

# Editorial

## Reform of the SFO

Earlier this year, prompted mainly by the *Guinness* and *Blue Arrow* débâcles, (though with the Barlow Clowes, Maxwell and BCCI scandals also very much in mind) we pondered in this column ((1992) 13 BLR 54, March 1992) upon the intractable problems associated with the conduct of complex fraud trials. Our view was then, and is now, that much of the answer lies in prevention – in particular, a major rethink about the policy of self-regulation in the City – rather than curative procedural repairs (though some of the latter would certainly not go amiss).

Recent press reports based on interviews with the new Director of the Serious Fraud Office, George Staple (see in particular *The Sunday Times*, 23 August and *The Times*, 31 August) make it clear that a lot of hard thinking about the prosecution of major fraud has been

going on in high places. While defending the record of the SFO, Mr Staple accepts the need in future to avoid both the overloading of indictments, and the over-filling of the dock with a plethora of defendants; the policy in future, particularly in conspiracy cases, will be to prosecute only those centrally involved. He supports the increased use of plea bargaining (*cf* the *Boesky* case in the USA), and calls for the introduction of specialist training for judges called upon to handle fraud trials – including familiarisation with computers. He defends the powers conferred on his Office by section 2 of the Criminal Justice Act 1987, to compel witnesses and defendants to answer questions, and thinks that statements so obtained should be admissible in court. However, he is not a supporter of replacing juries by specialist assessors.

Interestingly, Mr Staple recognises the important role of the disciplinary

committees of regulatory bodies like IMRO and the SIB as an alternative to criminal trial: in his reported words, “we have to see where regulation ends and prosecution begins”. This is certainly something that needs to be taken on board by the Runciman Commission on Criminal Justice. But it has to be said that these self-regulatory bodies have track record that is too poor to justify our having confidence in their capacity, as they are at present constituted, to shoulder substantial extra burdens arising from the shortcomings of the fraud trial machinery. The increased use of disciplinary machinery in lieu of prosecuting relatively minor fraudsters is an excellent idea in principle; but, as we have already argued, the whole philosophy of self-regulation needs urgently to be reviewed before we can move very far in that direction.