The Worshipful Company of Arbitrators

The Master's Lecture 2003

Arbitration and Fraud

A paper for the Worshipful Company Of Arbitrators

by

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Presented on 4 March 2003 at Kings College, London

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I am very honoured to have been invited by the Master to address such an august body as the Worshipful Company of Arbitrators, particularly on the honesty of the parties, a matter that is so important to my understanding of the arbitral process. Arbitration is a mechanism for resolving disputes where the parties appoint an independent person to decide the facts in a dispute referred to them with finality, confidentiality, fairness and impartiality.

Who is an arbitrator? In the Freshfields Arbitration lecture in 1989, Sir Thomas Bingham quoted Sir Robert Megarry who drew attention to a form of arbitration which flourished in County Down during the nineteenth century. An impartial chairman sat at the head of a long table with the parties on each side. A line of oat grains were placed along the middle of the table at intervals of a few inches. At the head of the table, where the line of oat grains stopped, two grains of corn were placed a few inches either side of the middle of the table, one in front of each party.

Then, with the Chairman as umpire, a hen turkey was gently placed on far end of the table. The turkey would delicately peck her ladylike way along the table until, on reaching the two grains of corn at the head, she delivered her award in favour of one party or the other by taking first the grain nearer to him.

On one occasion, it is recorded that the loser in such an arbitrament, being a litigious character, refused to accept the decision as 'just' and brought a civil bill in the county court against the winner. On the facts being proved, the county court judge dismissed the action, whereupon the plaintiff exercised his right to appeal to the assize judge. This was Lefroy C.J., an aged and learned equity lawyer, who unlike counsel for the defendant knew little of local customs. During cross-examination of the plaintiff the following passage occurred:

Counsel: 'Tell me, wasn't the turkey for the defendant?' No answer.
Counsel: 'Tell my Lord the truth, now. Wasn't the turkey for the defendant?'
Chief Justice: 'What on earth has a turkey to do with this case?'
Counsel: 'It's a local form of arbitration, my Lord.'
Chief Justice: 'Do you mean to tell me that the plaintiff has brought this case in disregard of the award of an arbitrator?'
Counsel: 'That is so, my Lord.'
Chief Justice: Disgraceful! Appeal dismissed with costs here and below'.
Counsel (sotto voce): 'The Lord Chief Justice affirms the turkey.'

It will, I am sure, be at once obvious that this form of arbitration, although perhaps unattractive to professional arbitrators, has in large measure most of the merits claimed for this form of dispute resolution. It is very inexpensive,

the more so since the bird can be used again. It is private. It enables the parties to select an expert tribunal. It minimises, as the story shows, the opportunities for judicial intervention. And relevant to my theme today, it promotes the expeditious determination of references. In fact, the opportunities for delay are so limited that, one way or another, the reference is likely to be settled once and for all, very shortly after the submission of the dispute to arbitration.

What is arbitration? The analogy with which I identify, is that arbitration is equivalent to King Solomon's task in dealing with matters of life and death such as the true identity of a baby's mother. A Further role model is that of the headman of an African village, an elder sitting in judgement on the disputes of his subjects. However, a fundamental and inherent difficulty concerning the modern arbitrator's independence and impartiality is that, unlike the headman of the village, he does not know either party in the dispute referred to him. In fact, he will only know that which the parties choose to tell him about themselves and the dispute.

In his search for the truth, the arbitrator is committed to weigh up the evidence presented to him either in written submissions or by oral declaration. To decide 'what is the truth', the arbitrator must believe that a statement is not false, that it agrees with the other facts, that is real, genuine, rightful, lawful and correct. The arbitrator does not enquire into a party's intention or motive

in presenting a particular piece of evidence to him, he simply weighs each piece of evidence in the context of the overall reference.

Accordingly, a fundamental question I would like the Arbitration profession to address is whether the arbitrator should become interested in the motives, intentions and purposes of parties who might withhold, design and deal with factual evidence in such a way as to ensure that the arbitrator is deceived.

The fact is, what you see is not always the whole truth. For example, consider the following story told by Sir Louis Blom Cooper (taken from a speech by the President of the American Association of Forensic Sciences) about Mr Ronald Opus:

On 23 March 1994, the medical examiner (for that I think we read coroner) viewed the body of Ronald Opus and concluded that he died from a shotgun wound to the head. Intending to commit suicide, Mr Opus had jumped from the top of a ten storey building and had left a suicide note to the effect indicating his despondency. As he plummeted passed the 9th floor window, a shotgun blast killed him instantly. However, neither the shooter, nor Mr Opus were aware that a safety net had been installed just below the 8th floor level to protect some building workers and that Mr Opus's suicide attempt would have been unsuccessful in the way he had planned.

