ON SULU'S CLAIM TO BRITISH NORTH BORNEO

1. SOME FACTS ABOUT SULU

Geographically speaking, Sulu consists of some three hundred islands and islets and innumerable coral reefs stretching from the island of Basilan to Borneo, separating the Sulu Sea from the Celebes Sea, and tending to prove the theory that the Philippines be-

Author's Note: I gratefully acknowledge my indebtedness to Ex-Commissioner Teopisto Guingona for generously allowing me to use his materials on the subject which make up the bulk of this paper. Treaties, documents, and other evidentiary papers from the files of his library and which were drawn up in connection with the negotiations concerning the lease of North Borneo by the Sultan of Sulu have been touched and included in this work. Ex-Commissioner Guingona had been attorney-in-fact for the Sultan of Sulu with innumerable powers, among others to execute contracts, draw up treaties, and collect rentals.

Some space has been devoted in this paper to the history of the Sultanate of Sulu and the advent of Islam. This has been done because, in my belief, it is quite impossible to acquire a clear understanding of the matter without knowing how the sultanate came to exist in Sulu, the rulers of which would later enter into agreements
long to the same geographic region as Borneo, Sumatra and Java. Basilan, with the smaller islands of its group, is excluded, as it is administratively a part of the province of Zamboanga on the island of Mindanao. With the annexation of the Turtle and Mangsee Islands, Sulu’s boundaries have been extended farther southward.

Prior to the coming of the Americans, the Sulu Sultan was an absolute monarch, except in so far as his government had come under Spanish control. His powers extended to parts of Mindanao, Palawan and to Brunei in Borneo where he was given military honors whenever he went there. The northern end of Borneo, and a considerable part of its northeastern, have always been in the possession of the Sulu princes.

And while the population appears to be a mixture of the aborigines of that region, Malays and Bugis, the ruling class has always consisted of people from Sulu. Very little was known about this part of the Sultan’s territory inasmuch as it was rarely visited by outsiders at anytime.

Thus, when a local weekly made mention of the intention of Sulu’s new sultan to reclaim British North Borneo many lifted a quizzical eyebrow, some in surprise and some in disbelief.

Are there any grounds for the Sulu Sultan’s claims to British North Borneo?

II. THE ADVENT OF ISLAM AND THE ESTABLISHMENT OF THE SULU SULTANATE

The question under consideration brings us back to the early history of Sulu when the Sultanate was still potent and an entity to reckon with.

The establishment of the Sultanate in Sulu came close at the heels of the introduction of Islam. As early as 1380 A.D. a noted Arab judge and scholar, Macdum, had already reached Sulu from

with a foreign entity leading to the issue under consideration. The issue is largely the product of history and religion and cannot therefore be dissociated from them.

* The Turtle Islands had been under British administration since the nineteenth century. In a treaty entered into between the United States and the United Kingdom in 1930 the former agreed to the continued British administration of the islands but reserved the right to the transfer of the territory upon serving one year’s notice. When the Philippines became independent, Vice-Pres. Quirino, then Sec. of Foreign Affairs served the necessary notice and after survey of the islands made representations for its transfer to the Republic of the Philippines. This was done on October 16, 1947. See This Week: The Manila Chronicle Magazine, July 11, 1948, pp. 14-15; 35.
* Loc. cit.
* Loc. cit.
* The Sunday Times Magazine, January 20, 1951, p. 16.
Johore. He was the first to bring the Islamic faith to the islands. In 1390 he was followed by Rajah Baguinda, who successfully continued his work and who proclaimed himself ruler of the islands.

The greatest work of conversion, however, was done by Abu Bakr, another Arab judge and scholar who reached Sulu in 1450. The hospitality with which he was received at Bwansa presaged the success of his mission. He was to win the favor and good graces of Rajah Baguinda, whose daughter, Paramisuli, he married later. Abu Bakr established mosques. So assiduous was he as a Mohammedan missionary that the people and chiefs of the islands actually abandoned their former gods, embraced the new faith, and observed and followed its commandments. This process of reformation and conversion was slow and gradual but it was real and sure.

