

THE SOUTH AFRICAN TRANSPORT SERVICES

Appellant

and

ISMAIL AHMED OLGAR

1st Respondent

THE CHAIRMAN OF

THE NATIONAL TRANSPORT COMMISSION

2nd Respondent

IN THE SUPREME COURT OF SOUTH AFRICA

(APPELLATE DIVISION)

In the matter between:

THE SOUTH AFRICAN TRANSPORT SERVICES

Appellant

and

ISMAIL AHMED OLGAR

1st Respondent

THE CHAIRMAN OF

THE NATIONAL TRANSPORT COMMISSION

2nd Respondent

CORAM: CORBETT, JOUBERT, HOEXTER, BOSHOFF, JJA
et NESTADT, AJA

HEARD: 27 February 1986

DELIVERED: 13 March 1986

J U D G M E N T

HOEXTER, JA

HOEXTER, JA,

This is an appeal involving the interpretation of the provisions of sec 15(2) of the Road Transportation Act, 74 of 1977, as amended by sec 10 of Act 91 of 1980 ("the Act"). The appellant is the South African Transport Services. The first respondent, to whom I shall refer as "the applicant", carries on the business of transportation by road. The second respondent is the Chairman of the National Transport Commission. There is no appearance by or on behalf of the applicant or the second respondent.

The applicant applied to a Local Transportation Board ("the Board") for four public permits authorising him to undertake road transportation in the circumstances contemplated by sec 15(2)(a) of the Act, that is to say, within an area or over a route or between two points already served by existing transportation facilities. The Board refused all four applications. Against the Board's refusals the

the applicant appealed to the National Transport Commission ("the Commission"). The Commission dismissed his appeal, whereupon the applicant instituted proceedings in the Durban and Coast Local Division against the Chairman of the Commission and the appellant. By way of review the applicant sought an order overruling and reversing the decision of the Commission. The appellant resisted the application which was heard by DIDCOTT, J.

During the review proceedings the learned Judge was invited to give a preliminary ruling affecting two rival interpretations of sec 15(2)(a) of the Act respectively advanced by the applicant and the appellant. In the judgment of the Court below the interpretation espoused by the applicant is labelled "the first interpretation" while the interpretation urged on behalf of the appellant is described as "the second interpretation". The same nomenclature will be followed in this judgment. The effect of

of each interpretation will be considered shortly. Suffice it at this stage to say that in the Court below it was agreed between the parties that in the event of a ruling in favour of the first interpretation the review would be upheld, with costs; whereas if the Court should accept the correctness of the second interpretation the proceedings would be adjourned and the applicant ordered to pay the costs of the initial hearing. Having heard argument the learned Judge preferred the first interpretation. Accordingly the decision of the Commission was set aside and it was directed to hear and determine the applicant's appeal afresh. The appellant was ordered to pay the costs of the proceedings including the costs incurred by the applicant in using two counsel. The judgment is reported in 1985(3) SA 1030(D).

Against the whole of the order so made by
DIDCOTT, J the appellant sought from the Court below leave
to

to appeal to this Court. On the understanding that the applicant would not contest the appeal the appellant was agreeable to leave being granted subject to the condition (the imposition whereof is sanctioned by sec 20(5) of the Supreme Court Act, 59 of 1959) that the costs of the appeal be borne by the appellant. Indeed, the appellant informed the Court below that it had been agreed that in the event of a successful appeal the appellant would pay one half of the taxed costs so far incurred by the applicant in the review proceedings.

The learned Judge was satisfied that an appeal had reasonable prospects of success but, since the grant of leave to appeal against the order made by him would result in the stay of such order, he was disturbed by the possibility that the resultant delay might prejudice the applicant. In order to avoid such a stay the learned Judge decided to grant the appellant leave to appeal only against the order of costs. The appellant was dissatisfied with leave to appeal in this

truncated

truncated form and accordingly it petitioned the CHIEF JUSTICE.

In the result this Court granted the appellant leave to appeal against the whole of the judgment and order of the Court below.

