonial Office. Perhaps for this reason they hesitated, even in the 1930s, formally to raise with the Colonial Office the question of the Sultan's position. But, if they had done so, it would seem that the Colonial Office might have concurred in the view stated by some, though left unstated by Macaskie, that North Borneo was an independent sovereign state. Moreover, informally the territory tended to be regarded as British, even within the Colonial Office.³⁴¹ The way was indeed prepared for the Government to take over the state as an independent entity, and make it British in name. This, more than once suggested earlier, it finally did after the Pacific war.

In the 1930s the British Government was, of course, keenly aware of the rise of Japanese power, seen, so far as North Borneo was concerned, also in the context of Philippines independence. The Tydings-McDuffie Act meant independence in ten years' time. One issue connected with it was the disposition of the islands assigned to the U.S. by the convention of 1930. The Tydings-McDuffie Act was silent over them, and some Filipinos felt that they might not secure them. In the discussions on the constitution Delegate Singson Encarnacion argued that it should on this account include a definition of the national territory. The U.S. might argue in future that, excluded from the Tydings-McDuffie Act, the islands were not part of Philippines territory. 'I consider that those islands recognised by England to be part of the Philippine Archipelago belong to us; but what I fear is that, if in the future there would be a conflict of interests between Filipinos and Americans or when America will have a special interest to own any one of said islands, they will adhere to the letter of the Tydings-McDuffie Law, which speaks nothing

of the treaty between the United States and England....³⁴²

In London it was indeed felt that the rise of Japan might affect the disposition of the islands. Gent was quite clear that the Philippines would become free to resume their administration on giving one year's notice.³⁴³ The Foreign Office agreed, but thought that the matter should be 'definitely cleared up' by an approach to the U.S. government. As, however, the issue arose in relation to all the international agreements in which the U.S. was involved as sovereign of Philippines, it 'proposed to defer action until the most suitable methods of approach and the exact scope of the question have been considered and determined....'³⁴⁴ Further consideration, however, led to a further decision to defer. Complete independence was ten years ahead; and there was 'the possibility that the position of claims to administer the islands in question may be altered by the pressure of external political events during the intervening period.... although an approach to the United States Government may ultimately become desirable, the question is still too academic and hypothetical to justify any action being taken at present.'³⁴⁵

Early in 1935 Colonel P. Hodsoll, 'a prominent British Resident in the Philippines', told the Foreign Office that Quezon wanted him to be in Washington while he was having talks with President Roosevelt and other officials. Hodsoll asked for a recommendation to the British Embassy, in case he could pass on information. The Foreign Office welcomed the prospect of even such a contact with Quezon, who was seen as the one person in the Philippines who mattered.³⁴⁶ Other departments were consulted, and the Company, too. The Governor of North Borneo thought that, after all, the question of the islands might come up, and he repeated some of the old arguments for continued administration by the Company.

It would be very inconvenient if the Philippines Government were to assume administration of these islands which would almost certainly become an asylum for criminal and other undesirable characters from this state. Moreover taking a longer view occupation of these islands particularly Taganac by a foreign power would be highly embarrassing from the standpoint of imperial defence if in future it were desired to make a naval or airforce base at Sandakan. For these reasons and as the intrinsic value of these islands must be very small I submit that it is a matter for consideration whether the opportunity afforded by this projected transfer of sovereignty should not be taken to acquire them by purchase if possible.

To my mind the potential advantage accruing to the imperial government from such purchase so greatly outweighs the pure local convenience that I feel that they might well be purchased by His Majesty's Government rather than by the Company.

The Colonial Office referred the matter to the Foreign Office, at the same time suggesting arrangements for Philippines sugar to come to the United Kingdom when it lost its preference on the U.S. market.³⁴⁷

The Foreign Office prepared a memorandum for transmission to the embassy in Washington. It recommended simply that the question of a take-over of the islands by either the U.S. or an independent Philippines should not be raised. It concentrated more on the possibility that the Japanese would

dominate the Philippines after the departure of the U.S.: steps towards economic domination might be followed by political domination.

