

MALAY RESERVATION ENACTMENTS -  
METHOD OF SECURING THE  
RIGHTS AND INTEREST OF  
MALAYS IN LAND

BY

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## P R E F A C E.

ALAM SELANGOR.

Malay Reservation was not an intended topic of my project paper until I came across an interesting article by Mr. Lim Kean Siew - title 'Can non-Malays hold charges over Malay Rights in Malay Reservations Land to secure their interest? Although I have heard of remarks of dissatisfaction by Malay land owners regarding Malay Reservation, I thought the problems merely created by those minor groups who intended to 'make a mountain out of a mole hill.'

When the project paper was imposed on every final year students, and upon spotting the article by Mr. Lim Kean Siew, it gave me the interest and idea to write on this topic with the intention of highlighting the adequacy or otherwise of Laws pertaining Malay Reservations in securing the Malays their interests in land in Peninsular Malaysia, also to see the extent of developments, problems, as well as to look into various ways of overcoming problems pertaining to the land.

I should have known that interest alone is insufficient to make a worthwhile reading project paper and reference books on this topic is scarcely written. However, I owe my courage in pushing it through to much encouragement and guidance from Encik Hamzah bin Hj. Kassim, a lawyer who was also my Supervisor during my practical training in my second year.

I am also deeply indebted to Mrs. Subhan the Supervisor of my Project Paper for the inspiration and help in laying out the basic material to work on.

My special thanks also extends to Encik Mohd Afandi Ismail (Penolong Pengarah Kanan, Seksyen Latihan, Bahagian Pentadbiran

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Although I have not really gathered much from my trip to the National Archive, nevertheless I would like to thank Puan Azizah, personal Assistant to the Director General for allowing me to make use of the library.

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### ABSTRACT.

Problems in Malay Reservation land were to exist from the very day the Enactment was passed. However, it is only today that such problems are vividly seen as more and more Malay Reservations are slipping into the hands of non-Malays. Each state has exclusive Enactment to provide laws in protecting Malay rights and interest in land by laying out prohibitions on dealings between the Malays and non-Malays. However, the enforcement of the Enactments must be read so as to suit the government policies in its bid to improve the Malays economics. Consequently Malay title or interest in such land can now be charged to non-Malay by way of **security**.

In spite of the flexibility in law Malay Reservation land also possesses other serious problems of very slow development rate, black-market dealings, poor locations and economical social and political weaknesses of the Malays themselves. Because the Malays are dependent on their land there is a need to stress for economic development among the Malays in general. This can be done through the intensive implementation of the New Economic Policy, some modifications on the customary law and the National Land Code.

## CHAPTER 1

### INTRODUCTION

#### A. HISTORICAL BACKGROUND OF MALAY RESERVATION LAND.

It is often asked as to why there is a need for special laws to secure land owned by the Malays.

Historically, land in this country belonged to the Malay Rulers, long before the coming and intervention of British in the Malay States. The Malay Rulers have distributed the land among members of their royal families, state dignatories and the Malay farmers. The Malay farmers in turn cultivated the land.

It should be noted that the system of land tenure then in force, was that of Malay Customary tenure. The principles of this system were set down in the Malay Digest. Maxwell describes the incident of this tenure under which the ruler could own land (although a cultivator had a certain proprietary rights) as one in which

"..... the malay cultivator can transfer only the interest in land which he himself possesses, that interest ..... is merely a permanent and inheritable right of occupation, conditional on continuous occupation of land on the payment of the tenths and taxes, and on rendering of certain customary services; and ..... the price to be paid has no reference to the value of land itself ..... but is calculated if garden land by estimating the value of the fruit trees or if paid (i.e. rice field) land, by assessing at a reasonable sum the probable value of the labour bestowed by the first cultivator in clearing the forest and bringing the field into cultivation"..

Matters of succession to land were decided according to syariah