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C.P. (45) 133.

29th August, 1945.



CABINET.

POLICY IN REGARD TO MALAYA AND BORNEO.

MEMORANDUM BY THE SECRETARY OF STATE FOR THE COLONIES.

AT their meeting on the 31st May, 1944,* the War Cabinet gave provisional approval to certain proposals regarding the future policy of His Majesty's Government in Malaya and Borneo. These proposals had been formulated by a Ministerial Committee appointed for the purpose, and the Committee's report was circulated to the War Cabinet on the 18th May, 1944, under the number W.P. (44) 258. A copy of the report forms the Annex to this paper.

2. As regards Malaya, the Committee expressed the view that the restoration of the pre-war constitutional and administrative system would be undesirable in the interests of efficiency and security, and of our declared purpose of promoting self-government in Colonial territories. The Committee went on to point out that His Majesty has at present no jurisdiction in the Malay States, and that his relations with the States rest upon treaties with the individual Rulers, under which the Rulers remain nominally independent, though bound to accept British advice on all matters except Mohammedan religion and Malay custom. As a necessary preliminary to all further changes in Malaya, the Committee recommended that fresh Treaties should be made with each of the Rulers, under which such jurisdiction would be ceded to His Majesty as would enable him to legislate for the States under the Foreign Jurisdiction Act. Thereafter an Order-in-Council would be made which would provide for the future central and local government of the country. There would be established a Malayan Union with a central legislature; a Malayan Union Citizenship would also be created, which would not be confined to the Malays, but would be open to persons of whatever race, who may have been born in the country or who have genuinely adopted Malaya as their home. Thus the existing racial and parochial barriers would be broken down.

3. The Committee went on to recommend that the British Settlements of Penang and Malacca (at present part of the Colony of the Straits Settlements) should be incorporated in the Malayan Union, but that Singapore should for the time being (and without prejudice to the possibility of later amalgamation with the Malayan Union) be administered as a separate Colony under a separate Governor. Finally, the Committee envisaged that there should be appointed a "Governor-General," who would reside at Singapore and who would have the power of control not only over the Governor of the Malayan Union and the Governor of Singapore, but also over British Representatives in Borneo.

4. War Cabinet approval for these proposals was only given provisionally and for planning purposes. Plans have now been proceeding on this basis for over a year, and Sir Harold MacMichael, until recently High Commissioner for Palestine, has been provisionally selected as the special Representative of His Majesty's Government who will go out to Malaya to conclude the new Treaties with the Malay Rulers. Sir Harold has already paid a preliminary visit to India and S.E.A.C., and has thoroughly acquainted himself with the whole subject.

5. It has been strongly represented to me by Admiral Mountbatten that a proper reception of His Majesty's Government's policy in Malaya and elsewhere depends upon its timely publication in advance. I find much force in

* W.M. (44) 70th Conclusions.

Admiral Mountbatten's arguments, but I am not in a position to make any recommendation as to publication or policy so long as the proposed policy has merely received the *provisional* approval of the Cabinet, and that only for the confidential guidance of planners.

6. I am aware that we cannot fully gauge the temper of the people in Malaya until our return has been actually effected, and that a final decision on all the details of our future policy is therefore not yet possible. I am convinced, however, that the initial step of negotiating new Treaties with the Malay Rulers must be taken as soon as possible, and that any delay on this cardinal point, particularly if it were to involve a return to the state of affairs existing before the Japanese occupation of Malaya, might result in the loss of a unique opportunity for setting the territory on the road to political progress.

7. Accordingly I now seek the definite confirmation by my colleagues of the policy outlined above, and approval for Sir Harold MacMichael's appointment. I consider it essential that he should depart for the Far East in the very near future. If the policy is now confirmed, I shall make a separate recommendation as soon as possible regarding the question of publicity.

