

BRITISH NORTH BORNEO TREATIES.

BRITISH NORTH BORNEO, 1881.

CHARTER granted to the British North Borneo Company, Westminster, November 1st, 1881.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith:

TO ALL to whom these presents shall come, greeting.

WHEREAS an humble Petition has been presented to us in Our Council by Alfred Dent, of 11, Old Street, in the city of London, merchant; the British North Borneo Provisional Association Limited; Sir Rutherford Alcock, of 14, Great Queen Street, in the cCity of Westminster, Knight Commander of Our Most Honourable Order of the Bath; Richard Biddulph Martin, of 68, Lombard Street in the City of London, banker, a Member of the Commons House of Parliament; Richard Charles Mayne, Companion of Our House of Parliament, Richard Charles Mayne, Companion of Our Most Honourable Order of the Bath, a Rear-Admiral in Our Navy; and William Henry Macleod Read, of 25, Durham Terrace, in the Country of Middlesex, merchant:

AND WHEREAS the said Petition states (among other things) to the effect that on the 29th day of December, 1877, the Sultan of Brunei, in the Island of Borneo, made and issued to the Petitioner Alfred Dent, and another, or one of them three several grants of territories, lands and islands therein mentioned, and a commission:

AND WHEREAS the said Petition further states that by the first of the grants aforesaid the Sultan of Brunei granted to the grantees co-jointly, their heirs, associates, successors, or assigns, all the territory and land belonging to the Sultan on the West Coast of Borneo comprising Gaya Bay from Gaya Head to Loutut Point including Sapangar Bay and Gaya Bay, and Sapangar Island and Gaya Island and all the other islands within the limits of the harbour and within the three marine leagues of the coast, likewise the province and territory of Pappar adjoining the province of Benoni, and belonging to the Sultan as his private property; and in consideration of that grant the grantees promised to pay severally and co-jointly to the Sultan his heirs or successors the sum of four thousand dollars per annum; and by that grant the said territories were from the date thereof declared vested in the grantees their heirs associates successors or assigns for so long as they shall chose and desire to hold them; provided however that the Sultan should have the right to resume the control and government of the said territories if the above-mentioned annual compensation should not have been paid for three successive years:

AND WHEREAS the said Petition further states that by the second of the grants aforesaid the Sultan of Brunei granted to the grantees co-jointly their heirs associates successors or assigns all the territories belonging to the Sultan from the Sulaman River on the north-west coast of Borneo unto the River Paitan on the north-east coast of the island containing twenty-one states together with the Island of Banguay and all the other islands within three marine leagues of the coast for their own exclusive uses and purposes; and in consideration of that grant the grantees promised to pay severally and co-jointly to the Sultan his heirs or successors the sum of six thousand dollars per annum, and by that grant the said territories were from the date thereof declared vested in the grantees their associates successors or assigns for as long as they should choose to hold them; provided however that the Sultan should have the right to resume the control and government of the said territories if the above-mentioned annual compensation should not have been paid for three successive years:

AND WHEREAS the said Petition further states that by the third of the grants aforesaid the Sultan of Brunei granted to the grantees their heirs associates successors or assigns all the following territories belonging to the Kingdom assigns all the following territories belonging to the Kingdom of Brunei and comprising the States of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kina Batangan, Mumiang, and all the territories as far as the Sibuco River with all the islands within three leagues of the coast belonging thereto for their own exclusive and absolute use and purposes; and in consideration of that grant the grantees promised to pay co-jointly and severally as compensation the sum of two thousand dollars per annum; and from that date the said territories were thereby declared vested in the grantees their heirs associates successors and assigns for so long as they should choose or desire to hold them; provided however that the Sultan should have the right to resume the control and government of the said territories if the above-mentioned annual compensation should not have been paid for three successive years:

