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GOVERNOR OF THE BANK OF ENGLAND

at the Lord Mayor's Banquet for Bankers and Merchants
of the City of London at the Mansion House
on Wednesday 21 June 2006

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From page 6:

There is one other arena where clearer rules of the game would be of great value – the Commercial Court.

After 13 years, we have at last drawn a line under the **BCCI case, the most expensive fishing expedition in history.** It ended as a comprehensive victory for the Bank, both on the substance of the case and on costs.

The trial set new records – the longest opening speech in English legal history, an even longer reply, and almost certainly the most expensive commercial litigation ever.

It is for others to comment on the behaviour of those who brought a case that even they described as a blood sport. **I can presume only that they were allowed to play within the rules of the game. In which case, it is the rules of the game that should be questioned.**

A legal framework for enforcing contracts and resolving disputes is not just an arcane process which allows professionals to earn vast fees, but an integral part of the infrastructure of a successful market economy.

It matters that there are simple, clear and timely ways of resolving disputes.

What the BCCI case revealed was a legal system incapable of guaranteeing that.

How can a case described by the trial judge himself as built "not even on sand but on air" take thirteen years and over £100 million in costs to come to a conclusion?

The Bingham Report was produced in only a year and contains all that is worth saying about the supervision of BCCI. It was not comfortable reading for the Bank, but the Bank accepted and acted on its findings.

The subsequent legal proceedings over thirteen years have benefited only one group at the expense, in the end, largely of the creditors.

As Mr Justice Lightman argued in his 2003 Edward Bramley Memorial Lecture, the adversarial system imposes huge costs on litigants and defendants alike.

As he put it, "to the great majority of the public the perception (if not the reality) is that the legal system is a profitable monopoly of the lawyers". BCCI showed that perception was indeed reality.

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A system that is powerless to prevent a case so hopelessly misconceived continuing for thirteen years requires examination.

I very much hope that the Government will look carefully at this case, learn the lessons, and take steps to ensure that such an outcome can never occur again.