Index

Note: Page numbers followed by “n” refer to endnotes.

A
à titre de souverain, 171, 177, 183, 186
Abdul Rahman, Tunku, see Tunku Abdul Rahman
Acheh, 19, 110
Alatas, Ali, 12
Alcock, Sir Rutherford, 36, 52
Amboina, 19
American venture, 32–33
Anglo-American Agreement, 1907, 81–86
Anglo-Brunei Treaty, 1847, 31–32, 113
Anglo-Dutch boundary
boundary delimitation, 61–62
Dutch East Indies Government, 49–51
land boundary delimitation exercise, 62–63
Overbeck-Dent Association, 49
ratification process, 59–61
Sebatik island boundary delimitation exercise, 1913–14, 63–64
settlement of the Boundary Dispute, 1882–89, 51–54
settlement of the Boundary Dispute, 1889–91, 55–58
Anglo-Dutch Boundary Treaty, 1915, 39, 64–67, 156–57
Anglo-Dutch Joint Commission, 1889–91, 55–58, 129, 138, 139
Anglo-Dutch Treaty, 1824, 22, 112
Anglo-Spanish claims
Madrid Protocol, 1885, 48–49
Overbeck-Dent Association, 47
Sandakan region, 47
Sultan of Sulu, 47
anti-cession movement, 115–16
anti-Japanese movement, 114
Association of Southeast Asian Nations (ASEAN), 11–12, 123
Azahari, A.M., 120

B
Bacon, Robert, 86, 213
Baguan Island, 72, 79, 80, 88, 96
Barraut, E.H., 40, 81
Batavian Republic, 21, 109
Bates Treaty, 1899, 107, 123n5
Batu Tinagat, 27, 39, 46, 49, 51, 54, 128, 152, 155
bilang-bilang trees, 5
Birch, E.W., 78–81
bird sanctuary, 5, 41, 150, 152, 171
Bisset, Lieutenant E.L., 78, 80
Boeje, D.A.M.Q., 63
Bonifacio, Andres, 106
Borneo Island, 4, 156
see also North Borneo
Boughter, Lieutenant Francis, 81, 82, 98n2
Boundary Demarcation Agreement, 1915, 156–57
see also Anglo-Dutch Boundary Treaty, 1915
British Crown Colony, 5, 31, 119
British Dominion of Southeast Asia, 113
British influence, 28–29
British North Borneo Company (BNBC)
administrative structure, 37–41
bankrupt, 5, 113
charter and formation of, 36–37
Court of Directors, 57
in North Borneo, 4, 16, 25, 52, 113
in Philippines, 46
1903 map, 135, 136
protest against US, 137
Sabah, 113
Sabah, east coast of, 72
Sebatik Island, 57
Taganac Island, 89, 91
"Turtle Islands Group", 88
United States, 88
British North Borneo Provisional Association (BNBPA), 36, 52
Broershoek, 56, 57, 129, 138
Brooke, Charles Vyner, 32, 37, 114
Brooke, James, 27, 30, 31, 32, 43n43, 109, 112
Brunei Empire,
British entrenchment in, 31
Brooke's expansionist designs, 32, 109
expansion of, 23
informal empire of Britain, 37
revival of former Brunei Empire, 120
Treaty of Friendship and Commerce, 1847, 31, 46
Brunei Grants, 1877, 33–35
Bryce, James, 86, 211
Bulungan, 25, 27, 49, 54, 128, 146, 151, 162, 168

C
Caldwell, John K., 94
Carpenter Agreement, 1915, 108
Carpenter, Frank W., 108
Celebes Sea, 1, 6
China
Opium War, 30
Philippines' case against, 9
Senkaku/Diaoyu Islands, 6, 181
Spratly Islands, 8
trade with, 20, 28
Clifford, Hugh, 72, 99n4
Cobbold Commission, 121
Cocos Islanders, 150
Colonial Government, 5, 41, 116, 184
Colonial Malaysia Scheme, 117
colonial powers, 13, 14
Colony of North Borneo map, 1953, 135–36
Communist Party of Indonesia (PKI), 110
Confrontation (Konfrontasi), 120, 123
Continental Shelf Convention, 1958, 9, 11, 123,
Contract of Vassalage, 27, 43n35, 49, 54, 128, 151, 165
Convention of London, 1814, 21, 109
Cook, Alexander, 55, 79
Cowie, W.C., 72, 77–78, 84
Currie, Sir Philip W., 55, 56

