

Speech by His Honour Brian Barker QC  
The Worshipful Company of Arbitrators  
October 25, 2005.

Master, Wardens, Ladies and Gentlemen

It is a great pleasure to be one of the first to congratulate the Master on his election. He, and I, are both new boys and I am honoured that he should ask me to respond to his first speech in office. We have been friends for many years and I have watched his career and progress with admiration. I have also trailed behind him on the golf course; beaten courteously but convincingly time and again. As an aging star said of the young Jack Nicholas: 'he plays a game with which I am not familiar'; the same applies to Stephen. This evening he hands me the opportunity of revenge on a plate, but all I can do is to sing his praises.

He has rather overdone it in his introduction of me. These lists have more than a hint of the skill of the experienced obituary writer about them. Some of you may not have heard the story of the distinguished canon who had a cousin of the same name and the same rank in a nearby cathedral city. The cousin died suddenly and the canon was woken in the middle of the night by the editor of The Times apologising for the fact that they had mixed things up and the wrong obituary was in the morning paper. While reading about his demise, the canon thought that he had better phone his Archbishop and explain. He got through and said 'I suppose that you have read the obituary page?' 'Yes' said the Archbishop and then after a pause: 'Where exactly are you phoning from?'

Yours, Master, is a leading edge company representing the modern approach to dispute resolution. That you should have decided to seek Livery in 1981 is not only a compliment to the system but a sign of confidence and confirmation of your importance in the operation of the City of London. Those Liverymen that I have had the privilege of meeting this evening confirm the obvious: that your growth and membership combines tradition with excellence, and conviviality with concern for the community and charitable endeavours. I am pleased to see that one of your visits this year was to a Cooperage; even if it was a French one.

I can't say that the Arbitration Act 1996 has been high on my reading list but what I am clear about is that in the 21<sup>st</sup> century, the availability of arbitrators and mediators is deservedly a growing and increasingly important part of the legal services offered to businesses and the professions. The ability of the litigant to choose his tribunal ensures that reputations must be maintained and the highest standards of fairness, wisdom and impartiality displayed

Our 'customers' at the Old Bailey have no such luck, and we were amused to hear recently of the prison governor's report on a prisoner who was shortly to be released. It read: 'he is studying to become a member of the criminal bar. His cunning ensures success. If only he can develop an evil temper, he will make an admirable judge.'

Perhaps a little unfair. We are now all appointed in open competition when vacancies arise. We have to complete the 36 page application form and give examples of various competences in such things as showing authority, weighing and analysing,

demonstrating integrity and independence and managing workload, before being short listed and interviewed. We have 14 permanent judges led by the Recorder of London, and other experienced judges from around the country are welcome visitors.

We are the senior criminal court in the country and our 18 court rooms try only the most serious criminal cases usually from within the M25 area. We are the City's court, and the Recorder and Common Serjeant hold civic office.

Serjeants held sway for centuries as senior advocates and as the stepping stone to the judiciary. The first recorded Serjeant to Common Council appeared in 1317 and from then on the Common Serjeant had a particular responsibility to Common Counsel and the Liveries. I am fortunate to be the 79<sup>th</sup> holder of the office. To stop me getting ideas above my station by colleagues, of course, refer to me as 'Common'. One of my predecessors for a short time, was Judge Jefferies. He ended up surrounded by a baying mob in a riverside hostelry at Wapping – I hope that I can do somewhat better than that.

So what do I actually do? I take an active part in the ceremonial of the City in my full kit although the convenience of in-flight stockings means the relegation of my trusty matrons tights to the back of the drawer. It has been a voyage of discovery since my appointment in July. So far I have taken part in the swearing in of the new Sheriffs, the election of the Lord Mayor, the Quit Rents Ceremony with the Queens Remembrancer at the RCJ, the presentation of the LME to the Lord Chancellor; and I have to come the excitement of the installation of the Lord Mayor and participation in the Lord Mayor's Show.

But back to the building. We are a unique Court and perhaps not enough is known of the contribution of the Corporation of London to the administration of criminal justice. The Court that stands in Old Bailey, opened in 1907 by Edward 7<sup>th</sup> was designed to be seen as a foil to St Paul's and is full of Edwardian confidence and grandeur.

It is most accurately described as the New Session House of the Central Criminal Court built by the Corporation as part of the responsibility it undertook under the 1834 Central Criminal Court Act to provide for and maintain an Assize court empowered to enquire of, hear and determine all treasons, murders, felonies and misdemeanours committed in the City of London, the County of Middlesex and adjoining parts of the counties of Essex, Kent and Surrey.

The Old Session House it replaced had stood on much the same site for the previous 300 years adjoining Newgate Prison where some pretty appalling things went on. Assizes and Quarter Sessions were swept away by Beeching and replaced by a unified Crown Court and the distinction between felonies and misdemeanours has disappeared. Treason lingers on, terrorism has come to the fore and murders abound and the City still provided and maintains the Old Bailey as the principal Criminal Court for London and adjoining areas. It is probably the only Court in the country owned by its local authority and certainly the only one in part paid for by it. The City gets nothing in return except pride in the continuing link and the belief that it discharges a responsibility beyond price. Long may it continue.

We, too, must look forward. Things are changing at an ever increasing speed. We have prepared for the deluge of new legislation. Rules of evidence have been changed and are ever more complicated. Simple concepts such as the widespread introduction of a defendant's bad character mean more time is spent on satellite

issues. Sentencing has become an enormously complex area, and case management has become an essential tool to save time and focus the issues.

We will do our best to take on the new, while trying to preserve and enhance those qualities of our system that are admired universally and are symbolised by the 8' golden statue that adorns the dome of our building.

Not that she was much inspiration to the hapless suburban householder who had little truck with bureaucracy. In a fit of enthusiasm cut down an ancient yew hedge. He received a letter from council pointing out that it was listed; into bin. Another letter asking for explanation; ignored. A letter summoning to Magistrates' court; torn up. Finally, he was arrested and up before the Beaks. That night as he was ushered into the cell, a fellow prisoner asked what in for. "Yew; two weeks.....what are you in for? Rape, 7 years." "My dear fellow – there must have been acres of it."

Master, I fear that my time is coming to an end. This has been a wonderful evening and we have dined well. I and my fellow guests are deeply indebted to you and the livery for their welcome and generosity.

May I offer a little advice by misquoting Kipling:  
'if you can keep your head when all about you are losing theirs, then you have seriously underestimated the gravity of the situation.'

So let us all, your fortunate guests, and our hosts rise and drink to the health of the Worshipful Company of Arbitrators coupled with the name of the Master;

May it flourish for evermore.