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UYO STUDY CENTRE  
REVISED NOTES**

**Programming:** Law (Degree)

**Course Title:** Law of Evidence I

**Course Code:** LAW 445

**Course Facilitator:** Onyekachi Wisdom Duru Esq.\*

## **1.0. DEFINITION AND SOURCES OF LAW OF EVIDENCE**

### **1.1. Definitions of the Law of Evidence**

The Law of Evidence is concerned principally with what and how facts or materials are admissible in order to prove something that is in dispute. The Law of Evidence relates to the proof of facts before the court and this involves; (a) who may prove a fact; (b) how facts may be proved, and (c) what facts may not be proved in a court of law. According to Professor Stephen the Law of Evidence is "that part of the Law of Procedure which, with a view to ascertaining individual rights and liabilities in particular cases, decides; (1) what facts may, and what may not be proved in such cases; (2) what sort of evidence must be given of a fact, which may be proved; and (3) by whom and in what manner the evidence must be produced by which any fact is to be proved. Thus, Evidence is the foundation of proof.

Other definitions of the Law of Evidence include; (a) According to **Taylor** evidence is "all legal means, exclusive of mere argument, which tend to prove or disprove any matter of fact; the truth of which is submitted to judicial investigation"; (b) according to **McKelvey**, Evidence is any matter of fact from which an inference may be drawn as to another matter of fact; the former fact is called the evidential fact; the latter, the ultimate, main or principal; (c) according to **Nokes**; Evidence means "Judicial evidence consisting of (1) facts which are legally admissible, and (2) The legal means of attempting to prove such facts; (d) according to **Philpison**, evidence means the testimony, whether **oral, documentary or real**, which may be legally received in order to prove or disprove some facts is dispute; (e) according to **Cross**, evidence is the testimony, hearsay, documents, things, and facts, which a court will accept as evidence of the facts in issue in a given case; and (f) according to **Best**, evidence is "any matter of fact, the effect, tendency or design of which is, to produce in the mind, a persuasion, affirmative or disaffirmative, of the existence, of some other matter of facts."

From the foregoing, it is clear that **McKelvey's** definition is the reverse of Taylor's definition. **McKelvey** excludes methods of proof; He admits only the actual facts proved. Also, **Philpison's** definition is restricted to oral, documentary and real evidence. What about "presumption". A "presumption" is a conclusion which may or must be drawn until the contrary is

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