

PROTECTION OF MINORITY SHAREHOLDERS

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The law is discussed as it stands as from the date of the paper.

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## CHAPTER ONE

### Introduction

In Malaysia, like any other country, the establishment of companies is governed by the Companies Act which was adopted with some modification from the English Companies Act 1929. The English Companies Act 1929 was based on the Joint Stock Companies Act 1844 which laid the principle of incorporation as a basis of modern company law. Reforms have been made to the English Companies Act for quite a number of times as well as the Malaysian Companies Act. The latest amendments and certain new provisions have also been made to the Malaysian Companies Act and these were effective as from 25th April 1986.-

Our Companies Act 1965 derived its origin from the English Companies Act. We follow English decision to a considerable extent. The Companies Act deals mainly with the organisation of the company, its creation, constitution, relationship to members and creditors, its management and winding up and dissolution. The essence of the Companies Act is not only to regulate the management and the procedural aspects of the Companies Act but also to act as a shield to protect the general public, the shareholders and creditors of the company. In reaching up to certain authorities of the law, we will refer from time to time to English decisions.

In a company, there are members who hold more shares than the others, who can influence companies' policies and these people are known as majority shareholders/ The other shareholders of the same company, since they hold considerably less shares are known as the minority share holders.' A company will often have a Board of Directors who will be running and managing the company in their own fashion without regard to the minority rights,tases have been shown that the companies were controlled by the majority share holders and if the minority shareholders were discounted with the manner in which the company was being managed or conducted, then the proper remedy was to sell or transfer their shares. In the process of achieving such act, the tendency is that the majority may force the minority to transfer their shares. These minority then need protection.

The minority shareholders are often in due peril of being cheated out of their money if there are no statutory protection of these minority shareholders, people will think twice about investing in companies. Large malpractices and fraud often practised on unsuspecting shareholders, who have very little means of protecting their rights. J

Therefore, in the light of this problem the minority shareholders should be given sufficient protection. Some kind of protections and rights shall be discussed under the minority shareholders' action which include the common law and statutory protection.

i. Scope

This project paper is presented in 4 substantial chapters (excluding the introduction and conclusion), each chapter giving separate view of the protection of minority shareholders.

Chapter Two deals with the reception of Common Law of England made possibly of Section 3 and Section 5 of the Civil Law Act 1956. Then the Common Law rule is discussed with reference to the rule in *Foss v Hanbottle*; its application and implication.

Chapter Three plunges into the various minority shareholders action; considering the various problems faced by the minority shareholders, which include its exceptions.

Chapter Four specifically deals with the most important protection for the minority shareholders; the scope of Section 181 Companies Act 1965. Oppression is one of the areas in company law that needs attention when dealing with minority protection. The aggrieved minority may seek the remedy under Section 181 for that matter.