



The Brooke State and Iban Land

Here, we want not their land, but their produce; and we desire to become their benefactors by ever so slow and gradual means. (James Brooke, 1845)¹

As in many parts of the Southeast Asian uplands, from the middle of the nineteenth century the agrarian system of the Saribas Iban was exposed to a number of major forces for change. First, population growth, due to natural increase and in-migration, had brought the pioneer phase of land settlement and utilisation largely to an end. Second, the region began to be affected by the growth in European market demand for tropical products, providing incentives to intensify the harvesting of forest products and to plant new crops. Third, superimposed on and interacting with these two trends, the Saribas Iban, previously a power to themselves within the nominal sphere of the Sultan of Brunei, were incorporated in the emerging Sarawak state under a succession of English rajahs of the Brooke family. This chapter outlines the characteristics of the Brooke state, with particular reference to its approach to Iban land. Chapter 5 explores the ways in which Iban territorial and household rights to land in the Saribas were adapted to the new regime and the emerging land scarcity. Chapter 6 focuses on the rapid and widespread adoption of commercial agriculture by the Saribas Iban in the Brooke period, and Chapter 7 deals with the associated developments in land tenure. The story that unfolds is one of dynamic adaptation to new constraints and opportunities within the overarching framework of the longhouse community.

THE IMPOSITION OF JAMES BROOKE'S RULE ON THE SARIBAS IBAN

Prior to Brooke rule, Malay chiefs (*datu*) controlled and taxed the populations of each river along the north-west coast of Borneo on behalf of Bru-

nei. However, the Saribas Iban were largely independent of Malay rule, especially under the great war-leader Orang Kaya Pemancha Dana, who in the early nineteenth century commanded the forces of the entire Saribas and Skrang. Frederick Boyle provided an illuminating account of the political relations between the Iban and their 'overlords,' based on a historical sketch by Walter Watson, who was stationed in the Saribas from 1858.

All of the Sea Tribes [Iban], and the Seribas among their number, were under the nominal control of Malay Governors, equally with the Hill people [Bidayuh]; being, however, a much stronger race in numbers, and led by such men as the Pamantuah [Pemancha, i.e., Dana], they were very apt to bully their masters. Still they always paid them a certain revenue, though, on occasion, they retook the money by a general fine on the Malay population (Boyle 1865: 292).

The leading Malay *datu* accompanied the Saribas Iban in their coastal raids, contributing ammunition and a knowledge of firearms. Boyle remarks that 'in the distribution of the plunder the Malays claimed and received the larger share of captives and valuables, while the Dyaks secured all the heads' (1865: 293). It has been suggested that this alliance provided the basis for what might have developed into a significant state in its own right.

James Brooke arrived in Borneo in 1839 and wrested the governorship of the Sarawak River district ('Sarawak Proper') from Brunei in 1841. His domain was formally extended to the Iban heartland when he acquired the Lupar, Saribas, and Krian districts, as well as most of the Rejang, in 1853 (Runciman 1960: 110; Pringle 1970: 93–94). Well before this, however, in 1843, with the help of British marines and a force of Ibans and Malays from Sarawak Proper, Brooke attacked and overran fortified Iban positions in the Layar, Paku and Rimbas (the principal tributaries of the Saribas), plundered and burned surrounding longhouses, and extracted a promise of submission (Boyle 1865: 291–313; Pringle 1970: 74–75; Walker 2002: 70–74). In 1844 a similar force attacked hostile Malay and Iban strongholds in the Lupar River, advancing into both the Skrang and Undup tributaries, but with less conclusive results. As mentioned in Chapter 2, it is likely that these expeditions gave extra impetus to the movement of Iban into the Rejang that had begun several decades earlier.

In 1849 Brooke organised a further campaign, resulting in the infamous battle of Beting Marau in which a sea-borne force of around 3,000 Saribas and Skrang Iban was ambushed and routed at the mouth of the Saribas River, with perhaps 1,000 warriors losing their lives (Walker 2002: 83). The day

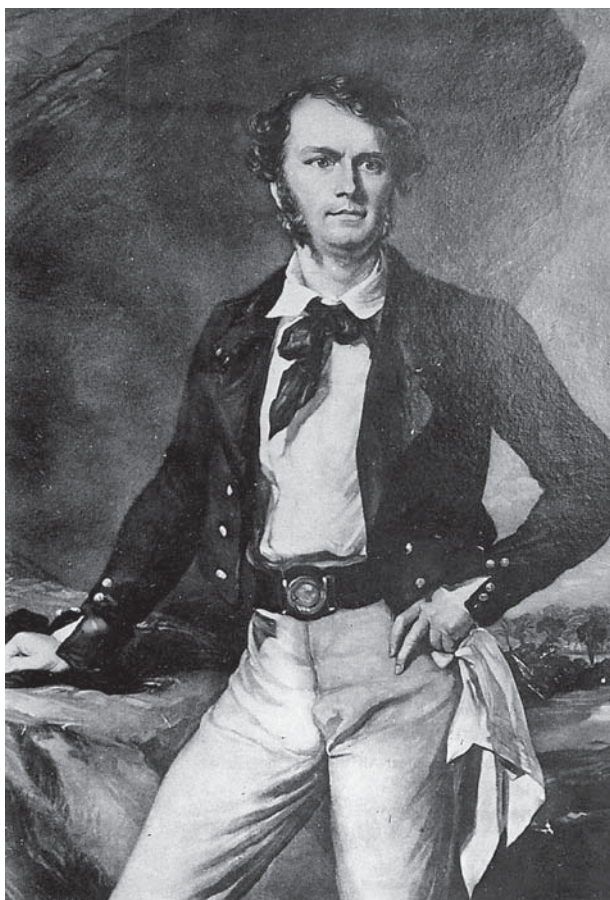


Fig. 4.1 James Brooke.

after the battle Brooke's troops destroyed many longhouses in the middle Saribas. As Pringle records, 'a short time later the headmen of 250 Saribas Iban longhouses and the representatives of all the Saribas Malays signed an agreement promising not to raid in the future' (1970: 83). Brooke then proceeded to establish fortified outposts with British officers in charge, at Nanga Skrang (1850) and Lingga (1852) in the Lupar, and at Betong (1858) in the Saribas.² These events induced (or perhaps merely accentuated) a polarisation among the Saribas and Skrang Iban, with downriver Iban in the vicinity of the forts siding with the Brooke government, while upriver communities continued to be defiant.

