

Chamberlain case. But there must arise instances in which the arbitrator simply cannot, otherwise than by pretending to possess an expertise he does not really have, resolve the conflict. The risk that he will be in this position is proportional to the distance his own field is from that being spoken of in the evidence. For example, a civil engineer arbitrator might be expected to know quite enough about the placement of concrete to judge of the merit of conflicting opinions in that area, but he would decide with much less certainty if the question were, for example, one related to the manufacture of cement. It is my thesis that in cases of that sort much may be gained by having a report from an expert commissioned by the arbitrator, whether by agreement of the parties or otherwise. Such an expert will have an important advantage in being independent.

It may be thought that proposals of that sort will only increase cost and delay. I suspect not, on the whole: the principal cause of those ills is

excessive adherence to the adversary process.

The second aspect of the Chamberlain case, which I can mention only briefly, is the view reaffirmed by the Court as to proof of facts. The predominant opinion appears to have been that, at least in circumstantial evidence cases, any fact relied on must be proved beyond reasonable doubt—if not, it must be ignored. But in deciding whether any fact is to be taken to be proved beyond reasonable doubt, one may, indeed must, have regard to other evidence including, as I understand it, evidence of facts not proved beyond reasonable doubt. Those interested in the mathematics of probabilities or modern logic may find this concept fascinating. What is certain is that analysis of that sort of problem is assisted, and not impeded, by skill in the mathematics of probability, as Sir Richard Eggleston has brilliantly demonstrated in his work on such topics. ■

## ***New York Convention— China***

It has been announced in Beijing that the Peoples Republic of China has agreed to join the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards known as the New York Convention.

This decision clearly indicates that China is making new efforts to improve its arbitration system to cope with the increasing number of disputes between Chinese and foreign business and will ease the concerns of foreign investors and other businessmen who up till now may have doubted whether awards in their favour by foreign courts would be enforced in China. ■