Alexander Cannell

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CJ 2350

Professor Dempsey

Quote Analysis 2:

Husband and Wife Privilege

**Quote:**

“To foster marital harmony and to encourage a bond of confidentiality between wife and husband, English courts began in the early 1600’s to use the rule that a spouse could not be forced to testify against the other spouse. Today, all states and the federal government use the husband wife privilege (also known as the marital privilege), which originated before the United States became a nation.” – Criminal Evidence Principles and Cases, Page 130

**Re-Statement:**

In the early 1600’s English courts there was a privilege for husbands and wives. This husband and wife privilege is after the bonds of marriage, the spouse of the defendant was not obligated to testify against the defendant spouse. Today, both federal and state governments indoctrinated this English rule of husband and wife privileges into the United States after it became a nation.

**Analysis:**

Under the Rule 504 of the Article V Privileges it states, “Husband and wife are competent witnesses for or against each other in all cases, civil and criminal, except that unless otherwise specifically provided, neither shall be allowed to testify against the other as to any statement, conversation, letter or other communication made to the other or to another person, nor shall either be allowed in any case to testify as to any matter which in the opinion of the Court would lead to a violation of marital confidence”.(New Hampshaire, 2012)I like the Husband and Wife Privilege because I give the spouse the ability not to testify against the other spouse. I can imagine the drama that would occur if the spouse testified against the defending spouse which would probably end the relationship. I can also see the possibility of Husband and Wife Privilege to be a bad thing, with witness intimidation.

**Cited Works:**

Gardner, Thomas. Anderson, Terry. (2010). *Criminal Evidence Principles and Cases Seventh Edition*. Page 52. Wadsworth Cengage Learning. Belmont California.

*Rule 504. Husband and Wife Privilege.* March 10, 2012. New Hampshire Courts USA. 09/28/2012 http://www.courts.state.nh.us/rules/evid/evid-504.htm