Such an extension of Japanese influence could not fail to be a very grave development for us; it would bring the sphere of Japanese activities a long step nearer to Singapore and Australia. Moreover, should the situation ever develop so far that the Japanese were able to use some part of the Philippines as a basis for their armed forces our strategic position would, for obvious reasons, become so serious that the question even of armed resistance might arise. It would appear to follow that any growth of Japanese influence in the Philippines, even in the purely commercial sphere should, as far as possible, be resisted, and that from a British point of view a continuation of United States domination would be far preferable to its replacement by that of Japan....

So far Japan had advanced further towards the economic domination of Netherlands India than that of the Philippines. But when the Philippines became independent, 'the Japanese, deeming perhaps the Philippines an easier prey, may transfer and concentrate their energies on them'. Any information on defence policy or on Japan's intentions would be welcome.³⁴⁸

In the event Hodson obtained information on defence arrangements, and Quezon reiterated 'his most friendly sentiments' towards Great Britain; but the other points were not raised.³⁴⁹ In 1936 Sir Neill Malcolm again suggested the purchase of Taganac.³⁵⁰ The Foreign Office still preferred to defer discussing the future of the island.³⁵¹ The 'pressure of external political events' meanwhile became more evident.

In 1931-2, according to the *New York Times*, Dayang Dayang Piandao had claimed fourteen of the islands, including the Turtle group, which, she alleged, were not covered in the North Borneo agreement, nor in the Spain/U.S. treaty. She was supported by her younger sister, Princess Tarhata, and assisted by her husband and by the 'aged' Sultan, 'immortalized by the comic opera bearing the name of the famous potentate'. The islands, she claimed, were given her by her grandmother.³⁵² This claim she later reiterated, and sought to collect rent from a Japanese fishing company established on Si-amil, an island left to North Borneo by the 1930 delimitation.³⁵³ In 1937 it was reported that Japanese had purchased eleven islands, including Si-amil, from the niece of the Sultan. Gent commented: 'quite a good little story'.³⁵⁴ But it may have alarmed Quezon.

Early in January 1938 the *Manila Bulletin* said that Quezon was raising the question of the ownership of the Turtle and Mangsi Islands with the High Commissioner, Paul McNutt; and that the Department of the Interior was arranging to take them over. The *Bulletin* added that the islands were being used for smuggling, opium and immigrant traffic; they were also 'important links in the national defense of the Philippines....'³⁵⁵ The Secretary of Finance had told the press in 1935 of smuggling and urged taking over the administration of Taganac;³⁵⁶ and a case of illegal immigration had been reported in 1937.³⁵⁷ But the Consul-General in Manila thought that the question had been raised 'owing to the desire of the authorities to establish a

closer scrutiny over activities in this area of the Japanese who, I understand, some time ago leased a small group of islands, allegedly for fishing purposes, in close proximity to the Turtle Islands'.³⁵⁸

The matter was raised again in 1941 by the *Philippines Herald*. The Commonwealth Government, it said, was taking over the administration of the Turtle and Mangsi Islands 'because of their strategic value to the defense of the Philippines....' They were important because North Borneo was 'reportedly one of the proposed anchorages of a Japanese blockade line from Camranh bay, Indo-China, across the China Sea through the recently-acquired Spratly Islands. By this blockade, the Japanese allegedly hope to cut out British naval vessels in Singapore and the East Indies from interfering with its East Asian possessions.'³⁵⁹ But the Consul-General could find no confirmation of the take-over bid either at McNutt's office or at the Philippines Department of Defense.³⁶⁰

The Foreign Office had been deferring action. Presumably it wished to ascertain whether the Philippines would or could effectively resist the advance of Japanese influence and whether the U.S. would abide by the Tydings-McDuffie programme. But, though the imperial frontier in the area had been redefined in 1930, the Sulu family continued to challenge it, and this appears to have led to Japanese attempts to secure a hold, even, it was rumoured, to acquire Sabah. The American High Commissioner investigated the claim to Sabah, and Quezon was apparently concerned over the islands. To some extent these were responses to Filipino nationalism. They were also related to concern over Japanese ambitions. But those ambitions were a reason, too, for avoiding a challenge to Britain and to the British protected state of North Borneo.

