A FRAMEWORK FOR CORPORATE INSOLVENCY LAW REFORM IN SOUTH AFRICA

by

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THESIS

submitted in partial fulfilment of the requirements for the degree

DOCTOR LEGUM

in the

FACULTY OF LAW

at the

UNIVERSITY OF PRETORIA

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PRETORIA
JUNE 2002
To my mother

LIVIA

who has always been, and always will be, my inspiration.
PREFACE

A task of this nature is not one that can be completed without the support, guidance and encouragement of many people. In this regard I would like to express my gratitude to the following persons, without whom this thesis would never have seen the light of day:

- Professors Piet Delport and André Boraine, my promoters. Thank you for your invaluable guidance and friendship over the past few years.
- Mrs Juanitta Calitz. Thank you for your support and encouragement, and for reading the manuscript.
- My colleague Professor Chris Nagel, for proof-reading the manuscript. Your editorial skills are astounding.
- My head of department, Professor S R Van Jaarsveld, for allowing me to take leave in order to complete this thesis.
- Stefan Feckl, from Germany, who was kind enough to assist me in respect of the German insolvency law.
- Ms Rina Harmse, my research assistant, for checking the accuracy of the references and for researching additional materials.
- My family and friends, who never for one minute doubted that I would complete this important phase of my studies. Thank you also for your patience with me at times when I was not the son, sibling or friend that I should have been.

I have attempted to state the law as at the end of May 2002.

D A BURDETT
JUNE 2002
PRETORIA
“I ... suggest that it is socially desirable that, as far as is practicable, all the consequences of the liquidation of an insolvent company should be similar to those [of] the insolvency of an individual ... The winding-up of a company unable to pay its debts is something closely akin to the winding-up of the estate of an insolvent individual. There are some different requirements which flow from the fundamental difference between a company and an individual: those are specifically provided for in the Companies Act. In respects other than those so provided for I cannot see why the Legislature should not have desired, not merely the procedural rules, but also the substantive rules and consequences, to be the same in both cases.”

Per Colman J in Woodley v Guardian Assurance Co of SA Ltd 1976 1 SA 758 (W) at 763.
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