

## **The Annual Livery Banquet at Mansion House on Wednesday 26 January 2011**

Wardens, Members of the Court, Alderman and Sheriff Woolf, Distinguished Guests

Ladies and Gentlemen

It is with some trepidation that I stand before you as a humble Chartered Arbitrator who has been given the enormous honour of being Master of the Worshipful Company of Arbitrators for the 2010/2011 year to address the Civic Toast.

It struck me when I was preparing my notes for this evening that I ought to define what an Arbitrator is or does. Despite the fact that this Company is very young and will only celebrate its 30th Anniversary on 17th March 2011. So this is a very special year for us as a Company within the Square Mile. In fact 2011 is special in another way – if you take the last two digits of the year that you were born and add it to the age that you will be in 2011 the answer will be 111.

Arbitration itself is much older and predates the modern penchant for litigation which became dominant after the 1728 decision in *Re Pinnears* case. Arbitration itself goes back to the Mediaeval market place which was also the birthplace of Mercantile law and practice and enabled UK trade and particularly merchants from the City of London to move into the first global market in the 11<sup>th</sup> and 12<sup>th</sup> centuries, albeit that the world was a smaller place then before the discovery of the New World and Cooks voyages to the Antipodes.

It is still true to say that an acceptable mechanism to resolve disputes is fundamental in providing the essential confidence for businesses to trade with each other. Arbitration and the reputation of the legal and dispute resolving community in the City of London brings business here.

The earliest Arbitration Award is recorded in Chaucer as “Ye cook shall have her costs” but we do not know the dispute although one could infer it might have been about a pie but certainly the method of arbitration would have been less complex than those in use today. Arbitration is private, confidential, final and flexible. In researching the various methods I came across an example that I thought I would share with you involving a female turkey, this system was at one point popular with parties in dispute, but I do think it is currently in use for obvious reasons.

It went like this.

Sir Robert Megarry 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.

This method of dispute resolution abregates the responsibility and duty of the Arbitrator which were so ably encapsulated for domestic arbitration in the Arbitration Act 1996 and for international arbitrations in UNCITRAL. The history of arbitration is not for this evening. Suffice it to say that any Arbitrator is a model citizen and our Freemen and Liverymen delight in supporting the City of London and its Lord Mayor.

We enthusiastically take part in the Financial services Group of Modern Livery Companies where we are ably represented by our Junior Warden, Karl Davies, who has done so much this year to support me and these efforts. in that Group to brief the Lord Mayor on matters relating to its very being. We are the City's only dispute resolution Company and, as such, we have an increasingly important role in these troubled times, as the number of disputes grows and the cost of resolving them does not diminish. I hope that in the next twelve months more leaders of the dispute resolution business in the City understand what we do and will help us, in turn, to discharge our obligations to the Lord Mayor.

Karl has also organized our first Mediation Skills Competition for UK Students with the finalists qualifying for the ICC competition in Paris. I was delighted to attend the prize giving on 16 January 2011 with Lord Woolf and applaud the hard work of many others in directly encouraging students to pursue careers including arbitration, mediation and dispute resolution.

Our own Company charitable trust supports causes in the Company's name based on whether the recipient has any involvement with the City of London and/or with dispute resolution in its widest sense.

The Company also supports the Financial Literacy Project for Schools and continues to do so in efforts to educate future generations to understand banking, commerce and to secure the future recruits of the City. The old fashioned ways of business have changed so much as technology has speeded up transactions and the strict rules of etiquette, ethics, morals and manners are changing for better or worse who can say. The challenges underlying business and the dilemmas today differ very little from those of hundreds of years before. I think this is best illustrated by an example.

Sir Thomas More achieved some fame in 1505 by his translation of the writings of the Greek Lucian. His fourth story highlights a dilemma that is pertinent today about the payment of rewards wjhhich is pertinent today if considered in terms of profits, dividends and bonuses without any reference to tyranny.

Lucian tells the story of an imaginary State where a large monetary reward was offered by The State to anyone who kills a tyrant who had seized power. A certain man decided to kill the tyrant and claim the

reward. The man climbed up into the Acropolis, the tyrant's fortress, intending to assassinate him, but at the last moment his nerve failed him, and he turned and fled. In his flight he ran into the tyrant's son and killed him, leaving his sword in the body. Soon afterwards the tyrant passed by and seeing the corpse of his son with the assassin's sword in it, was so overcome with grief that he committed suicide by stabbing himself with the same sword. Is the killer of the son entitled to the reward offered for killing the tyrant?