8. As regards Borneo, the Ministerial Committee, as in the case of Malaya, reached the conclusion that the restoration of the pre-war constitutional and administrative system in the four territories involved would be undesirable in the interests of security, and of our declared purpose of promoting social, economic and political progress in Colonial territories. The territories in question are the State of *North Borneo*, at present (as regards its internal affairs) under the independent administration of the British North Borneo (Chartered) Company, the small Island of *Labuan*, at present administered as one of the Straits Settlements, the State of *Brunei*, which is ruled by a Malay Sultan on the same lines as the nine States in the Malay Peninsula, and *Sarawak*, which (as regards its internal affairs) is under the control of an independent white Rajah of British nationality (Sir Vyner Brooke). The Committee recommended the direct assumption by His Majesty's Government of responsibility for administration in North Borneo, the integration of Labuan with North Borneo and the cession to His Majesty of full jurisdiction in Brunei and Sarawak. In the case of Sarawak, the Committee recommended that the new Treaty providing for this cession of jurisdiction should also secure the acceptance by the Rajah of a Resident British Adviser, whose advice must be sought and acted upon in all substantial matters of policy and administration. (The present Treaty with Brunei already provides for a Resident British Adviser).

9. In approving the above recommendations of the Committee, the War Cabinet authorised my predecessor to open confidential negotiations with the British North Borneo (Chartered) Company for the transfer of their sovereign and administrative rights over North Borneo to His Majesty's Government. No financial commitment, however, was to be entered into without further authorisation. The War Cabinet also authorised my predecessor to open confidential discussions with the Rajah of Sarawak.

10. Discussions with the North Borneo Company have in fact been proceeding since that date, but I am not at present asking for a Cabinet decision, since I am awaiting from the Company's Representatives an expression of their view on the terms upon which a settlement by arbitration might be based.

11. As regards Sarawak, the Rajah has shown considerable reluctance to enter into any discussions with His Majesty's Government with a view to concluding a fresh Agreement. After many delays, he represented that, owing to the impossibility of consulting his people, he was not in a position to enter into a new engagement. My predecessor agreed, therefore, that discussions should be for the purpose of coming to an understanding on the terms of a new Agreement which, when the time came, the Rajah would be prepared to recommend for acceptance and which would be implemented in accordance with the appropriate procedure of the Sarawak Government. The Rajah, however, was still hesitant and by October last progress had only reached the point of securing his consent to consider a note of His Majesty's Government's proposals.

12. In November, however, the Rajah decided to reinstate his nephew, Mr. Anthony Brooke, as Rajah Muda (a step which can be taken to mean that he must be regarded as heir-presumptive), and suggested that he should take part in the proposed discussions, which eventually began in March.

13. The Rajah Muda and the two other members of the Sarawak Commission nominated by the Rajah to represent him have shown themselves opposed to the proposals which have been made to them on the basis of the decision of the War Cabinet and since the fourth meeting, which was held on the 10th May, a state of stalemate has existed, while the Sarawak Government consult their legal adviser on His Majesty's Government's definition of the international position of Sarawak. My predecessor, therefore, wrote to the Rajah in July requesting that active consideration should be given to the measures which were necessary on the Sarawak side for the resumption of discussions. The Rajah replied that the Rajah Muda was now administering the Government and that in accordance with the terms of the Sarawak Constitution, Colonel Stanley's letter had been passed to him for action. Nothing further has been heard from the Sarawak side.

14. The Rajah Muda and members of the Sarawak Government have from time to time expressed the wish that Civil Government in Sarawak should be restored as soon as possible, and that the Rajah Muda, as a member of the Brooke family administering the Government, should be allowed to return to the country during the period of military administration.

15. I propose that I should now be authorised to tell the Rajah that the relations with His Majesty's Government are governed by the Agreements of 1888 and 1941, and that so long as he remains Rajah His Majesty's Government cannot recognise any claim on his part to devolve his powers and prerogatives as Rajah on to an "Officer Administering the Government" or any other person. In this connection it is to be observed that Section 18 (ii) of the Order of 1941 (providing for the future government of Sarawak) which enacts that "In the event of the Rajah having occasion to leave the State or to be temporarily absent from the seat of Government the Rajah in Council may appoint an officer to administer the Government and such officer shall forthwith assume all the powers and prerogatives of the Rajah (subject to the provisions of this Order)"—has local application only, and does not apply to the present position where the Rajah is in this country and capable of negotiating with His Majesty's Government.

