

Out of Africa

This month's contribution from CLANT comes from Michael Jones of NAALAS

It was an unusual job interview.

The African men were asking me questions which I could barely understand. Their accent was a thick mixture of something oily and foreign and strangely click clack. I was having a lot of trouble understanding them. Besides, the air-conditioner was making a lot of noise.

Boldly, I asked, "Does it matter that I have a drink-driving conviction a few years ago?"

The African DPP replied, "No - I read that in your application. No, it doesn't matter."

A few months later, an hour or so out of Harare, the African immigration form leered up at me. "Have you ever been convicted of any criminal offence? It shrieked out.

Was drink-driving a criminal offence? Yes? No? Yes? No? What do I say?

"Always tell the truth", my mother used to say. I ticked the "yes" box.

The Zimbabwean immigration offi-

cial looked at me across his counter. He said, "You have been convicted of a criminal offence, isn't it?"

"Yes."

The immigration official looked pleased. He said, "You cannot enter this country. You must leave."

I looked enquiringly at the African DPP who had gone to some trouble to come out to the airport at a late hour. Happily, he intervened and explained that I was a very important Australian lawyer who was there at the request of the Zimbabwe government to prosecute people.

Unhappily, the immigration official was unmoved by the attorney's somewhat embellished demands. The immigration official turned to me and said, "You must go."

I was escorted back to the Qantas plane which was about to do the turnaround and fly back to Perth. By a stroke of utter luck, I happened to be seated in 43A where I found my 8th beer can of the

trip to Africa still basically intact and nestled in the rear pocket of the seat in front of me. I looked out the window and thought how much I had enjoyed my trip to Zimbabwe.

After some fairly hard-nosed representations by the mandarins in the Australian Foreign Affairs Department, and an apology by an African leader of some repute, a fortnight later I found myself about to conduct my first murder trial in Africa. I was in Harare sitting in the chambers of Wilson Sandura, Judge President of the High Court of Zimbabwe. We were having tea.

The judge looked at me across his desk and asked, "Whatever became of that poor fool from Australia who was deported the other day?"

I said, "You're looking at him."

Sandura gazed at me for a minute and paused before he spoke.

"You really are a poor fool!"

Voluntary Administration Report: Summary

continued from page 6

which had little prospect of success and which were unlikely to mean that creditors would receive any return;

- When the deed of company arrangement was completed some companies were still insolvent and continued to trade and incur debts;
- Companies change their names before entering a voluntary administration. This minimises the damaging effect from the previous name which is associated with failure. (However it also means that creditors do not realise they are still dealing with the same company.)

OTHER FINDINGS OF THE STUDY Companies Surviving Voluntary Administration

The ASC has also conducted an extensive statistical survey which looked at the number and outcomes of volun-

tary administrations. This survey was based on ASC records as well as research undertaken by companies and professional associations in Australia and overseas.

The ASC reviewed its database of the 5,760 companies in Australia that entered voluntary administrations between 1 July 1993 and 30 June 1997. It appears that at least 60% of companies entering into voluntary administration will subsequently become deregistered.

When allowing for the outcome of deeds of company arrangement, it appears that the number of companies resuming normal trading after entering administration is around 20%-25% which compares favourably with the United Kingdom (19%) and the United States of America (6%).

Returns to Creditors

An Australian Society of Certified Practising Accountants survey found

that the estimated average return to unsecured creditors of companies from Part 5.3A administrations was 21.5 cents in the dollar. That study found that this compares to an estimated average return of 7.3 cents if the same companies had proceeded directly into liquidation.

The ASC research did not aim to quantify and compare returns to creditors. However, it did observe some evidence to suggest that 10 cents was becoming a benchmark that unsecured creditors were being offered to accept a proposed deed of company arrangement. Directors sometimes offer these ex gratia payments to induce creditors to agree to a proposed deed and thus avoid the consequences of liquidation.

Submissions are invited on the issues and observations in the report. These may be sent to: ASC, Voluntary Administration Study, GPO Box 9827, Sydney NSW 2001 by 30 June.