Subsec 15(1) of the Act provides that in deciding whether an application for the grant of a public permit should be granted or refused the Commission or a Board should take into consideration various matters therein detailed. I quote in full the provisions of subsec 15(1):

- "(a) the extent to which the transportation to be provided is necessary or desirable in the public interest;
- (b) the requirements of the public for transportation within the area or along the route or between the points in or over or between which the applicant proposes to operate;
- (c) the existing transportation facilities available to the public in that area or over that route or between those points, whether or not there will be a saving in the consumption of petroleum fuel resulting from the intended road transportation and, if there will be no such saving, whether or not justification exists, in all the circumstances of the case, for the consumption of petroleum fuel which the intended road transportation will occasion;

(My underlining)

(d) any

- (d) any new railway service which has been planned or is contemplated for the conveyance of persons within that area or over that route or between those points;
- (e) the co-ordination of all forms of transportation, including transportation by rail, on an economically sound basis and with due regard to the public interest.;
- (f) the ability of the applicant to provide in a manner satisfactory to the public the transportation for which such permit is sought;
- (g) any previous conviction of the applicant for an offence in terms of this Act, and any other failure by the applicant as an operator of road transportation;
- (h) the existence of any prohibition, limitation or restriction imposed by law on the use of motor vehicles in any area or on any street or road on the route on which the applicant proposes to operate;
- (i) any representations duly submitted in connection with the application;
- (j) the class of persons to which the applicant belongs and the class or classes of persons to be served by the transportation service for which such permit is sought;
- (k) any recommendation made by the committee appointed under section 2(h);
- (l) any report or document drawn up as a result of an inquiry contemplated in section 3(1)(g);
- (m) any

- (m) any other factors which, in the opinion of the commission or the board concerned, may affect the question whether it is desirable to grant such application or to attach or vary any such condition or requirement.

Paragraph (a) of subsec 15(2) of the Act governs an application for a public permit to undertake road transportation -

"...within an area or over a route or between two or more points already served by existing transportation facilities."

Paragraph (b) of subsec 15(2) governs an application for a public permit to undertake road transportation -

"....in circumstances not contemplated in paragraph (a)."

Paragraphs (a) and (b) of subsec 15(2) further provide that in relation to proof of certain matters the onus shall be on the applicant. Under paragraph (a) an applicant has the onus of proving that -

"(i) such

- "(i) such existing transportation facilities are not satisfactory and sufficient to meet the transportation requirements of the public in that area or along that route or between those points;
and
- (iA) he has the ability to provide in a manner satisfactory to the public the transportation for which the permit is sought;
and
- (ii) the tariff at which payment for such existing transportation facilities is to be made is unreasonable : Provided that railway tariffs shall, for the purposed of this section, be deemed to be reasonable;
or
- (iii) having regard to the circumstances, it will be expedient in the public interest to grant him the permit;
or
- (iv) he belongs to the same class as the majority of the persons to be served by the transportation service for which the permit is sought, and that it is in the interests of such persons desirable to grant him the permit."

Under paragraph (b) an application has the onus of proving

that -

"(i) there

"(i) there is a need for such transportation within the area or along the route or between the points in or over or between which he proposes to undertake such transportation;

and

(ii) he has the ability to provide in a manner satisfactory to the public the transportation for which such permit is sought."

Paragraph (a) of sec 15(2) of the Act is the product of indifferent draftmanship. It represents a typical example of the confusion likely to result when a draftsman tries to lump together indiscriminately in a single paragraph both essential requirements and purely alternative requirements. So awkward is the arrangement of its sub-paragraphs that upon ordinary linguistic treatment paragraph (a) is susceptible of the two very different constructions discussed in the judgment of the Court below. The first interpretation postulates that the disjunctive particle "or" connecting sub-paragraphs (ii) and (iii) serves to introduce (iii) as

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an alternative not merely for (ii) but as an alternative for the three preceding sub-paragraphs (that is to say, (i), (iA) and (ii) taken together as a unit); and that the disjunctive particle "or" connecting sub-paragraphs (iii) and (iv) serves to introduce (iv) as an alternative either for (i), (iA) and (ii), taken conjointly, or as an alternative for (iii) standing alone. On the other hand the second interpretation postulates that the disjunctive particle "or" connecting sub-paragraphs (ii) and (iii) serves to introduce (iii) as an alternative only for (ii); and that the disjunctive particle "or" connecting sub-paragraphs (iii) or (iv) serves to introduce (iv) as an alternative only for either (ii) or (iii).