AND WHEREAS the said Petition further states that by the commission aforesaid, after reciting to the effect that the Sultan of Brunei had seen fit to grant to his trusty and well-beloved friends the grantees certain portions of the dominions owned by him comprising the entire northern portion of the Island of Borneo from the Sulaman River on the west coast of Maludu Bay and to the River Paitan and thence the entire eastern coast as far as the Sibuco river, comprising the States of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kina Batangan, and Mumiang, and other lands as far as Sibuco River furthermore the provinces of Kimanis and Benoni, the province of Pappar, and the territory of Gaya Bay and Sapangar Bay with all lands and islands belonging thereto and likewise the Island of Banguay for certain considerations between them agreed, and that one of the grantees therein in that behalf named was the chief and only authorised representative of his Company in Borneo, it was declared that the Sultan has nominated and appointed, and thereby did nominate and appoint the same grantee supreme ruler of the above-named territories with the title of Maharajah of Sabah (North Borneo) and Rajah of Gaya and Sandakan with power of life and death over the inhabitants with all the absolute rights of property vested in the Sultan over the soil of the country and the right to dispose of the same as well as the rights over the productions of the country whether mineral vegetable or animal with the rights of making laws coining money creating an army or navy levying Customs rates on home and foreign trade and shipping and other dues and taxes on the inhabitants as to him might seem good or expedient together with all other powers and rights usually exercised by and belonging to the sovereign rulers and which the Sultan thereby delegated to him of his own free will; and the Sultan called upon all foreign nations with whom he had formed friendly Treaties and alliances to acknowledge the said Maharajah as the Sultan himself in the said territories and to respect his authority therein; and in case of the death or retirement from office of the said Maharajah then his duly appointed successors in the office of supreme ruler and governor-in-chief of the Company's territories in Borneo should likewise succeed to the office and title of Maharajah of Sabah and Rajah of Gaya and Sandakan, and all the powers above enumerated to be invested in him:

AND WHEREAS THE SAID Petition further states that on the same day the Pangeran Tumongong (Chief Minister) of Brunei made to the same two persons their heirs associates successors or assigns a grant of the provinces of Kimanis and Benoni on the north-west coast of Borneo with all the islands belonging thereto within three marine leagues of the coast of the said territories belonging to him as his private property to hold for their own exclusive and absolute uses and purposes; and in consideration of that grant the grantees promised to pay as compensation to the Pangeran Tumongong his heirs or successors the sum of three thousand dollars per annum; and the said territories were thereby declared vested in the grantees their heirs associates successors or assigns for so long as they should choose or desire to hold them; and they further promised to protect the Pangeran Tumongong with kindness.

AND WHEREAS the said Petition further states that on the 22nd day of January, 1878, the Sultan of Sooloo and the dependencies thereof (in the said Petition and in this our Charter referred to as the Sultan of Sooloo) made and issued to the same two person, or one of them, a grant of his rights and powers over territories land states and islands therein mentioned, and a commission:

AND WHEREAS the said Petitioner further states that by the last-mentioned grant the Sultan of Sooloo on behalf of

himself his heirs and successors and with the consent and advice of the Datoos in Council assembled granted and ceded of his own free and sovereign will to the grantees as representatives of a British Company co-jointly their heirs associates successors or assigns for ever and in perpetuity all the rights and powers belonging to the Sultan over all the territories and lands being tributary to him on the mainland of the island of Borneo commencing from the Pandassan River on the north-west coast and extending along the whole east coast as far as the Sibuco River in the south and comprising amongst the others the States of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kina Batangan, Mumiang, and all the other territories and states to the southward thereof bordering on Darvel Bay and as far as the Sibuco River with all the islands within three marine leagues of the coast; and in consideration of that grant the grantees promised to pay as compensation to the Sultan his heirs or successors the sum of five thousand dollars per annum; and the said territories were thereby declared vested in the grantees co-jointly their heirs associates successors or assigns for as long as they should choose or desire to hold them; provided however that the rights and privileges conferred by that grant should never be transferred to any other nation or company of foreign nationality without the sanction of Our Government first being obtained; and in case any dispute should arise between in the Sultan his heirs or successors and the grantee therein in that behalf specified or his Company the matter should be submitted to Our Consul-General for Borneo; and the grantee, on behalf of himself and his Company further promised to assist the Sultan his heirs or successors with his best counsel and advice whenever the Sultan might stand in need of the same:

