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**Course: BACHELOR IN COMPUTER FORENSIC**

## Question 1: Application of Res Gestae under the Evidence Act 1950

The doctrine of res gestae is embedded under Section 6 of the Evidence Act 1950, which states:  
  
“Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.”  
  
This section admits facts not directly in issue but so closely connected to the fact in issue that they form part of the same transaction. It is designed to avoid artificial separation of events and instead to reflect the natural flow of a transaction or occurrence.  
  
Application and Scope:  
The doctrine typically applies to spontaneous exclamations, immediate reactions, and actions closely tied to the primary event. For instance, a statement made during or immediately after an incident—without time for fabrication—may be considered part of the res gestae and thus admissible.  
  
Case Illustration:  
In a hit-and-run case in Subang Jaya, a pedestrian immediately shouted, “That black Proton just hit him and sped off!” moments after the incident. This real-time, spontaneous statement was admitted in court under Section 6 as part of the res gestae. The timing, setting, and lack of opportunity for fabrication established its relevance and reliability.  
  
Conclusion:  
Section 6 serves to ensure the integrity of evidence by admitting closely linked facts, thereby giving the court a full and fair view of the events. The principle is especially crucial in criminal cases involving continuous conduct or sudden acts.

## Question 2: Admissibility of Mark’s Statement under the Hearsay Rule

Mark’s testimony involves recounting what his housemate told him about the accused showing firearms. This is hearsay, as defined by the Evidence Act 1950, specifically under Section 60, which states that oral evidence must be direct.  
  
General Rule:  
Under Section 60, a witness may only testify to facts which they directly perceived. Statements made by others outside of court are inadmissible unless they fall under a recognised exception.  
  
Application to Mark’s Statement:  
Mark did not personally see the accused display firearms. His knowledge is second-hand, derived from his housemate. Since the housemate was not present in court to testify, Mark’s statement constitutes inadmissible hearsay.  
  
Case Illustration:  
In a Johor Bahru criminal case, a neighbour told police, “My sister saw the suspect bury a weapon.” The sister was not called to testify. The court ruled the statement inadmissible due to the hearsay rule, as the declarant was unavailable and no statutory exception applied.  
  
Conclusion:  
Mark’s statement is inadmissible unless the housemate is produced or an exception under Section 32 applies (e.g., the housemate is deceased or cannot be found). Otherwise, it violates the hearsay rule.

## Question 3: Exceptions to the Hearsay Rule (Sections 32, 33, and 34 of the Evidence Act 1950)

Section 32(1)(a)–(e): Statements by Persons Who Cannot Be Called as Witnesses  
Section 32 provides that statements made by persons who are dead, missing, or unable to testify may be admitted under specific conditions.  
  
(a) Dying Declarations  
Illustration: A student in Melaka, fatally stabbed, tells a bystander, “The man in the green hoodie stabbed me.” He dies minutes later. The statement is admissible.  
  
(b) Business Records  
Illustration: A nurse who passed away recorded a patient’s drug dosage in a hospital logbook. The entry is admissible as a business record.  
  
(c) Statement Against Interest  
Illustration: A deceased man admitted in a private message, “I forged the loan document.” It may be used against his estate.  
  
(d) Statement on Public Rights or Customs  
Illustration: A now-deceased village headman wrote about traditional land use in his journal. This is relevant to prove customary rights.  
  
(e) Family Relationships  
Illustration: A deceased aunt wrote in her will, “Amin, my brother’s adopted son, has lived with me since birth.” This may prove kinship.  
  
Section 33: Evidence Given in Former Proceedings  
Section 33 permits prior testimony to be used if the witness cannot testify and:  
- The previous case involved the same parties,  
- The opposing party had the chance to cross-examine, and  
- The issues were substantially the same.  
  
Illustration: A forensic expert’s testimony in a prior drug trial was admitted in a retrial after his death, satisfying Section 33 requirements.  
  
Section 34: Entries in Books of Account  
Section 34 admits regularly kept business records, including digital ones. However, such entries cannot stand alone to establish liability.  
  
Illustration: A company’s database logs show unauthorised transactions linked to an employee. With supporting testimony verifying the logs’ authenticity, they are admissible.

## Final Conclusion

The general rule under the Evidence Act 1950 prohibits hearsay evidence to ensure reliability and fairness. However, Sections 6, 32, 33, and 34 provide crucial exceptions that allow relevant and trustworthy information to be considered even when direct evidence is unavailable. Courts must be cautious in applying these exceptions to ensure justice is served while upholding the integrity of the trial process.