The effect of the first interpretation is that an applicant for a public permit may discharge the onus created by paragraph (a) in any one of the three following ways:

(1) he may prove conjunctively (i), (iA) and (ii); or (2) he may prove simply (iii); or (3) he may prove simply (iv).

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The effect of the second interpretation is that an applicant for a public permit may discharge the onus created by paragraph (a) in any one of the three following ways: (1) he may prove conjunctively (i), (iA) and (ii); or (2) he may prove conjunctively (i), (iA) and (iii); or (3) he may prove conjunctively (i), (iA) and (iv). It follows that if the first interpretation is correct an applicant is not obliged to prove (i) or (iA). He is able to discharge the onus created by paragraph (a) by proof of no more than either (iii) or (iv); whereas upon acceptance of the second interpretation an applicant is saddled with a heavier burden. Before discharging the onus he has to establish no less than three of the sub-paragraphs: proof of both (i) and (iA) is an invariable requirement; in addition whereto he must prove any one of (ii) or (iii) or (iv).

Both before the Board and upon appeal to the Commission the applicant's case was that he had proved (i), (iA) and (iii). The Commission held that the applicant had

not

not discharged the onus of proving (i); and it took the view that such failure operated decisively against the applicant. The Commission found it unnecessary to decide whether the applicant had proved (iA) or (iii). The resulting situation was correctly summarised thus (at 1032 H/J) in the judgment of the Court a quo:-

"To bother about proof under subpara (iA) was indeed unnecessary, once the Commission had found none under subpara (i). The two subparagraphs go together, according to either interpretation of the paragraph, with the result that both sets of circumstances must be proved or neither need be. Whether or not the Commission had the occasion to deal with the applicant's case under subpara (iii), on the other hand, depended on which interpretation happened to be the true one. If the second was such, the Commission was undoubtedly right in viewing a fall at the hurdle of subpara (i) as the end of the matter. If the first prevailed, however, the view it took was plainly wrong. The question of proof under subpara (iii) then remained a live issue which it had to consider, and its failure to do so meant that its mind was not applied fully and properly to the appeal. On that hypothesis its decision cannot stand."

At

At this juncture it is convenient to look at the legislative ancestry of sec 15 of the Act. The original predecessor of sec 15(1) is to be found in sec 13(2) of the Motor Carrier Transportation Act, 39 of 1930. Upon an application for a motor carrier certificate under Act 39 of 1930 the Board or local board was enjoined by sec 13(2) to take into consideration six different matters set forth in paragraphs (a) to (f) of that subsection. The first such matter (see sec 13(2) (a) of Act 39 of 1930) was :

"...the question whether the applicant is likely to carry on satisfactorily the transportation to which the application relates;"

The forerunner to sec 15(2) of the Act is sec 13(3) of Act 39 of 1930, which read:

"Whenever any transportation facilities in existence within any area or over any route, are, in the opinion of the Board or a local board concerned, satisfactory and sufficient to meet at a reasonable charge the transportation requirements of the public within that area or along that route, the Board or such local board shall not grant any motor carrier

certificate

certificate in respect of any motor carrier transportation within the same area or over substantially the same route in competition with the said transportation facilities."

Sec 13(2) of Act 39 of 1930 was amended in 1949 by sec 2(a) of the Motor Carrier Transportation Amendment Act, 50 of 1949, which substituted for paragraphs (a) to (f) thereof ten paragraphs lettered (a) to (j). In terms of sec 13(2), so amended, in weighing an application some of the matters to be taken into consideration included -

"...the ability of the applicant to provide in a manner satisfactory to the public the transportation for which a certificate is sought,"
(see sec 13(2)(f)).

"...the extent to which the transportation to be provided is necessary or desirable in the public interest;"
(see sec 13(2)(a)).

"...the need for providing the public within the area or along the route in or over which the applicant proposes to operate, with an adequate, suitable and efficient transportation service;"
(see sec 13(2)(b)).