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In 1853 Skrang fort was attacked by a force led by the famous warrior, Rentap. Brooke retaliated with two punitive expeditions the following year, forcing Rentap and his Skrang and Saribas followers to retreat to the summit of Bukit Sadok, which, at 830 metres, dominates the watershed between the two rivers. In 1857, James Brooke's nephew, Charles Brooke,³ later to become the Second Rajah, led a large expedition against Rentap but was unsuccessful. The effort was repeated the following year with an invasion of the Saribas culminating in an attack on Sadok, but again the government force was repulsed. In 1860 Charles Brooke attacked the fortified position of Nanang, a prominent Saribas leader, at Nanga Spak in the Layar, causing him also to retreat to Sadok, and in 1861 the third and final Sadok expedition succeeded in dislodging Rentap and bringing to an end overt Iban resistance to Brooke rule in the Saribas and Skrang. In about 1863 Charles Brooke gathered the Saribas Iban and Malay leaders to discuss 'preliminary reforms to the social system' (Brooke 1866 [1]: 309–310; Pringle 1970: 174). These involved the use of weights and measures, a ban on the Iban cus-

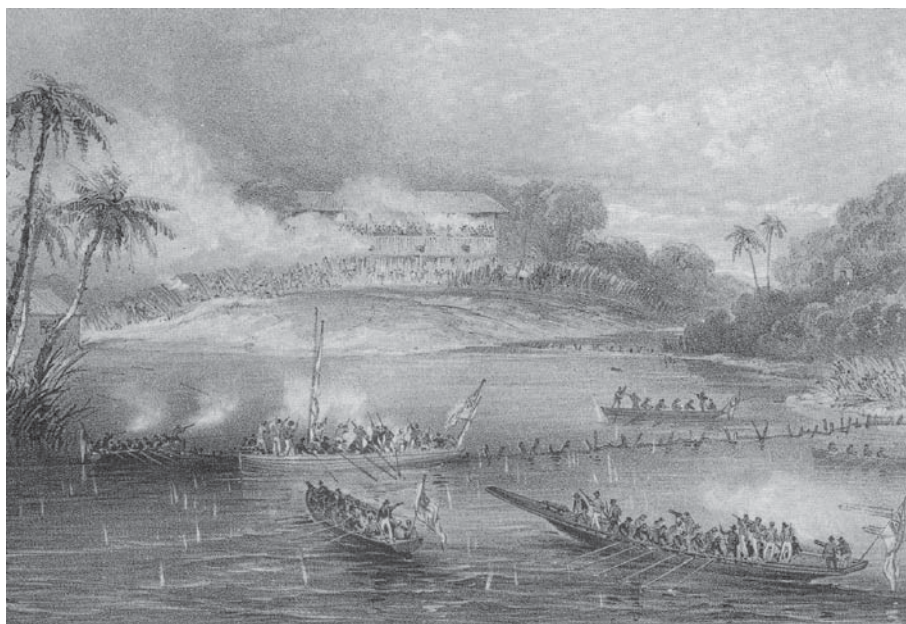


Fig. 4.2 The 1843 attack on Iban fortifications at Nanga Padeh by James Brooke and Sarawak forces aided by Captain Henry Keppel and the crew of *HMS Dido*. From Henry Keppel, *The Expedition to Borneo of HMS Dido*, London: Chapman and Hall, 1846.



Fig. 4.3 Sadok Mountain, site of the last stand of the Saribas and Skrang Iban against Brooke forces in 1861

tom of prohibiting river traffic following the death of a notable leader, and limitations on the size of fines imposed by Iban headmen. Otherwise their customs were to be, in Brooke's words, 'regularly in accordance with their forefathers' practices'.

Examining these events in cultural terms, Walker (2002) argues that the crushing military defeat of the Saribas Iban, the destruction of their farms and longhouses, and the effective restriction on head-hunting raids was an enormous blow to their worldview and perceived status, and induced a fundamental shift in their political culture. Through repeated demonstrations of his prowess, the Rajah gained high ritual status in Iban eyes and became recognised as a source of spiritual potency. Hence leaders sought to associate with him and his agents in order to acquire something of his status and power and thus advance their own ambitions within Iban society. They also progressively turned to other means of acquiring status, both traditional and novel, that were acceptable in the new order, including more energetic involvement in farming, trading expeditions, acquiring education, conversion to Christianity, and involvement in the structures of government (though all this was less true of Iban in more remote parts of the Saribas). At the same time, the Rajah (and his successor) recognised that 'military power did not provide the means to integrate defeated Iban'

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into the Sarawak state, hence he consciously sought to ‘establish structures that engaged Iban processes and met Iban objectives’ (Walker 2002: 98). Thus, though the Saribas Iban were no longer a power to themselves, they were by no means powerless under the Brooke regime.

CHARLES BROOKE’S GOVERNMENT

From the early 1860s, then, the Saribas Iban had been brought firmly within the ambit of the Brooke state, which from 1868 to 1917 was ruled by Charles Brooke. In the second half of the nineteenth century the administrative structure of this state comprised four levels (Pringle 1970: 143–144). At the top was the Rajah, who remained an absolute ruler, issuing piecemeal legislation and administrative directives, and intervening at will in local affairs, particularly in the predominantly Iban-inhabited Second Division. Underneath the Rajah were the Residents – British officers who governed their respective Divisions with almost as much autonomy as the Rajah governed Sarawak – and a small corps of Assistant Residents and Cadets. Initially there were British officers stationed at each of the various

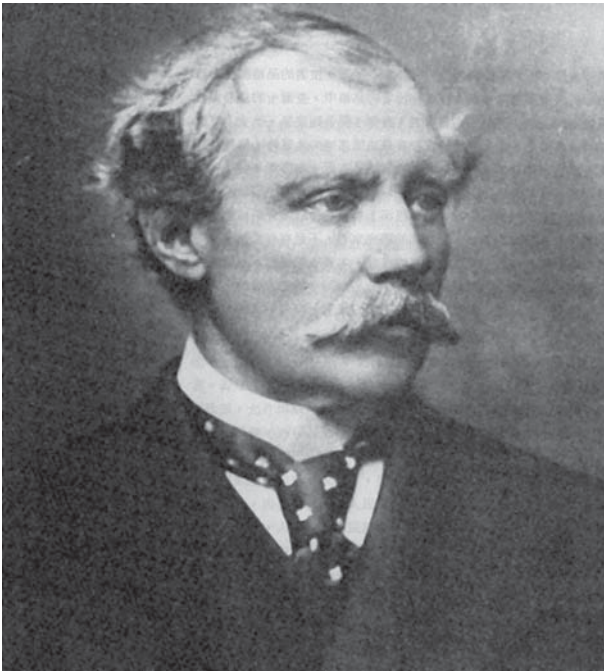


Fig. 4.4 Charles Brooke

forts in the Second Division, but once general pacification was achieved the administration was concentrated at the Divisional headquarters, which from 1864 was located at Simanggang (now called Bandar Sri Aman). There was no British officer at Betong after 1869. The third level comprised a corps of Native Officers, mostly aristocratic Malays drawn from the region they administered, together with a small constabulary and clerical staff. Native Officers were frequently in charge of outstations such as Betong. They were also designated Native Magistrates and handled much of the work of the Resident's court (described below). At the fourth level were the leaders of the major ethnic groups – Malay *tua kampung*, Iban *penghulu*, and Chinese *kangchew* or *kapitan*. Such a leader 'managed local affairs in accordance with the customs of his people, and represented them in dealings with higher levels of the political system' (Pringle 1970: 144). He also acted as the government tax collector. In the case of the Iban, the position of *penghulu* was not traditional but had been introduced by the government to facilitate administrative control. Nevertheless those initially appointed to the post were frequently outstanding individuals in their own right and in some ways corresponded to the *tuai menoa*, or regional leaders, of pre-Brooke times, though their subservient status would have been anathema to a traditional leader. In the Saribas, by the early 1900s, there was one *penghulu* for each of the following regions: (1) the lower Layar, (2) the middle Layar and the Padeh, (3) the upper Layar and the Spak, (4) the lower Paku, (5) the upper Paku, and (6) the Rimbis (Sandin 1970).

