

one of the well established rules of evidence, hearsay evidence will be admitted. It is not of moment here to consider the reason, historical or logical, of this exception to the general rule—if, indeed, it be not a survival of an older condition of the rules of evidence in this class of cases—having excepted the somewhat artificial restriction which has been imposed on evidence in general. The so-called rule and so-called exception are thoroughly established in any event. The declarations admitted are made: (1) by deceased members of the family; (2) *ante litem motam*, and (3) not obvious for his own interest. *Attorney-General v. Kohler*, 9 H. L. C. 654, 670, *Landerdale Peerage Case* (1885), 10 A. C. 692; *Gee v. Ward*, 7 E. & B. 509; *Plant v. Taylor*, 7 H. & N. 211, 238; *Dysant Peerage Case*, 6 A. C. 489. “The natural effusions of a party who must know the truth, and who speaks upon an occasion when his mind stands in an even position without any temptation to exceed or fall short of its truth” are accepted as evidence, per Lord Eldon, L.C., in *White Locke v. Baker* (1807), 13 Ves. 514.

*Monkton v. Attorney-General* (1831), 2 R. & M. 160. There may be some doubt as to the degree and view of relationship in the person declaring which will permit the declaration being effective as evidence. There is no doubt an illegitimate member of the family is not within the rule.

*Doe d. Bamford v. Barton*, 2 M. & Rob. 28, but a connection by marriage is said to be sufficient. *Doe d. Nuthey v. Harvey*, 1 Ry. & Mad. 297; *Doe d. Fulton v. Randall*, 2 Mad. & P. 20. I thought it safer to exclude this latter, but this exclusion did not affect the result.

I find that Penelope, the putative mother, did say that she had taken Sarah to bring her up, etc., that it was well known in the family that she was not one of the family, but an outsider, and in the evidence called for the defence, I must find that she was not the daughter of Penelope Woods, although her position was made as pleasant for her as possible, and her want of kinship to her putative relations was not unnecessarily flaunted.

Mrs. Amanda Brown, her daughter, claims to be a next of kin of Edward Woods; the administrator of Edward Woods estate denies this. I thought it proper to make an order at the trial that the administrator should represent all persons who have an interest in disputing Mrs. Brown's kinship. And I find in favour of the defendant as to costs,