16. I should further propose to say that His Majesty's Government look to the Rajah to ensure that an agreement satisfactory to His Majesty's Government is reached within a period of two months and that, failing the conclusion of such an agreement within that time, it will be necessary for His Majesty's Government to consider what course they must take to ensure that they are in a position and have the necessary authority in the internal as well as the external policies of the Sarawak administration to carry out the responsibility for the territory which they bear to the British Parliament and in the international field. I should like to have authority to add that there can be no question of the Rajah or his Government being permitted to return to Sarawak until such arrangements as are satisfactory to His Majesty's Government have been made.

17. The proposed future changes in the status of Labuan and Brunei are of comparatively minor importance, and need, I think, present no difficulties. I should, nevertheless, be grateful if my colleagues could now give their final approval to the proposals as regards these territories which were considered by the War Cabinet on the 31st May last year.

18. To sum up, I request the approval of my colleagues for the following measures:—

- (a) the definite confirmation of the policy as regards Malaya which is described in paragraphs 2 and 3 above; the first step towards the implementation of this policy being the definitive appointment of Sir Harold MacMichael and his visit to Malaya to conclude new treaties with the Rulers of the several States;
- (b) a communication to the Rajah of Sarawak in the sense indicated in paragraphs 15 and 16 above;
- (c) the proposed changes in the administration of Labuan and in the matter of His Majesty's jurisdiction in Brunei.

G. H. H.

*Colonial Office, Downing Street,
29th August, 1945.*

ANNEX.

REPORT OF THE COMMITTEE.

WE were appointed by the War Cabinet at its meeting on the 6th January (W.M. (44) 2nd Conclusions) to consider the question of the constitutional policies to be followed in Malaya and in the British territories in Borneo on their liberation, and to recommend a directive on which the authorities responsible for planning the Civil Administration of these territories after liberation can work.

The composition of the Committee was as follows:—

The Lord President of the Council (*Chairman*).
 The Secretary of State for Dominion Affairs.
 The Secretary of State for India.
 The Secretary of State for the Colonies.
 The Secretary of State for War.
 The Attorney-General.
 The Parliamentary Under-Secretary of State for Foreign Affairs.

2. *Malaya*.—A directive on the probable lines of future policy is indispensable for those who have the duty of planning the Civil Affairs policies and as a basis for the directive to be issued in due course on these matters to the Supreme Allied Commander, S.E.A.C.; and, on the understanding that no publicity is given to the policies contained therein, we are in agreement on the terms of the directive for this purpose, which form Appendix I to this report.

3. *Borneo*.—The four British territories concerned (North Borneo, Sarawak, Labuan and Brunei) are at present in a United States sphere of command, the S.W. Pacific. His Majesty's Government are entitled, under the terms of the Charter of the Combined Civil Affairs Committee, to provide the American Commander with directives on Civil Affairs policies in these British territories, and a directive on Civil Affairs will need to be framed at the appropriate time for issue to him. But it is not our function to examine the form in which any such directive for that purpose will need to be framed. We have concerned ourselves only with a directive on which the British planning staff should work. For this limited purpose we have agreed upon a directive in the terms of Appendix II to this report.

4. It will be noted that the Borneo directive proposes the acquisition by His Majesty's Government from the British North Borneo (Chartered) Company of its sovereign and administrative rights in North Borneo. We are of opinion that confidential discussion for this purpose should be opened with the Court of Directors of the Chartered Company, though we recognise that in the present uncertain position as to the value of the Chartered Company's assets in the Far East it would be premature to reach any agreement on the financial terms on which such a settlement could be reached.

