

Rule 617. Conversation with Deceased or Insane Person

A witness is not precluded from giving evidence of or concerning any conversations with, or admissions of a deceased or insane party or person merely because the witness is a party to the action or a person interested in the event thereof.

(Former Rule 616 redesignated as Rule 617 effective January 1, 1990.)

Committee Comment - 1989

This rule, former Minn. R. Evid. 616, was renumbered to permit the inclusion of Rule 616, Bias of Witness, in a manner consistent with the organization of the Uniform Rules of Evidence. This rule supersedes Minnesota Statutes 1974, section 595.04, which is known to the bench and bar of Minnesota as the "Dead Man's Statute." The purpose of this statute was to reduce the possibility of perjury in cases of this type. However, the statute was subject to all the problems and potential for injustice which are inherent in a rule which excludes otherwise admissible evidence.

*The evidentiary rule represents a considered opinion that the protection which the statute had offered to decedents' estates was not sufficient to justify the problems it created for honest litigants with legitimate claims. Much of the rationale for abolishing the "Dead Man's Statute" is set out in detail in *In re Estate of Lea*, 301 Minn. 253, 222 N.W.2d 92 (1974).*