Iban involvement in government administration under the second Rajah was greater in the Saribas area than elsewhere. According to Pringle, 'in the Saribas he [Brooke] ruled through the senior Ibans in the same manner that he relied upon the Malays in most other areas of the Second Division' (1970: 155). Two individuals in particular were accorded recognition in this respect. One was Nanang of the Padeh, whose father was Dana, the famous Saribas war-leader, and whose defection to the government during the final Sadok expedition of 1861 had been a crucial factor in Rentap's defeat. The Rajah appointed Nanang a 'native chief' in 1863 and conferred on him the title 'Orang Kaya Pemancha' in 1882 (a title his father had received from the Saribas Malays). Throughout the second half of the nineteenth century he exercised a considerable influence in Saribas affairs, not least in land matters. The second outstanding leader was Ringkai of the Entanak, whose uncle Bunyau had assisted Brooke to build Betong fort at the mouth of the Entanak in 1858, when the upriver Saribas Iban were still defying Brooke rule. Like Nanang, Ringkai had considerable standing in the Saribas and his

knowledge of local history and custom was formidable. He was given the title 'Pengarah' at the same time as Nanang received his title, and was later officially appointed a Native Magistrate. He was also an able administrator and managed the affairs of the Betong fort in the manner of a Senior Native Officer. Both Nanang and Ringkai were appointed to the Rajah's Council Negri, a triennial assembly of native leaders and European officers from throughout Sarawak.

Charles Brooke thought education and Christianity would spoil the Iban, whose traditional culture he greatly admired, but he allowed the Society for the Propagation of the Gospel (SPG), the Anglican mission, to establish churches and schools in the Second Division (Saunders 1992). The SPG was not particularly successful; by 1913, after 60 years in the Second Division, it was operating only two schools at Banting and Sabu in the Batang Lupar with a total of 33 students (Pringle 1970; Saunders 1992). However, in 1863, just two years after the final defeat of the Saribas Iban at Sadok, Buda, youngest son of the war-leader Dana,⁴ visited Banting and, intrigued by the lessons underway at the SPG school, asked for instruction. He stayed on, learned to read and write, was converted, became a catechist, and made frequent trips back to the Krian and Saribas. By 1867 he had 180 converts ready to be baptized, including his brother Nanang (Saunders 1992: 158). Though there were no schools or churches in the Saribas during Charles Brooke's reign, many children attended boarding schools elsewhere in the Second Division, and many adults learned to read from literate friends (Pringle 1970: 201). While most Saribas Iban, particularly in upriver areas, remained pagan, 'a substantial and influential Christian community did come into existence in the lower and middle Saribas, and the converts were later instrumental in introducing other elements of change' (Pringle 1970: 200).

VYNER BROOKE'S GOVERNMENT

In the reign of the Third Rajah, Vyner Brooke (1917–41), the government progressively expanded its scope. From 1917 to 1925 the number of Europeans employed by the government more than doubled (Reece 1982: 5). Districts were created within each Division and both District Officers and Assistant District Officers appointed (Pringle 1970: 144). More government departments were created, including the Land and Survey Department (Porter 1967: 46), and some technical specialists were appointed to out-stations. In addition, 'a wholly new emphasis on administrative uniformity began to appear in some official pronouncements' (Pringle 1970: 335). Nevertheless,



Fig. 4.5 Fort Lili on the Layar River at Betong, established in 1858 and the seat of Brooke government in the Saribas District.

the power of the Residents remained considerable. In Pringle's words: 'The Second Rajah's stress on personal government remained alive at the outstation level, despite weak leadership in Kuching and the growth of bureaucracy' (1970: 344).

Under Vyner Brooke no Iban rose to the same prominence in government administration as had Nanang, Ringkai and others under the Second Rajah. 'During the greater part of Vyner's effective reign of twenty-four years, no Ibans were recruited to join the Native Officer corps' (Pringle 1970: 338), though a Saribas Iban received a probationary appointment as a Native Officer in 1932. By the end of Brooke rule there were only three Iban Native Officers and half a dozen Iban police officers (Reece 1982: 138–141). A number of educated Saribas Iban found outlets in commercial activity, often outside Sarawak. Within the Saribas a Dayaks Co-operative Society was established in 1939 at Stambak Ulu in the Layar with more than \$20,000 in share money, its main purpose being to bypass the Chinese rubber traders by operating its own shophouses and trading schooners (Reece 1982:

137–139; 1998: 127). This organisation was briefly revived after the war and many of its founders became prominent in public life.

During Vyner Brooke's rule, Iban education continued to be entirely in mission hands. With government support, the SPG stepped up its efforts in the Saribas District, assigning Wilfred Linton to Betong in 1920 to make this town the centre of the mission's work in the Division. By 1921 it had a school (St Augustine's) with 20 male boarders, and a girls' school (St Margaret's) was opened the following year (Saunders 1992: 251). In 1934 Vyner visited the mission at Betong and expressed his satisfaction with the schools, church, and hospital (Saunders 1992: 257). In 1936 Lawrence Angking became the first Iban priest in charge at Betong.⁵ By 1938 the schools at Betong and Debak in the Saribas and Roban and Saratok in the neighbouring Krian had more than 200 pupils and 13 teachers.