Ordinarily, said the President of the AAFS, a person who sets out to commit

suicide and ultimately succeeds, even though the mechanism might not be what he intended, is still defined as committing suicide. As Mr Opus was shot on the way to a certain death, even though he would not have been successful because of the safety net, caused the medical examiner to consider that he might have a homicide on his hands. So he began to investigate.

The 9th floor room from where the shotgun blast had emanated was occupied by an elderly man and his wife. They had been arguing so vigorously at the time, that the elderly man had threatened his wife with a shotgun. He was so upset when he pulled the trigger, that he completely missed his wife and shot the pellets through the window, striking Mr Opus. When one intends to kill subject A, but kills subject B in the attempt, one is guilty of the murder of subject B. That is a very elementary principle of criminal law for first year law students.

When confronted with the murder charge, both the old man and his wife were absolutely adamant that they thought the shotgun was unloaded. The old man said that it was a longstanding habit to threaten his wife with the unloaded shotgun. He had no intention to murder her, therefore the killing of Mr Opus appeared to be an accident, that is if the gun had been accidentally loaded.

The continuing investigation turned up a witness who has seen the elderly couple's son loading the shotgun about six weeks prior to the fatal accident. It

transpired that the old lady had cut off her son's financial support and the son, knowing the propensity of his father to use the shotgun threateningly, loaded the gun with the expectation that his father would shoot his mother. Since the loader of the gun was aware of this, he was guilty of the murder, even though he didn't actually pull the trigger. The case now becomes one of murder, on the part of the son for the death of Ronal Opus. Now comes the exquisite twist.

Further investigation revealed that the son was in fact Ronald Opus. He had become increasingly despondent over the failure of his attempt to engineer his mother's murder. This lead him to jump off the ten storey building on the 23 March, only to be killed by a shotgun blast passing through the 9th storey window. The son had actually murdered himself, so the medical examiner closed the case as a suicide.

People are complex organisms. They are a mixture of emotions, logic and secret agendas, that are hidden sometimes even from their closest associates. I have spent my life in the accountancy profession investigating fraud, deception and in dealing with people who have been less than scrupulous and honest in their dealings with the government (in the form of the Inland Revenue or Customs & Excise) or in their dealings with other commercial parties or indeed in their private lives. Over the last 30 years, it has become

clear to me that it is people, motive and opportunity that combine to commit fraud.

There is no such definition within the laws of the United Kingdom at today's date. In the dictionary fraud is defined as dishonest dealing, trickery, cheating or something that is not what it seems to be. So by our perception, understanding, observation and logical analysis, if we are confronted by a fraud that has been cleverly constructed, we may be deceived into relying on, believing in, trusting in or depending on something that is not factually correct. I think it is time for a legally accepted definition of fraud to be drawn up.

The primary purpose of arbitration must be to administer justice. Any dispute referred to a judicial tribunal necessarily entails two parties who have a difference of opinion and oppose the solution offered to them to settle the question. It is interesting to note that the dictionary also gives a meaning to the word ‘dispute’ as to ‘try to win’. The motive or driving force behind the parties’ actions is not easily discerned by a judge or arbitrator except in physical dispute settlement actions such as jousting where the parties each pin their emblem or badge to their helmets. Nowadays parties do not behave with such openness.

In the May 1916 Journal of the Chartered Institute of Arbitration there is a most interesting article on arbitrament by arms, the ‘wager of battel’.

“When the tenant in a writ of right pleads the general issue, viz., that he hath more right to hold than the demandant hath to recover, and offers to prove it by the body of his champion, which tender is accepted by the demandant, the tenant in the first place must produce his champion, who, by throwing down his glove as a gage or pledge, thus wages or stipulates battel with the champion of the demandant, who, taking up the gage or glove, stipulates on his part to accept the challenge. The reason why it is waged by champions, and not by the parties themselves, in civil actions, is because, if any party to the suit dies, the suit must abate and he at an end for the present; and therefore no judgement could be given for the lands in question, if either of the parties were slain in battel; and also that no person might claim an exemption from this trial, as was allowed in criminal cases, where the battel was waged in person.