The administration of the islands was transferred after the defeat of the Japanese and the subsequent independence of the new Philippine Republic in 1946. The notice due under the 1930 convention was given, and the Philippines took over in June 1948.³⁶¹ Would the larger issue be taken up? Though no documents are available, it may be that this possibility influenced the British Government in its decision to transfer the islands, rather as it may have prompted it to accept a delimitation in the 1920s. The British Government was now indeed fully responsible. In 1946 the Company had transferred and ceded the Borneo sovereign rights to its former protector, 'to the intent that the Crown shall, as from the day of transfer, have full sovereign rights over, and title to, the territory of the State of North Borneo, and that the said territory shall thereupon become part of His Majesty's dominions....'³⁶² Already, before the war, the Government had come to think more and more of the Company's territory as an independent state: the claims to suzerainty of the vanished sultanate had been discounted; the problem was to avoid attribution of British responsibility. In the war the protector failed to protect: North Borneo was devastated; and the demands of economic rehabilitation and political development suggested that the time had come for the Crown to take over, as Clementi had earlier suggested. But other circumstances had also

changed since Clementi's day. Was Britain defying them or ignoring them?

In 1945 Aleko E. Lilius had published a more fantastically account even than that of 1931 of his conversations with Sultan Jamal-ul-Kiram. The Singapore robbery was stated to have taken place just before a renegotiated settlement was due to be signed, and some further material about the treatment of Lilius in Sandakan was added. The Company, Lilius repeated, refused to give the Sultan a copy of the agreement. His conclusion was now that 'British North Borneo' was still

a leased territory—leased from an American sultan in fact. The Sultan of Sulu died a few years ago, and now one wonders to whom the rent money for the exploitation of his rich and vast possessions in British North Borneo is being paid. As all the Sultan's direct heirs have since mysteriously died in quick succession, it would appear that uncle Sam, as the self-appointed guardian and protector of the Sulu sultanate, ought to be the rightful recipient of the sum.

And if he is, to whom does British North Borneo really belong? Is it British, or is it in the last analysis American?³⁶³

Lilius's account did not get more accurate with the passing years. But its date of publication perhaps suggested that he hoped that in post-war conditions the U.S. might take a firmer line with Great Britain. The decision to go ahead with independence for the Philippines, without apparently so doing, changed the situation. Some had feared, pre-war, that an independent Philippines would take up the claim. Would it?

It seems that an investigation began in 1946, partly at least in connexion with the negotiation over the islands. Ambassador Quintero found a copy of the 1878 deed in Arabic characters in the archives in Washington,³⁶⁴ presumably one of those transmitted by the Company. Ex-Governor-General Harrison pointed out that the Company transferred its territory to the British Government only twelve days after Philippines independence was inaugurated. The implication was that it was done to avoid the claim. It was 'an act of political aggression', which should be taken to the U.N.³⁶⁵ During the negotiation for the islands, Macapagal 'advocated the filing of this claim' while serving in the Department of Foreign Affairs,³⁶⁶ and in 1950 he authored a concurrent resolution in the Philippines Congress supported by, among others, Rasul. But no initiative in foreign policy ensued: the Philippines Republic, like the Philippines Commonwealth, hesitated to challenge Great Britain.³⁶⁷

By 1962, when Macapagal put the claim forward as President, Great Britain had determined to de-colonize North Borneo. At the same time he revived the Filipino concept of a confederation of the Malay races. That, like the claim itself, had a background in the history of Filipino nationalism. But now it served also as a counterblast to Malaysia. Malaysia was nevertheless formed. But the Philippines did not abandon its claim to Sabah. It reserved it when making an anti-smuggling agreement with Malaysia in 1967,³⁶⁸ and in 1968 President Marcos signed a Senate Bill stating that the Republic had acquired dominion and sovereignty over Sabah.³⁶⁹