There is no evidence to show that Abu Bakr had any military forces by means of which he could assume military authority and rule after Rajah Baguinda’s death. But it is perfectly credible that Rajah Baguinda, realizing the potentialities of leadership in Abu Bakr, and being without a male heir, appointed him, his son-in-law and chief judge and priest, as his heir, and delegated to him all the authority he exercised over Bwansa and the islands of Sulu. It appears that the native chiefs had no objection to the idea and they accepted Abu Bakr as their temporal lord as well as their spiritual leader.

Upon the death of his father-in-law, Abu Bakr became the head of a modified form of the Arabian Caliphate. He divided the island of Jolo into five districts, namely: Parang, Pansul, Lati, Gitung, and Luuk, appointing a Panglima as the head of each district. He introduced an eclectic code based on Koramic precepts and which served as a foundation for the work of his successors.

Abu Bakr was succeeded by his children and later by his grand children, and so the sultanate was regularly organized.

III. THE SULTANS OF SULU

After Abu Bakr, his son Kamalud Din succeeded to the throne of the sultanate. The sultans who ruled later in the order of their succession were: Maharajah Upu, Pangiran Buddiman, Tanga, Bungsu, Nasirud-Din II, Salahud Din Karamat, Shahabud Din, Mustafa Shafuid Din, Pendaruddin I, Nasaruddin III, Alimud Din I, Israel, Alimud Din II, Sharapud Din (1789), Alimud Din III, Aliyud

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9 Galang, op. cit., p. 455; Kalaw, ibid., p. 163.
10 Galang, Loc. cit.
11 Loc. cit.
12 Former capital of Sulu.
13 Saleeby, Najeeb, The History of Sulu, Manila, 1908, p. 162.
14 Loc. cit.
15 A title next to a datu in rank.
Din I, Shakiral Lah (1808) Jamalul Kiram I, Mohammad Pulalum, Jamalul Alam, Badarud Din III and Jamalul Kiram.

When Alimud Din III (known in Sulu as Amirul Muhminin) came to Manila in January, 1747, his elder brother, Bentilan usurped the throne of Sulu. But upon the return of the former to Jolo in 1762, Bentilan gave it up without further ado.

Immediately after the death of Bentilan, Alimud Din III, reorganized the Government of Sulu into three administrative districts.\(^{17}\) The Jolo groups and Palawan comprised the first district; Tawi-Tawi, Siasi and Sibutu, the second; Silam, Lahat Datu, Sandakan, Sampurnah, Timodal and the Tatagan groups (which consists of fourteen islands), the third.

After the reorganization Alimud Din appointed his nephews \(^{18}\) to administer the three administrative districts in this order: Datu Israel—first district; Datu Appowah—second district; Datu Amping Basi—third district.\(^{19}\)

After the death of Alimud Din, Israel was crowned Sultan of Sulu. He continued the work of his predecessor, making no changes in the state of affairs and administration left by his uncle except in the third district in which Datu Amping Basi, his elder brother, was made sole ruler.\(^{20}\)

Datu Amping Basi settled down on the island of Tatagan which became the site of the central government of the reorganized third district of Alimud Din. He died in Lahat Datu and his son Datu Dandai continued to rule over the third district. Dandai made some improvements on the island of Tatagan. He built a cota and a home befitting his rank. After his death, his son Sakilan became the ruler.\(^{21}\)

Datu Sakilan had a daughter, Dayang Lana, who afterwards became Pangian\(^{22}\) of Sulu on her marriage to Sultan Jamalul Alam. The marriage changed the status of the third district. Jamalul Alam gave this part of his royal domain as his dowry to Lana. By virtue of this act, Lana automatically became absolute owner of the third district with the power of life and death over its inhabitants.\(^{23}\)

Out of this wedlock was born Badaruddin, who was named Raja Muda\(^{24}\) of Sulu under his father's reign.