Lucian argued that he was, as the tyrant's death is the direct consequence of his killing of the son. He left the sword in the son's body in the hope that the tyrant would find it and commit suicide in his grief and that was a fitting punishment for his tyranny and for this the assassin should be all the more rewarded.

Sir Thomas More argued that the assassin did not kill the tyrant and could not be given the reward as it was the Gods not the man that had killed the tyrant. The State should save money by not paying the reward and thanks the Gods for the liberation of the City.

Sir Thomas Aquinas conceded it was justified in exceptional circumstances to kill someone, such as a tyrant. However, the murder of the son was all about cause and effect and there was an argument as to whether the assassin should be prosecuted for the murder of the tyrant's son.

So should the assassin be rewarded, ignored or prosecuted? Such a dilemma is still something that is equally puzzling if viewed in terms of Bankers bonuses and the workings of the modern City of London. Thank goodness the Lord Mayor is not burdened with making judgements like these although the Courts in the City do struggle with such arguments of causation, damage and sentence. The world has changed and moved on, change is part of life and the Square Mile never stands still - and it is plain that the Lord Mayor and his colleagues never do.

In recent times the Court of Aldermen, recognising the many demands upon the Lord Mayor's time, agreed that the Lord Mayor Locum Tenens or a Sheriff might respond to the Civic Toast.

This Company knows that there are many demands upon the time of the Lord Mayor and so we understand that he is not able to be with us tonight as he is on an official visit to Turkey but in his absence we thank him for generously making the Mansion House available to us for our Banquet tonight. However, we particularly want to thank Sheriff Fiona Woolf for being with us tonight and we would want you to know how grateful we are to you for representing the Lord Mayor on this occasion.

The Annual Livery Banquet at Mansion House is the high point of our Company's year and we treasure this opportunity to meet our friends in the Livery, entertain our guests in such magnificent surroundings and show our support for the great office of the Lord Mayor of the City of London and to reaffirm our commitment to the City of London and its institutions.

Both the offices of Sheriff and Alderman date back to the Middle Ages and reflect their long-standing importance in the government of the City of London. The office of Sheriff is of greater antiquity than any other in the City of London. Until the institution of the Mayoralty in 1189, Sheriffs or 'Shire Reeves'

governed the City as the King's representatives, collected royal revenues and enforced royal justice. Two Sheriffs are elected on Midsummer's Day every year in Guildhall by the City livery companies. Their duties include attending the Lord Mayor in carrying out his official duties, attending the sessions at the Central Criminal Court in the Old Bailey and presenting petitions from the City to Parliament at the Bar at the House of Commons.

Since 1385 when the Court of Common Council stipulated that every future Lord Mayor should "have previously been Sheriff so that he may be tried as to his governance and bounty before he attains to the Estate of Mayor", the Shrieval year of an Aldermanic Sheriff is a sort of testing-ground for a person who aspires one day to be elected Lord Mayor of London.

The first recorded Mayor of London was Henry Fitz-Ailwyn 1189. Since then, some 700 men and one woman have over the centuries held the position of chief officer of the City of London. The title 'Lord Mayor' is purely customary, but of great age. In the Latin of the thirteenth century 'dominus major' is found, and in English 'Lord Mair' in 1414. By the sixteenth century the prefix 'Right Honourable' was in use.

The most famous of them all is Dick Whittington, who held office three times, in 1397, 1406 and 1419. Contrary to popular belief, Dick Whittington was not a poor, ill-treated orphan who managed against all the odds to work his way up to Lord Mayor. Coming from a wealthy family, Richard Whittington had a successful business and civic career before he became Lord Mayor. As for the black cat which supposedly helped him found his fortune by ridding the King of the Barbary Coast of a plague of rats, while no-one is quite sure how this part of the myth grew up, the fact is that Dick Whittington carved out a successful business career in a very practical way as a mercer (dealer in costly fabrics such as silk), wool merchant and royal financier.

Although the legend of Dick Whittington may not bear close scrutiny, the Lord Mayor has throughout the centuries played a vital role in the life of the City of London and continues to do so today. In the City, the Lord Mayor ranks immediately after the sovereign and acts as the capital's host in Guildhall and Mansion House, his official residence. On behalf of the City and the nation he carries out numerous engagements at home and abroad. Although in former years a person could become Lord Mayor as many times as the electorate would vote him in - Dick Whittington being such an example - nowadays one year of such demanding activity is considered enough.

