[2009] UKPC 41
Privy Council Appeal No 0075 of 2008

JUDGMENT

Peter Michel *v* The Queen

From the Court of Appeal of Jersey

before

Lord Phillips
Lord Rodger
Lady Hale
Lord Brown
Lord Neuberger

JUDGMENT DELIVERED BY
Lord Brown
ON

4 November 2009

Heard on 1 July 2009

Appellant

Peter Knox QC
Gideon Cammerman
(Instructed by Charles Russell LLP)

Respondent

William Bailhache QC
D J Farrar QC

(Instructed by Baker & Mackenzie)

LORD BROWN

1. Not often is defence counsel, appealing against conviction on the grounds of an unfair hearing, able to turn the appeal court's feeling from initial rueful concern to eventual deep dismay simply by reference to the number and character of the judge's interventions in the course of the trial. Such, alas, is the position in this case and, overwhelming though the evidence against the appellant may appear to have been, the Board can see no alternative but to set his conviction aside.

2. The bare bones of the case are these. On 14 May 2007, after a 30-day trial before the Inferior Number of the Royal Court of Jersey (Sir Geoffrey Nice QC, Commissioner, and two Jurats), the appellant was convicted on nine counts of money laundering contrary to article 32 of the Proceeds of Crime (Jersey) Law 1999. On 18 June 2007 he was sentenced (by the Commissioner and five Jurats) to six years imprisonment. That sentence was imposed concurrently on all nine counts and concurrently also with a further such count on which the appellant had been convicted before a differently constituted Inferior Number (Sir Richard Tucker, Commissioner and two Jurats) on 18 August 2006 (a conviction from which leave to appeal had been refused on 25 October 2006). The Board will refer to this as "the earlier trial", the later proceedings simply as "the trial". On 19 October 2007 the benefit from the appellant's crime (found to total £9,730,152) was confiscated from him.

3. The appellant appealed against his conviction (but not against sentence or the confiscation order) on the trial of the further nine counts. That appeal was dismissed by the Court of Appeal of Jersey (Michael Birt QC, Deputy Bailiff, President, David Vaughan CBE QC and Geoffrey Vos QC) on 13 December 2007. By Special Leave of the Board, the appellant now appeals against the Court of Appeal's decision.

4. Given that the Board propose to advise that the conviction be quashed and the case be remitted to the Court of Appeal for them to decide whether to order a new trial, it is inappropriate, and in any event unnecessary, to rehearse the facts of the case in any detail. The following broad summary will suffice.

5. The appellant is an accountant who practised as Michel & Co in St Helier for over thirty years. His business was divided into two parts: local clients, in respect of whom no allegation of illegality was made by the prosecution; and offshore clients who were, the prosecution alleged, almost all tax evading criminals and, in at least one case, a thief.

6. The appellant employed a number of support staff, including Mrs Gallichan, who assisted him in administering his offshore clients' affairs. Mrs Gallichan (who had been convicted with the appellant at the earlier trial) was his co-accused on all but one of the nine further counts, albeit in the event acquitted on each of them.

7. It is convenient at this stage to set out article 32(1) of the 1999 Law:

> *"Assisting another to retain the benefit of criminal conduct*
>
> 32(1). . . if a person enters into or is otherwise concerned in an arrangement whereby
>
> (a) the retention or control by or on behalf of another (in this Article referred to as 'A') of A's proceeds of criminal conduct is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or
>
> (b) A's proceeds of criminal conduct
>
> (i) are used to secure that funds are placed at A's disposal, or
>
> (ii) are used for A's benefit to acquire property by way of investment,
>
> knowing or suspecting that A is a person who is or has been engaged in criminal conduct or has benefited from criminal conduct, he or she is guilty of an offence."

8. Count 1 was an omnibus charge which alleged, not that the appellant and Mrs Gallichan had entered into an arrangement with any particular client, but that from 1 July 1999 until 8 July 2001 they "were concerned together and with others [at Michel & Co] in an arrangement" ("a standing arrangement" as it was put) whereby stolen funds or funds chargeable to tax were transferred from fifty-three of Michel & Co.'s clients to bank accounts in Jersey and then delivered back to the clients in cash.