Badaruddin was crowned Sultan of Sulu after the death of his father, Jamalul Alam. Besides being a Sultan of Sulu, Badaruddin assumed personal ownership of the island which he inherited from his mother, Pangian Lana. Upon his death Jamalul Kiram, his bro-

\(^{17}\) Guingona, Teopisto, \textit{A Geneological List of Our Family from Sultan Dimuddin to Sultan Mohammad Jamalul Kiram}, p. 1.
\(^{18}\) Sons of the deceased Bentilan.
\(^{19}\) \textit{Loc. cit.}
\(^{20}\) \textit{Ibid.}, p. 2.
\(^{21}\) \textit{Loc. cit.}
\(^{22}\) Note—Pangian is a native name for Queen.
\(^{23}\) Guingona, \textit{Loc. cit.}
\(^{24}\) Crown Prince.
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ther, ascended the throne. Jamalul Kiram had always recognized the ownership of his niece and foster-daughter, Dayang Dayang Hadji Piandao, of the 14 islands.

The conflict between the United States and Spain took place during the reign of Jamalul Kiram. American victory was indicated by the ensuing treaty of Paris (December 10, 1898) in which the boundary of the Philippine Islands was finally drawn.

The Sultan Jamalul Kiram died heirless on June 7, 1936. His niece and foster-daughter, Dayang Dayang Hadji Piandao, became acting sultana during the 40-day interregnum prescribed by Mohammadan custom, after which Jamalul's brother, Muwallil Wassit, was chosen. Shortly before coronation, he died suddenly of heart attack, after proclaiming his son, Ismael, as successor.

On January 20, 1937 Jainal Abirin II was crowned Sultan with Princess Tarhata as Crown Princess. Three months later, Datu Ombra was made second regnant sultan.

The Sultan of Sulu today has a greatly emasculated status as a ruler; his predecessors have formally renounced their right of sovereignty over the islands. His territory has also dwindled.

IV. COMING OF THE SPANIARDS

At the height of its power, Sulu became an obstacle to Spain's march of colonization in the islands. Several attempts were made to gain a foothold in Mindanao and in the Sulu archipelago, but these were hardly successful in their primary object of complete subjugation. One expedition after another was sent. Finding that military expeditions could not successfully cope with the stubborn resistance of the Moro warriors, plans were laid by the Spanish central government at Manila to deal with them more effectively.

In 1851 a treaty was signed between the Sultan of Sulu and the Government of Spain. Under the provisions of this treaty Sulu was reduced to a mere protectorate of Spain. The Sultan exercised only powers of internal administration subject to the treaty stipulations. However, Sulu customs, laws, and religion were respected. They were not made subject to Spanish jurisdiction.

V. THE CESSION OF TERRITORIAL POSSESSIONS IN BORNEO

On January 22, 1878, a grant was signed by the late Sultan, Mohammad Jamalul Alam, in his palace at Lipuk, Sulu, ceding the Sulu possessions in Borneo to the British North Borneo Company. He granted the authorized representative of this company, Baron Von Overbeck, absolute ownership and dominion over those possessions in perpetuity, for a monetary consideration of $5,000 per annum.