The right of citizens to elect their own Mayor dates from the Charter granted by King John to the City in 1215, and in the same year Magna Carta specified that the City would retain all its ancient liberties. The election of Lord Mayor is held at the end of September each year in Guildhall. The assembly, known as Common Hall, consists of all liverymen of at least one year's standing together with certain high officers of the City. All aldermen who have served the office of sheriff and who have not already been Lord Mayor are eligible.

Citizens are those who have their Freedom of the City of London and another of the oldest surviving traditional ceremonies still in existence today is the granting of the Freedom of the City of London. It is believed that the first Freedom was presented in 1237. The medieval term 'freeman' meant someone

who was not the property of a feudal lord, but enjoyed privileges such as the right to earn money and own land. Town dwellers who were protected by the charter of their town or city were often free - hence the term 'freedom of the City'.

All freemen receive the book of 'Rules for the Conduct of Life' , written by the Lord Mayor, 1737-1738.

The freedom of the City is closely associated with membership of the City livery companies, successors to the ancient guilds. Until 1835 the Freedom of the City - together with membership of one of the ancient guilds which were the forerunners of today's Livery Companies - was essential to anyone who wished to exercise a trade in the City. Freemen used to be given a casket in which to keep their Freedom certificate (right), as it was a document that was carried around as we would carry a driving licence today.

A number of ancient privileges are associated with the Freedom - although they are more a product of collective memory than of documented evidence. They include the right to herd sheep over London bridge, to go about the City with a drawn sword, and if convicted of a capital offence, to be hung with a silken rope. Other advantages are said to have historically included the right to avoid being press-ganged, to be married in St Paul's Cathedral, buried in the City and to be drunk and disorderly without fear of arrest.

The City of London is the oldest Local Authority in England with its roots in Mediaeval times – it is the oldest continuous municipal democracy in the world. It is a complex multi-faceted business run efficiently by the Corporation of London covering buildings, parks, planning, courts, regulation, schools, social services and charitable activities involving huge budgets and staff. The Corporation is a hive of activity, promoting entrepreneurial activity and commerce across the globe. The Lord Mayor is the custodian of all these things and must possess great energy, diplomacy and understand the need to promote the business of the City and commerce.

I could not let this opportunity pass without noting the innovative ways in which the City of London has led the way in administration of local taxes. I don't know how many of you are aware that I am a member of the History of Tax Law Society and when I walk around this City I see the marks made by previous administrations as permanent reminders of successful tax regimes. I am thinking particularly of the coal posts that were erected under the London Coal and Wine Duties Continuance Act, 1861, but some were originally set up under earlier nineteenth century Acts. The duties whose area of application they marked out originated in the seventeenth century and earlier.

The City of London had exercised the right of 'metage' (measuring) of coal and other commodities since mediaeval times and these rights were confirmed by two Charters of King James I. The City was later permitted to set up "a Boundary Stone, or some other permanent Mark" where any turnpike road, public highway, railway or canal entered the District, although very little coal actually came into London by road or canal. Until this period coal had been brought into London by sea and it was only later in the nineteenth century that the railways became the most important means of transporting coal.

Our current Lord Mayor Alderman Michael Bear has stated the theme for his charitable activities through "The Bear Necessities – Building Better Lives" working for a generation of children and young people in the City fringes, in London and nationwide by supporting the children's charity CORAM and across the world by supporting the disaster relief charity RedR.

In a somewhat more modest fashion than the Bear Necessities this Company also supports City Charities and Institutions and Arbitration and Dispute Resolution causes through its own Charitable Trust.

*[The Master at this point hands over to the Lord Mayor a cheque for £1,500 on behalf of the Company and the Charitable Trust. ]*

It is against this background that I offer to the City of London the wholehearted support of this Company, the dispute resolution company in the Livery and its Charitable Trust.

May I ask you all to stand?

It is my honour to propose the Civic Toast:

The Lord Mayor, the Sheriffs and the City of London Corporation

FINAL ADDRESS WITH CARRIAGES

I am also most grateful to Gaye and her team, to Mr Roy Warman (our Beadle), to our chaplain the Rev George Bush and (our Toastmaster) and particularly to all the staff here at Mansion House for their efforts in making this evening a special and enjoyable one for us all. They have made us so welcome and it appears that nothing was too much trouble, I am sure you will agree and join me in thanking them all.