D
Dalrymple, Alexander, 24, 28, 42n24
de Villalobos, Ruy Lopez, 18
decolonization theory, 118–19
Delimitation of the Maritime Boundary in the Gulf Maine Area, 177
Dent, Alfred, 33, 35, 36
application for Royal Charter, 35–36
Dewey, George, 74, 106
Durand, H.M., 84, 85, 86, 206
Durand Line, 86, 87, 91
Durand map, 180
Dutch East India Company (DEIC), 18, 19, 21, 26, 109, 112
Dutch effectivités, 134, 140
Dutch expansion in Borneo, 26–28

East Coast Residency, 35, 39, 149
effectivités (state practice) congruence, 179
Court’s consideration, 170
Dutch, 134, 140
Indonesia, 133–134, 170, 184
Malaysia, 145, 149, 150, 153, 162, 170, 171–72, 184
Emergency period, 116, 125n44
Emergency (Essential Powers) Ordinance No. 7 of August 1969, 11
English East India Company (EEIC), 19–22, 26, 28, 29, 112
European spheres of influence, 1529–1824
Anglo-Dutch Treaty, 1824, 22, 112
China trade, 20
Concepcion, 17–18
DEIC, 21
Dutch and the English, 18–19
EEIC, 19–20
Ferdinand Magellan of Spain, 17
French Revolution, 20–21
indigenous political power, 18
Kew Letters, 21
Malay Archipelago, 19
network of ports and commercial centres, 17
political control and monopolistic trade policies, 21
postcolonial era, 17
Treaty of Saragossa, 1529, 18
Treaty of Tordesillas, 1494, 17
1824 treaty on Borneo, 22

Trinidad, 17–18
Victoria, 17–18
Evans, Admiral R.D., 78, 80
Everett, A.H., 39
Exchange of Notes, Great Britain and United States, 1907, 81–86, 147–48, 168–69, 180, 210, 212 by articles, 86
Durand’s Memorandum, 1906, 85, 206
Foreign Office Memorandum, 1905, 83, 84
Lieutenant Francis Boughter, 81, 82 negotiations by British Ambassador to the United States, 84 exclusive economic zone (EEZ), 6, 11 “expansion theory”, 118 Explanatory Memorandum Map, 1891 see Dutch Explanatory Memorandum Map, 1891

Federated Malay States, 113
Federation of Malaya Agreement, 115–16
Fendall, H.L., 63
France, 17
Franck, Thomas, 160, 173
Fraser, F.W., 94
French Revolutionary Wars (1792–95), 20–21

Geddes, Sir A.C., 88
Germany, 137, 146, 168, 181, 193 “Greater Malaya” scheme, 117, 120, 123 Guillaume, Guilbert, 160, 173 Gysberts, M.A.H., 55

Hall, D.G.E., 19, 22
Harrison, Francis Burton, 107
Hartsen, M., 53
Hay, John, 80, 84
Hertsl, Sir Edward, 55
Holsti, K.J., 15n27
Horsburgh lighthouse, 184, 185
Howard, Sir Esme, 91, 94, 95, 218, 221
Hunt, James, 24, 146

I
ICJ. See International Court of Justice
ICJ’s judgment
final verdict, 172–73
Government of Indonesia, 161
Government of Malaysia, 161
Indonesia’s claim. See Indonesia’s claim to a treaty-based title
judges, 160
Malaysia’s claim. See Malaysia’s claim to a treaty-based title
parties’ claims, 161–62
Special Agreement, 160
Indian Mutiny, 1857, 22, 112
Indonesia, 11, 12
absence of administration, 153
absence of protest, 153–54
Indonesia’s claim, 127–40
Anglo-Dutch Boundary Convention of 20 June 1891, 129–30
arguments, 127
Article VIII of the Boundary Convention, 1891, 139–40
Broershoek, 138
colonial powers in the region, 136–37
Dutch effectivités, 134, 140
Dutch Memorandum Map, 1891, 130–33, 140
effectivités, 133–34, 170, 184
historical developments, 127–28
island of Sebatik, 139
maps, 134–36
Ratification and the Explanatory Memorandum Map, 1891, 130–33, 140
state practice or effectivités, 133–34
Indonesia’s claim to a treaty-based title
Boundary Convention, 1891, 129–30, 162–64, 165
the Court’s verdict, 168
Dutch Explanatory Memorandum Map, 1891, 130–33, 140, 164–65
maps, 167
subsequent practice, 165–66
title by succession, 168
Inter-Governmental Committee (IGC), 122
International Court of Justice (ICJ), 12–13, 16, 98, 139, 145, 175
cardinal principles of, 176–79
Court’s verdict, 180
delimiting National Maritime Zones, 187–88
Indonesia’s claims, 179
Malaysia’s case, 179–80
original title, 182–83
revision of judgment, 186–87
International Law Commission, 1953, 10
international law principles, 176–79
Irwin, Graham, 27, 31
Island of Palmas case, 177

