Editorial

Fraud Trials

On 11 February the second *Guinness* fraud trial collapsed after 68 days when Mr Justice Henry accepted medical evidence that one of the defendants, Roger Seelig, who was conducting his own defence, was too ill to continue. The judge told the jury that: "once again this case has thrown up the problems of long criminal trials and the appropriateness of our criminal justice system – whose rules were designed to cater for short trials and simple facts – not complex trials. It seems to me inevitable that we must find cheaper and quicker ways to deal with serious fraud trials, and the likelihood is we shall need a radical solution rather than merely tinkering with procedure." A few days later, another judge, passing sentence on four defendants at the end of the *Blue Arrow* case, which had lasted more than a year, said that lessons would have to be learned "if trial by jury is to survive in a case such as this."

The Lord Chancellor subsequently acknowledged the force of Mr Justice Henry's comments, but noted that no one had yet come up with a convincing solution. He rejected calls for abolition of jury trial in complex fraud cases, a view subsequently endorsed by Barbara Mills QC, Director of the Serious Fraud Office. However, Lord Roskill, who had recommended in 1986 (when even the longest trials were positively brisk by today's standards) that fraud-case juries be replaced by judges sitting with assessors, said that nothing had since happened to change his mind.

All this is a re-run of the debate in the aftermath of the first *Guinness* trial, which ended in August 1990 (with a very different outcome). We noted then (1990) IBLR 234) that the Lord Chancellor's Department had rejected the Roskill proposals for the abolition of jury trial. We supported this rejection and, like Lord Roskill, we have not changed our minds. As Anthony Scrivener QC said, in the aftermath of *Guiness II*, (*Independent*, 14 February 1992): "if a case cannot be made easy for a jury to understand then it is the judge and the lawyers who have failed, and not the jury system."

But reforms *are* clearly needed. Various commentators have pointed, for instance, to the serious under-staffing of the SFO; and to the need to do a lot more to slim down complex multiple indictments. We agree that such matters need looking into. But the biggest issue of all is one of high policy that goes far beyond the flawed mechanics of criminal investigation and trial, to the heart of recent ideological and party-political debate. In our view, the spate of recent fraud cases – cases that have tested to near-destruction those parts of the legal system charged with handling them – is symptomatic of the fundamental failure of 1980s policies of self-regulation in the City. It is here, surely, that the real task of the reformer must begin.