# Editorial

## Insolvency Bill

First came Cork, then the White Paper "A Revised Framework for Insolvency Law" and now inexorably we move nearer to a new Insolvency Act. The Insolvency Bill "ordered to be printed on 10th December" made heavy reading during the festive season. A total of 203 clauses and 9 Schedules is luckily just short of daunting. This is because the introductory explanatory memorandum provides a welcome beacon. And the Bill, after all, does give effect, with modifications, to the proposals of the White Paper.

The laying down in Part I of the Bill of new and overdue qualifications for insolvency practitioners is welcome. Abuses in liquidations and receiverships were becoming a scandal. At least one suggestion has been made to the effect that the qualifications for the new judicial administrator should be relaxed. But the Cork Committee rightly recommended uniformity of qualification and no good reason has been suggested for differentiating the position of a judicial administrator.

The rescue system available through the judicial administrator contains no real surprises. The implanting of a new insolvency remedy is going to need intensive study by practitioners in the field. The changes in out-of-court receivership are either tidying up, or bringing England into line with Scottish provisions. The power given to an out-of-court receiver to sell free from a fixed charge is an important reform. But why does the Bill confusingly refer to such receivers as *administrative* receivers?

The very considerable changes in liquidation law and bankruptcy defy the précis of editorial comment. But one must regret the absence of many of the salutary reforms recommended by the Cork Committee. Why should Crown debts retain special preference? One must be grateful for the reforms of section 322 of the Companies Act 1948 which have been proposed in the Bill. But it is a pity that the evil of *Re Yeovil Glove* [1954] Ch 148, recommended for statutory reversal by Cork, has escaped exorcism. Payments into the account of a company should be treated as discharging debit items incurred after the creation of the floating charge before those incurred before it, and not vice versa.

The preliminary verdict on the Bill must co-incide with the verdict on the White Paper. The reforms proposed do not go far enough in the direction pointed by the Cork Committee.

Is it too much to hope that the Government will accept some additions to the Bill? Lobbyists step forward.