An American Company started by Mr. Torrey on the Kiwanis River had preceded the British North Borneo Company, and was

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25 Guingona, op. cit., p. 3.
26 The former Datu Tambuyong, Moro leader in the decisive battle of Bud Bagsalo.
27 Treaty of Sandakan, British North Borneo, January 22, 1878.
established in 1865. The concessions of the American Company were obtained from the Sultan of Brunei, but this enterprise proved to be a financial flop and its rights were bought by the Austrian Baron Von Overbeck and the English merchant Mr. Alfred Dent. 28

Spain had opposed the Sultan’s action, saying that Sulu, being a Spanish vassal, could not dispose of her territory without the former’s consent. In spite of this opposition, the English company, organized by Mr. Dent, succeeded in obtaining a charter of incorporation under the Act of Parliament of November 1, 1881, as the British North Borneo Company with rights to acquire other interests in, over, or affecting the territories or property comprised in the grant. 29

Baron Von Overbeck and Mr. Dent obtained from the Sultans of Brunei and Sulu a series of charters conferring on them sovereign authority in North Borneo under the title of Maharajah of Saboh, Rajah of Gaya, Rajah of Sandakan and Datu Bandahara. 30

VI. TEXT OF THE COMMISSION GRANTED

The form and text of the commission granted by Sultan Jamalul Alam appointing Baron Von Overbeck, Datu Bandahara and Rajah of Sandakan, reproduced in the annual report of General George Dawis, commanding the Department of Mindanao, under date of August 1, 1902, is quoted hereunder: 31

“To all nations on the face of the earth whom these matters may concern: We, Mabassari Padukka Mawlana as Sultan Mohamad Jamalul Alam bin Al Marhum Mahassari as Sultan Mohamad Pulalum, Sultan of Sulu and its dependencies, send greeting:

“Whereas, we have seen fit to grant unto our trusty and well-beloved friends, Gustavus Baron Von Overbeck and Alfred Dent, Esquire, certain portions of the dominions owned by us, comprising all the lands on the north and east coast of the Island of Borneo, from the Pandasan River to the Northwest to the Sibuco River on the East Coast including among others, the states of Paiton, Sugut, Pangaya, Labuk, Sandakan, Kina Batangan, and Mumiang and all the lands and territories in Darvel Bay as far as Subuco River together with all the lands belonging thereto, for certain considerations between us, agreed, and

“Whereas the said Baron Von Overbeck is the chief and only authorized representative of his company in Borneo:

“Now, therefore, know ye that we Mahassari Padukka Mawlana as Sultan Mohamad Jamul Alam bin Al Marhum Mahassari Padukka as Sultan Pulalum Sultan of Sulu and its dependencies have nominated and appointed and do hereby nominate and appoint the said Baron Von Overbeck supreme and inde-

28 Saleeby, op. cit., p. 225.
29 Ibid., p. 226.
30 Ibid., p. 225
ependent ruler of the above named territories, with the title of Datu Bandahara and Raja of Sandakan, with absolute power over life and death of the inhabitants of the country with all the absolute rights of property over the soil of the country vested in us and the right to dispose 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 the inhabitants as to him may seem good or expedient, together with all other powers and rights usually exercised by and belonging to sovereign rulers, and which we hereby delegate to him of our own free and sovereign will.

"And we call upon all foreign nations with whom we have formed friendly treaties or alliances and we command all the datus, nobles, governors, chiefs and people owing allegiance to us in the said territories to receive and acknowledge the said Datu Bandahara as the supreme ruler over the said states and to obey his commands and respect his authority thereon as our 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 shall likewise, if appointed thereto by the Company, succeed to the title of Datu Bandahara and Raja of Sandakan, and all the powers enumearted above be vested in him.

"Done at the palace of the Sultan, at Likup, in the Island of Sulu, on the nineteenth of Muharam, A.H. 1295, being the 22nd day of January, A.D. 1878."

VII. THE DECLINE OF THE SULTANATE

The House of Sulu had come upon unprofitable days. The Sultan was treated as a monarch when he visited Singapore and that portion of Borneo which he leased to the British North Borneo Company. But in the Philippines his position was anomalous. He had become a "protected sovereign."

By the treaty of 1851 the Sultan of Sulu had acknowledged the sovereignty of the Spanish Government over Sulu. However, any question of his power to make a valid cession of the territories named in the main deed of cession was apparently set at rest by a protocol of 1885 signed on behalf of the British, Spanish and German governments at Madrid on March 7, 1885.