The Philippines Claim

The Sabah dispute of the 1960s set out from the transfer of North Borneo in 1946. The concurrent resolution of 1950 declared that the annexation of the territory as a Crown Colony deprived the heirs of ownership of what was merely leased. It also argued that 'the renunciation by Spain of sovereignty over North Borneo in the Treaty of 1885 with Britain did not serve to affect the right of sovereignty of the Sultan of Sulu over said territory....' The annexation was thus unwarranted and illegal: the territory belonged to the heirs of the sultanate, all Filipino citizens, 'who have approached the authorities of the Philippine Government for the protection of their rights'; and 'subject to an adjustment of the lease rights of the British Government as the ultimate successor of the original lessees, the said territory should be restored to the ownership of said Filipino citizens and to the sovereign jurisdiction of the Republic of the Philippines whose authority said heirs recognise without qualification'. The Congress thus resolved

That it is the sense of the Congress of the Philippines that subject to the lease rights of the British Government, the territory known as the British North Borneo belongs to the heirs of the Sultanate of Sulu and falls under the ultimate sovereignty of the Republic of the Philippines; that the President of the Philippines is authorized to negotiate with the British Government or to take other suitable steps for the restoration of the ownership over the territory to the heirs of the Sultanate of Sulu and the recognition of the sovereign jurisdiction of the Philippines over the same....³⁷⁰

In the 1920s there had been some tension between the rights of the Sultan and the claims of Filipino nationalism. This the concurrent resolution sought to resolve. Among its supporters was Rasul, an upholder of Esmail Kiram. The heirs had earlier engaged another old supporter, Teopisto Guingona. While the claim remained in suspense during the 1950s, they employed another attorney, Nicasio Osmena, who in 1957 led a syndicate that tried to negotiate with the British Government for a lump sum payment of U.S. \$15m.³⁷¹ Late that year, on the advice of yet another attorney, Vicente Gabriel, but in the hope of renegotiation, Esmail had proclaimed the termination of the lease and the re-establishment of his sovereignty.³⁷² In February 1962, soon after Macapagal's election as President, and following a series of articles in the *Philippines Free Press* instigated by Osmena,³⁷³ J.C. Orendain, Sultan Ombra's lawyer, sought official assistance from the Philippines government so that the heirs might regain their proprietary rights, and that sovereignty over North Borneo might be turned over to the Philippines Republic.³⁷⁴ But it was Sultan Esmail Kiram who in April 1962 ceded to the Republic sovereignty over North Borneo without prejudice to such property rights as Jamal-ul-Kiram's heirs might have.³⁷⁵

The same day the Ramos resolution was adopted unanimously in the House of Representatives, following a speech by Jovito R. Salonga.³⁷⁶ It asserted that 'the claim of the Republic of the Philippines upon a certain portion of the Island of Borneo and adjacent islands is legal and valid', and urged the

President 'to take the necessary steps consistent with international law and procedure for the recovery of a certain portion of the Island of Borneo and adjacent islands which appertain to the Philippines'.³⁷⁷ It was at this point—perhaps rather surprisingly—that Great Britain intervened.

In a somewhat patronising aide-mémoire, the British Government expressed its pleasure that the Philippines government had not associated itself with 'the efforts being made on behalf of certain of the heirs of the Sultan of Sulu to dispute British sovereignty in North Borneo....' The British Crown was entitled to and enjoyed sovereignty over North Borneo, and

no valid claim to such sovereignty could lie from any other quarter, whether by inheritance of the rights of the Sultan of Sulu (the only right of his heirs being to continue to receive their shares of the cession money) or by virtue of former Spanish and American sovereignty over the Sulu Archipelago in the Philippine Islands. In the interests of the people of British North Borneo, no less than because of their undoubted legal rights, Her Majesty's Government would be bound to resist any claim to part of North Borneo, whether advanced by the Philippine Government or by private persons in the Philippines....

