

CURRENT ESSENTIAL ISSUES IN THE MALAYSIAN LAW OF EVIDENCE

Editor
Akram Shair Mohamed

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Contents

Foreword	vii
Author's Profile	ix
Chapter 1 : <i>A Brief Critical Appraisal of the Hearsay Rule</i> <i>Mohd Akram Shair Mohamed & Zulfakar Ramlee</i>	 1
Chapter 2 : <i>Entrapment as a Defence: A Brief Overview of the Law in England, Australia, Canada, New Zealand, Malaysia, Singapore and USA</i> <i>Mohd Akram Shair Mohamed & Mohammad Ismail Mohd Yunus</i>	 13
Chapter 3 : <i>Evidence of an Accomplice : Does it Require Corroboration?</i> <i>Mohd Akram Shair Mohamed</i>	 19
Chapter 4 : <i>Standard of Proof Required to Prove Fraud in Civil Cases</i> <i>Mohd Akram Shair Mohamed</i>	 29
Chapter 5 : <i>Judicial Exegesis of the Term Prima Facie Case in Section 180 of the Amended Criminal Procedure Code</i> <i>Mohd Akram Shair Mohamed</i>	 37
Chapter 6 : <i>Presumption of Legitimacy Under Section 112 of the Evidence Act 1950</i> <i>Leptospirosis</i> <i>Mohd Akram Shair Mohamed & Zulfakar Ramlee</i>	 45
Chapter 7 : <i>Shedding the res gestae Doctrine of its Legally Formalistic Fetters</i> <i>Mohd Akram Shair Mohamed & Shahnaz Zuriati Sabri</i>	 53

Chapter 8 :*The Admissibility of Unfair or Illegally Obtained Evidence:**A Brief Overview*

65

*Mohd Akram Shair Mohamed & Shahnaz Zuriati Sabri***Chapter 9 :***The Nature and Scope of Marital Privilege Under**the Evidence Act 1950*

73

*Mohd Akram Shair Mohamed***Chapter 10 :***The Role of Corroboration under the Evidence Act 1950*

81

*Mohd Akram Shair Mohamed & Zulfakar Ramlee***Chapter 11 :***The Evidential Weight of Document Generated by Computer:**A Comparative Legal Appraisal*

87

Mohd Ismail Mohd Yunus

Chapter 1

A BRIEF CRITICAL APPRAISAL OF THE HEARSAY RULE

Mohd Akram Shair Mohamed & Zulfakar Ramlee

The rule against hearsay evidence is one of the most characteristic features of any common system of evidence. According to Wigmore, the rule was recognized by the end of the 17th Century (Vol v (Chadbourn rev. 1974) pp 12 et seq.). However it only became a rigid doctrine after the middle of the 18th century (S. Landsman, “The Rise of the Contentious Spirit: Adversary Procedure in Eighteenth Century England” (1990) 75 Cornell L.R 497 at 564 – 572 showing the gradual entrenchment of the rule in trial courts during the eighteenth century). The rule has remained one of the cornerstones of the common law of the evidence. As said earlier the rule has a deserved reputation for being technical and difficult. (I.H. Dennis (The Law of Evidence Second edn Sweet & Maxwell, p. 541) said that it has puzzled generation of students and sometimes provoked judicial confusion (as in Pettigrew