Article III of that Protocol reads: 32

"The Spanish Government renounces, as far as regards the British Government, all claims of sovereignty over the territories of the continent of Borneo, which belong, or which have belonged in part to the Sultan of Sulu, and which comprise the

32 Quoted in the judgment of the High Court of the State of North Borneo, of Civil Suit No. 169/39.
neighbouring islands of Balambangan, Banguey, and Malawali, as well as these comprised within a zone of three maritime leagues from the coast, and which form part of the territories administered by the company styled the British North Borneo Company."

The Spanish forces evacuated Sulu in May, 1899. On August 22, 1899, General Bates of the United States Army, concluded a treaty with Sultan Jamalul Kiram but which was abrogated by President Roosevelt on March 21, 1904 because the Sultan of Sulu had failed to keep order in Sulu according to his agreement.

Governor Frank Carpenter undertook to straighten out the tangle. On March 11, 1915, he signed an agreement with the Sultan by which the latter, for himself and his heirs, renounced temporal sovereignty over the Sulu Island including the right to collect taxes, the right to decide lawsuits and the right to all the lands. In exchange, he was recognized by the Government as the head of the Islam Church in the Philippines, his pension of P12,000 was continued for life and he was given a grant of land in Jolo.

Thus by 1915, the status of Sulu had entirely changed. By then the Sultan had been shorn of all temporal power and retained only the purely nominal title of Sultan and certain religious jurisdiction exercisable only with the consent of the parties, a situation which was well described in a letter to the Sultan dated July 30, 1920, from the Director of the Bureau of Non-Christian Tribes to the Department of the Interior, Manila.

After the death of Sultan Jamalul Kiram in 1936, the Philippine Government decided not to recognize the continued existence of the Sultanate. Thus ended the Sultanate of Sulu.

VIII. SUIT AGAINST THE GOVERNMENT OF NORTH BORNEO AND THE COURT DECISION

a. The Suit.—Docketed as civil suit No. 169 in the high court of the State of North Borneo, was a suit filed by the late Dayang Dayang Hadji Piandao and eight others as legal heirs to the territory known as British North Borneo. The suit was to obtain a declaration that the plaintiffs were entitled to receive the cession monies under the deed of the cession made by Sultan Jamalul Alam on January 22, 1878 and under a confirmatory deed dated April 22, 1903. The question involved here was not whether to pay them or not; rather, the question was whether the right to receive the cession monies descended to the successors in sovereignty of the Sultan or to his private heirs or representatives.

33 Carpenter, Frank, Through the Philippines, Doubleday, Page & Co. New York, 1925.
34 "Treaty" is the term used by Carpenter.
35 Loc. cit.
36 Ibid., p. 238.
37 From the decision of the High Court of the State of Borneo in connection with the Civil Suit No. 169/39.
b. Who are the Legal Heirs?—When the Sultan of Sulu signed the Grant in 1878, he did it in the exercise of his sovereign rights over the territorial possession in North Borneo. Those rights were never altered or questioned; in fact, nothing about it was mentioned by the Philippine Government itself in its letter dated July 20, 1920, divesting the Sultan of Sulu of all his political powers and prerogatives.38

If by virtue of this same letter the Sultan of Sulu lost ipso facto his rights over the territories he ceded to the British North Borneo Company, it is surprising to note that the same company continued to comply faithfully with the terms and conditions of the Grant, without any alteration or protest. Not only this, the British North Borneo Company and its duly constituted representatives have unquestioningly and continuously respected all the rights, privileges, honors and prerogatives enjoyed by the Sultan of Sulu ever since the Grant was signed.39

As already noted, the Grant was duly executed and signed in Lipuk, Sulu, Philippine Islands. In accordance with the principles of International law, the laws of the Philippines govern and determine the validity of this Grant. It is interesting to note that in this connection, the Philippine (Spanish) Civil law on the subject at the time the Grant was signed would seem to make the grant of doubtful validity for the following reasons: 40

1. Because the period of the lease is ad perpetum;
2. Because the consideration stipulated is clearly inadequate;
3. Because its provisions appear to be one-sided and unjust inasmuch as it grants all rights, benefits and privileges to the grantees. It imposes on the Sultan obligations, but with inadequate and insufficient consideration.