5. In the case of the Borneo directive, as in that of the Malayan, there is no question of any publicity being given to the policies beyond the confidential discussions which will be involved with the Chartered Company and the Rajah of Sarawak.

6. To sum up, we accordingly recommend, with the proviso that no publicity for these policies is involved, that the Secretary of State for the Colonies be authorised—

- (a) To issue the directive at Appendix I to the authorities responsible for planning for the Civil Administration of Malaya on liberation;
- (b) To issue the directive at Appendix II to the British officials at present planning for Civil Administration in British Borneo after liberation;
- (c) To open confidential discussions with the Court of Directors of the British North Borneo (Chartered) Company with a view to coming to an understanding (without at this stage any financial commitment) as to the conditions on which the administration of North Borneo would be transferred from the Company's responsibility and control to that of His Majesty's Government; and

- (d) To open confidential discussions with the Rajah of Sarawak, who is at present residing in this country, with a view to the preparation of a new Agreement on the lines proposed in paragraph 3 (c) of Appendix II attached.

(On behalf of the Committee),

(Signed) C. R. ATTLEE.

*Offices of the War Cabinet, S.W. 1,
18th May, 1944.*

APPENDIX I.

DRAFT DIRECTIVE ON POLICY IN MALAYA.

1. The restoration of the pre-war constitutional and administrative system will be undesirable in the interests of efficiency and security and of our declared purpose of promoting self-government in Colonial territories. The first of these interests requires a closer union of the territories comprising the relatively small area of the Malay Peninsula; and the second requires that self-government should not merely develop towards a system of autocratic rule by the Malay Rulers but should provide for a growing participation in the Government by the people of all the communities in Malaya, subject to a special recognition of the political, economic and social interests of the Malay race.

2. On general grounds, and more particularly in order that His Majesty's Government may be in a better position to ensure the development of the country on the lines indicated above, it is necessary that the old position in which His Majesty had no jurisdiction in the Malay States should be remedied and that it should be possible to legislate for those States under the Foreign Jurisdiction Act. Immediately on the reoccupation of Malaya, direct authority will be exercised by the Military Commander, who will carry with him sufficient authority to enable him to exercise such direct powers and control over the territory as will be necessary during the period of military administration. This military authority will, however, not enable His Majesty to legislate for the Malay States under the Foreign Jurisdiction Act and, moreover, the jurisdiction of the Military Commander will not persist when the military administration gives way to a permanent civil administration.

3. In considering the proper way to achieve these objects, it is necessary, on the one hand, to make certain basic assumptions and, on the other hand, to be prepared to meet a situation when the liberation of Malaya has been effected, on which those assumptions may be found to be wrong or incomplete and in consequence the prepared plans may have to be varied. The future position and status of the Malay Rulers in particular cannot finally be judged before liberation when it will be possible to assess not only their individual records but also and especially the attitude of the people of Malaya to the advantages or otherwise of maintaining the Sultanates as institutions in the several States. For the present we have no reason for any other assumption than that the Sultanates as an institution will continue to enjoy the loyalty and traditional respect of the Malays.

4. On that assumption, it is considered that the proper way to achieve our purpose will be to make fresh treaties with the Rulers under which such jurisdiction would be ceded to His Majesty as would enable him to legislate for the States under the Foreign Jurisdiction Act. A fresh Treaty with each Ruler should for this single purpose be concluded on behalf of His Majesty as soon as feasible after reoccupation. The actual signatory of such Treaties on behalf of His Majesty would appropriately be the G.O.C., but the negotiations would be carried on under instructions from the Secretary of State for the Colonies by Civil Affairs Officers or special representatives of His Majesty's Government, subject always to the proviso that the actual time for opening negotiations with the Rulers must be governed by Military exigencies and left to the discretion of the Military Commander.

5. The acquisition of this Jurisdiction by His Majesty will enable an Order-in-Council to be made to provide for the future central and local government of the country. This jurisdiction will render unnecessary any further

dependence on Treaties with Rulers in any future revision of the constitutional arrangements.