A federation of Malaysia was being formed, and a dispute 'might have undesirable repercussions in Malaya and Borneo....' It could impair relations between Great Britain and the Philippines, and 'might even lead to territorial claims being put forward by other South-East Asian countries....' Such developments would damage the stability of South-East Asia and its capacity to offer united resistance to Communism.³⁷⁸ The Philippines reply spoke of the heirs' communication of February and asked for talks.³⁷⁹ The British Government declared that it had understood that the existence of the sultanate had not been recognized by the Philippines government for many years, and that even the residual authority of Jamal-ul-Kiram had lapsed in 1936. The communication by the heirs, whose rights had been observed, was no sufficient justification for questioning a state of affairs accepted by successive Philippines governments 'for three quarters of a century'.³⁸⁰ The communication was not the only document at issue, the Philippines government replied in September. The chief one was the deed of 1878: that involved a lease, and not a cession, and Great Britain could not acquire sovereignty over North Borneo. The proposed establishment of Malaysia made the talks already suggested more urgent.³⁸¹ The President meanwhile put forward his proposal for a Greater Malayan Confederation, which he hoped would delay Malaysia.³⁸² The British Government did not formally agree to talks till after the Brunei revolt had broken out in December, though preliminary conversations started before that.³⁸³

Macapagal's State-of-the-Nation message of January included a reference to the Philippines claim to 'sovereignty, jurisdiction, and proprietary ownership over North Borneo as successor-in-interest of the Sultan of Sulu....' It was, he declared, a 'valid and historic claim', and it was also vital to 'national security'. But the people of North Borneo should be given 'at an appropriate time' an opportunity to decide if they wished to be independent;

to be part of the Philippines; or to be part of another state.³⁸⁴ The same day the talks opened in London.

In his opening statement, Emmanuel Pelaez, the Vice-President and Secretary of Foreign Affairs, argued that the Company did not acquire sovereignty or dominion, 'for sovereignty can be ceded only to sovereign entities or to individuals acting for sovereign entities', and he quoted the despatch sent to Morier early in 1882, which stressed that sovereignty remained with the Sultans. It had been said, he continued, that Quezon had decided not to recognize the continued existence of the sultanate of Sulu, 'particularly in reference to North Borneo. We are unable to find a written record of this alleged statement....' In any case this would not have been within Quezon's powers, 'since the power to accord or terminate recognition during the Commonwealth period was withheld from the Philippine Commonwealth Government....' Nor did termination of recognition mean, in international law, dissolution of the entity affected. The sultanate of Sulu 'continued to exist, in reference to North Borneo, until the Philippines, by virtue of the title it had acquired from the Sultanate, became vested with sovereignty and dominion over North Borneo....' Pelaez also drew attention to security problems, to historical ties, to the fact that, in the absence of common sovereignty, 'the entire area had become a center for illegal activities..., including smuggling and illegal immigration....'³⁸⁵

In discussions Jovito Salonga and the Philippine panel urged that the 1878 deed, retranslated by Harold C. Conklin of Yale, was a lease, and repeated that the British documents themselves insisted on the sovereignty of the Sultans. They also argued that North Borneo was not included in what Sulu surrendered to Spain in 1878, namely the island of Jolo and its dependencies. The protocol of 1885 did not grant Britain sovereignty, nor did Britain acquire it in the protectorate agreement of 1888. Under the Carpenter agreement the Sultan retained his sovereignty over North Borneo, and this continued to be the case in the Commonwealth period.³⁸⁶ On the part of the Foreign Office James Cable accepted that North Borneo was not considered part of British territory before 1946. He also agreed that in 1882 the position was as stated by Granville. Then it changed: 'the Protocol of 1885, the Protectorate of 1888 and other acts changed the situation....' Annual payments continued, but they were shown as cession-money in the receipts, the last of which was dated January 1961. Quintero, another delegate, said that this wording was accepted by the heirs because, even as late 1940, they had no copy of the 1878 deed, and accepted the English translation: when another translation showed the deed to be a lease they refused to accept the money. The British commented that they understood that in 1936 the Philippine government stopped paying a pension to the Sultan. Quintero said that the Sultan was compensated by a grant of land. The policy of the Commonwealth, he repeated, was that of Carpenter. No agreement followed these exchanges.³⁸⁷