Sather states that 'this [Anglican schooling] was enthusiastically embraced by the Iban with the result that by the 1920s the whole region was very largely Christianized' (2003: 184). However, in light of his other, more detailed observations (e.g., Sather 1981), this seems too sweeping a state-



Fig. 4.6 Brooke officials at Simanggang, c. 1910? The Rajah Muda, Vyner Brooke, is in the front row. A. B. Ward is standing at left and J. B. Hardie is standing at right.

ment. Upriver Iban in tributaries such as the Ulu Layar and Spak remained resistant to education until as late as the 1960s. Moreover, Christianisation was partial at best, and the traditional Iban religion continued to be practised in longhouses throughout the Saribas, often with the greatest elaboration in those communities that had embraced education and commercial activities. As Pringle (1970: 37) observes, and Sather (1981) himself documents, the Saribas Iban were only superficially 'Westernised' and traditional culture was still highly valued – that is, they 'combined both progressiveness and cultural conservatism'.⁶

During the Japanese Occupation (1941–5) the basic structure of Vyner Brooke's administration remained intact, though the Europeans of course were removed and Iban involvement in local government increased. As Reece observes: 'One of the most interesting and significant aspects of the Japanese administration was the establishment of indirect rule in the Second Division through the educated Iban elite' (1982: 147). A mission-educated Iban, Eliab Bay, who had been frustrated under Brooke rule, was appointed to a post equivalent to that of Resident at Simanggang, and several were appointed as district officers (*guncho*), including Benedict Sandin at Betong (Leigh 1974: 32; Reece 1998). Juing Insol, grandson of the Orang Kaya Pemancha Nanang, was promoted to a senior position within the police and wielded considerable influence (Reece 1998).⁷ Although initially the Japanese were reasonably popular with the Iban, from early 1944 conditions began to deteriorate (Reece 1982, 1998). In July 1945, when the Japanese position was clearly very weak, about 200 Iban warriors drawn from throughout the upriver zone of the Second Division sacked the Japanese post at Lubok Antu. Then in August over 1,000 warriors attacked the garrison at Engkilili but, lacking firearms, they were repulsed, with 50 or 60 dead or wounded. Benedict Sandin describes how he was involved in negotiations with the fiery Penghulu Ulin of the Spak River 'to stop him from declaring war against the Japanese garrison at Betong' (Sather 1981: 118). Penghulu Ulin had assembled another force of several thousand warriors with the intention of attacking the Japanese and looting the bazaar, but according to Reece (1998) they were dissuaded on encountering an unfavourable bird omen.

GOVERNMENT ATTITUDES TO IBAN LAND USE AND TENURE

To varying degrees the Brooke Rajahs and their outstation officers developed an appreciation of Iban agricultural practices and land tenure arrangements. Nevertheless, they remained strongly influenced by European

notions of progress, which saw shifting cultivation as very low on the scale of agricultural evolution and 'communal' or longhouse tenure as a major obstacle to economic development – something they were keen to promote. This ambivalent attitude helps explain the Brooke state's confusing and contradictory approach to land law and administration, described in subsequent sections.

Pringle writes of Charles Brooke that 'the Rajah's personal familiarity with the Iban way of life disposed him to sympathise with the shifting cultivator's hunger for new land'. Although 'to a certain extent he did deplore the destruction of forest ... he seems generally to have regarded the land of Sarawak as an endless ocean which would never run dry' (1970: 227). It is true that the Second and Third Rajahs sought at various times to restrict Iban migration into virgin areas and eventually introduced a system of markers (*pak*) in the headwaters of certain streams, beyond which settlement was illegal. However, this was largely to maintain political control and was not primarily motivated by a desire to conserve the forest or prevent environmental degradation.⁸

Charles Brooke's view of shifting cultivation was not that it was environmentally destructive but that it was inefficient relative to other more intensive systems of smallholder agriculture. In a set of instructions issued to Residents in 1876, he urged the need to reserve virgin forest on hills, not for environmental reasons but 'with a view of encouraging other cultures at a future day' (Porter 1967: 39). Thus Brooke attitudes were not initially opposed to the felling of forest as such; on the contrary, they regarded forested land as ripe for development, particularly by Chinese smallholders. Commenting on the First Rajah's proposals for Chinese immigration, Charles Brooke wrote in his diary in 1867: 'We want population to turn our wasteland into shape and create bustle and industry ... [We want] to see the jungle falling left and right and people settled over what are now lonely wastes and turning them into cultivated lands.'⁹ Chinese agriculture was seen as vastly superior to Iban shifting cultivation. The Second Rajah editorialised in the *Sarawak Gazette* in 1915: 'Anyone who takes the trouble to study the difference of cultivation between Dayaks and Chinese will easily arrive at the conclusion that one Chinese garden is of more value to the country than fifty Dayak holdings' (Criswell 1978: 139).

The notion that forest, whether primary or secondary, was 'idle land' (an idea which has exercised a powerful influence on current land policy in Sarawak) only became a serious problem with the establishment of a number of Foochow Chinese farming settlements in the lower Rejang from

1901 (Chew 1990). The preference of the Foochow for clearing secondary growth rather than primary forest, and their lack of any concept of farming that did not involve continuous cultivation, led them to encroach on Iban forest-fallow land. The resulting tensions peaked in 1925 with the outbreak of violence in the Binatang area. As Pringle remarks:

The Binatang incident of 1925 was only one spectacular symptom of a more basic problem, that of accommodating large numbers of Chinese farmers in a country of shifting cultivators. The Second Rajah had clearly underestimated the political and administrative difficulties this would entail. That he should have done so is not altogether surprising ... [E]ven today, when the population of Sarawak has greatly increased, it is easy to view the seemingly almost empty landscape and conclude that there must still be enough land for all (1970: 13).

Thus a basic misunderstanding of shifting cultivation led to land-use conflicts that in turn reinforced the predisposition to view shifting cultivators in a negative light.

By the last decades of Brooke rule the view began to emerge that shifting cultivation was not only uneconomic relative to more intensive farming techniques but that it had adverse environmental effects that should be controlled, primarily through the creation of forest reserves. An important and outspoken critic of shifting cultivation at this time (as well as in the early post-war years) was B. J. C. Spurway, who eventually became Conservator of Forests. Spurway subscribed to the mistaken belief that Iban shifting cultivation was a 'linear-shift' rather than a 'cyclic-shift' system (the terms are Spencer's (1966)). In a paper on shifting cultivation in Sarawak presented at the Third Malayan Forest Conference in 1937, he observed: 'Unless there is local restriction, when a community has destroyed the adjacent forest, it moves on to virgin forest elsewhere and will eventually migrate to another river or district. From this it will be realised that the stabilisation particularly of the Iban population and the control of shifting cultivation is a matter of great urgency' (Spurway 1937: 125). He further asserted that secondary forest had no economic value: 'It is in the dry inland areas that large tracts of country have been denuded of the original forest, which has been replaced by secondary growth composed of useless species' (Spurway 1937: 125). Apart from the loss of valuable primary forest, Spurway emphasised the supposed indirect effects of clearing land for shifting cultivation, namely, accelerated soil erosion and runoff, leading to sedimentation and flooding. He also invoked the spectre of a fire-induced deflection of the

process of secondary succession towards a grassland climax, dominated by *lalang* (*Imperata cylindrica*). He claimed there was ‘an increasing danger from fire, which will continue and eventually complete the destruction and deterioration commenced by man ... When *lalang* becomes established over a large area, that area becomes economically the equivalent of a desert’ (Spurway 1937: 126–127).