J
Jamaluladzam, Muhammad, 26, 34, 47, 119
Jamalulkiram, Haji Muhammad, 72, 79, 107, 108
Japanese Occupation, 5, 37, 113, 115
Java War, 27, 109
Jones Law, 1916, 107
INDEX

K
Katipunan, 106
Kedell, G.V., 62, 201, 205
Kellogg, Frank B., 90, 91, 94
Kew Letters, 21
Kiram Corporation, 120
Konfrontasi, 120, 123
Kough, T.N., 40

L
Labuan, 29, 31, 33, 72, 112
Lauterpacht, Sir Elihu, 153, 154
Leicester, H.L., 34, 35
lighthouses, 5, 6, 41, 89, 90, 91, 150–51, 172, 182, 186
Ligitan Island, see also Sipadan Island
administration under Semporna District, 39
acquisition of sovereignty, 146–48
hydrographic notes, 81
ICJ’s judgment, 161, 172
Indonesian inactivity, 151–54
Indonesia’s claim, 127–40
Indonesia’s effectivités, 133–34, 140, 161, 170–71
lighthouse, 5, 6
location, 1, 3
Malaysia’s claim, 144–58
Malaysia’s effectivités, 149–51, 170–72
Malaysia’s sovereignty, 155–57
map evidence, 157–58, 167
peaceful possession, 149–51
sovereignty claims, 11–13
treaty-based title dismissed, 170
Lingga Agreement, 1946, 111

M
Macapagal, Diosdado, 96, 119, 120
Macassar, 19
MacDonald, Malcolm, 116
Madrid Protocol, 1885, 37, 47–49, 67n5, 146–47, 181, 193–96
Mahathir Mohamad, 13
Malay Archipelago
1824 Anglo-Dutch Treaty, 22, 27
British Empire, 21
Dutch colonies, 21
EEIC, 20
partitioning of, 19
political and commercial control, 19
Malayan Chinese Association (MCA), 116
Malayan Communist Party (MCP), 114
Malayan Indian Congress (MIC), 117
Malayan Peoples Anti-Japanese Army (MPAJA), 114
Malayan Union scheme, 115
Malaysia, 11, 12, 13
Anglo-Brunei Treaty, 1847, 113
Anglo-Dutch Treaty, 1824, 112
British Borneo, 119–20
British Dominion scheme, 113–17
decolonization theory, 118–19
EEIC, 112
effectivités, 145, 149, 150, 153, 162, 170, 171–72, 184
Emergency period, 116, 125n44
Federated Malay States, 113
realization of Malaysia in 1963, 121–22
Tunku’s Malaysia, 117–18
Unfederated Malay States, 113
Malaysia’s claims
acquisition of sovereignty through international treaties, 145–48
Anglo-Dutch Boundary Treaty, 1915, 156–58
Boundary Convention, 1891, 154–55
Boundary Demarcation Agreement, 1915, 155–58
International Acts and Treaties, 145–48
International Court of Justice, 145
map evidence, 157–58
the Netherlands and Indonesian inactivity, 151–54
possession and administration of islands since 1878, 144, 149–51
Malaysia's claim to a treaty-based title the Court's verdict, 170
succession and chain of transfers, 168–69
Malaysia Solidarity Consultative Committee (MSCC), 121
Mangsee Islands, 96, 169
maritime claims, 6
Martin, Richard B., 72, 81
Marudu, 24, 25, 26, 33
Massacre of Amboina, 19
Matthews-Northrup Company, 75, 100n14
Mayne, Rear-Admiral R.C., 55
McIntyre, Major General Frank, 94
Metzger, Jacob A., 94
Middle Rocks case, 175, 178, 180–81, 187
Mohamed Shahabuddeen, 160
Mohammad Hatta, 110, 111
Moody, M.H., 80
Moreau, Captain O., 55
Muhammad Jamaluladzam, 26, 34, 47, 119
Muhammad Jamalulkiram, Haji, 72, 79, 107, 108
Mundy, Captain G. Rodney, 31
N
Nanukan Island, 166, 168
Napoleonic Wars, 20–21, 109
Natuna Sea, 6
Nehru, Jawaharlal, 111
Netherlands
absence of administration, 152
absence of any claim, 151–52
absence of protest, 152
Noordin Sopiee, 118
North Borneo, 113
Anglo-Dutch boundary. See Anglo-Dutch boundary
Anglo-Spanish claims of suzerainty. See Anglo-Spanish claims colonial spheres, 46
1907 Exchange of Notes, 147–48
formation of Malaysia on 1963, 148
Madrid Protocol, 1885, 47
Malaysia acquired sovereignty, 148
map of, 87
territorial rights in, 146
transfer of, 148
North Borneo-Philippines Sea Boundary
BNBC, 97
Boundary Convention, 1930, 94–96
Company's jurisdiction, 72–74
Exchange of Notes, 1907, 81–86
Malaysia, 98
negotiations for, 90–94
proclaimed sovereignty, islands, 80–81
transfer of islands by the Sultan of Sulu to BNBC, 1903, 79–80
Treaty of Paris, 1898, 74–79
Turtle Islands group, 86–90
United States, 71
O
Oda, Shigeru, 160
opium, 20, 24, 88
Opium War, 30, 43n41
Osment, Nicasio, 120
Osment, Sergio, 107
Overbeck, Gustavus Baron von, 32–36
Overbeck-Dent Association (ODA), 4, 26, 33–36, 119, 136, 181
in North Borneo, 47, 49
Sultan of Sulu, 54
validity of, 47
INDEX

