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XXVIII.44 On proof by witnesses

- The Spirit of Law - Book XXVIII. On the origin and transformations of the civil laws among the French -

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The judges who had no other rules than practices usually informed themselves about them by witnesses on each question that came up.

As judicial combat was falling into disuse, inquiries were conducted in writing. But oral evidence written down is never more than oral evidence ; it was only increasing the costs of the procedure. Statutes were made that rendered most of these inquiries needless [1] ; public registers were established in which most of the facts were certified : nobility, age, legitimacy, marriage. Writing is a witness which it is difficult to corrupt ; they had the customs set down in writing. All that was quite reasonable : it is simpler to go look up in baptismal registers whether Pierre is the son of Paul than to go prove that fact with a long inquiry. When in any country there is a very large number of practices, it is simpler to write them all down in a code than to oblige individuals to prove every practice. Finally, they made the famous ordinance that prohibited the receiving of evidence by witnesses for a debt of more than a hundred livres, unless there was a beginning of proof in writing.

[1] See how age and family were proven in *Establishments*, book I, ch. lxxi-lxxii.