Illustration: with the club; (ii) a’s causing b’s

Illustration: A is tried for the murder of B, by beating him with a club, with the intention of causing his death. At A’s trial, the following facts are in issue —(i) A’s beating with the club; (ii) A’s causing B’s death by such beating; (iii) A’s intention to cause B’s death. However, it is also clarified that S. 5 would not enable any person to give evidence of a fact which he is disentitled to prove under the Civil Procedure Code.

Illustration: A suitor does not bring with him, and have in readiness for production, at the first hearing of the case, a bond on which he relies. The section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceeding, otherwise than in accordance with conditions prescribed by the Civil Procedure Code. Principle of Section 5: Evidence can be given of a fact only if it is either a fact in issue or one declared to be relevant under the following sections. Thus, evidence of all collateral facts which are incapable of affording any reasonable presumption as to the principle matters in dispute, are excluded in order to save public time. When the evidence is tendered, if it is prima facie admissible, it is for the other side to show that it is not admissible. If the Evidence Act prescribes a particular manner in which evidence is to be given, evidence must be given in that manner, and in no other manner. If under the Act, two alternative modes of giving evidence are permitted, and if before the second mode can be utilised, certain conditions must be fulfilled it is open to the parties to admit that those conditions are fulfilled, in which case the second manner of leading evidences is permitted under the Evidence Act. But the parties cannot, by consent, admit irrelevant evidence as relevant.

(Nathubhai v. Chhotubhai, A. I. R. 1962 Guj.

68) Evidence " And of No Others": The force of S. 5 lies in these four words occurring at the end of the section. These words exclude evidence of collateral facts which are incapable of affording any reasonable presumption regarding the facts in issue. They preclude a litigant from proving any facts which are not in issue, i. e.

, any facts which are not the principal matters in dispute or which are not declared to be relevant by the Act. Further, even if a fact is relevant, it will have to be proved in the proper manner as indicated in the Act. To take an example, secondary evidence of a document may be relevant, but is not admissible, unless the rules as to notice in S. 66 have been complied with. This section applies to examinations-in-chief as well as to cross-examinations. But it must be remembered that certain questions are admissible in cross-examination, even though the same questions are not admissible in the examination-in-chief. (This is discussed in Chapter IX.

) Case: In R. v. Vyapoory (8 CLR 197), the accused was charged with receiving illegal gratification from X & Co. on three specific occasions in 1876. It was shown to the Court that in 1876, 1877 and 1878, X & Co. were doing business as contractors, and that the accused was the Manager of their office. The point in question was whether the evidence of similar but unconnected instances of receiving illegal gratification from X & Co. in 1877 and 1878 were admissible against him.

The Court held in the negative, as such evidence was not admissible under the Act. Falsus in Uno, Falsus in Omnibus: This Latin maxim, which means ' False in one thing, false in everything', was once quite a favourite one with

the Law Courts. However, it is not now strictly adhered to. If it can, the Court must separate the truth from falsehood.

When the falsehood is merely an embroidery to the main story, the whole of the evidence of the witness should not be disbelieved. In the pursuit of justice, one cannot afford to chase the shadow and lose the substance. This maxim has not received general acceptance in the Law Courts. In its unqualified and undiluted form, it is no longer applied, even to criminal cases. In one Indian case, the Court went to the length of observing that the maxim is neither a sound rule of law nor a rule of practice. As Wigmore observes, it is even untrue to human nature. It is not correct to say that a person who tells a single lie is necessarily lying throughout his testimony. Once a liar is not necessarily always a liar.

Indeed, if the principle underlying the maxim is carried to its logical extreme, the administration of justice would come to a standstill.