AND WHEREAS the said Petition further states that by the last mentioned commission, after reciting to the effect that the Sultan of Sooloo had seen fit to grant unto his trusty and well-beloved friends the grantees certain portions of the dominions owned by the Sultan comprising all the lands on the north and east coast of the Island of Borneo from the Pandassan River on the north-west to the Sibuco of Borneo from the Pandassan River on the north-west to the Sibuco River on the east coast including, amongst others, the States of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kina Batangan, and Mumiang, and all the lands and territories in Darvel Bay as far as the Sibuco River together with all the islands belonging thereto for certain considerations between them agreed, and that one of the grantees therein in that behalf named was the chief and only authorised representative of his Company in Borneo, it was declared that the Sultan of Sooloo has nominated and appointed and thereby did nominate and appoint the same grantee supreme and independent ruler of the above-mentioned territories with the title of Datu Bandahara and Rajah of Sandakan with absolute power of life and death over the inhabitants of the country with all the absolute rights of property over the soil of the country vested in the Sultan and the right to dispose of the same as well as the rights over the productions of the country whether mineral vegetable or animal, with the rights of making laws coining money creating an army and navy levying customs dues on home and foreign trade and shipping and other dues and taxes on inhabitants as to him might seem good or expedient together with all other powers and rights usually exercised by and belonging to sovereign rulers and which the Sultan thereby delegated to him of his own free and sovereign will; and the Sultan called upon all foreign nations with whom he had the formed friendly Treaties or alliances, and he commanded all the Datoos Nobles Governors Chiefs and People owing allegiance to him in the said territories, to receive and acknowledge the said Datu Bandahara as supreme ruler over the said States and to obey his commands and respect his authority therein as the Sultan's own; and in case of the death or retirement from office of the said Datu Bandahara then his duly appointed successor in the office of supreme ruler and governor-in-chief of the Company's territories in Borneo should likewise if appointed thereto by the Company succeed to the title of Datu Bandahara and Rajah of Sandakan, and all the powers above enumerated be vested in him:

AND WHEREAS the said Petition further states that all the interests and powers of the grantees under the several grants and commissions aforesaid came to be vested in the petitioner Alfred Dent:

AND WHEREAS the said Petition further states that the Petitioner Alfred Dent and his associates from time to time of necessary expended large sums of money and made great exertions in and about procuring the grants and commissions aforesaid and putting them into use and discharging the obligations arising thereunder:

AND WHEREAS the said Petition further states that the Petitioner the British North Borneo Provisional Association Limited consists of persons who lately agreed to join together for the temporary purposes of acting as intermediaries between the Petitioner Alfred Dent, on the one hand, and a company to be incorporated (if We should so think fit) by royal Charter, on the other hand, and of carrying out until the grant of such a Charter the management of the affairs arising under the grants and commission aforesaid, and who, for convenience of common action and for limitation of liability, have incorporated themselves under the general Statutes relating to companies, that provisional association having for its objects as declared by its Memorandum of Association (among others) the following (that is to say):

To purchase from Alfred Dent his interests and powers in over and affecting territories, land; and property in Borneo and islands lying near thereto, including Labuan;

To acquire by purchase or other lawful means other interests and powers in over or affecting the same territories, lands, and property, and interests and powers in over or affecting other territories, lands, and property in the region aforesaid;

To obtain from the Crown a Charter incorporating and regulating a company constituted with the like objects as aforesaid or other objects relating to any territories, lands, and property as aforesaid;

To transfer to the Company so incorporated any interests and powers as aforesaid for the time being vested in the Association:

AND WHEREAS the said Petition further states that all the interests and powers of the Petitioner Alfred Dent under the several grants and commissions aforesaid have been transferred to and are now vested in the Petitioner, the British North Borneo Provisional Association Limited:

AND WHEREAS the said Petitioner further states that Association will, in accordance with its provisional character indicated in its name, and in pursuance of the express provisions of its Articles of Association, be voluntarily wound up in manner provided by Statute, as soon as a sale or disposal of its territories, lands, and properties to a company to be incorporated (if We should so think fit) by Royal Charter has been effected, and will, after payment and discharge of its debts and liabilities, and after distribution among its members of the proceeds of such sale or disposal and of any other of its assets, be dissolved:

AND WHEREAS the said petition further states that the Petitioners Sir Rutherford Alcock, Richard Biddulph Martin, Richard Charles, Mayne, and William Henry Macleod Read are, with the Petitioner Alfred Dent, the directors of the Association:

AND WHEREAS the said Petition represents that the success of the enterprise in which the Petitioners are engaged as aforesaid would be greatly advanced if it should seem fit to Us to incorporate by Our Royal Charter a company to carry on that enterprise:

AND WHEREAS the said Petition further represents that such a chartered company would render to Our dominions services of much value, and would promote the commercial prosperity of may of Our subjects:

AND WHEREAS the said Petition further represents that the Petitioners are in a position to raise the capital requisite for the proper and effective conduct of the enterprise aforesaid, and they thereby undertake to do so on obtaining the grant of such a Charter:

AND WHEREAS by the said Petition the Petitioners therefore most humbly pray that We will most graciously be pleased to grant Our Royal Charter for incorporating a company to carry on the enterprise aforesaid by such name and with such powers and privileges and subject to such conditions as to Us may seem meet:

NOW THEREFORE WE, having taken the said petition into Our Royal consideration in Our Council, and being satisfied that the intentions of the Petitioners are praiseworthy and deserve encouragement, and that the enterprise in the Petition described may be productive of much benefit to Our dominions and to many of Our subjects, by Our Prerogative Royal and of Our especial grace, certain knowledge and mere motion, have constituted erected and incorporated, and by this Our Charter for Us and Our heirs and Royal successors do constitute erect and incorporate into one body politic and corporate, by the name of the British North Borneo Company, the said Alfred Dent, Sir Rutherford Alcock, Richard Biddulph Martin, Richard Charles Mayne, and William Henry Macleod Read, and such other persons and such bodies as from time to time become and are members of that party, with perpetual succession, and a common seal, with power to alter or renew the same at discretion, and with the further authorities, powers, and privileges conferred, and subject to the conditions imposed by this Our Charter; and We do hereby accordingly will, ordain, and declare as follows (that is to say):

TRANSFER TO COMPANY OF GRANTS AND COMMISSIONS.

1. The said British North Borneo Company (in this Our Charter referred to as the Company) is hereby authorised and empowered to acquire by purchase or other lawful means from the British North Borneo Provisional Association Limited, the full benefit of the several grants and commissions aforesaid, or any of them, as the same is vested in that Association, and all interests and powers of that Association thereunder, and all interests and powers vested in that Association in over or affecting the territories, lands, and property comprised in those several grants, or in over or affecting any territories, lands or property in Borneo or in any island lying near thereto, including Labuan, and to hold use enjoy and exercise the same for the purposes and on the terms of this Our Charter.

FULFILMENT BY COMPANY OF PROMISES OF GRANTEES.

2. The Company, as representing the original grantees under the several grants aforesaid, shall be bound by and shall fulfil the promises of payment and other promises therein made, subject to any subsequent agreement affecting those promises.

BRITISH CHARACTER OF COMPANY.

3. The Company shall always and remain British in character and domicile, and shall have its principal office in England; and all the members of its Court of Directors or other governing body and its principal representative in Borneo shall always be natural-born British subjects or person who have been naturalised as British subjects or persons who have been naturalised as British subjects by or under an Act of the Parliament of Our United Kingdom.

RESTRICTION ON TRANSFER BY COMPANY.

4. The Company shall not have power to transfer, wholly or in part, the benefit of the grants and commissions aforesaid, or any of them, except with the consent of one of Our Principal Secretaries of State (in this our Charter referred to as our Secretary of State)

DIFFERENCES WITH SULTANS

5. In case at any time any difference arises between the Sultan of Brunei or the Sultan of Sooloo and the Company, that difference shall on the part of the Company be submitted to the decision of Our Secretary of State, if he is

willing to undertake the decision thereof.