These views, though entirely speculative and without empirical support, were considered authoritative and became part of the conventional wisdom of both Brooke and British colonial government officers. In particular, they were reflected in an important internal review of Sarawak’s administration known as the Blue Report, written by C. D. Le Gros Clark in 1935 partly in response to a perceived crisis in the government’s management of Iban affairs. Clark considered that past failure to establish extensive forest reserves was due to ‘a reluctance to interfere with the customary shifting cultivation habits of the Dayaks’. In contrast, he emphasised ‘the urgent necessity of restricting the Dayak in his agricultural movements, both for his own sake and for the sake of the valuable timber which he is destroying so quickly’ (1935: 29). In his view, ‘the solution of the Dayak problem must be sought in the gradual conversion of the Dayak into a permanent cultivator of the land’ (1935: 47). If expert reports on the suitability of interior areas for permanent cultivation proved unfavourable, he argued, ‘we should not hesitate to move the Dayaks into areas down-river where the soil is more suitable and they can live in more settled conditions of agriculture’ (1936: 50). This planned resettlement of shifting cultivators was never actually attempted in the Brooke era, though the idea was repeatedly taken up and advocated in post-war policy debates (including, as mentioned in Chapter 3, by the anthropologist Derek Freeman).

The negative view of Iban agricultural practices was closely connected with the notion that longhouse residence and customary tenure constituted a formidable barrier to economic progress. Though there were dissenting voices, there is no doubt that the dominant view within the administration was opposed to community-based tenure and saw its gradual replacement as an important policy goal. D. J. S. Bailey was Resident at Simanggang for twenty years from 1888 to 1908 and was one of the most senior officials in the Second Rajah’s government. He witnessed (indeed, helped foster) the early phase of Iban involvement with cash crops such as coffee, described in Chapter 6. Towards the end of his period as Resident he wrote: ‘This advance [in farming and planting] is retarded chiefly by the communal system of land tenure, and the Dayak custom of living in “long” houses (which

paralyses all individual initiative). With these obstacles removed, or modified in some way, we might expect a satisfactory advance in agriculture' (SG 1907: 138). This view was consolidated under the Third Rajah. In the Blue Report, the 'solution of the Dayak problem' was seen to be not only a 'conversion' to 'settled' agriculture but a radical change in the community-based tenure system: 'So long as the Dayak is confined to his long-house and the land is held on customary tenure by each household it is useless to expect any improvement' (Clark 1935: 47). However, as with the goal of planned resettlement, the capacity to implement such a radical vision was severely limited. Hence, as discussed below, in the day-to-day administration of Iban affairs, Brooke officials recognised customary tenure and sought ways to improve its operation, such as the efforts in the 1920s and 1930s to record territorial boundaries.

BROOKE LAND LAW: 1863–1914

The Land Regulations of 1863 were the first important item of land legislation in Sarawak (Porter 1967: 32–34). These provided that: 'All unoccupied and waste lands, the property of Government, required for agricultural purposes ... shall be granted at the pleasure of the Government to applicants on lease of 900 years, it being possible after three years to convert this into a 'grant in fee simple' on payment of an additional premium. There was a requirement to bring one quarter of the land under cultivation within ten years, failing which it was liable to resumption by the state. Although the preamble says that the Regulations were for the 'disposal of land throughout the state of Sarawak,' they were mainly applied to small commercial plots in the vicinity of Kuching and had little or no effect on the Iban country of the Second Division (Richards 1961: 7). However, the Regulations did indicate two principles that underlay Brooke dealings with the Iban on land matters, namely, the assumption of state proprietorship in land and the requirement to utilise land to justify continuing tenure.¹⁰

In addition to the Land Regulations, however, numerous ad hoc orders, proclamations and regulations were promulgated, many of them having implications for the Iban. An 1875 order allowed 'squatters' to occupy without interference land cleared and abandoned by others (Porter 1967: 37). The preamble states that 'it is common practice among the native community [sic] to make large clearings of old jungle, and afterwards abandon them.' The order was presumably intended to make further provision for the increasing number of immigrant farmers taking up land around Kuching. However, as Porter remarks, the order 'suggests a curious understand-

ing on the part of Government, not simply of the practices permitted under native customary law but also of the biological demands the practices made on the land' (1967: 37). This view of shifting cultivation was carried through into the judgements of the Second Division Resident's Court, where it became the convention that hill land fallowed for more than seven years was considered 'abandoned' and hence available for others to use with impunity, though, as discussed in Chapter 3, a seven-year fallow was probably the *minimum* requirement for a stable forest-fallow cycle.

In 1876 the so-called Sago Land Regulation (sometimes confusingly referred to as the Land Grant Regulation) was issued, giving cultivators of sago, rice, coconut, or other 'native culture' the option of taking out grants (provided the land was at least half to one mile from townships) or remaining as 'squatters'. An official clarification, issued in 1880, stated: 'The land Grant Regulation drawn up in 1876 was principally intended to refer to people farming paddy in the low ground or planting sago on a large scale in distant or outlying [sic] districts a quit Rent of 10 cents per acre being demanded. This regulation was not intended to supersede the previous regulation drawn up in 1863 which still holds good over small plots, where gardens are made and which are inhabited' (Porter 1967: 40). It appears that grants under the 1876 Regulations had been wrongly issued to commercial gardeners in the vicinity of Kuching. It is doubtful that rice or sago farmers had any incentive to take out such grants, given that they appear to have had equal security of tenure as 'squatters' – here presumably referring to holders of customary rights.

The government also issued piecemeal legislation to deal with the use of land for commercial agriculture (discussed more fully in Chapter 7). An 1876 proclamation offered grants of land for 99 years at a 'nominal rent' to Chinese pepper and gambier planters, who were offered assistance to migrate to Sarawak for the purpose (Porter 1967: 38–39). These grants were initially made in the vicinity of Kuching. In 1896 the provisions of the Land Regulations were applied to the issue of grants for pepper and gambier throughout Sarawak. A permit from the Resident was required to open or extend a garden. However, 'squatters' cultivating pepper and gambier with 'care and diligence' were allowed to continue. From 1909 various regulations dealing with rubber planting were issued. In that year an order declared that there would be no rent for land planted with rubber but that a five per cent ad valorem duty could be charged on rubber exports. However, from 1910 a permit was needed to plant rubber, gardens were required to be registered and an annual assessment was levied, based on

the number of mature trees (if more than 100). There was also a prohibition on the unauthorised sale or transfer of non-European owned gardens, and a complete ban on the sale or transfer of gardens to European individuals or companies.