By sec 2(b) of Act 50 of 1949 there was added to sec 13(3) of

Act

Act 39 of 1930 the following proviso:-

"Provided that, except in respect of an area or a route within or over which transportation facilities are provided as aforesaid by the Administration or a local authority or any person under an agreement with a local authority, which has been confirmed by law, a motor carrier certificate may be granted in competition as aforesaid if in the opinion of the body by which that certificate is to be granted -

- (a) the provision to be made under the certificate will bring about material improvement in efficiency, economy or convenience in the transportation services in the area or over the route in question; or
- (b) the grant of such a certificate will, having regard to the circumstances, be expedient in the public interest;"

Sec 13(3) of Act 39 of 1930 was further amended by sec 11(f) of the Motor Carrier Transportation Act, 44 of 1955. For the proviso quoted above it substituted (I quote only the portion relevant for present purposes) the following words:-

".....unless, in the opinion of the Board, or the local board concerned, as the case may be, the grant of such a certificate will, having regard to the circumstances, be expedient in the public interest....."

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While it remained on the statute book Act 39 of 1930 was the subject of frequent amendment. It was repealed and replaced, with effect from 1 January 1978, by a fresh statute, the Road Transportation Act, 74 of 1977. The counterpart of sec 13(2) of Act 39 of 1930 is sec 15(1) of Act 74 of 1977. The provisions of sec 15(1) of Act 74 of 1977 as amended by sec 10(a) of the Road Transportation Amendment Act, 91 of 1980, have already been quoted. The only change to sec 15(1) of the Act effected by Act 91 of 1980 is the addition to sec 15(1)(c) of the words which have been underlined in the above quotation. Prior to its amendment by sec 10 of Act 91 of 1980 sec 15(2) of Act 74 of 1977 read as follows:-

"15(2)(a) When an applicant applies for a public permit to undertake road transportation within an area or over a route or between two or more points already served by existing transportation facilities, the onus shall be upon the applicant of proving that -

(i) such existing transportation facilities are not satisfactory and sufficient to meet the transportation requirements of the public in that area or along that route or between those points; or

(ii) the

- (ii) the tariff at which payment for such existing transportation facilities is to be made is unreasonable :
Provided that railway tariffs shall, for the purposes of this section, be deemed to be reasonable; or
 - (iii) having regard to circumstances, it will be expedient in the public interest to grant him the permit; or
 - (iv) he belongs to the same class as the majority of the persons to be served by the transportation service for which the permit is sought, and that it is in the interest of such persons desirable to grant him the permit; and
 - (v) he has the ability to provide in a manner satisfactory to the public the transportation for which the permit is sought.
- (b) When an applicant applies for a permit to undertake road transportation in circumstances not contemplated in paragraph (a), the onus shall be upon the applicant of proving that:-
- (i) there is a need for such transportation within the area or along the route or between the points in or over or between which he proposes to undertake such transportation; and
 - (ii) he has the ability to provide in a manner satisfactory to the public the transportation for which such permit is sought."

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The effect of sec 15(2)(a) of Act 74 of 1977 fell to be interpreted by this Court in W C Greyling & Erasmus (Pty) Ltd v Johannesburg Local Road Transportation Board and Others 1982(4) SA 427 (A), to which I shall refer as "the Greyling case". In review proceedings in the Greyling case a full Court of the Transvaal Provincial Division had declined to disturb a finding by the National Transport Commission that unless an applicant discharged the onus of proving that existing transportation facilities are not satisfactory and sufficient (see sec 15(2)(a)(i) of Act 74 of 1977) his application for a public permit was doomed to fail, and it was unnecessary to consider what he had proved in relation to any other sub-paragraph in sec 15(2)(a). That conclusion rested on an interpretation of sec 15(2)(a) according to which sub-paragraphs (i), (ii), (iii) and (iv) were to be read conjunctively. On appeal this Court held that upon a correct construction of sec 15(2)(a) of Act 74

of

1977 each of its sub-paragraphs (i), (ii), (iii) and (iv) fell to be read disjunctively; and that if the applicant had proved, say, (i) and (v) he should (in the absence of other reasons to the contrary) be granted the permit.

It has been mentioned that Act 91 of 1980 modified sec 15(1) of Act 74 of 1977 in a single respect only. While the amending Act of 1980 left untouched the provisions of sec 15(2)(b) of Act 74 of 1977, the provisions of sec 15(2)(a) were re-arranged, and the links connecting them were altered, by sec 10 of Act 91 of 1980. While the total number (five) of the sub-paragraphs was retained, the sub-paragraphs were renumbered thus: "(i), (iA), (ii), (iii) and (iv)"; and they were reshuffled in the following manner:

(1) Sub-paragraph (i) - "existing transportation facilities are not satisfactory...." - remained. (2) What had been sub-paragraph (v) - the applicant's ability to provide the transportation "in a manner satisfactory to the public" - became sub-paragraph (iA), and it was linked to sub-paragraph

(i)

(i) by the conjunctive particle "and". (3) Sub-paragraph (ii) - dealing with unreasonable tariffs of existing transportation facilities and a presumption in favour of the reasonableness of railway tariffs - remained, but it was linked to sub-paragraph (iA) by the conjunctive particle "and".

