

CURRENT
ESSENTIAL ISSUES IN
THE MALAYSIAN
LAW OF EVIDENCE

Editor
Akram Shair Mohamed

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Chapter 6

PRESUMPTION OF LEGITIMACY UNDER SECTION 112 OF THE EVIDENCE ACT 1950

Mohd Akram Shair Mohamed & Zulfakar Ramlee

It has been said that “Presumptions ... may be looked on as the bats of the law, flitting in the twilight, but disappearing in the sunshine of actual facts.”¹ And the exact nature of presumptions and their classification are so nebulous that, as Edmund Morgan says, “Every writer of sufficient intelligence to appreciate the difficulties of the subject matter has approached the topic of presumptions with a sense of hopelessness and has left it with a feeling of despair.”² Despite these misgivings, the drafter of the Evidence Act 1950 has wisely simplified presumptions into these types; *viz* presumptions of fact, rebuttable presumptions of law, and conclusive or irrebuttable presumptions of

1 Wigmore on Evidence, 3rd Edition, 1940, vol. 9, p. 291 cited in *Garfath v Garfath* (1959) 59 SR (NSW) 362 at 363.

2 (1937) 12 Washington Law Review 255 at 255.