Though these early land laws were often ambiguous and difficult to administer, there was apparently a consensus among Brooke officials as to the basic principles of land policy. A. B. Ward, who was Resident of Second Division from 1909 to 1915, prepared the following notes on the administration of customary land law:

The system of land tenures still upholds the traditional law of former days with modification and restrictions necessitated by an enlightened rule. Theoretically, all land, whether jungle or cleared for paddy farming, is the property of the State; but the mere act of clearing a portion of virgin jungle confers on the labourer a restricted right of proprietorship over land thus reclaimed and once this land has been farmed and so become *temuda* it is recognized as reserved for the use of the original worker and his heirs and descendants. The rights of the State are recognized in the fact that land reserved for farming cannot be sold by anyone, and that it is necessary to obtain permission of a Magistrate before any transfer of land can take place ... Now-a-days certain progressive Dayaks have planted portions of their clearings with sago, rubber, or coconuts, etc., and there would be no objection to the sale or transfer of these gardens provided the sale does not infringe any of the Orders in force (1915: 107–108).

Similarly, in their interpretation of the regulations governing commercial agriculture during the rule of the Second Rajah, Baring-Gould and Bampfylde wrote that 'the State thus remains the real owner of the land, though not of the plantation on it' (1909: 432). Porter (1967: 44) considers this an exaggeration as nowhere in the Land Regulations or other orders in force at that time was such a right explicitly claimed. Legal niceties aside, however, it seems that the official understanding of the land laws, and hence official practice, was based on the assumption of state proprietorship of all land, with even holders of customary rights being regarded in some sense as 'squatters'.¹¹

BROOKE LAND LAW: 1915–1941

According to Porter, after 1915 'a more rational and comprehensive attitude to land administration was adopted by Government' (1967: 45). In 1920 all extant land orders and regulations were consolidated into a single order.

This defined 'State land' as 'all lands which are not leased or granted or lawfully occupied by any person and includes all lands which hereafter may become forfeited or may be surrendered to the State by the lawful owner thereof' (Porter 1967: 47). Leases of State land were apparently to be issued for 20-year terms, though this was not specified in the legislation itself. Provision was made for the issuance of 20-year Occupation Tickets where the immediate survey of land was considered impractical, 'to permit the development of land without undue delay' (Porter 1967: 48). These documents, intended to be replaced by a lease after survey of the land, continued to be issued from 1920 until 1957, after which the current Land Code came into force; in the mid-1980s there were nearly 50,000 still in existence, including over 22,000 in the Second Division. The order also classified land into 'Town and Suburban Lands', 'Country Lands', and 'Native Holdings'. With respect to native holdings, the order allowed the free occupation of land for the cultivation of rice and other food crops 'in accordance with the customary laws', though claims were to be registered where possible. There was also provision for the creation of 'native land reserves', which were to be divided into three-acre lots for occupation by any 'native born subject'. Natives were permitted to obtain one such lot free of all charges.

In 1931 another order to consolidate land law was promulgated. This redefined state land as 'all lands for which no document of title has been issued' (Porter 1967: 50), a much stronger claim than had been made previously, though, as mentioned above, it was implicit in earlier legislation and explicit in the statements of government officials. The 1931 Land Order continued to provide for the lease of state land and the issuance of occupation tickets. In the accompanying Land Rules of 1933, the term for agricultural leases and occupation tickets was extended to 99 years. In addition, the Land Rules introduced for the first time a distinction between Native Areas and Mixed Zones, with Chinese and other 'non-native' farmers being restricted to the latter, though the 1920 order implied such a distinction with its categories of Native Holdings and Native Land Reserves. In the 1931 order, though the principle of alienating three-acre holdings free of all charges was maintained, it was provided that native land reserves were not to be sub-divided nor individual titles issued (Porter 1967: 51).¹²

The Land Settlement Order of 1933 provided for the progressive introduction of the Torrens system in Sarawak. Though in its essential provisions it closely paralleled the 1931 Land Order, it was intended to apply only in designated 'settlement areas' within which a complete adjudication of rights to land would be undertaken. The titles issued under this order

would be entered in a new land register based on an accurate cadastral survey, enabling the state to guarantee titles and boundaries. As work was completed in existing settlement areas, new areas were to be gazetted so that gradually all land would be brought onto the register. However, the time required for this exhaustive adjudication and the limited staff of the Land and Survey Department ensured that progress in extending the area to which the Land Settlement Order applied was slow. Hence there was negligible land under Torrens titles in the Saribas District by the end of the Brooke era.

As mentioned above, the extremely limited capacity to provide individual, registered title to land meant that, in the interim, Brooke officials sought ways to improve the administration of customary land, no doubt prompted by the seemingly endless territorial disputes described in Chapter 5. Hence, in the last years of Brooke rule, steps were taken to settle and record territorial boundaries with a view to bringing customary lands within the provisions of the Land Orders, as an intermediate step to the long-term goal of issuing individual titles. In 1939 the government issued a memorandum on customary land tenure (Secretariat Circular No.12) which argued that 'the right to cultivate cleared land vests in the community with priority to the heirs of the original feller,' and that individual claims should not be recorded, but aggregated to build up a communal area, 'pointing the way to a definition of a communal claim' (Porter 1967: 13). The memorandum gave instructions for the setting up of village committees 'to assist the administration in defining community boundaries' (Richards 1961: 9):

When boundaries have been agreed (mutually in the case of contiguous communities) they will be recorded by the District Officers in the form of descriptions. A copy of the description will be given to the Village Council and the District Officer will emphasise the fact that the area so described is that over which the community concerned has acquired or may acquire customary rights in accordance with native *adat*. The Land and Survey department will co-operate to sketch these areas on District Officers' maps and they will become ... Native Communal Reserves under the Land Orders. Additions to such areas will be permitted only on application and on proof to the satisfaction of the District Officer that additional farming land is necessary because of increase in the population or for other good reasons. ... Provision will be made in the Land Orders for the partition of Native Communal Reserves and the issue of individual title, but action will not be taken without extensive deliberation and due regard for the state of evolution and needs of the community concerned.¹³

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However, these Reserves were never actually gazetted and during the Japanese Occupation records of boundaries were lost or became out of date, undoing much of the work of the preceding decade. As will be seen in Chapter 8, the failure to build on this initiative significantly weakened Iban claims to territorial rights in the post-war period, particularly since the 1990s.

THE COURT SYSTEM AND IBAN LAND

During the Brooke period, the Resident's Court was the central institution in local-level administration. In Pringle's words: 'The court offered the only social service which the Brooke State consistently provided: access to a rough but comprehensible form of justice' (1970: 171). At the same time it enabled those Iban within its reach to feel they were active participants in government. A. B. Ward, referring to his experiences as an Assistant Resident at Simanggang around the turn of the century, described the court as follows:

Cases were of all kinds, criminal and civil, the latter chiefly concerned with disputes over farming land, or the division of inherited property. The two protagonists occupied the front bench arguing their case in their own language. The Resident did all the cross-examining, writing out a synopsis of the matter as he proceeded, and if either of the parties wandered from the subject, as usually happened, he received a dig in the ribs from the police behind. Witnesses when called also huddled on the front bench; it was all delightfully free and easy with no trappings, barrier or dock (Ward 1966: 36).