P
Pangkor Agreement, 1874, 113
Papal Bull of 1493, 17
Party Rakyat Brunei (PRB), 119
Patani, 19
Pearson, A.C., 89
Pedra Branca case, 11, 175, 181, 182, 185–87
see also Pulau Batu Puteh case
Peel, Sir Robert, 30
Perak, 113
Permanent Court of Arbitration (PCA), 8–9
Persarekatan National Indonesia (PNI), 110
Peta Baru, 11
Philippines, 8, 9
claim over Sabah, 17, 48, 120, 122, 181
Commodore George Dewey, 106, 107
Hong Kong, 106
Jones Law, 1916, 107
Katipunan, 106
Spanish rule, 105–6
the US Era, 1898–1946, 107–8
"police action", 111
Pretyman, William, 34, 35, 44n55
Protectorate Agreement with North Borneo, 1888, 37–38
Pryer, William B., 34, 39, 47, 49
Pulau Batu Puteh case, 175, 177, 178, 182
see also Pedra Branca case
Pulau Pisang, 185

Q
Quezon, Manuel L., 107, 108

R
Raffles, Thomas Stamford, 21, 27
Rizal, Jose, 106
Root, Elihu, 85, 86, 101n40, 209
Roxas, Manuel, 107, 108
Rumbold, Sir Horace, 61, 132, 140

