

- The people of Sabah, not the Sultan of Jolo nor the Philippines have the right of sovereignty over their country.

SABAH AND SABAHANS

When the Philippines subscribed to the United Nations Charter in 1945, we became duty-bound to "respect the principle of self-determination of peoples" (Par. 2, Art. I, Chap. I, UN Charter). The said Charter has a "Declaration Regarding Non-Self-Governing Territories" (Chapter XI). It provides that the relations of colonial ruler and subject people shall be that of trustee and ward, not that of master and servant; and colonial rulers were enjoined to enter into trust agreements with the United Nations so that the administration and supervision of the territories ruled by them, to be known as trust territories, may be placed under the international trusteeship system to be established under the authority of the United Nations (Art. 75, Ch. XII, UN Charter); that one of the basic objectives of the international trusteeship system is "to promote the political,

economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely-expressed wishes of the peoples concerned" (Par. b. Ch. XII, UN Charter).

Under the above provisions of the UN Charter which were subscribed to by most, if not all, the countries of the world, a new principle of international law became consecrated, the principle of self-determination, by virtue of which the sovereignty of the Sultan of Sulu over Sabah was transferred to the people themselves. This is the implication of the right of self-determination, for only a sovereign people has the right of self-determination and self-government. If a person can declare himself of age, it is because he is actual-

ly of age. If a people can declare themselves independent, it is because they have sovereign powers.

As Senator Sumulong has said, "at this time and age, it is the political status which a people want for themselves which matters, not the disposition made by a sultan centuries ago."

Gone is the age where countries became united, not by the consent of the people, but because the dynasty of the two kings that ruled the two countries became consolidated in the person of one king. Because the Charter of the United Nations acknowledged in the people of Sabah their right to self-determination, and because the existence of such a right is in consonance with our tradition and our own demands for independence, when we were a colony, first of Spain, later of America, and later on occupied by Japan, the official position of the Philippines had to acknowledge that right in the people of Sabah in several declarations of our leaders.

But it has been argued that sovereignty, rights and independence are synony-

mous and that a country cannot have sovereignty rights if she is not independent at the same time.

Those who offer this argument do not seem to realize that this very argument could also be applied against the alleged sovereignty rights of the Sultan of Sulu over Sabah, in view of the undisputed fact that Sabah admittedly was not an independent country in 1945 when it came under the trusteeship of the United Nations. If sovereignty rights do not exist without independence, then neither the Sultan of Sulu or the people of Sabah had sovereignty rights over Sabah, but the United Nations.

We take the view that sovereignty rights, as qualified by the last word, is a *right*, while independence is a *status*, a *condition*, the actual full *exercise* of the sovereignty right. No Filipino can argue otherwise, for we Filipinos maintain that the Filipino people *vindicated* our sovereignty rights and became independent upon the proclamation of the first Philippine Republic by General Aguinaldo in 1898; that we did not lose

these sovereignty rights by the American Occupation and for this reason, we have been demanding constantly our independence; that this fact of sovereignty was confirmed in the Philippine Constitution of 1934-1935 in preparation to our Commonwealth status; that they were finally recognized by America by the approval of President Roosevelt of our Constitution; and that during our Commonwealth status, our sovereignty rights were recognized as actually existing during the whole period of American domination. But we were only able to *exercise* those sovereignty rights (although still with some significant limitations due to the Bell Trade Act) once we became independent, which only took place about ten years later.

Actually, we can say that our sovereignty rights existed even prior to the Declaration of Philippine Independence by General Aguinaldo in 1898, for our sovereignty rights existed and gradually recognized with the development of a new concept of sovereignty rights in modern international law, when gradually, the doctrine of self-

determination of peoples and the doctrine that sovereignty rights reside in the people and not in the king or the ruler of the state became developed. So the Filipino people, and not the king of Spain, had sovereignty rights in this country once the medieval concept of sovereignty rights residing in the king or the ruler was changed with the progress of public international law and by the conscience of the people and world public opinion transferring those sovereignty rights from the king to the people themselves. Our assertion of independence by General Aguinaldo and our people in 1898 was only a *vindication* of the sovereignty rights of the Filipino people.

It is important to distinguish that while the repository of sovereignty rights is in and remains with the people, the *exercise* of those rights may be temporarily suspended and even questioned by a superior power. And this is what happened when the Spanish government continued to resist our demands for autonomy which, later on, culminated in a demand for independence;

and this is what happened when later on, America occupied the Philippines.

But even during the American occupation, with the enactment of the Jones Law in 1916, America came to recognize the sovereignty rights of the Filipino people with the promise of a grant of independence as soon as we acquired a so-called "stable government," a recognition which became more formal and definite with the enactment of the Tydings-MacDuffie Law promising us the grant of independence on a definite date, namely, on July 4, 1946.

Similarly, in the case of the sovereignty over Sabah, those rights were actually transferred from the Sultan of Sulu to the people themselves with the above-mentioned evolution of public international law transferring sovereignty rights from the ruler to the people. The United Nations Charter, in granting all colonized people the right of self-determination, is the Jones Law of all colonized territories, a definite acknowledgment of the right of colonized peoples to self-determination.

In the same way that the United States Congress, after the enactment of the Jones Law could not have validly transferred American sovereignty over the Philippines to another country, by the same token after the enactment of the United Nations Charter, the Sultan of Sulu had no right to transfer the sovereignty of Sabah to the Philippines, say to Japan, or any other country for that matter. What position the Philippines would have taken if the Sultan of Sulu had transferred his sovereignty rights not to the Philippines but to Japan?

It is for this reason that I take the position as expressed in my recent speech before the Philconsa on October 5, 1968, that we should not base our claim on Sabah on medieval concepts of sovereignty over people who at present do not have any sympathy or liking for us but instead, we should capture their love and admiration for us because we have made ourselves worthy of that love, not with claims, but with an extended hand of dignity, support and friendship, a hand that could be extended not only to Sabah but to

other Malayan states who, in the future, maybe in the far distant future, might join with us in a Pan Malayan Federation! — *Salvador Araneta, President, Araneta University, Manila Times, Oct. 15, 1968.*

THE FORCE OF PERSEVERANCE

All the performances of human art, at which we look with praise or wonder, are instances of the resistless force of perseverance: it is by this that the quarry becomes a pyramid, and that distant countries are united with canals. If a man was to compare the effect of a single stroke of the pick-ax, or of one impression of the spade with the general design and last result, he would be overwhelmed by the sense of their disproportion; yet those petty operations, incessantly continued, in time surmount the greatest difficulties, and mountains are levelled, and oceans bounded, by the slender force of human beings. — *Johnson.*