As well as referring to such legislation as the Rajah promulgated from time to time, and vaguely adhering to English legal principle, the court nominally recognised and enforced the customary law (*adat*) of the various ethnic groups, and the Native Officers and local leaders were invariably consulted as customary legal authorities. The Resident's Court, then, was the principal point of contact between Iban institutional arrangements and those imposed by Brooke policy.

The Resident's Court held session at Simanggang and the various outstations of the Second Division, including Betong, and the Iban, particularly from the Saribas area, brought numerous cases, giving them a reputation among Brooke officials as excessively litigious. The decisions made by the local Iban courts (*bicara*) could all be reviewed by the Resident's Court, and other matters could be brought directly to it (Sather 1980: xxvii). Ward described a routine visit to the Saribas as follows: 'Court work at Betong was always strenuous; the Saribas Dayak was a born contentious litigant.

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Morning and afternoon the Court would sit, and until late at night people invaded our quarters to bombard us with questions, appeals and applications. Touring the district was not a holiday jaunt' (1966: 46).

While it is true that the court provided an outlet for the Iban love of oratory and argument,¹⁴ the level of litigation also reflected changing economic and political conditions. As noted above, most cases were to do with land, and as Pringle states: 'Residents of the Second Division believed that the decreasing supply of virgin jungle preferred by the Ibans for hill rice farming was one major cause of what seemed to be an increasing amount of litigation over already cleared land' (1970: 192). He cites D. J. S. Bailey, the long-serving Resident quoted above, who reported in 1905: 'No one fells old jungle now consequently there is more litigation about cleared lands.' Coupled with this was the loss of traditional authority and independence resulting from the imposition of Brooke rule itself, creating an incentive for Iban leaders to view the court as an approved venue in which to jostle for political dominance through territorial expansion.¹⁵ As Sather remarks: 'It is clear for the Saribas at least that courts were used, among other things, as an arena in which the authority of political rivals was challenged and inter



Fig. 4.7 Inside a typical Brooke-era fort at Marudi, showing the court area at right. From Charles Hose, *Natural Man: A Record from Borneo*, London: Macmillan and Co., 1912.

community boundaries were contested in a time of rapid economic change and mounting population pressure' (1980: xxvii).

Additionally, it must be emphasised that the courts did provide a genuine improvement over traditional procedures of last resort for settling disputes, such as fighting with clubs or the diving ordeal, in that they avoided the risk of fatalities and led to a more certain and permanent result. Heppell observes: 'A notable feature of Iban disputes was that they frequently continued for generations, even after the ordeal was held. Without some form of notation to render a decision permanent, any result can be challenged at some later date for memories are notoriously fickle. The Brookes provided that notation and backed it up with a superior force ...' (1985: 24). A major reason, then, for the popularity of the courts was that they added a new and useful method for restoring harmony in local Iban society. As Reece remarks: 'Appeal to the arbitrary authority of a European official provided a safety valve, an opportunity to air grievances which was valued as much as the judgment itself' (1980: viii).

Hooker points out that throughout most of the Brooke period the government's involvement in customary law was 'an administrative rather than a strictly judicial matter' (n.d.: xvi). That is, the courts were used primarily as a vehicle for Brooke policy and hence judgements were frequently ad hoc mixtures of legal principle and administrative expediency (Digby 1980). This emphasis on personal administration gave way, by the last years of Brooke rule, to a more formal approach. The Native Courts Order of 1940 established three classes of Native Court: (1) the district court, consisting of a magistrate of the second class, a native officer, and two assessors; (2) the court of a native officer or chief, consisting of those officials; and (3) a headman's court, consisting of a headman and two assessors. 'Jurisdiction consisted of power to adjudicate breaches of native law and customs and the first two classes of court could impose both fine and imprisonment whilst the latter could impose a fine only. Rights of appeal went from the most junior to the most senior of the Native Courts and from thence to the court of a Magistrate of the First Class and eventually to the Supreme Court' (Hooker n.d.: xvii). With the promulgation of the Constitution Order in 1941, 'the determination of Native law principles became a judicial rather than an administrative matter. Precedent and judicial interpretation of statute rather than administrative practice was now the final determinant of Native law within the state-wide legal system' (Hooker n.d.: xvii).

The records of the Resident's Court, now kept in the Sarawak Archives, are a rich source of material for the analysis of Iban land affairs in the Brooke

period, starting in the 1860s. Though written in English and reflecting the Resident's or District Officer's perspective, they also frequently include Iban terms and phrases as expressed by the litigants and local experts in customary law, as well as background information and sketch maps. Hence they provide an invaluable window onto Iban social and economic conditions and, in particular, the interface between Iban communities and the Brooke state during a time of significant agrarian change, as seen in the next three chapters.

CONCLUSION

The Brooke state was clearly not a conventional colonial regime. Indeed, Walker (2002) argues it was not a colonial regime at all in that Britain was not ultimately the source of James Brooke's power and authority in Sarawak; rather his position 'derived principally from Sarawak people and resources' (2002: 206). The First Rajah used traditional sources of legitimacy and authority to consolidate his political power in Sarawak, in a sense placing himself as the supreme patron in an extensive network of traditional patron-client ties, where the patronage bestowed was in the form of spiritual potency (with perceived material ramifications) rather than material resources as such. Iban supporters regarded the Rajah metaphorically as the ridge-pole (*perabong*) of their longhouse, capping and linking together but also supported by the central posts (*tiang pemun*) of each *bilek* (Sather 1993; Walker 2002: 89). The Second Rajah also cultivated these sources of power, especially in relation to the Iban of the Second Division.