In United States of America v. McKee, James, V. C. said,41 “I apprehend it to be the clear public universal law that any government which de facto succeeds to any other government, whether by revolution or restoration, conquest or reconquest, succeeds to all the public property, to everything in the nature of public property, and to all rights in respect of the public property, and to all rights in respect of the public property of the displaced power, whatever may be the nature of origin of the title of such displaced power.”

Applying this dictum, it is evident that the Government of the Philippines is the successor in sovereignty of the Sultan. But counsel for the plaintiffs contended that the decision of the Philippine courts in the administration proceedings relating to the Sultan’s es-

38 Guingona, Teopisto, “Basic facts regarding the Sultan of Sulu’s Territorial possessions in North Borneo now occupied by the British North Borneo Company.”
39 Ibid., p. 3.
40 Loc. cit.
41 Quoted in the judgment of the High Court of the State of North Borneo, of Civil Suit No. 169/39, p. 3 (December 19, 1939).
tate precludes the Philippine Government from asserting any claim to the cession monies.

"The Philippines Government allowed Sultain Jamalul Kiram to enjoy the cession monies as a private person since 1915; they have made no claim on his death and have by judgment of a Philippine court reorganized the right of the private heirs of the Sultan to receive the cession monies."\(^\text{42}\)

The right of the private heirs to succeed is strengthened by a passage from a judgment of Lord Cairns in United States of America v. Wagner. (R. 2 Ch 582) as follows: \(^\text{43}\)

"It was contended, then, that when a monarch sues in our courts, he sues as the representative of the state of which he is the sovereign, that the property claimed is looked upon as the property of the people or state; and that he is permitted to sue, not for his own property, but as the head of the executive government of the state to which the property belongs; and it was contended, in like manner, that when the property belongs to a republic, the head of the executive, or in other words the President, ought to sue for it.

"This argument, in my opinion, is founded on a fallacy. The sovereign, in a monarchial form of government, may, as between himself and his subjects, be a trustee for the latter, more or less limited in his power over the property which he seeks to recover. But in the courts of Her Majesty, as in diplomatic intercourse with the government of Her Majesty, it is the sovereign, and not the state, or the subjects of the sovereign, that is recognized. From him, and as representing him individually, and not his state or kingdom, is an ambassador received. In him individually, and not in a representative capacity, is the public property assumed by all other states, and by the courts of other states, to be vested."

The claim of the plaintiffs was based on the will of the late Sultan Jamalul Kiram, the relevant words of which are as follows: \(^\text{44}\)

"One half of my estate goes to Piandao Kiram and the other half to be decided equally between Tarhata Kiram and Sakimur Lin Kiram. Only my Sandakan estate will be divided into four, one part to give to Datu Raja Muda my younger brother."

But then Raja Muda died intestate on November 21, 1936. His children put up their claims for the cession monies. Dayang Dayang Hadji Piandao on April 2, 1937, obtained letters of administration with the will annexed, from the court of First Instance of Sulu, 9th Judicial District. On July 23, 1939, the beneficiaries came to an

\(^{42}\text{Loc. cit.}\)
\(^{43}\text{Ibid., p. 4}\)
\(^{44}\text{Loc. cit.}\)
agreement for the distribution of the estate, the agreement being the project of partition.\textsuperscript{45}

"The argument is that the deed of cession was a complete and irrevocable grant of the territories comprised therein and all that the grantors 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 the sovereignty then the claims of the private heirs are valid." \textsuperscript{46}

c. The Stand of the British North Borneo Government.—In a letter dated April 14, 1937, the Resident of Sandakan wrote to the counsel for the plaintiffs as follows:\textsuperscript{47}

"In a letter dated the 28th 1936, His Britannic Majesty's Consul General at Manila informed his Excellency that the Philippine Government had decided not to recognize the continued existence of the Sultanate; and I am to say that His Excellency is therefore unable to take cognizance of Dayang Dayang Pian dao or anyone else as Sultan of Sulu.