Unlike the Philippines government, the British Government has not published its version of the 1963 talks. But from what has been published it

would not appear that it made the best of the historical documents or the legal arguments at its disposal. Quintero, for instance, declared that the Sultan failed to get a copy of the deed of 1878, and the University of the Philippines research team even quoted Lilius's article of 1945.³⁸⁸ Something of his suspicion remained: a member of the Department of Foreign Affairs was to declare that 'for reasons of its own—not clear to us then but obvious to us now—the Governments of the United Kingdom refused repeatedly Philippine requests for copies of the document....'³⁸⁹ Yet the Company had sent a photostat to North Borneo, and Richards had sent it to the Sultan. It had been lost. Further prints were offered to the U.S. in 1940, and Quintero found his copy, after all, in the archives in Washington. The Company had checked the translation, because it wished to show that the deed did not justify the increase of cession-money that the Sultan sought. The Filipinos, stressing that the grant was a lease, made out that this was what the new translation revealed, and what by implication the British had tried to conceal. They did not stress that it was a lease in perpetuity. The student will not regard the former as a discovery; the latter needs to be remembered also.

Undoubtedly the Company was anxious to diminish the sultanate's claim to sovereignty in the 1930s, presumably at least in part because it feared a Filipino claim. But all along it had seen the importance of maintaining the payments. Even with the death of the Sultan, the main objective was to find the proper recipient. The Filipino argument was that sovereignty continued in the sultanate, unaffected by the Carpenter agreement, unaffected by Quezon's alleged statements which, insofar as they related to foreign policy, might indeed be regarded as invalid. Macaskie, like the Company officials, did not accept the Sultan's residual sovereignty. His objective was to distribute the money. In awarding the money to the personal heirs, however, he considered the claims of the successors in sovereignty to the Sultan, presumably, he thought, the Philippines. These he somewhat reluctantly dismissed on the grounds, not only that it had apparently recognized no Sultan, but that it had allowed the case to go forward in its own courts, the judgment of which he therefore followed. Whatever the bearing of Quezon's alleged statement, this was surely evidence that the Philippines government saw the heirs as private citizens, too. The situation had in fact changed since the Carpenter agreement.

Macaskie considered the claim of the Philippines government as successor-in-sovereignty to the money. He did not consider the question of sovereignty in North Borneo. That the Philippines could have succeeded to the latter, that it could even have succeeded to the former, seems doubtful, inasmuch as it was the successor to Spain and the U.S. under the protocol of 1885. The Philippines arguments sought to refute any assertion that that protocol conferred sovereignty on Great Britain. This indeed it did not do. What it did provide was that Spain should renounce, in regard to the British Government, any claims to sovereignty over North Borneo that belonged or had belonged to the Sultan of Sulu. The arrangement was indeed 'horse-trading', to use the Filipinos' term.³⁹⁰ But what was traded? The British had been upholding,

though without great conviction, the independence of the sultanate. Now they, and their German collaborators, accepted that the archipelagic part of it was under Spain's sovereignty, but not the Borneon part of it—and Spain certainly claimed the latter under its treaty of 1878, whatever the Filipino delegates maintained. Spain thus secured for itself, and in the event for its successors, Great Britain's acceptance of its sovereignty over the islands. In return the British did not secure sovereignty over northern Borneo, but clearly no successor to Spain could assume it, whether by the transfer of 1957 or other means, whatever the Company may have feared in the 1920s and 1930s.