(4) Sub-paragraph (iii) - to grant the applicant the permit would in the circumstances "be expedient in the public interest" - remained, and was linked to sub-paragraph (ii) by the disjunctive particle "or". Sub-paragraph (iv) - the applicant belonging to the same class as most of the passengers to be served by the transportation etc - remained, and was linked to sub-paragraph (iii) by the disjunctive particle "or".

Against the background sketched above I turn to an examination of the reasons which prompted the Court below to resolve the problem of construction in favour of the first interpretation. Having looked at the provisions of sec 15(2)(a) the learned Judge decided that upon a purely

linguistic

linguistic treatment of paragraph (a) the first and second interpretations were equally tenable. In argument before us counsel for the appellant, while vigorously contending that the proper construction to be assigned to the paragraph was the second interpretation, did not seriously contend that paragraph (a) was not reasonably susceptible of the first interpretation. In my view paragraph (a) is clearly capable of construction in accordance with either interpretation.

Since a purely textual appraisal of the paragraph in question yields two alternative constructions regard may properly be had, in considering what is the true construction, to the consequences involved in preferring the one or other. That construction should be adopted which is more consonant with and is better calculated to give effect to the intention of the enactment. This was also the approach adopted by the Court below. Having weighed various anomalies flowing from the one or other interpretation (and in some instances from both interpretations) the learned

Judge

Judge found himself unable satisfactorily to resolve the paragraph's linguistic ambiguity:-

"The material which I have examined either yields no clue at all to its true construction or supplies clues pointing in exactly opposite directions. Neither interpretation, as I view it at the end of the day, has a decisive edge over the other." (At 1037 I).

To escape from this impasse the Court a quo ruled in favour of the construction least onerous to those wishing to do business as carriers: freedom of trade, so reasoned the learned Judge, should be preferred to the restriction of trade -

"This means that I must come down on the side of the first interpretation. It is on the whole less burdensome to those seeking permits than the second. I thus uphold it." (At 1038 A/B).

Now where there are no transportation facilities in existence paragraph (b) of sec 15(2) of the Act requires an applicant for a public permit in that area to discharge the onus of proving both (1) that there is a need for such transportation within the area or over the route concerned

and

(2) that he, the applicant, has the ability to provide such transportation in a manner satisfactory to the public. In a statute designed to control road transportation the above two requirements, read in their particular context, would seem to be reasonable and unexceptionable. However, when the provisions of paragraph (b) are borne in mind, what does at once call for comment is the extraordinary consequence entailed by the first interpretation of paragraph (a). According to the first interpretation an applicant for a public permit in an area or over a route or between two or more points already served by existing transportation facilities need prove neither (1) that such existing facilities are unsatisfactory and insufficient nor (2) that the applicant himself has the ability to provide the transportation service sought by him in a manner satisfactory to the public. It is enough if such an applicant proves either that the grant of the permit to him will be in the public interest (see sub-para (iii)) or that he belongs to the same class as most of the potential passengers, etc. (see sub-para (iv)). Remarking upon the feature that according to the first interpretation no proof was required of the applicant's own

ability

ability to provide a satisfactory service, the learned Judge expressed himself thus:-

"One wonders why proof which is compulsory in the absence of any other service should cease to be (compulsory) the moment such (service) exists A bad service is better, after all, than none. To augment an existing service with a poor one is surely another matter." (At 1035 D/E).

DIDCOTT, J concluded that this latter consequence of the first interpretation "told rather strongly against it". But while recognising this anomaly the learned Judge on the other hand took into account as a factor militating no less powerfully against the second interpretation that the latter reinstates as an essential matter for proof by an applicant the fact that the existing transportation facilities are unsatisfactory and insufficient. Alluding to the history of the legislation the learned Judge remarked:-

"The fact that an area or route already enjoyed an adequate service had not operated for a good thirty-one years as an absolute impediment to the authorisation of a fresh service there.