A piece of ground is then in due time set out, of sixty feet square, enclosed with lists, and on one side a court erected for the judges of the court of common pleas, who attend there in their scarlet robes; and also a bar is for the learned serjeants at law. When the court sits, which ought to be by sunrising, proclamation is made for the parties, and their champions, who are introduced by two knights, and are dressed in a coat of armour, with red sandals, barelegged from the knee downwards, bareheaded, and with bare arms to the elbows. The weapons allowed them are only batons, or staves, of an ell long,

and a four-cornered leather target; so that death is very seldom ensued this civil combat.

When the champions, thus armed with batons, arrive within the lists or place of combat, the champion of the tenant then takes his adversary by the hand, and makes oath that the tenements in dispute are not the right of the demandant; and the champion of the demandant, then taking the other by the hand, swears in the same manner that they are; so that each champion is, or ought to be, thoroughly persuaded of the truth of the case he fight for. Next an oath against sorcery and enchantment is to taken by both the champions, in this or a similar form: 'Hear this, ye justices, that I have this day neither eat, drank; nor have upon me, neither bone, stone, nor grass; nor any inchantment, sorcery, or witchcraft, whereby the law of God may be abased, or the law of the devil exalted. So help me God and His saints.'

The battel is thus begun, and the combatants are bound to fight till the stars appear in the evening; and, if the champion of the tenant can defend himself till the stars appear, the tenant shall prevail in his cause; for it is sufficient for him to maintain in his cause; for it is sufficient for him to maintain his ground, and make it a drawn battel, he being already in possession; but, if victory declares itself for either party, for his is judgement finally given.

This victory may arise, from the death of either of the champions, which indeed hath rarely happened; the whole ceremony, to say the truth, bearing a near resemblance to certain rural athletic diversions which are probably derived from this original. Or victory is obtained, if either champion proves recreant, that is, yields, and pronounces the horrible word of craven; a word of disgrace and obloquy, rather than of any determinate meaning. But a horrible word it indeed is to the vanquished champion; since, as a punishment to him for forfeiting the land of his principal by pronouncing that shameful word, he is condemned, as a recreant, 'amittere liberam legem', that is, to become infamous, and not be accounted 'liber et legalis homo'; being supposed by the event to be proved forsworn, and therefore never to be put upon a jury or admitted as a witness in any cause."

Things are not quite so colourful today although the terminology sounds vaguely familiar. Having spent many years giving evidence as an expert and trying to do my duty to the court or tribunal by remaining impartial and providing data on which the court or tribunal could rule, I am dismayed that so few parties approach their task with the same candour. Dishonesty and deception can be effected by omission as well as the commission of false documents or statements to pervert the course of justice!

My purpose this evening is to examine the basic areas where arbitrators should be alert. There are various guides to fraud, theft and cheating within

the legislation extant in England and Wales that could help us in this review. The first and most important of these is the Theft Act 1968. Section 1 gives the basic definition of theft that is:-

"A person is guilty of theft if he dishonesty appropriates property belonging to another with the intention of permanently depriving the other of it".

The specific offences of the Theft Act 1968 that might occur in the course of an arbitration include Section 15 "obtaining property by deception", Section 16 "obtaining pecuniary advantage by deception" and Section 17 "false

Although these are criminal offences, they impact on civil disputes since they are fundamental to the protection of the human rights of every party engaged in a dispute resolution mechanism.

When I worked for the Inland Revenue, I became very familiar with these sections together with the common law offence of "cheating the Crown". I find fascinating the many ways that the human mind has contrived to falsify records and mislead business associates. These affect both criminal and civil litigation. The opportunities are there for any who choose to take a dishonest path.

Various surveys have been undertaken recently on the impact of Fraud on the UK economy. In 2002, Ernst & Young reported more than half of all companies

have been defrauded during 2001, 82% of the worst frauds are committed by employees and that less than 30% of the total value of frauds are recovered. A Chantrey Vellacott's survey found that up to 5% of a company's annual turnover was lost to fraud and the London Police Fraud Squad estimated to cost of fraud to the UK economy at between £13 billion to £16 billion per annum. A 2001 survey of the Chartered Association of Certified Accountants found that 75% of frauds suffered by small and medium sized enterprises are committed by owner-managers and a KMPG survey found that 80% of employees would only 'whistleblow' on a colleague who was committing a major fraud. Finally, an Accountancy Age survey of Finance Directors who have to deal with these risks found that 50% believe that their company should not pay for a fraud investigation, presumably leaving this to the government.