In the 1880s—even, it would seem, after 1885—the British Government saw the Company as administering by delegation of the Sultans. Certainly, after 1888, the British Government continued to insist that it was merely a protector and not a sovereign, that the territory was not British North Borneo but North Borneo, that the Company's principal representative was not a Governor. The suzerainty of the Sultans was, however, always rather a matter of diplomatic convenience, and it tended to be played down with the passage of time. A transfer to the British Government thus involved primarily a change of attitude on the part of the British Government. Perhaps rather unfortunately, Cable spoke of a change of policy since Granville.³⁹¹ But in general the British, rather more fortunately, put emphasis on changing circumstances, the passing of time. The negotiators had to consider not only the terms of the agreement of 1878, but 'the long history of occupation and administration which followed it'.³⁹²

The Filipinos stressed the difference between the two.

It is true to say that the divergence of views between the Philippine and British delegations is due chiefly to the fact that on account of the attitudes, policies and acts of the Western powers, including the United Kingdom, and the circumstance, among others, that they possessed a great superiority of military power, *de facto* situations contrary to international law have been created in the Far East.... In the case of North Borneo, for example, the lease of territory to Overbeck and Dent by the Sultan of Sulu was regarded as though it was Cession of Territory....

The British position obviously rests on the theory of prescription. The British representatives, however, failed to project this position successfully because their arguments were completely at variance with the facts of history....³⁹³

In a sense, however, the Philippines government was admitting something of the British argument by allowing for a claim of self-determination. It was certainly admitting that the fate of peoples could no longer be decided solely by sovereigns and sovereign states.

In writing on such a subject as the relationship of Sulu and Sabah, a historian may, as on other subjects, be biased, not only by the material upon which he has to work (in this case now British, now Spanish, now American, now Filipino), but by his own prejudices or predilections. Yet he will be aware that the subject has not only an intrinsic historical interest, but that it relates to larger historical questions, such as the development of the Malayo-Muslim sultanates, the imperialisms of the nineteenth century, the nationalism of ex-

colonial states. He will be aware, too, that this subject has a public importance more specific than the public importance of the historical past in general. The question of the Philippine claim to Sabah has not been resolved. Risking accusations of bias, a historian who has surveyed the history of the British connexion with Sulu and Sabah should offer some comment on a possible resolution. There does not in fact appear to be any conflict between the historiographical function and the public function. Throughout this has been a story of clashes and compromises, mixing both political and legal considerations, in a context of local and international change. It does not appear inconsistent with telling such a story to offer, following a further clash, a further suggestion for compromise, mixing political and legal considerations, in yet a further new context.

In 1963 the U.N. ascertained the acceptability of Malaysia to the people of North Borneo.³⁹⁴ It would seem desirable that the ascertainment should be accepted as disposing of the issue of self-determination. Malaysia could thus remain intact, in the sense that only the older legal/political claim would remain to be disposed of, perhaps rather between Great Britain and the other party or parties, than between Malaysia and such party or parties. The Philippines government, it seems clear, cannot under the protocol of 1885 under any circumstances inherit the sultanate's sovereignty over North Borneo, and this it should admit. On the other hand, the territory was held by the Company under a lease agreement, and this the British Government should admit. The transfer of 1946, was, however, substantially validated by the alleged statements of President Quezon and, more certainly, by the legal proceedings in Sulu in 1939. This should be sufficient ground for the sultanate on its part to withdraw the cancellation of 1957, as well as the transfer of 1962, which the Republic could not properly accept in any case. The alternatives would then be: the continuation of the lease in perpetuity and the payment of the rent-cession-money of \$5300 p.a., with any arrears; or its termination so as to leave Great Britain, and thus Malaysia, in sovereign possession, with compensation to the heirs of the sultanate. If the latter course—presumably the preferable one—were chosen, the extent of the compensation would have to be agreed, possibly the Philippines government playing a role on behalf of its citizens, and if need be restraining the appetites of their attorneys. Compensation based on ten years' purchase would now be still more doubtful than in the 1930s, as \$5300 is now of even more derisory value, and there is a legend—apparently no more than a legend—of a right to an increased amount. Compensation in the form of land grants is possible, but might lead to new difficulties: and the Company earlier opposed the Sultan's settling in North Borneo. The answer might be \$53,000, together with an additional sum, sufficient to provide adequate annuities when invested. Perhaps, in view of the fact that in the 1930s the Company followed the Philippines lead (or thought it was doing so), the Philippines should contribute. Perhaps Malaysia should after all do so, too. But no doubt the agreement would be more acceptable if the British Government contributed. Its connexion with the sultanate is a long

