

CIVIL PROCEDURE BY JEFFREY PINSLER [Singapore: Butterworths, 1994. cxlvi + 1064 pp (including index). Hardcover: S\$401.70]

IN an article published in 1950, the Uruguayan jurist, Eduardo Couture, described the civil action as “civilisation’s substitute for vengeance”. He reasoned thus: “Primitive man’s reaction to injustice appears in the form of vengeance In its present form, this civilised substitute for vengeance consists in a legal power to resort to the court praying for something against a defendant”. The civil action therefore represents a non-violent means of resolving a dispute or a perceived injustice. Rules of procedure govern the conduct of the battle, and the necessity of a good grasp and understanding of the rules of procedure cannot be overemphasised. A civilised substitute it may be, but as Lord Denning put it in his distinctive and graphic style, “In litigation as in war. If one side makes a mistake, the other can take advantage of it. No holds are barred.” (*Burmah Oil Co v Bank of England* [1979] 1 WLR 473). Mr Pinsler’s book is a weapon which any litigation lawyer, be he a novice or an experienced litigation lawyer, would do well to include as part of his arsenal.

Mr Pinsler’s success with this book is all the more awe-inspiring in view of the existence of classic works such as the *Supreme Court Practice* and *Odger’s Principles of Pleading and Practice*. The *Supreme Court Practice*, so established an authority that it is often referred to simply as the “White Book”, has been around since its first edition (then known as the Annual Practice) in 1883. It is now published every two years with four cumulative supplements published at six-monthly intervals between editions. The First Edition of *Odger’s Principles of Pleading and Practice* was published in 1891; the most recent edition was published in 1993. Jeffrey Pinsler’s *Civil Procedure* deserves a slot between the White Book and *Odger’s* on any book shelf that he “tried to avoid too opinionated an account of the new subject-matter ...” taking instead the stand that “it is for the courts to show us the way as and when it is necessary”. Well-researched analysis and opinion is surely expected of a book like this. Happily, the instances where Mr Pinsler restrained himself in this respect (*eg*, in his treatment of some of the new provisions in section 34 Supreme Court of Judicature Act and Order 56 RSC) are few and do not detract from the overall value of the book.

As for the structure of the book, it contains a total of 35 Chapters fitted into 15 Parts. Chapter 1, the “Introduction”, contains sections on Time, Interlocutory Applications, and Affidavits, in addition to sections on Nature and Purpose of the Civil Proceeding, Organisation and Jurisdiction of the Courts, Sources of Procedure, and Effect of Non-Compliance with the Rules. Although a similar approach is taken in some other books (*eg*, *Halsbury’s Laws of England*, 4th Ed, Vol 37, and *Civil Procedure* by Langan & Henderson), personally, I prefer the approach in *Odger’s Principles of Pleading and Practice* of setting out in summary an overall perspective of a typical action. This gives the reader who is new to civil procedure a useful bird’s eye view of the civil action which, in my opinion, makes it easier for the reader to understand the various topics as he reads on. I have some doubts as to the perspective that a reader who is new to civil procedure obtains by plunging straight into topics such as time, interlocutory applications and affidavits, in the introductory chapter.

Otherwise, the topics in the book are complete and Mr Pinsler has also managed to include very useful and informative sections on addressing client’s needs, the advocate’s authority to act, the role of the judge, preparation of witnesses and other steps to take in preparation for trial, order of proceedings at trial, addressing the court, and presentation of the case. The chapter on reciprocal enforcement of judgments is also welcomed.

The index could be more detailed. It is sometimes difficult to locate where specific points are dealt with in the book with the present index. Being able to do so is important especially as the book is in part a reference work.

All in all, this book is highly recommended to students of the law as well as practitioners. However, the value of this book will diminish with time unless it continues to be updated to keep abreast of the continuing developments in our civil procedure. This book states the law as at 1 October 1993 and, already, there have been several significant decisions and amendments to the rules of procedure both in the Supreme Court and the Subordinate Courts. Of particular interest in the recent amendments to the Subordinate Courts Rules is the new Order 3A which empowers the court of its own motion to give directions for the “just, expeditious and economical disposal” of proceedings; this appears to be an exploratory step away from the traditional adversarial system. I share Mr V K Rajah’s view (The Singapore Law Gazette, Mar/Apr 1994, p. 43) that, “in the existing regulatory flux”, this book should be in loose-leaf form. That said, let us hope that Mr Pinsler will not let his book fade out of use through obsolescence, as has happened in the case of *Mallal’s Supreme Court Practice*. That would indeed be a shame and certainly no way for this fine work to end.