

THE HEARSAY EVIDENCE AND SOME OF ITS EXCEPTION

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GENERAL INTRODUCTION

The first Chapter in this project paper touches on Hearsay Evidence as an introduction, the requirement of Oral Evidence and also distinction between direct evidence and Hearsay Evidence. Statements of non witness will also be discussed.

In Chapter II - History of the rule will be laid down and some point on the history of the Exception.

Inadmissible Hearsay can be seen in Chapter III. To give a better view some simple cases were cited.

Chapter IV a general view of the exception to the rule (only that are to be discussed in this paper) are laid down. This is to give the reader a better view of what will be discussed in the next chapter.

Chapter V mainly focused on section 6 of the Evidence Act 1950 : the relevancy of the fact forming part of some transaction and its requirements.

Chapter 1HEARSAY EVIDENCEIntroduction

It is a general principal in the law of evidence that if any fact is to be proved against anyone, it ought to be proved in his presence by the testimony of a witness sworn to speak the truth; so that the person who is to be affected by the evidence has an opportunity of the witness as to his means of knowledge, and concerning his statement.¹

In its legal sense "hearsay" evidence is all evidence which does not derive its value solely from the credit given to the witness himself, but which rests also in part, on the veracity and competence of some other person.²

Phipson³ defines it as an oral or written statement made by persons who are not parties and are not called as witnesses. These statements are inadmissible to prove the truth of the matter stated.

It is an assertion made by a person not giving evidence of the facts asserted, i.e., the truth of the assertion.⁴

¹Jowitt's Dictionary of English Law.

²Taylor on Evidence, 12th ed, 363.

³Phipson, A Manual of the law of Evidence, 11th edition.

⁴Celia Hampton, Criminal Procedure and Evidence.

The term "hearsay" is ambiguous and misleading and it has therefore been purposely excluded from the Evidence Act. It does not appear anywhere in the Act. Lord Reid expressed the view that it was difficult to make any general statement about the law relating to hearsay which was entirely accurate.⁵ The word "hearsay" is used in various senses. Sometimes it means whatever a person declares on information given by someone else.

The general hearsay rule is that a statement made by a person not called as a witness is inadmissible to prove the truth of the facts and extends to oral evidence as to statements in documents. Best evidence must always be given. It is always desirable in the interest of justice to get the person whose statement is relied upon into court for its examination in the regular way in order source of inaccuracy can be best brought to light and exposed by test of cross-examination.

Requirement of Oral Evidence

As it has been said that oral evidence is the best evidence. In all cases notwithstanding nature of the cases the evidence must be a direct one. Section 60 of Evidence Act 1950 clearly states on this point:

- (1) Oral evidence shall in all cases whatever be direct, that is to say -
 - (a) if it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

⁵Meyers v Director of Public Prosecutions (1965)AC 1001 at 1019