So what exactly is the UK Government expected to do faced with such a fraud epidemic? There has recently been talk of introducing identity cards for United Kingdom citizens to deal with the upsurge in 'identity' theft although I suspect this will backfire and simply provide further opportunities for fraudsters. At the moment if a fraudster wants to obtain a second or even third identity, it is as simple as walking around the local graveyard. All he has to do is to identify a male or female of approximately the same age as the person requiring the identity, obtain a copy of the deceased person's birth certificate, decide upon an address and apply for passports, driving licences and open bank accounts. In recent times this has become slightly more difficult because of the Money

Laundering regulations and the Banking Legislation 1992 and onwards, although it is still frighteningly easy. Consider the well publicised recent case of British tourist, Derek Bond, who spent 3 weeks in a South African jail before the FBI realised he was a victim of an identity theft.

Then there are credit card frauds, such as using ATM (automated teller machines) to steal pin numbers and card details. Only today, I watched such an incident take place on Oxford Street in London by a three man gang. Alternatively, the fraudster only has to visit a web site of a supplier that accepts payment by credit cards (say, an electricity provider) and take a note of the identity and credit card numbers of those people foolish enough to pay by credit card.

Using cheques is no safer. I discovered by accident some years ago that if one dips a cheque in brake fluid then the writing disappears. A fraudster, having stolen some cheques, could do this whilst carefully holding his thumb over the signature. He is then left with blank cheques, each signed and ready to be completed for any amount he chooses.

You may now feel that you should only pay your bills in cash, but there is a trap for the unwary. Government bodies (such as the Inland Revenue) find it very difficult to believe that any individual who claims to have paid all his expenses in cash, has actually made those payments, nor that these

expenses were not for private purposes as this is not normal business practice. An individual will have great difficulty in proving that cash amounts he has disbursed were genuinely for business purposes and hence are properly deductible from his gross income for the purposes of calculating the tax due to the Crown. Perhaps here I have touched on one of the most widely accepted motives for any individual's actions in actively committing fraud tax avoidance or evasion.

There is, of course, another difficulty. When dealing with our tax returns to the Inland Revenue, we all make every effort, of course, to fully disclose the minimum information required under the self-assessment regime to calculate our tax. Naturally we would not disclose anything in addition to that information for fear of attracting an enquiry or raising the suspicions of the Inland Revenue. If anything, there is a natural bias or tendency to understate income and overstate expenses, even for honest citizens.

When we are dealing with the banking institutions we like to show a profitable, well-managed business with a high turnover. There is an inherent temptation to produce two sets of accounts, which would be a fraud on a bank because it would encourage them to lend us money we could not afford to borrow or repay. Remember 'obtaining a pecuniary advantage by deception' Section 16 Theft Act 1968?

To enable any person to produce two sets of accounts would require the collusion and collaboration of an accountant with the taxpayer. To overvalue an asset such as the taxpayer's home or business premises would involve the collusion and collaboration of a lawyer, a surveyor and the taxpayer. It is hard to believe how commonly such frauds of collusion are perpetrated.

So, I hear you ask, what has this got to do with arbitration? The answer goes back to the first question I habitually ask myself when I consider accepting a reference. That question is, do I have the expertise and knowledge to fulfil my duty to deal fairly with this dispute under the law and codes of practice being applied?

One of the joys of arbitration is being able to use professional knowledge as a lay arbitrator to reduce the cost of the parties in resolving a dispute with finality and the minimum of cost. This does not conflict with the rule in Fox v. Welfare because the arbitrator will not use his own expertise without referring all matters to the parties to enable them to comment or make representations. In using that expertise it is expected by the parties, through the trust placed in the arbitrator, that the arbitrator will perceive any attempt by either party to deceive or pervert the course of justice. This does not always happen. The arbitrator must use his expert antennae to detect reliable, consistent evidence provided in an honest way.

Let me illustrate by example how evidence can be fabricated for a dispute that might mislead an experienced arbitrator.

When I was at the Inland Revenue, I recall one case where a firm of accountants acted for several printing companies. These accountants also established a subsidiary office in Switzerland. As part of the 'tax planning' they offered to their clients there was a special 'scheme' whereby for the payment of 10% of the transaction's value the clients could extract cash from their own businesses by a series of false invoices provided by the accountants.

