

Evidence Act S. 32(5)

Statements or declarations before persons of competent knowledge made ante litem motam are receivable to prove ancient rights of a public or general nature

Halsbury's Laws of England (Vol. 15 : 3rd Edn. p. 308) where the following statement is to be found :

"Declarations by deceased persons of competent knowledge made ante litem motam, are receivable to prove ancient right of a public or general nature. The admission of declarations as to those rights is allowed partly on the ground of necessity, since without such evidence ancient rights could rarely be established ; and partly on the ground that the public nature of the rights minimises the risks of misstatement."

In para 562 at p. 308 of Halsbury's Laws of England the following statement is made :

"To obviate bias, the declarations must have been made ante litem motam, which means not merely before the commencement of legal proceedings, but before even the existence of any actual controversy, concerning the subject-matter of the declarations. So strictly has this requirement been enforced that the fact that such a dispute was unknown to the declarant, or was fraudulently begun with a view to shutting out his declarations, has been held immaterial."