9. All the remaining counts (just as the count on which the appellant and Mrs Gallichan had been convicted at the earlier trial) charged the appellant (and in all but one case Mrs Gallichan) with being concerned in "an arrangement" in the same period with a particular named client, each of which arrangements was said to have facilitated the evasion of tax or VAT save count 5 which alleged that the crime facilitated was theft by a client (Mr Gerald Smith) from settlors of trusts he administered, and count 8 which alleged unspecified criminal conduct by the relevant client (Mr Krejzl). In each instance it was alleged that the appellant and Mrs Gallichan set up companies or trusts for the clients using false or nominee beneficial ownership or settlor details, and that they would place funds on deposit and then either purchase property for them, meet their expenses or physically return the funds in cash to them while maintaining their anonymity. It was said that they arranged for payments to be layered in and out of deposit accounts through the appellant's client account.

10. The appellant and Mrs Gallichan did not dispute most of the facts alleged by the prosecution. They accepted that they provided all these various services to their clients: setting up trusts or companies, putting funds on deposit, buying property, meeting expenses and delivering cash. Their defence, however, was that they did not know or suspect that any of their offshore clients were criminals or that they were dealing in the proceeds of crime. The appellant gave evidence to this effect; Mrs Gallichan exercised her right to silence.

11. There was undisputed evidence that between January 1993 and July 2001 £5.6m in cash was made available to 52 clients. Of this sum, £1.5m was made available after 1 July 1999, when section 32 came into force. Of the £1.5m, £1.2m was hand-delivered by the appellant in England by taking the money over from Jersey in person. Some £2.6m of the £5.6m total came from clients (cash which was never banked but simply kept in a pot for use as and when needed for delivery to other clients), some £3m from various pooled accounts at banks (some £1.6m of which was withdrawn in cash over the years in sums of £9,950).

12. So much for the evidence. The Board turn at once to the central ground of appeal as to the fairness of the trial, focused as this is entirely on the Commissioner's conduct of the hearing: his continual interruptions of the evidence, of prosecution witnesses as well as the appellant himself, of evidence in chief as well as cross examination. During the Crown's case the Commissioner time and again asked questions damaging to the defence case which prosecuting counsel could never have asked—for example cross-examining the appellant's clients to suggest both that they had behaved criminally and that this must have been obvious. During the appellant's own evidence the Commissioner intervened with substantive questions on no fewer than 273 occasions, 138 of them during evidence in chief. Generally this was with a whole series of questions, taking up in all just over 18% of the appellant's eight and a half days in the witness box. So much for the bare statistics. Of altogether greater significance than the mere number and length of these interruptions was, however, their character. For the most part they amounted to cross-examination, generally hostile. By his questioning the Commissioner evinced not merely scepticism but sometimes downright incredulity as to the defence being advanced. Regrettably too, on occasion the questioning was variously sarcastic, mocking and patronising.

13. The Board will give but a single, brief illustration of this, taken from the transcript of the appellant's examination-in-chief. The appellant was being questioned about his knowledge of a particular client's transactions. The Commissioner intervened:

> "There is no question, is there, of his having snooked just a teeny-weeny bit of his money, £49,000, out without paying tax on it, or anything like that?"
>
> And a little later: "We just want a picture of where, in his case, this minute quantity of cash went."

14. No one has found it possible to defend the Commissioner's conduct of this trial. As the Court of Appeal record in its judgment (para 45), junior counsel then appearing for the Attorney-General accepted that "a significant part [of the interventions] amounted to cross-examination, sometimes apparently hostile or incredulous in tone. [They were also] much too frequent, especially during examination in chief of the applicant."

15. The Court of Appeal (at para 71) expressed its own view thus:

> "The Court has found it very surprising that the Commissioner should have intervened to the extent which he did. The Court has no hesitation in agreeing with both counsel that the nature and extent of the Commissioner's interventions were improper. He asked far too many questions and, although many were perfectly proper, a significant proportion were in the nature of cross-examination designed to test the evidence, particularly that of or favourable to the applicant. It is perfectly proper—indeed it is his duty—for a judge to intervene for the purposes described by Rose LJ in *Tuegel* [*R v Tuegel* 2002 Cr App R 361 where Rose LJ referred to the judge's 'duty to ask questions which clarify ambiguities in answers previously given or which identify the nature of the defence, if this is unclear']. But it is not proper for a judge to descend into the arena to the extent that the Commissioner did in this case."