The false invoices produced were genuine in that they did relate to existing companies but these invoices had actually been picked off by the printers and retained as poor quality 'run-offs' and 'run-ons' at the start and finish of each invoice printing cycle. The firm of accountants would select three or four different blank invoices and complete them with the desired amounts for the clients who would then 'pay' those invoices through the accountants' client account. The money would be transferred into the Swiss branch and 'laundered' into Switzerland for the client's personal use. This firm of accountants also practised other dubious methods of tax deferral.

In another case, the accountants arranged a group of companies with 2 trading subsidiaries (companies A and B) with year-end dates exactly six

months apart. As company A's results were processed, the owners of the business would decide if there was 'too much profit' and raise an inter-company transfer of stock or management charges to or from company B to obtain the desired profit. In effect a bundle of profits was thrown forward like a rugby ball until the owners achieved the level of profit on which they were content to pay tax. The entries in the books and records were self reversing and false. This is a good example of false accounting under Section 17 of the Theft Act 1968.

So how could an arbitrator being presented with argument and evidence about the accounts of these 2 sister companies have spotted that they were incorrect? The answer is that is the arbitrator would not and he would have been deceived, since without examining the underlying books and records he would never have known the truth. If that arbitrator had been deceived how 'safe' would any Award be that he had written based on false evidence?

The only knowledge that might uncover such a deception is an intimate knowledge of the parties but this is inherently excluded by the normal doctrine of impartiality. Things are even worse for the arbitrator when one considers the immediate impact of legislation such as the Data Protection Acts 1985 and 1998, the Proceeds of Crime Act 2001, the Money Laundering regulations and the Human Rights Act 1998 on the rights of the parties, the retention of data and the payment of fees. What should you do as an Arbitrator if you discover

that your fees are being paid out of the proceeds of crime, drug trafficking or money laundering? Should you accept the money or not?

The Money Laundering legislation sets out the following five offences:

a) assisting another to obtain the proceeds of criminal conduct;

b) acquisition, possession or use of proceeds of criminal conduct;

c) concealing the proceeds of criminal activity;

d) failure to disclose knowledge or suspicion of money laundering (in relation to drug trafficking and terrorism); and

e) tipping off (that is disclosing information which is likely to prejudice a future investigation).

It is important to remember that 'money laundering' is the conversion of money obtained from the proceeds of crime into apparently legitimate funds. This is achieved by a variety of methods, such as the purchase and re-sale of a luxury item, the passing of money through a complex international web of legitimate businesses and shelf companies, or even the payment of professional fees or the use of professional's client's accounts.

The money laundering process is usually described as taking place in three stages. The first stage is 'placement' which is the physical disposal of cash proceeds derived from the illegal activity. The second stage is 'layering' which is separating the illicit proceeds from their source by creating complex layers of financial transactions designed to disguise an audit trail and provide

anonymity (this is often done through friends and family connections or overseas banking systems). The final stage is 'integration' which is the provision of apparent legitimacy to the criminally derived wealth. If the layering process has succeeded, integration schemes place the laundered proceeds back into the economy in such a way that they re-enter the financial system appearing as normal business funds and are available for use by the fraudster.

Money Laundering is relevant to arbitrators because not only should they be aware of the Drug Trafficking Act 1994, the Prevention Of Terrorism (Temporary Provision Act) 1989, the Northern Ireland (Emergency Provisions) Act 1991, the Criminal Justice Act 1988, the Criminal Justice Act 1993 and the Proceeds of Crime Act 1995, but they also need to be aware of what to do if they are offered payment of their fees from money they suspect comes from money laundering and relates to a criminal activity. The general rule is that money laundering should be reported, normally to the Economic Crime Unit of the National Criminal Intelligence Service as soon as is practical. However, if an arbitrator declines to accept his fees from what he considers to be a source tainted by money laundering or a suspicious transaction he may be guilty of the offence of 'tipping off' under the money laundering legislation.

This lecture is not to provide answers, but merely to raise questions. The practice notes suggest that the professional, in this case the arbitrator, should disclose the matter to the police and it may be that he is still advised to accept

the fees but place them in a designated bank account where the funds can be traced.