one: it could well act at the last with a generosity that had only occasionally occurred during that connexion.

These closing sentences were drafted before I read a fellow historian's paper, 'The Sabah Question', by Rolando N. Quintos.³⁹⁵ The identity of views I found striking. Perhaps it is both demonstrative of the validity of an historical approach and hopeful for the future both of that and of the countries and peoples concerned.

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13. Diary, 2, 3, 5 January 1898, in Beaufort to Martin, 10 January, No. 8, C.O. 874/261.
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25. Flynn to Beaufort, 5 August 1898, No. 209, C.O. 874/311.
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104. Cowie to Birch, 20 February 1903, No. 67, C.O. 874/318; C.O. 874/1001.
105. Birch to Martin, 16 April 1903, No. 138, C.O. 874/271; C.O. 874/1001.
106. Birch to Martin, 29 April 1903, No. 49, C.O. 874/271; C.O. 874/1001; F.O. 12/125; also in Foreign Office to Colonial Office, 8 August, C.O. 144/77 (30185).
107. Telegram, 29 May 1903, C.O. 874/1001.
108. Cowie to Birch, 29 May 1903, No. 200, C.O. 874/319; C.O. 874/1001; F.O. 12/125.
109. Cowie to Birch, 19 June 1903, confidential, C.O. 874/319; C.O. 874/1001.
110. Telegram, 22 June 1903, C.O. 874/1001.
111. Birch to Martin, 22 June 1903, No. 209, C.O. 874/271; C.O. 874/1001.
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119. Memorandum by Villiers, 17 November 1904, F.O. 12/129; Foreign Office to Durand, 19 November, No. 255, *ibid.*; also in Foreign Office to Colonial Office, 3 December, C.O. 144/78 (41157).
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123. Cowie to Villiers, 3 February 1905, C.O. 874/1002; C.O. 874/321.
124. Memorandum, March 1905, handed by Villiers to Cowie, 22 March, C.O. 874/1002.
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127. Cowie to Villiers, 16 November 1905, C.O. 874/1002.
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131. Root to Durand, 19 December 1906, in Durand to Grey, 23 December, No. 237, F.O. 371/198; also in Harrington to Company, 9 January 1907, C.O. 874/1002; and in Cowie to Gueritz, 18 January, No. 36, C.O. 874/324.
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134. Company to Foreign Office, 28 May 1907, C.O. 874/1002; F.O. 371/198 (17459).
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145. Aide-mémoire, 17 August 1920, in Foreign Office to Colonial Office, 20 August, C.O. 531/14 (41728).
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150. Company to Colonial Office, 13 April 1921, C.O. 531/15 (18128).
151. Pearson to Court, 1 May 1918, No. 263, ex., C.O. 874/1029, p. 8.
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165. Minute, 29 November 1922, on F.O. 371/7311 (A7086/3621/45).
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173. Ridgway to Learmonth, 26 April 1923, C.O. 874/1003.
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176. Admiralty to Colonial Office, 2 August 1923, C.O. 531/17 (38802); also in Admiralty to Foreign Office, s.d., F.O. 371/8512 (A4662/327/45); and in Colonial Office to Company, 5 September, C.O. 874/1003.
177. Foreign Office to Colonial Office, 27 August 1923, on F.O. 371/8512 (A4966/327/45); C.O. 531/17 (42572); also in Colonial Office to Company, 5 September, C.O. 874/1003.
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