FOREIGN POWERS.

6. If at any time Our Secretary of State thinks fit to dissent from or object to any of the dealings of the Company with any foreign Power, and to make to the Company any suggestion founded on that dissent or objection, the Company shall act in accordance therewith.

SLAVERY.

7. The Company shall to the best of its power discourage and, as far may be practicable, abolish by degrees any system of domestic servitude existing among the tribes of the coast or interior of Borneo; and no foreigner, whether European, Chinese, or other, shall be allowed to own slaves of any kind in the Company's territories.

RELIGIONS OF INHABITANTS.

8. The Company as such, or its officers as such, shall not in any way interfere with the religion of any class or tribe of the people of Borneo, or of any of the inhabitants thereof.

ADMINISTRATION OF JUSTICE TO INHABITANTS.

9. In the administration of justice by the Company to the people of Borneo, or to any of the inhabitants thereof, careful regard shall always be had to the customs and laws of the class or tribe or nation to which the parties respectively belong, especially with respects to the holding possession transfer and disposition of lands and goods, and testate or intestate succession thereto, and marriage, divorce, and legitimacy, and other rights of property and personal rights.

TREATMENT OF INHABITANTS GENERALLY.

10. If at any time Our Secretary of State thinks fit to dissent from or object to any part of the proceedings or system of the Company relative to the people of Borneo, or to any of the inhabitants thereof, in respect of slavery or religion or the administration of justice or other matter, and to make to the Company any suggestion founded on that dissent or objection, the Company shall act in accordance therewith.

JURISDICTION OVER BRITISH SUBJECTS AND IN MIXED CASES.

11. In case at any time We think fit to make provision by Order in Our Council for the exercise and regulation of Our extra-territorial jurisdiction and authority in Borneo and to appoint any of the Company's officers to discharge judicial or other functions thereunder in Our name, then and so long the Company shall provide all court-houses and establishments necessary or proper in that behalf, and bear all expenses of the of the exercises of the jurisdiction or authority which those officers are so appointed to exercise.

FACILITIES FOR BRITISH NATIONAL SHIPS.

12. The Company shall freely afford all facilities requisite for Our ships in the harbours of the Company.

APPOINTMENT OF COMPANY'S PRINCIPAL REPRESENTATIVE.

13. The appointment by the Company of the Company's principal representative in Borneo shall always be subject to the approval of Our Secretary of State.

FLAG.

14. The Company may hoist and use on its building and elsewhere in Borneo and on its vessels such distinctive flag indicating the British character of the Company as Our Secretary of State and the Lords Commissioners of the Admiralty from time to time approve.

GENERAL POWERS OF COMPANY.

15. The Company is hereby further authorised and empowered –

- (i) To acquire and take by purchase, cession, or other lawful means, other interest or powers in, over, or affecting the territories, lands, or property comprised in the several grants aforesaid, or any interests or powers whatever in, over, or affecting other territories or property in the region aforesaid; and to hold, use, enjoy and exercise the same for the purposes and on the terms of this Our Charter.
- (ii) To improve, develop, clear, plant, and cultivate any territories and lands comprised in the several grants aforesaid, or otherwise acquired under this Our Charter.
- (iii) To make and maintain therein roads, harbours, railways, telegraphs, and other public works, and carry on therein mining and other industries.
- (iv) To settle any such territories and lands as aforesaid, and to aid and promote immigration into the same.
- (v) To grant any lands therein for term or in perpetuity absolutely or by way of mortgage or otherwise.
- (vi) To make therein exclusive or other concessions of mining forestal or other rights.
- (vii) To farm out for revenue purposes the right to sell in the Company's territories spirits, tobacco, opium, salt, or other commodities.
- (viii) To make loans or contributions of money or money's worth for promoting any of the objects of the Company.
- (ix) To acquire and hold or charter or otherwise deal with steam-vessels and other vessels.
- (x) To acquire and hold any personal property.
- (xi) To deal in merchandise, the growth, produce, or manufacture of the Company's territories, or other merchandise.
- (xii) To carry on any lawful commerce, trade, or dealing whatever in connection with any of the objects of the Company.
- (xiii) To establish and maintain agencies in Our Colonies and Possessions and elsewhere.
- (xiv) To act as agent in the region aforesaid for any other Company or body or any person.
- (xv) To sue and be sued by the Company's name of incorporation, as well in Our Courts in Our United Kingdom, or in Our Courts in Our Colonies or Possessions, or in Our Courts in foreign countries, as elsewhere.
- (xvi) to take and hold without licence in mortmain or other authority than this Our Charter, messuages and hereditaments in England and in any of Our Colonies or Possessions and elsewhere, convenient for carrying on the management of the affairs of the Company, and to dispose from time to time of any such messuages and dispose from time to time of any such messuages and hereditaments when not required for that purpose.
- (xvii) to do all lawful things incidental or conducive to the exercise or enjoyment of the authorities and powers of the Company in this Our Charter expressed or referred to, or any of them.