16. Before the Board, both the Attorney-General himself and Mr David Farrer QC appearing with him similarly acknowledged that the Commissioner's interventions were both excessive and inappropriate. Their arguments were confined to the question whether the Court of Appeal was nevertheless entitled to conclude that these interventions did not result in the trial being unfair.

17. The Court of Appeal considered a large number of cases dealing with judicial interventions during the course of trial. It is unnecessary to rehearse most of them here. Many take as their starting point the decision of the Court of Appeal in *R v Hulusi* (1973) 58 Cr. App. R 378, 382, adopting as it did Lord Parker CJ's statement of principle in R v Hamilton (unreported, 9 June 1969):

> "Of course it has been recognised always that it is wrong for a judge to descend into the arena and give the impression of acting as advocate. . . . Whether his interventions in any case give ground for quashing a conviction is not only a matter of degree, but depends to what the interventions are directed and what their effect may be. Interventions to clear up ambiguities, interventions to enable the judge to make certain that he is making an accurate note, are of course perfectly justified. But the interventions which give rise to a quashing of a conviction

> are really three-fold; those which invite the jury to disbelieve the evidence for the defence which is put to the jury in such strong terms that it cannot be cured by the common formula that the facts are for the jury . . . . The second ground giving rise to a quashing of a conviction is where the interventions have made it really impossible for counsel for the defence to do his or her duty in properly presenting the defence, and thirdly, cases where the interventions have had the effect of preventing the prisoner himself from doing himself justice and telling the story in his own way."

18. Essentially it was by reference to these three grounds ("the Hamilton grounds" as the Court of Appeal called them) that the strength of the appellant's complaint of unfairness came to be evaluated in this case. As the Court of Appeal stated (at para 72):

> ". . . the mere fact that a judge intervenes excessively or inappropriately does not necessarily lead to a conviction being quashed. The decision for the Court is whether the nature and extent of the interventions have resulted in the applicant's trial becoming unfair."

19. The Court of Appeal then (at para 73) referred to seven particular features of the case which they took into account in finally deciding that the Commissioner's interventions here did not result in an unfair trial. First, they pointed out, this was a trial by Jurats rather than a jury. As the European Court of Human Rights had stated in *Snooks v United Kingdom* [2002] JLR 475, 484, para 19:

> "Jurats are . . . elected by a special electoral college whose members include the bailiffs, the Jurats, advocates and solicitors of the Royal Court and members of Jersey's legislature, the States Assembly. Jurats do not necessarily have a legal qualification, but are usually individuals with a known history of sound judgment and integrity, which has been consistently demonstrated throughout a lengthy professional, business or civic life."

20. Secondly, the main issue at the trial having been whether the appellant knew or suspected that his clients had been engaged in criminal conduct, the case depended very largely on the Jurats' assessment of the appellant when he gave evidence. Thirdly, even though the Commissioner's questioning of the appellant took in all just over one and a half days, that still left nearly 7 days for the Jurats to form an impression of the appellant's evidence whilst he was being questioned by others. Fourthly, there was only a single objection to the Commissioner's questioning of the appellant. That came during cross-examination on the sixth day of the appellant's evidence:

> "Commissioner: You must be appalled at how gullible a person you have discovered yourself to be.
>
> A: Erm, yes.
>
> Commissioner: And completely unsuited to taking the word of trust of anyone, because you can always be conned.
>
> A: I am not quite sure who I will ever trust again in the future, Sir.
>
> Defence Counsel: May I briefly and very respectfully intervene here?
>
> Commissioner: Yes.
>
> Defence Counsel: There have been several, with respect, questions which might lead the defendant witness to feel that the court is asking questions which one would expect to come from the prosecution in cross-examination, and I just, with the greatest respect, draw attention to that."

The Court of Appeal noted defence counsel's regret that he had not objected more often.

21. Fifthly, the Court of Appeal said that many of the questions asked by the Commissioner, although they should have been asked by others rather than him, were nevertheless ones that were bound to have arisen and many no doubt reflected matters which were in the Jurats' minds. Sixthly, the Court of Appeal noted from the transcript that the appellant "is an intelligent and articulate man [who in] almost every intervention had a ready and plausible answer to the judge's questions. . . . he dealt very well with almost all of the judge's interventions".

22. Seventh, in addition to closing speeches, each side put in detailed written closing submissions and the Jurats also had a "composite grid submission" summarising the essence of the rival submissions on each count. The defence case was set out "with clarity and vigour".

