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# West Virginia Law Review

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## STUDENT NOTES

### BUSINESS RECORDS AS EVIDENCE IN WEST VIRGINIA

"Hearsay evidence is testimony in court or *written evidence*, of a statement made out of court, such statement being offered as an assertion to show the truth of matters asserted therein, and thus resting for its value upon the credibility of the out-of-court asserter."<sup>1</sup> As a general rule, hearsay evidence is inadmissible.<sup>2</sup> There are many exceptions to the hearsay rule,<sup>3</sup> one of which is broadly termed the "regular entries" exception.<sup>4</sup> This exception has two branches: (1) the so-called "shopbook" rule, which deals with entries by a litigant in his own books, and (2) the so-called "regular entries" rule, which originally dealt only with entries made by one not a party to the suit, but now also deals with entries made by a litigant.<sup>5</sup> There is now no justification for the existence of two

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<sup>1</sup> McCORMICK, HANDBOOK OF THE LAW OF EVIDENCE § 225, at 460 (1950) (emphasis added).

<sup>2</sup> Rohrbaugh v. Rohrbaugh, 136 W. Va. 708, 68 S.E.2d 361 (1951); Wade v. Haught, 112 W. Va. 469, 164 S.E. 662 (1932); Charlton v. Pancake, 98 W. Va. 363, 127 S.E. 70 (1925). Thayer theorizes that the hearsay rule is but an exception to the rule that "whatsoever is relevant is admissible". THAYER, A PRELIMINARY TREATISE ON EVIDENCE AT THE COMMON LAW 522 (1898).

<sup>3</sup> The Uniform Rules of Evidence list thirty-one exceptions.

<sup>4</sup> 5 WIGMORE, EVIDENCE § 1517 (3d ed. 1940).

<sup>5</sup> Norville, *The Uniform Business Records as Evidence Act*, 27 ORE. L. REV. 188, 189 (1948).