The Proceeds of Crime Act 2001 partially came into force in March 2003 and its main purpose is to strengthen the procedure for the confiscation of criminal proceeds. It introduces radical new powers to make 'lifestyle confiscation' for convicted drug traffickers or repeat criminals. The onus of proof has shifted onto the accused to prove the 'bona fides' of their wealth rather than the Crown having to prove criminality.

The civil confiscation of funds is also introduced where property can be shown, on the balance of probabilities, to be criminal proceeds but where no conviction has ever been made or even where the criminal is not known. A new body called the Assets Recovery Agency has been introduced to give increased emphasis and greater resources in the fight against acquisitive crime.

The existing primary offences under the money laundering legislation are extended from 'conversion, acquisition and assistance' to 'concealing, disguising, converting, transferring or moving criminal property abroad; entering into or becoming concerned in an arrangement which facilitates the acquisition, retention, use or control of criminal proceeds; and acquiring, using or having possession of criminal property'.

The Proceeds of Crime Act has 5 new investigatory powers, which are:

(1) production orders for obtaining material already in existence for a known account in the control of a known person (for example, bank statements);

(2) Search and seizure warrants for searching premises where production orders are not complied with or where production orders are likely to be ineffective (section 352);

(3) Customer information orders for 'trawling' financial institution for accounts in the name of a particular person or organisation (section 363);

(4) Account monitoring orders for monitoring future transactions through a known account for up to 90 days (section 370); and

(5) Disclosure orders for requiring any person to produce documents, provide information or answer questions relating to an investigation (section 357).

The real danger for the arbitrator is in receiving funds derived from criminal activity. Even if he has accepted them innocently in payment of his fees, this will be sufficient to bring the arbitrator within the money laundering legislation. The recent case where a solicitor was convicted for allowing his client account to be used, however innocently, which has led to the solicitor being struck off and made bankrupt is a salient lesson to those of us involved in arbitration.

Although most people are familiar with the Human Rights Legislation, and I do not propose to cover that today, I would also like to draw attention to the Data

Protection Act 1998 and the retention of data from which an individual can be identified. Procedures should be in place for proper notification and a policy of destruction. I am sure this audience is aware that even the images taken on a CCTV camera are actually records for data protection and each and every CCTV camera should have under it a notice identifying the person any application should be made under the Data Protection Act 1998 so that a copy of the particular footage can be obtained on the payment of the statutory fee. At the moment I believe this is in the region of £5 per record and it is possible to actually make a film of oneself walking around a city or a town purely from the CCTV extracts if one so wished.

The more important point under the Data Protection legislation is what an arbitrator does with the notes and records they keep in connection with a hearing, reference or award. Are these protected in any way by a 'judicial capacity' which would give some sort of exemption from the Data Protection legislation in relation to these records? Because there is no formality of appointment at the Lord Chancellor's Department of each and every arbitrator, I have some doubts as to whether it would be appropriate for such a blanket exemption to relate to all the records retained, and created by an arbitrator in the course of the arbitration.

I wonder how many arbitrators have a documentary retention and destruction policy, and how many arbitrators send out the requisite notices required under the Data Protection Legislation?

Finally, in my consideration of fraud and its affect on arbitration, I would like to turn for a moment to the profile of a fraudster. Fraud is committed by people and the tools to fight fraud, such as biometrics (the use of unique individual characteristics such as an iris or fingerprint as a security device) are little understood and not sufficiently available to prevent fraudsters in committing identity frauds, theft or forgery or in succeeding by the use of litigation or arbitration to achieve his own ends in resolving a dispute.

An arbitrator may be faced with forgery, counterfeiting, false documents, forged documents, collusion and perjury in the course of any arbitration. Arnold Bennett in one of his plays said 'Journalists say a thing that they know is not true, in the hope that if they keep on saying it long enough it will become true'. That seems to be the mentality of the fraudster and in the end some fraudsters would pass lie detection tests because they believe there own fables. Richard Sheridan said 'the Right Honourable gentleman is indebted to his memory for his jests, and to his imagination for his facts'.

I would like to conclude this lecture by recommending arbitration as a fair, speedy, effective way of resolving disputes in a commercial way, to advise all those engaged in arbitration to consider the matters I have raised today and

look at their own arbitration practice to ensure that they are not open to any challenge under the various Data Protection, Money Laundering, Human Rights and related legislation currently in force in the United Kingdom and internationally.

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4 March 2003