23. As to the three Hamilton grounds, the Court of Appeal concluded that "the Jurats could be relied on to reach their own conclusion on the facts irrespective of any views of the Commissioner" (para 77), defence counsel "was not prevented from properly presenting the defence" (para 78), and "despite the interventions, the defence case emerged from the evidence in chief with clarity and with the general structure required by the defence. . . . we are satisfied that, viewed overall, he was not deflected from telling his story in his own way by the judge's interventions." (para 80).

24. Although, as already indicated, the Board cannot agree with the Court of Appeal's final conclusion as to the fairness of this trial, tribute should be paid to the very careful and thorough way in which the court below dealt with this most troubling of cases.

25. If the three Hamilton grounds were indeed the only grounds on which convictions fall to be set aside for excessive judicial intervention in the trial process, the Board might be disinclined to dissent from the Court of Appeal's conclusions on the particular questions they raise. It is not suggested that defending counsel was in the event unable to present the defence properly (Hamilton ground two). And the Board is not entirely persuaded either that the appellant did not do himself justice in the witness box (ground three) or that the Jurats were not well able to reach their own conclusions on the merits or otherwise of the defence despite the Commissioner's own patent disbelief in it (ground one). The Jurats did, after all, acquit Mrs Gallichan and yet convict the appellant notwithstanding the Commissioner's direction that "as a matter of fact and common sense, it might be very hard although not impossible to find against him alone guilt on count one if you were not also satisfied of guilt against Mrs Gallichan. How, on the evidence, including the evidence of the open nature of the office and the involvement of Mrs Gallichan in many aspects of the business, could he be offering such an arrangement without the active and knowing involvement of at least one (and maybe others) of his staff? This is ultimately a matter for you." In short, the Jurats do not appear to have been in thrall to the Commissioner.

26. If, in the context of a fairness challenge, the sole touchstone of a safe conviction—or more particularly, in the terms of section 26(1) of the Court of Appeal (Jersey) Law 1961, of a "substantial miscarriage of justice"—was whether the Appeal Court could be satisfied that the jury (here the Jurats) would inevitably have come to the same conclusion even without the judge's inappropriate interventions, it might be difficult to upset this verdict: the case against the appellant was in truth a formidable one.

27. There is, however, a wider principle in play in these cases merely than the safety, in terms of the correctness, of the conviction. Put shortly, there comes a point when, however obviously guilty an accused person may appear to be, the Appeal Court reviewing his conviction cannot escape the conclusion that he has simply not been fairly tried: so far from the judge having umpired the contest, rather he has acted effectively as a second prosecutor. This wider principle is not in doubt. Perhaps its clearest enunciation is to be found in the opinion of Lord Bingham of Cornhill speaking for the Board in *Randall v R* [2002] 2 Crim App R, 267, 284 where, after remarking that "it is not every departure from good practice which renders a trial unfair" and that public confidence in the administration of criminal justice would be undermined "if a standard of perfection were imposed that was incapable of attainment in practice," Lord Bingham continued:

> "But the right of a criminal defendant to a fair trial is absolute. There will come a point when the departure from good practice is so gross, or so persistent, or so prejudicial, or so irremediable that an appellate court will have no choice but to condemn a trial as unfair and quash a conviction as unsafe, however strong

> the grounds for believing the defendant to be guilty. The right to a fair trial is one to be enjoyed by the guilty as well as the innocent, for a defendant is presumed to be innocent until proved to be otherwise in a fairly conducted trial."

28. Lord Bingham was, of course, right to recognise that by no means all departures from good practice render a trial unfair. So much, indeed, was plainly implicit in the judgment of the European Court of Human Rights in *CG v United Kingdom* (2002) 34 EHRR 31, 789 which rejected the complaint that the trial proceedings as a whole were unfair notwithstanding the Court's finding that the judicial interventions had been "excessive and undesirable". Ultimately the question is one of degree. Rarely will the impropriety be so extreme as to require a conviction, however safe in other respects, to be quashed for want of a fairly conducted trial process.

29. In *Randall*, it may be noted, the conviction was quashed because of persistent misconduct by prosecuting counsel which the judge had failed to control. On occasion, however, it is the conduct of the judge himself which requires that the trial be condemned as unfair. So it was in *R v Hulusi* [1973] 59 Cr. App. R 378 where, as Lawton LJ summarised it (at p386):

> "Time and time again the judge intervened, got an answer and then asked questions on that answer. The impression he must have given was that he was cross-examining on the evidence-in-chief as it was being given. It really was most unfortunate."

