

**58. Facts admitted need not be proved.**—No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

#### CHAPTER IV.— OF ORAL EVIDENCE

**59. Proof of facts by oral evidence.** — All facts, except the <sup>1</sup>[contents of documents or electronic records], may be proved by oral evidence.

**60. Oral evidence must be direct.** — Oral evidence must, in all cases whatever, be direct; that is to say —

if it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

if it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;

if it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;

if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds:

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:

Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.

#### CHAPTER V. — OF DOCUMENTARY EVIDENCE

**61. Proof of contents of documents.** — The contents of documents may be proved either by primary or by secondary evidence.

**62. Primary evidence.** — Primary evidence means the document itself produced for the inspection of the Court.

*Explanation 1.* —Where a document is executed in several parts, each part is primary evidence of the document.

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

*Explanation 2.* — Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.

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1. Subs. by Act 21 of 2000, s. 92 and the Second Schedule, for “Contents of documents” (w.e.f. 17-10-2000).