

Evidence, Advocacy and the Litigation Process (2nd ed.) BY JEFFREY PINSLER
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The second edition of *Evidence, Advocacy and the Litigation Process* [*Evidence*] is a long-awaited follow-up to the first edition, which was published in 1992. The first edition of *Evidence* was an ambitious project that covered not only the law of evidence (a daunting undertaking in itself), but also civil and criminal pre-trial and trial procedure, advocacy and ethics in the litigation process. The book was a seminal work when it was published because of the relative dearth of any writing in these areas.

In the second edition of this work, the author has chosen to focus on the law of evidence in Singapore. The author's avowed aim is to "provide the reader with a more complete understanding of how the law of evidence operates in practice and how procedure has a crucial role in this respect by determining what evidence will be available and how it might be used" (at vii). While the substance of the first book still remains, the chapters have been revised to draw out more explicitly the "linkages between the law of evidence and procedure such as the means by which the parties determine what evidence they will rely on, whether and how that evidence may be disclosed and produced, organised and presented to the court in trial, in interlocutory proceedings and on appeal" (at vii).

Evidence is divided into seven parts, each examining a different aspect of the evidential process. After giving a brief introduction to the major issues and debates in the area in Part I, the book proceeds to examine the admissibility of evidence, modes of proof, competence, compellability and the effect of testimony in Parts II to IV. Parts V to VII assume that the case will proceed to trial and systematically guides the reader through the preparation and procurement of evidence and the actual presentation of the material at trial. Part VI ("Procedure at Trial") of the book is primarily devoted to coaching the litigation lawyer on the advocacy techniques that he or she should employ at each stage of the proceedings.

True to its focus on evidential issues, the second edition pays less attention to civil and criminal procedure than the first edition and drops the chapters on the mitigation plea, sentencing and ethics in the litigation process. In their place are new chapters on evidence in interlocutory and other affidavit-based proceedings and the adduction of additional evidence on appeal.

This new focus secures the continued currency and viability of *Evidence*. In the 11 years since the book was first published, the law of evidence and procedure in Singapore has developed apace, particularly in response to the need to reconcile modern common law developments with the provisions of the arguably antiquated *Evidence Act* (Cap. 97, 1997 Rev. Ed.), and the provisions of the Evidence Act with that of the *Criminal Procedure Code* (Cap. 68, 1985 Rev. Ed.). Even today, the law of evidence in Singapore remains bedevilled with both conceptual and practical problems. Yet, until the newest edition of *Evidence*, there was no textbook that systematically examined the most current developments in the subject.

In contrast, the need for the book to continue to examine aspects of civil and criminal procedure and legal professional ethics has diminished since a number of specialised texts on these subjects now exist. Indeed, a number of volumes on the subject of civil procedure were penned by the author himself following the publication of the first edition of *Evidence*.

While students of the law of evidence have often complained of the subject's intricacy and its lack of clarity, readers of *Evidence* can count on the book not to complicate the area unnecessarily. The book is a good reference point for readers who want a comprehensive roadmap through the complexities of the law of evidence. The book is written in a clear and crisp style and its structure is simple and easy to follow. The author has also retained the practice adopted in the first edition of setting out concrete examples to illustrate his points. These examples are now visually more prominent than they were in the first edition because they have been placed in individual shaded boxes. These examples enliven the discussion and make it easier for the reader to relate theory to practice. Such examples are particularly plentiful in Part VI of the book, something readers will appreciate since advocacy techniques are best illustrated by example.

Parts V ("Preparation of Evidence") and VI of the book will appeal especially to a new litigation lawyer with no prior experience in the art of trial advocacy. The author painstakingly takes the reader through the relevant considerations at each stage of the trial process, from the decision to commence action itself right down to the closing speech. Absolutely nothing is left to chance—the author even deals with what some may take for granted, such as the sources of legal research.

Whilst a number of books on trial advocacy already do exist, *Evidence* is probably the only one that has been written with Singapore's unique circumstances in mind. In Singapore, a judge, and not a jury, is the trier-of-fact. Tactics that may play well before a jury of laymen may not go down as well with a professionally trained judge. Another feature of litigation in Singapore is that evidence-in-chief in civil trials is adduced by way of affidavit. This allows advocates to prepare for their cross-examination even before the trial commences. Readers may therefore find that books geared to jurisdictions where trials are conducted before a jury and/or where evidence-in-chief is adduced orally to be unsuitable.

Practitioners and researchers will also appreciate the fact that the footnotes in the new edition have been significantly expanded to include citations to many of the relevant local cases and statutory provisions and the author's brief comments on their relevance. The difference in the length of the footnotes in the two editions can be accounted for by the fact that case law on the law of evidence has increased dramatically in the last decade.

One does sometimes wish, however, that the author could have devoted more space to the conceptual and jurisprudential difficulties in the law of evidence. While the author does touch on the major debates, such as the extent to which it is permissible to employ common law evidential principles and the ways that a bench trial may affect the adduction and presentation of evidence, the author does not deal at length with other controversial issues, such as the extent to which constitutional scrutiny in other jurisdictions of the allocation of proof on the accused may encourage scrutiny of the same in Singapore. Instead, the author may briefly highlight the issue before directing the reader to more detailed works on the subject.

One ought to remember, however, that *Evidence* is not designed to focus solely on the rules of evidence, but also on the preparation and presentation of evidence at trial. At 745 pages (including the index), the second edition is already more than a hundred pages longer than the first edition. It would not have been possible for the book to remain at a manageable length had the author endeavoured to address all the major difficulties in the law of evidence.

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