30. So too, much more recently, in *R v Perren* (2009) EWCA Cr. App. 348 where, allowing the appeal, Toulson LJ emphasised yet again (para 34) "that it is for the prosecution to cross-examine, not for the judge", and that "the right time for the prosecution to cross-examine is after a witness has given his evidence-in-chief. It would be unthinkable for prosecuting counsel to jump up in the middle of a witness' evidence-in-chief and seek to conduct some hostile cross-examination." The Court continued (paras 35-36):

> "The appellant's story may have been highly improbable, but he was entitled to explain it to the jury without being subjected to sniper fire in the course of doing so. The potential for injustice is that if the jury, at the very time when they are listening to the witness giving his narrative account of events, do so to the accompaniment of questions from the Bench indicating to anybody with common sense that the judge does not believe a word of it, this may affect the mind of the jury as they listen to the account.
>
> We have been driven in this case to the regretful conclusion that the nature and extent of interventions over the three days in which the appellant gave his evidence deprived him of the

> opportunity of having his evidence considered by the jury in the way that he was entitled. The conclusion from that is that we do not consider that he received the quality of fair trial to which he was entitled."

31. To that admirable analysis the Board would add that not merely is the accused in such a case deprived of "the opportunity of having his evidence considered by the jury in the way that he was entitled". He is denied too the basic right underlying the adversarial system of trial, whether by jury or Jurats: that of having an impartial judge to see fair play in the conduct of the case against him. Under the common law system one lawyer makes the case against the accused, another his case in response, and a third holds the balance between them, ensuring that the case against the accused is properly and fairly advanced in accordance with the rules of evidence and procedure. All this is elementary and all of it, unsurprisingly, has been stated repeatedly down the years. The core principle, that under the adversarial system the judge remains aloof from the fray and neutral during the elicitation of the evidence, applies no less to civil litigation than to criminal trials. All will be familiar with Denning LJ's celebrated judgment in *Jones v National Coal Board* [1957] 2 QB 55, 64, a personal injury claim ending with each party complaining that he had been unable to put his case properly:

> "A judge's part . . . is to hearken to the evidence, only himself asking questions of witnesses when it is necessary to clear up any point that has been overlooked or left obscure; to see that the advocates behave themselves seemly and keep to the rules laid down by law; to exclude irrelevances and discourage repetition; to make sure by wise intervention that he follows the points that the advocates are making and can assess their worth; and at the end to make up his mind where the truth lies. If he goes beyond this, he drops the mantle of a judge and assumes the role of an advocate; and the change does not become him well. Lord Chancellor Bacon spoke right when he said that: 'Patience and gravity of hearing is an essential part of justice; and an over-speaking judge is no well-tuned cymbal.'"

32. The need for the judge to steer clear of advocacy is more acute still in criminal cases. It is imperative that a party to litigation, above all a convicted defendant, will leave court feeling that he has had a fair trial, or at least that a reasonable observer having attended the proceedings would so regard it.

33. None of this, of course, is to say that judges presiding over criminal trials by jury cannot attempt to assist the jury to arrive at the truth. On the contrary, they should. That is part of their task. Judges exist to see that justice is done and justice requires that the guilty be convicted as well as that the innocent go free. But for the most part they must do so, not by questioning of the witnesses but rather by way of a carefully crafted summing up. As to that,

Simon Brown LJ, giving the judgment of the Court of Appeal in *R v Nelson* (Garfield Alexander) [1997] Crim. LR 234 (transcript dated 25 July 1996) put it thus:

> "Every defendant, we repeat, has the right to have his defence, whatever it may be, faithfully and accurately placed before the jury. But that is not to say that he is entitled to have it rehearsed blandly and uncritically in the summing up. No defendant has the right to demand that the judge shall conceal from the jury such difficulties and deficiencies as are apparent in his case. Of course, the judge must remain impartial. But if common sense and reason demonstrate that a given defence is riddled with implausibilities, inconsistencies and illogicalities . . . there is no reason for the judge to withhold from the jury the benefit of his own powers of logic and analysis. Why should pointing out those matters be thought to smack of partiality? To play a case straight down the middle requires only that a judge gives full and fair weight to the evidence and arguments of each side. The judge is not required to top up the case for one side so as to correct any substantial imbalance. He has no duty to cloud the merits either by obscuring the strengths of one side or the weaknesses of the other. Impartiality means no more and no less than that the judge shall fairly state and analyse the case for both sides. Justice moreover requires that he assists the jury to reach a logical and reasoned conclusion on the evidence. . . . Judges who go to the trouble of analysing the competing cases and who give the jury the benefit of that reasoned analysis . . . are to be congratulated and commended, not criticised and condemned."

