

**Speech by Rt Hon Sir Anthony Evans at the Banquet of The  
Worshipful Company of Arbitrators, 31 January 2007**

My Lord Mayor etc

I am always careful with those introductory words because, as any advocate will tell you, the first part of your address is always the most important. Many a case has been harmed by a careless or unclear opening. And the converse is also true – a good start can help you enormously.

I have the good fortune to be a member of the Court of Appeal in Bermuda. The first case I ever heard there was an appeal by a Bermudian who had the misfortune to be sentenced to a long term of imprisonment for the offence of manslaughter, which he compounded by attacking a prison warder which resulted in an even longer sentence. He appealed against this sentence and he represented himself. He began by saying – these were the first words I heard uttered in that courtroom – “Your Majesties”. I have to say that this was very effective advocacy. It had never happened to me before. I am sure, Lord Mayor, that it is something that happens frequently to you, and you’ll know what a satisfying effect it can have. You don’t easily decide against someone who shows that proper measure of respect; they can’t be wholly bad, as Dylan Thomas reminds us in Under Milk Wood.

So I hope you will be charitable to me as I respond to the Master’s toast to the great cause of arbitration. You probably came tonight thinking that on the whole ‘arbitration’ is rather a boring subject. If you did, his entertaining speech has shown you that it isn’t – at least, not always. Now I realise that my task is to restore your former belief, by demonstrating

that other kinds of arbitration are at the duller end of the scale. That is where I tend to operate, which I suppose is a revealing remark, like the notoriously slow judge who was heard to complain that all the long cases were allocated to him.

What I would like to do tonight is to stress how many different types of arbitrations there are: we ought to be clear what the object of our good wishes is.

When we toast the health of arbitration, are we thinking of the concept of arbitration, of the high ethical and moral standards which arbitrators ought to observe, in their relentless search after justice and a fair result? Or may there be those who merely want the business of arbitration to flourish, meaning that the number of arbitrations will grow, preferably those in which one has a direct professional and preferably lucrative interest? Perish the thought; the only interest of this distinguished Company is that arbitrators in all kinds of disputes should observe the highest professional standards and give the best possible service to the parties who appoint them. In modern business jargon, to give top value to the consumers of their product.

I ought to say something about the comparison between being an arbitrator and being a judge. One disadvantage of being an arbitrator, not surprisingly, is that you don't have a Judge's Clerk. I miss mine very much. Like many others of his kind, he was a former policeman. He was good at dealing with people, but it wasn't always a polished performance. Once, I was invited to Northern Ireland. I knew vaguely that I had to inform the Lord Chancellor's Department that I was going there, so I asked him to check with them what the position was. His report to me was memorable. "There's no problem, Sir, except that if you're going on a scheduled flight they suggest that you use an assumed name. But I told

them that, being Evans, you probably wouldn't bother." That's the sort of thing I do miss.

There is just one point I would like to make about the different types of arbitration, about the diversity of arbitration, and it is this. Those at the heavier end of the scale, international commercial arbitrations, are leading, I believe, to a far greater development of private international law than the Courts have ever achieved. As a former judge, who is fortunate enough to have some involvement in these cases, I am often struck by the ease with which arbitrators solve practical problems – how shall the witnesses give evidence, what documents need to be disclosed, when and where shall the hearings be held – when the Courts have to apply stricter and sometimes rigid rules, and they are always tied to the country to which they belong. The same more relaxed, more pragmatic attitude of arbitrators also affects the way in which they deal with differences between national laws, an area where traditionally the Courts have had some difficulty in producing sensible or at least uncomplicated results.

So there are ways in which the process of arbitration is responsible now, not just for the producing quick and relatively inexpensive awards for disappointed holiday makers, but also for resolving international trade and other disputes which the Courts of a single country often cannot deal with satisfactorily themselves.

So much for the abstract being, arbitration, the handmaid of justice, on whose behalf I speak tonight. I have reminded myself of the American professor, a former student at Yale University, who spoke lovingly but at some length of the benefits he received from his alma mater. He remembered the happy days of his Youth (with a capital Y); the Ability (another capital) which his teachers had fostered; the Leadership (ditto) qualities they had taught him; and finally, at some length, the virtues of

the general Education he had received. A member of his audience said under his breath 'Thank Heavens he didn't go to the Massachusetts Institute of Technology or we'd be here all night.'

I didn't, you won't. On behalf of my abstract client, I thank you all very much.