6. The new constitutional arrangements for Malaya should provide for the special treatment of the port and Island of Singapore, in the early stages at any rate, in view of its distinctive characteristics in the Malayan picture.

7. The rest of the peninsula, including the British Settlements of Penang and Malacca, should be constituted a Malayan Union. For the Malayan Union a constitution should be devised which would provide for a single united authority representing the States and the Settlements, subject to the jurisdiction of His Majesty under statutory powers. At the head of the Union Government would be a Governor with an Executive and a Legislative Council. The seat of this Government would conveniently be in or near Kuala Lumpur.

8. The co-ordination and direction of the policies of Government in the Malayan Union and Singapore will be secured by the appointment of a "Governor-General" at Singapore, with the power of control over the local Authorities in Malaya and Borneo.

9. Co-operation in all administrative matters requisite between Singapore and the Union will be ensured by particular agreements for joint consultation and action.

10. On the assumption explained in paragraph 3 it will be no part of the policy of His Majesty's Government that the Malay Rulers should lose their personal position in their State territories. Indeed, it will be the intention, that, by the association of their territories in the Union, the Rulers will have opportunities to take part in wider activities than hitherto for the general advantage of the country as a whole, and may thereby enhance their sphere of influence and prestige in Malaya.

APPENDIX II.

DRAFT DIRECTIVE ON POLICY—BORNEO.

(North Borneo, Labuan, Brunei and Sarawak.)

1. The restoration of the pre-war constitutional and administrative systems in the four territories will be undesirable in the interests of security and of our declared purpose of promoting social, economic and political progress in Colonial territories.

These purposes require—

- (a) The direct assumption by His Majesty's Government of responsibility for administration in North Borneo.
- (b) The integration of Labuan with North Borneo.
- (c) The cession to His Majesty of full jurisdiction in Brunei and Sarawak.

The purpose of political progress requires also that self-government in Brunei and Sarawak should not merely develop towards systems of autocratic rule but should provide for a growing participation in the Government by people of all communities in each territory.

2. On general grounds, and more particularly in order that His Majesty's Government may be in a better position to ensure the development of the country on the lines indicated above, it is necessary that the old position in which His Majesty had not full jurisdiction in these territories, with the exception of Labuan, should be remedied and that it should be possible to legislate for them all by Order-in-Council. Immediately on the reoccupation of these territories, direct authority will be exercised by the Military Commander, who will carry with him sufficient authority to enable him to exercise such direct powers and control over the territories as will be necessary during the period of military administration. This military authority, even if it fell to be exercised by a British Commander, would, however, not enable His Majesty to legislate for the three States, North Borneo, Brunei and Sarawak, by Order-in-Council, and, in any case, the jurisdiction of the Military Commander would not persist when the military administration gave way to a permanent civil administration.

3. It is considered that the most effective way to achieve our purposes will be :—

- (a) To acquire from the British North Borneo (Chartered) Company the sovereign and administrative rights which they possess and have hitherto exercised; and thereafter to provide for the future government of the territory on its liberation by an Administration under the direct authority of His Majesty's Government.
- (b) To incorporate the present Settlement of Labuan in the new Administration for North Borneo.
- (c) To conclude new treaties with the Sultan of Brunei and the Rajah of Sarawak at the earliest opportunity which will accord to His Majesty such jurisdiction in their States as will enable His Majesty to legislate for these territories under the Foreign Jurisdiction Act to the fullest extent. In the case of Sarawak, the new treaty should also secure the acceptance by the Rajah of a resident British Adviser whose advice must be sought and acted upon in all substantial matters of policy and administration. (The present treaty with Brunei already provides for a resident British Adviser.)

3. The territories in Borneo are still comparatively undeveloped and they have few racial or other affinities. At this stage, therefore, the basis for closer union between them hardly exists. Community of policy and of administrative action can, however, be assured from the outset under the direction of the Governor-General at Singapore, whose appointment is recommended and the promotion of closer union should be a continuing matter of our policy.