In all of this, of course, it goes without saying that the judge in his summing up must make it abundantly plain that the all important conclusion on the facts is for the jury alone.

34. Naturally, in Jersey, where the facts are decided by the Jurats (the Commissioner retiring with the Jurats but not joining in the fact-finding unless the Jurats disagree), the facts are not summed up so that the Nelson approach is not available to the Commissioner. But that cannot begin to justify the Commissioner seeking to give the Jurats the benefit of his analytical powers by way of his own extensive examination of the witnesses, or indicating his thinking by the nature of his questions and comments. Indeed, it does not entitle him to conduct the hearing in any way different from that ordinarily required of a judge at trial. Of course he can clear up ambiguities. Of course he can clarify the answers being given. But he should be seeking to promote the orderly elicitation of the evidence, not needlessly interrupting its flow. He must not cross-examine witnesses, especially not during evidence-in-chief. He must not appear hostile to witnesses, least of all the defendant. He must not belittle or denigrate the defence case. He must not be sarcastic or snide. He must not comment on the evidence while it is being given. And above all he must not make obvious to all his own profound disbelief in the defence being advanced.

35. Regretfully the Commissioner's interventions during this trial breached each one of those canons. One can understand his incredulity during parts of the defendant's evidence. But quite why he thought it necessary to manifest it is altogether more difficult to follow. Not only was it improper, but he could scarcely have thought the Jurats unable to perceive for themselves many of the defence's "implausibilities, inconsistencies and illogicalities".

36. Tempting though it is to include within this opinion a number of further citations from the transcript, the Board will not succumb. As already stated, no one has sought to justify the bulk of these interventions and in the end it is their sheer volume which compels the conclusion that this conviction cannot stand.

37. The Board must now turn, although altogether more briefly, to the one other ground of appeal which it remains necessary to address given that the Court of Appeal will now need to decide whether or not to order a fresh trial. The Board has already (para 7) set out article 32(1) of the 1999 Law and (para 8) summarised the essential basis of count one. What Mr Knox QC now seeks to argue before the Board—a point which he accepts was not taken below either at trial or before the Court of Appeal— is that the offence in fact proved against the appellant on count one is one not known to the law. The Board understands the argument to be essentially this: that in the guise of an allegation that the appellant and Mrs Gallichan and others at Michel & Co were concerned in an arrangement contrary to section 32(1), the prosecution was in reality using count one as a common law conspiracy charge. Section 32(1), runs the argument, requires proof of "an arrangement whereby . . . the retention or control . . . is facilitated", not "will be facilitated" (emphasis added). In short, the arrangements proscribed by section 32(1) necessarily involve existing money laundering activity, not merely prospective future such activities. Here, submits Mr Knox, the prosecution case was put simply on the basis of a standing arrangement whereby, if clients chose to avail themselves of Michel & Co's services, the proceeds of their crimes would be returned to them in cash. This was like charging a conspiracy between the appellant and others at Michel & Co (as, indeed, had originally been charged) but without the consequences of such a charge: the right to trial by jury (as opposed to Jurats), and the right to be acquitted unless at least two people were proved to be party to the agreement with the requisite *mens rea*.

38. The Board is satisfied that there is nothing in this argument. There could be no doubt that the system of returning the proceeds of crime to clients in cash was being alleged to be not merely available but also operating and, assuming the Jurats accepted the facts alleged, there was ample evidence of the appellant being at the very least "concerned in an arrangement" whereby money laundering was being regularly facilitated on a continuing basis. There were, indeed, countless acts of facilitation both within the arrangement and within the two-year indictment period.

39. In the result the Board will humbly advise Her Majesty that this appeal should be allowed and the conviction quashed on the first ground only, that the respondent should pay

the appellant his costs of this appeal and of the appeal below, and that the case should be remitted to the Court of Appeal of Jersey for that Court to decide whether or not to order a fresh trial.