QUESTIONS OF TITLE.

16. If at any time Our Secretary of State thinks fit to objects to the exercise by the Company of any authority or power within any part of the territories comprised in the several grants aforesaid, or otherwise acquired under this Our

Charter, on the ground of there being an adverse claim to that part, the Company shall defer to that objection.

17. Nothing in this Our Charter shall be deemed to authorise the Company to set up or grant any general monopoly of trade; and, subject only to Customs duties imposed for revenue purposes, and to restrictions on importations similar in character to those applicable in Our United Kingdom, trade with the Company's territories shall be free.

DEED OF SETTLEMENT.

18. Within one year after the date of this Our Charter there shall be executed by the members of the Company for the time being a deed of settlement providing for –
- (i) The amount and division of the capital of the Company and the calls to be made in respect thereof.
 - (ii) The registration of members of the Company.
 - (iii) The preparation and the circulation among the members of annual accounts.
 - (iv) The audit of those accounts by independent auditors.
 - (v) The making of by-laws.
 - (vi) The making and using of official seals of the Company.
 - (vii) The winding-up (in case of need) of the Company's affairs.
 - (viii) Any other matters usual or proper to be provided for in respect of a chartered company.

19. The deed of settlement shall before the execution thereof be submitted to and approved by the Lords of Our Council, and a certificate of their approval thereof, signed by the Clerk of Our Council, shall be indorsed on this Our Charter and on the Deed of Settlement.

20. The Provisions of the Deed of Settlement may be from time to time varied or added to by as supplementary deed, made and executed in such manner and subject to such conditions as the Deed of Settlement prescribes.

AND WE DO FURTHER WILL, ordain, and declare that this Our Charter shall be acknowledged by Our Governors, and Our Naval and Military Officers, and Our Consul, and Our other Officers in Our Colonies and Possessions, and on the high seas, and elsewhere, and they shall severally give full force and effect to this Our Charter and shall recognise and be in all lawful things aiding to the Company and its officers.

AND WE DO FURTHER WILL, ordain, and declare that this Our Charter shall be taken construed and adjudged in the most favourable and beneficial sense for and to the best advantage of the Company as well in Our Courts in Our United Kingdom, and in Our Courts in Our Colonies or Possessions, and in Our Courts in foreign countries, as elsewhere, notwithstanding that there may appear to be in this Our Charter any non-recital, mis-recital, uncertainty, or imperfection.

AND WE DO LASTLY WILL, ordain, and declare that in case at any time it is made to appear to Us in Our Council that the Company has failed to comply with any material condition by this Our Charter prescribed, it shall be lawful for Us, Our heirs and successors, and We do hereby expressly reserve and take to Ourselves, Our heirs and successors, the right and power by writing under the Great Seal of Our United Kingdom to revoke this Our Charter, without prejudice to any power to repeal the same by law belonging to Us or them, or to any of Our Courts, Ministers or Officers, independently of this present declaration and reservation.

IN WITNESS WHEREOF WE have caused these letters to be made patent.

WITNESS OURSELVES at Our Palace at Westminster, this 1st day of November, in 45th year of Our reign.

BY Her Majesty's command,

(L.S.)

CARDEW.