S
Sabah
divided into Brunei and Sulu spheres, 24–25
formerly North Borneo, 4, 113
Malaysia scheme 1963, 121
Philippines’ claim, 17, 48, 120, 122, 181
Sultan of Sulu’s rights, 33
Sarawak
Anti-Cession Movement, 115
British protectorates, 37–38
British sovereignty, 43
establishment of James Brooke, 29–31
Greater Malaya, 120
Malaysia scheme 1963, 121
rebellion in, 43n43
self-government, 122
“White Rajahs”, 112, 124n26
Sarawak Communist Clandestine Organization, 119
Sarekat Islam (SI), 110
Schepers, J.H.G., 62, 200
Sebatik Island, 28, 57, 66
boundary delimitation exercise, 1913–14, 63–64
boundary line, 66, 130, 139, 155, 166
partitioning of, 58
“security theory”, 118
Semporna Region map, 7
Separan Island, 25
Sibuku Bay map, 83
Sibuku Island, 49
Sibuku River, 33, 39, 49, 51–54, 146
Sino-Japanese War, 1894–95, 181, 188n9
Sipadan Island, see also Ligitan Island
acquisition of sovereignty, 146–48
administration under Semporna
District, 39
bird sanctuary, 5, 41, 150, 152, 171
hydrographic notes, 81
ICJ’s judgment, 161, 172
Indonesian inactivity, 151–54
Indonesia’s claim, 127–40
Indonesia’s effectivités, 133–34, 140, 161, 170–71
lighthouses, 5, 41, 150–51, 172
location, 1, 3
Malaysia’s claim, 144–58
Malaysia’s effectivités, 162, 171–72
Malaysia’s sovereignty, 155–57
map evidence, 157–58, 167
peaceful possession, 149–51
sovereignty claims, 11–13
treaty-based title dismissed, 170
turtle eggs collection, 4, 40–41
Sipadan Water Village, 5
South China Sea, 8, 9, 11, 12
South Ledge case, 175, 187
Southeast Asia
European powers, arrival in, 16
European spheres of influence, 17–22
Japanese Occupation, 113
maritime claims, 6
successor states, 105
territorial disputes, 12
Spanish–American War, 1898, 48–49, 74, 137
Spanish rule over the Philippines, 105–7
Spanish sphere, 16, 17, 25–26, 46
Spratly Islands, 8, 11
Straits of Malacca, 6, 11
Straits of Singapore, 22
Straits Settlements, 112, 114
Suharto, 13
Sulu Grants, 1878, 4, 33–35, 146
Sulu Protocol, 1877, 48
Sulu Sea, 6, 48
Sulu Sultanate, 145–46
Overbeck-Dent Association, 136
regional power, 24–25
sovereignty over islands, 146, 180s
surrendered sovereignty, 107–8
Swettenham, J.A., 72
T
Taft, W.H., 78
Taganac Island, 72, 79, 80, 88–91
Tarakan Island, 166, 168
Tawau Residency, 39, 149
Tawau River, 27, 46, 49, 54, 55, 128, 152
Tempasuk, 24, 26, 35
Territorial Waters and Continental Shelf Boundaries of Malaysia, 11
three marine leagues limit, 39, 72, 78, 94, 97, 98n2, 136, 147, 155
Torrey, Joseph W., 32
Treacher, W.H., 33–36, 39, 52, 53
Treaty of Amity and Cooperation (TAC), 1976, 12
Treaty of Nanking, 1842, 30
Treaty of Paris, 1898, 49, 67n9, 74–77, 80, 107, 137, 147, 168, 181
Treaty of Saragossa, 1529, 18
Treaty of Shimonoseki, 1895, 181
Treaty of Tordesillas, 1494, 17, 18
Tregonning, K.G., 20
Truman, Harry S., 10
Tunku Abdul Rahman, 113, 117, 118, 119, 120
Turtle Islands
American takeover, 88, 90, 96, 108
Boundary Convention, 1930, 94
location, 98n2
Philippines takeover, 97
turtle eggs collection, 3–5, 40, 78, 152
regulation and control, 149–50, 171–72
INDEX

Turtle Preservation Ordinance, 1917, 41, 150, 153–54
Tydings-McDuffie Act, 1934, 89, 108

U
Unfederated Malay States, 114
United Malays National Organization (UMNO), 115
United Nations (UN), 10
United Nations Conference on the Law of Sea (UNCLOS), 6, 9, 10, 123, 176
United Nations Continental Shelf Convention, 1958, 9, 123
United States, 8, 10, 13, 32
cession of the Philippines from Spain, 49, 107
sovereignty over North Bornean islands, 80–81
takeover of the Philippines, 71, 74–79

Treaty of Paris, 1898, 49, 76, 107, 137, 147
Turtle Islands takeover, 88, 90, 96, 108
war with Spain, 106

V
Vienna Convention, 165
Villiers, F.H., 82, 84
Vreede, E.A., 62

W
Washington Naval Treaty, 90
Watts, Sir Arthur, 128–133
Weedon, W.C. Moores, 63
Weeramantry, Christopher Gregory, 160
West Coast Residency, 35, 39
"White Rajahs", 112, 113, 124n26
Witti, Ference Xavier, 51–52, 68n17
Wong Kim Min, James, 122, 126n57
Wood, Leonard, 108