The two cases quoted in Sir James Stephen's "Digest of the Law of Evidence," as authorities for the proposition that hearsay is in general inadmissible testimony, are: *Sturla* v. *Freccia*, L. R. 5 App. Cas. 623, and *Stobart* v. *Dryden* 1 M. & W. 615. *Sturla* v. *Freccia* was a suit to ascertain the next-of-kin of an intestate; the principal question was as to the identity of Mangini, the father of the intestate, with a person of that name who was born at Quarto, near Geneva. Mangini had applied to his Government, in 1789, to be appointed diplomatic agent in England. His Government handed his application over to a committee for report as to the propriety of the appointment. In the course of the report which was rendered he was described as "a native of Quarto, of about forty-five years of age," and it was also stated that the facts had been ascertained from persons well acquainted with him. The House of Lords held that this report was inadmissible on the ground that it was hearsay evidence, and not within any of the recognized exceptions. In this case there was strong suspicion that the report had been tampered with, and it is very likely that a judge or a jury would not have been satisfied to accept its statements; but to decide that this document was not to be considered by the tribunal at all, never mind how unimpeachable it might have been, was a decision as entirely contrary to one's ideas of the common-sense way of conducting an inquiry into the birthplace and identity of Mangini, as it might have conduced to a wrong decision on the facts if the document had been irreproachable. We think that a perusal of *Stobart* v. *Dryden* will also lead to the conclusion that the evidence rejected as hearsay ought to have been submitted to the jury.

It is frequently contended that a legal inquiry must, in its nature, be of a different character to an inquiry in common life, but we fail to see any essential difference as regards the kind of testimony which should be admitted, or only hearsay should be suppressed before a court of justice when it is often valuable testimony in the affairs of every-day life and a large part of the business of the world is carried on upon hearsay statements. In a court of justice there are greater powers for the discovery of the whole facts by the compulsory examination and cross-examination of witnesses, and the production of documents, hence the greater facility to detect fraud. If, therefore, hearsay is accepted outside a court of law as valuable testimony it certainly ought to be accepted inside.

As no one would now propose a return to the old system of excluding witnesses as incompetent, on the ground of interest, so we contend that if hearsay were once admitted no one would suggest a return to the present cumbrous rules by which it is rejected as incompetent. The exclusion of witnesses and the exclusion of hearsay have both arisen from the same mistrust of the discernment of juries. The exclusion of witnesses has been shown to be a mistake by experience, though long strenuously opposed by great authorities; we believe that the admission of hearsay would also be justified by experience.

The rejection of hearsay proceeds upon principles and exceptions which are extremely difficult of apprehension and which have no counterpart in common life. The rejection of hearsay often leads to the suppression of most important and valuable testimony. The very cases which are the authorities for the rejection are examples of the injustice of this practice.

The attention of jurymen is strained and often defeated by the discontinuity in the proof of a witness; the witness himself is flurried by constant interruptions in the thread of his evidence; full reports of conversations often become impossible; a fraudulent witness is less easily detected in his evasions or perjury because his narrative is so artifically told, and thereby the rejection of hearsay often becomes the cover of fraud.—*Law Quarterly Review.*