

OFFICIAL SECRETS ACT - A COMMENTARY

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CHAPTER ONE

INTRODUCTION

General

The Official Secrets Act 1972 (Revised 1986) is modelled on the Official Secrets Act 1911 of England. The English Act, an anti espionage legacy of pre World War 1, was enacted in the wake of hysteria leading up to the outbreak of the war. Never in the history of Malaysia has a Bill generated as much interest, debate and controversy as the Official Secrets (Amendment) Bill 1986. The OSA crisis had attracted much attention and criticism from the general public, especially the political parties.

The OSA 1972 received the Royal Assent on 26th Sept. 1972 and was subsequently published in the Gazette on 30th Sept 1972. In its original form, the Act was first amended in 1983. A second amendment followed in March 1986 and subsequently the third in October 1986, culminating into the most controversial piece of legislation ever proposed by the Government since Independence in 1957.

Much has been said and written about the Bill. The widespread publicity and serious attention given by certain interested groups and the general public at large clearly demonstrate a truly "living society" with sense of political maturity and responsibility that prevails within the multi-racial society of Malaysia. The Government, as the proposer of the Bill, has come under severe attacks from interested groups and individuals. One of the reasons raised in defence of the passing of the Bill was the need to provide the Act with sufficient power to make it an effective deterrent to anti-Nationals and greedy mercenaries who allegedly are prepared to damage the security or national interests of the Nation for personal gains. At the same time, it is

argued, the Act must be improved to ensure that no one is confused over what constitutes official secrets.

To the opposition, which is comprised of political as well as non-political organisation, the passage of the Bill was the death knell of democracy in Malaysia. The OSA 1972 according to them, drafted in its widest possible terms, is not limited in its operation to spies, suboteurs, traitors and mercenaries. Rather it affects all persons and bodies who have contact with any governmental organisation, whether Federal or State. Malaysia it is asserted, would develop into a Police State. It is argued that a climate of fear would prevail in the minds of the citizens. The psychological impact would be overpowering. The population would be cowed and the generations of Malaysians would grow up not daring to express any view on any matter pertaining to the government.

The public, according to the opposition, should be educated of their rights and the constant danger to the continued existence of those rights. They should be made to appreciate that the price of liberty is eternal vigilance. And in support of such contention the opposition quoted what Woodrow Wilson¹ said,

"Liberty has never come from the government. Liberty has always come from the subjects of the government. The history of liberty is a history of resistance. The history of liberty is a history of the limitation of governmental power, not the increase of it."

1. President of the United States of America during the First World War.