

obtain some useful admissions of fact, or at any rate obtain useful information as to the case you will have to meet at the trial.

There is another preliminary matter which is so important to the success or failure of the evidence in Court, that it must be referred to : that is, counsel's Advice on evidence.

The object of Advice on evidence is that the solicitor instructing you should know exactly what evidence will be necessary in Court.

Bearing this in mind, you will ascertain from the pleadings, documents and interrogatories, exactly what are the issues between the parties, and on whom the onus of proof in respect of each issue lies.

This, too, will be a convenient moment for making up your mind as to which party has the right to begin. Generally speaking, this is an advantage, and should therefore be claimed. It will depend on the pleadings, the general rule being that that party has the right to begin, which, in the absence of proof, would substantially fail in the action.*

Having set out the issues and the onus of proof in each case, you will then, from the facts and documentary evidence at your disposal, proceed to detail the witnesses or other evidence necessary to prove or rebut in each issue.

With regard to documentary evidence, something has been said above. Ordinarily a document can only be proved by production of the original. If, however, your opponent fails to comply with your notice to produce originals in his possession, you may prove them by secondary evidence. And there are certain classes of documents which, either at common law or by statute, may be proved by the production of copies.

These copies are either (i.) office copies, or (ii.) examined copies, or (iii.) certified copies.† It will, therefore, be

* Thus, if the damages be unliquidated, this alone will entitle the plaintiff to begin. *Mercer v. Whall*, 5 Q. B. 447.

† For a description of these various kinds of copies, and the documents