The Brookes certainly saw themselves, and have been portrayed by many writers, as benevolent autocrats, ruling in the interests of the indigenous population and protecting it from disruption and exploitation by European investors and colonial powers. In particular, the stated policy of preserving traditional customs (with the notable exception of such practices as head-hunting and slavery), and of introducing change only gradually and selectively, became part of Brooke ideology (Chater 1964). Charles Brooke wrote in the *Sarawak Gazette* in 1872:

A Government such as that of Sarawak may start from things as we find them, putting its veto on what is dangerous or unjust and supporting what is fair and equitable in the usages of the natives, and letting system and legislation wait upon occasion. When new wants are felt it examines and provides for them by measures rather made on the spot than imported from abroad; and, to ensure that these will not be contrary to native customs, the consent of the people is gained

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for them before they are put in force. The white man's privilege of class is made little of, and the rules of government are framed with greater care for the interests of the majority who are not Europeans than for those of the minority of the superior race. Progress in this way is usually slow, and the system is not altogether popular from our point of view; but it is both quiet and steady; confidence is increased; no vision of a foreign yoke to be laid heavily on their shoulders, when the opportunity offers, is present to the native mind.¹⁶

There was clearly an important element of truth in this characterisation of Brooke policy. Yet, as Reece correctly points out, 'the effect of Brooke rule had been to entrench a European ruling family at the expense of traditional Malay and Chinese leadership' (1982: 12). It should be added that this was also at the expense of traditional Iban leadership, which had been in the ascendancy in the Saribas. Reece continues:

The worst excesses of European exploitation were avoided, largely because there seemed to be so little to exploit. Furthermore, the preservation of traditional ways of life was self-serving because it protected the power-position of European officers. While the Brookes and their officers railed against 'vested interests,' their own interest was to preserve their position by resisting change. They were not so much opposed to economic development as to the resulting social and political changes which would inevitably undermine the basis of their authority and prestige (1982: 12).¹⁷

As Pringle suggests, 'Brooke idealism was primarily a rationalization of the special conditions which prevailed in Sarawak, and only secondarily a motivating force' (1970: 346).

Certainly it is true that once the Saribas Iban capitulated to Brooke rule they were not seriously exploited and were to some extent allowed to participate in government at the local level. The main objective in Brooke land policy towards the Iban was not to divert their land to commercial development (for which the government turned primarily to immigrant Chinese and to 'unoccupied and waste lands') but to maintain order and control in what had been an unruly and rebellious population. Consequently the emphasis was on settling disputes as they arose and selectively reinforcing customary land tenure, even sometimes in the face of Iban demands for change. The consequences for the Iban were far more benign than if the Brookes had pursued a more orthodox colonial approach to land policy (Keyes 1983). In Scott's (1998) terms, there was little attempt to impose authoritarian high modernist schemes on the Iban. In any case, the state had

very limited capacity to do so. Even the modest attempts at forest reservation under Vyner Brooke met with stiff resistance from the Iban, forcing a relaxation of the rules to accommodate their interests.¹⁸ The notion of planned resettlement of shifting cultivators was never going to be feasible.

Even so, the imposition of Brooke rule on the Iban constituted a profound change in their political and institutional environment, introducing a dissonance between their own institutions and those of the state that has persisted into the present. Brooke land laws in particular, though hardly enforceable throughout much of the Iban domain, were in many ways at variance with customary Iban land tenure. The notion that farmers without formal title to their land were in some sense 'squatters' whose rights of use and transfer were limited by the authority of the state had no place in Iban reckoning, according to which each longhouse community was an independent state or *negri* (Howell 1898). There was no clear recognition in law of territorial rights, though in practice, as shown in Chapter 5, the courts spent much of their time dealing, often in an ad hoc way, with territorial boundary disputes; the attempt in the 1930s to settle and register territorial boundaries in the end came to nothing. The suggestion that land which had been fallowed for a mere seven years was deemed to have been 'abandoned' and available for reallocation reflected a complete misunderstanding of customary Iban land usage and property rights. Likewise, the requirement to take out a permit or other form of individual title before planting cash crops was totally alien to traditional tenure. Nevertheless, the authority of the state could not be easily ignored, and Iban practices and institutions had gradually to be accommodated to the new rules of the game.

NOTES

1. Mundy 1848 [2]: 30
2. Forts were later established at Kabong (c.1865) on the Krian and Lubok Antu (c.1868) on the upper Lupar (Pringle 1970: 136).
3. At that time he was Charles Johnson but changed his surname to Brooke in 1862 in anticipation of succeeding his uncle (Walker 2002: 172–3).
4. Saunders (1992: 58) incorrectly states that Buda was the son of Linggir of the Paku, another famous Saribas war-leader of the early nineteenth century.
5. Basil Temengong, from Kampong Pasa near Betong, taught at St Augustine's in 1938 before training for the priesthood overseas. He was priest and headmaster at Betong from 1946 to 1953 and subsequently became the first Iban Bishop of the Anglican Church in Sarawak.

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6. Clifford Sather, pers. comm.
7. Reece describes how Juing Insol slapped the face of Anthony Richards, the Sari-bas District Officer, when he arrested him at Betong and zealously paraded him and others in handcuffs down the main bazaar in Kuching several days later before delivering them to the Central Police Station (1998: 35, 44).
8. Nevertheless Charles Brooke issued an order in 1868 forbidding Iban from clearing forest containing the valuable ironwood tree (Criswell 1978: 150).
9. Entry for 21 February 1867, 'Extract from the Diary of Charles Brooke', cited in Pringle 1970: 304n.
10. The Regulations were revised and extended in 1871 and 1882, the only substantive change being the discontinuance of grants in fee simple (of which only six were ever issued), and remained the only comprehensive land law in Sarawak until 1920.
11. In a judgement concerning the transfer of Iban land to Chinese pepper planters at Marup, the Resident's court gave the opinion that 'asking for large sums of money for such land must be discountenanced as the Dyaks have no actual rights over same other than squatters' (SCB 1918: 142).
12. In 1947 the Director of Lands and Survey wrote of these native reserves: "These were strictly reserved for all time and no alien may acquire a title therein. They were as a rule not properly constituted until "settlement". The term was dropped in 1940 and they are now called Native Areas' (SG 1947: 78).
13. From Secretariat Circular No. 12/1939 on Native Land Tenure, Appendix A in Report of the Land Committee, 1962.
14. When the transcript of a 1929 case was read to a group of older men at Nanga Tapih who were familiar with the case and the personalities involved, one of them remarked admiringly: '*Nya jako bicara* (Ah yes, that's court speech!)' Field Notes, Nanga Tapih, May 1985.
15. Michael Heppell makes the second of these two points in a personal communication.
16. *Sarawak Gazette* 1872; cited in Crisswell (1978: 114).
17. Nevertheless Reece adds, 'for the most part, they carried out their work for little financial reward and with a sincerity of purpose seldom to be found in orthodox colonial systems. The legacy of goodwill which they left behind is the best evidence of this. They belonged to the romantic or charismatic phase of colonialism' (1982: 12).
18. The government had attempted to extend the area of Forest Reserves, a tenure category which completely excluded all Iban activity. This added to the frustra-

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tion of Iban in upriver regions who were resentful of changes to the collection of the one dollar per year door tax, fuelling an outbreak of anti-government activities, mingled with headhunting and banditry, from 1931 (Pringle 1968, 1970: 337). In response the government introduced an additional category of Protected Forest in 1934 which allowed hunting and collection of forest products but no shifting cultivation. An editorial in the *Sarawak Gazette* reviewing the year 1935 stated: '[The protected forest scheme], which was introduced in 1934, seems to have eliminated the opposition with which the reservation of forests was so often met in the past, while yet giving adequate protection to timber' (SG 1936: 54).