

CURRENT ESSENTIAL ISSUES IN THE MALAYSIAN LAW OF EVIDENCE

Editor
Akram Shair Mohamed

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SHEDDING THE RES GESTAE DOCTRINE OF ITS LEGALLY FORMALISTIC FETTERS

Mohd Akram Shair Mohamed & Shahnaz Zuriati Sabri

The common law's pathological dread of manufactured evidence in the 19th century led to the creation of the rule against hearsay. The rationale for the exclusionary rule was vividly described by Lord Normand in 1952 in an oft quoted passage in *Teper v R*¹, that hearsay evidence is excluded because : It is not the best evidence and it is not delivered on oath.

The truthfulness and accuracy of the person whose words are spoken to by another witness cannot be tested by cross-examination and the light which his demeanour would throw on his testimony is lost. This passage was approved by the Federal Court in *Leong*

¹ ...[1952]AC 480 at 486