editorial

Companies Registry Spending Cuts

Last December, in response to a Parliamentary question, the Secretary of State for Trade, Mr John Nott, indicated that, subject to the necessary legislation, it was proposed to abolish or modify the powers now exercised under the Companies Act 1948 in respect of dispensations for charitable and other companies to omit the word "limited" in their names under section 19 and for the inclusion of directors' names on business documents under section 201. It was also proposed to introduce modifications in the arrangements for the search service and the maintenance of company files. Further, consideration was being given to the abolition of the Registry of Business Names and to a modification of the discretionary power governing undesirable company names.

The possible abrogation of the present exemption under section 201 of the 1948 Act which is granted in suitable cases to companies from stating the names of directors on letterheads and other documents raises an important point of principle. There seems to be no arguable case for a small government administrative economy being made which results in increased expenditure in the private sector far outweighing the associated reduction in public expenditure by saving the cost of two dozen or so staff at the Companies Registry.

The other proposed savings could also have significant disadvantages for the business community. The Law Society and other professional bodies have already strongly urged that the Business Names Registry should not be abolished. The relaxation of controls on company names is also likely to bring problems in the future – we may see a growth in speculative company promoters forming companies with names similar to existing large organisations and then selling the companies to the organisations concerned for a price reflecting their concern to prevent unauthorised use of company names incorporating the name of the organisation.

A consultative document is expected to be issued before the cuts are implemented. It is to be hoped that commerce, industry and the professions will express the view forcibly to the Government that company law and procedure should not be made less practicable and effective merely for the sake of minor expenditure cuts.

Director's Skills

The standards of skill expected of professionals have in recent years become increasingly stringent and there seems no reason why the directors' profession should be subject to a much lower standard of skill than other professions. Directors may however take some comfort from the decision of the Court of Appeal in *Whitehouse v Jordan* (*The Times*, December 6, 1979). In this case, a negligence claim against an obstetrician, Lord Denning criticised the trial judges' application of "the very high standard of professional competence that the law requires" since that suggested that the law made no allowance for errors of judgment. In his view this would be mistaken as there would then be a danger of professional men being made liable in all cases whenever something happened to go wrong. In a professional man an error of judgment was not negligence. Lawton LJ concurred but Donaldson LJ dissented. It must be said that the case turned very much on the evidence.

Lord Denning was clearly influenced in his judgment by the colossal awards of damages being made with disturbing frequency in "medical malpractice" suits in the United States. Reverting to the question of directors, this could be a similar problem. It would be regrettable if directors in the UK were to have to adopt the defensive approach of their American counterparts.