"There will accordingly be no longer any "successor" to the Sultanate and the question of the person to whom the cession monies are to be paid depends on who is the rightful heir under the cession of January 22, 1878.

"Before, therefore, any of the cession money due in respect of the period subsequent to the demise of the Sultan can be paid, it will be necessary for any claimant to establish their claim in the High Court of this State and it will be for them to produce evidence of the custom of inheritance sufficient to satisfy the court that their claim is valid."

This letter set out the official view of the British North Borneo Government.

d. The Court Decision.—Thus, Judge Macaskie handed down his decision:\textsuperscript{48}

"...I am satisfied that the plaintiffs have proved that their claim is valid, and I give judgment accordingly that Dayang Dayang Hadji Piaándose Kiram, Putli Tarhati Kiram, Putli Sakinur in Kiram, Mora Hapaa, Esmali Kiram, Datu Punjungan Kiram, Sitti Mariam Kiram, Sitti Rada Kiram, and Sitti Putli Jahara Kiram are entitled to the monies payable under the deeds of cession dated 22nd January, 1878, and 2nd April, 1903, in the following shares:

\textsuperscript{45} Loc. cit.
\textsuperscript{46} Ibid., p. 3.
\textsuperscript{47} Loc. cit.
\textsuperscript{48} Loc. cit.
IX. CONCLUSION

As has been made evident the North Borneo Government does not dispute the right of the heirs of the Sultan of Sulu to receive the cession monies. What it wanted to find out was who the legal heirs of the Sultan were. Since the Philippine Government in its capacity as successor in sovereignty of the Sultan of Sulu has not put forth its claim to the payment of the cession monies, and since the private heirs of the Sulu Sultan have, in a suit filed with the High Court of the State of North Borneo, shown that they are the rightful heirs of the Sultan, the State of North Borneo has and will continue to pay the cession monies to the latter.

The alleged desire of the new Sultan of Sulu to reclaim British North Borneo leaves much room for speculation. The High Court of the State of North Borneo has ruled that "the deed of cession was a complete and irrevocable grant of the territories comprised therein..." However, the Philippine Government, as successor in sovereignty of the Sultan of Sulu, would seem to have some right to claim the territory that is now North Borneo. The nature of the provisions of the deed of cession renders the deed questionable in law.

The private heirs of the Sulu Sultan have not shown any concern over the acquisition of North Borneo. It seems to me that some of them are more interested in receiving a lump sum of money, as full payment for the leased territory, as in the case of the Sarawak deal, rather than receiving $5,000 per annum in perpetuity. Whether they have made their intentions known to the North Borneo Government, I am not sure. So far the North Borneo Government has not asked for any alteration of the original Grant.

The Philippines is a nascent republic. It entertains no dream of imperialism. In fact, one of the pillars of its foreign policy is the maintenance of friendly relations with the countries of Asia. However, should she decide to claim for the territory of North Borneo she will not, I think, be violating her foreign policy. She will be asking for what, to the nonlegal mind, is justly hers—a right which she should have asserted long ago.

SANTANINA C. TILLAH *

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* Incidentally, neither the new sultan nor the late Sultan Jinal Abirin his father, whom he succeeded, were mentioned as heirs of the late Sultan Kiram whether in the Sultan's will or in the court decision.

* Guest contributor from the College of Liberal Arts, University of the Philippines.