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The current statute had no such effect before it was amended." (At 1036 B/C).

And again:

"the second interpretation upsets the equilibrium of three decades, a result which may have been intended, for all I know, but a startling one if it was." (At 1036 G).

It is not apparent to me, with respect, why an intention on the part of the legislature to achieve the result under discussion should excite surprise. In this connection it may not be out of place, perhaps, to ponder the fact that our legislation governing road transportation in this country evidences somewhat of a patchwork quality. Down the years its development has been rather spasmodic and uneven. Act 39 of 1930 appears to have been amended no less than sixteen times. Bearing these considerations in mind I find nothing particularly startling in the suggestion that the matter of unsatisfactory and insufficient transportation facilities should, the lapse of 31 years notwithstanding, be reinstated by

by the legislature as an essential requirement in sec 15(2)(a). Such an intention on the part of the legislature would be no more remarkable or capricious, so I consider, than the legislature's indisputable intention (manifested in sec 15(2)(a) of Act 74 of 1977) to elevate to the status of an essential requirement, for the very first time in 47 years; the matter of an applicant's ability to provide the transportation service for which he seeks a permit in a manner satisfactory to the public.

On the other hand the consequence entailed by the first interpretation, namely, that where transportation facilities already exist the applicant for a public permit may content himself with proof of no more than either sub-para (iii) or sub-para (iv) and is required to demonstrate neither the inadequacy of such existing facilities nor his own ability satisfactorily to provide a service, seems to me to represent a flagrant anomaly from which one's judgment must recoil. It is in my view distinctly improbable that by the amending statute of 1980

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the legislature could have contemplated such a result. This view of the matter is fortified, I think, by looking to the purpose and object of the Act, and its general purview. Attention has been called to the fact that, save in the single respect already indicated, Act 91 of 1980 left intact the provisions of sec 15(1) of Act 74 of 1977. In delivering the judgment of the Court in Greyling's case (supra) KOTZÉ, JA summed up (at 444 G/H) the intention to be gathered from sec 15(1) in the following words:-

"In short the items listed in sub-paras
(a) - (m) envisage:

- (i) that the public should, in a particular area or over particular routes or between relevant points, have at the very least a satisfactory service; and
- (ii) that, if the existing services do not fulfil the above requirements, a service which does fulfil them should, if available, be given to the public."

Having regard to the above exposition it is clear, in my opinion, that the second interpretation, requiring as it

does

does proof in every case of (1) the unsatisfactory quality of the existing transportation services and (2) the applicant's own ability to provide a satisfactory service, is more consistent with the smooth working of the system which the Act has been designed to regulate than the first interpretation. To adopt the first interpretation would in my view be to construe the Act so as to defeat rather than to effectuate its object.

Although the arrangement of the sub-paragraphs in sec 15(2)(a) of the Act is unfortunate and clumsy it is not a matter of insuperable difficulty, I consider, to resolve the resultant ambiguity. Whereas the second interpretation assigns to paragraph (a) a meaning which seems rational and beneficial, the first interpretation, in my judgment, is calculated to introduce uncertainty, inefficiency and, as between rival carriers, injustice. It follows, in my opinion

opinion, that the Court below erred in not deciding that the second interpretation is more consistent with the presumed intention of the legislature. This conclusion renders it unnecessary to consider the question whether, assuming the correctness of the finding by the learned Judge that the ambiguity in question was incapable of being resolved by weighing up the consequences involved in the rival interpretations, the particular aid to construction finally invoked by the Court below (a presumption in favour of the freedom of trade) was, having regard to the objects of Act 74 of 1977, as amended, apt for the resolution of the statutory ambiguity confronting it.

The appeal succeeds. In respect of the costs of the appeal no order is made. The judgment of the Court below is set aside and the following judgment is substituted therefor:

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"The preliminary point affecting the construction of sec 15(2)(a) of Act 74 of 1977, as amended, is decided against the applicant and in favour of the second respondent. The review proceedings are adjourned with a view to such further argument in respect of the review as the parties may wish to adduce."

By agreement one-half of the costs of the hearing before
DIDCOTT, J will be paid by the applicant.

G G HOEXTER, JA

CORBETT, JA	)	
JOUBERT, JA	)	
BOSHOFF, JA	)	Concur
NESTADT, AJA	)	