NATAL LAW SOCIETY v MAQUBELA 1986 (3) SA 849 (N)

Citation	1986 (3) SA 849 (N)
Court	Natal Provincial Division
Judge	Kumleben J, Thirion J and Law J
Heard	March 10, 1986
Judgment	April 17, 1986
Annotations	

Flynote : Sleutelwoorde

Attorney - Misconduct - Application for removal from roll - Such made under s 22 (1) (d) of the Attorneys Act 53 of 1979 - Attorney having been convicted of high treason and sentenced to 20 years' imprisonment, trial Court finding that attorney had participated in a conspiracy which resulted in various explosions causing damage to property and injury to persons - Although certain statutory offences could be labelled "political offences", the inherent character of an offence, especially a common law one was not altered by virtue of the fact that it was politically motivated - Court holding that offence not unrelated to attorney's fitness to practise as such - Application for removal from roll granted.

Headnote : Kopnota

The applicant applied for the removal of the respondent from the roll of attorneys in terms of s 22 (1) (*d*) of the Attorneys Act 53 of 1979, contending that as the respondent had been convicted of high treason, he was unfit to practise as an attorney. It appeared that the respondent had participated in a conspiracy which had resulted in various explosions which had caused damage to property and injuries to persons. The trial Court had sentenced the respondent to 20 years' imprisonment. It was contended on behalf of the respondent that the offences were "political offences" having regard to the motive which lay behind their commission and they accordingly called for special treatment and appraisement. It was also argued that the offence was unrelated to his profession.

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Held, that the inherent character of an offence, particularly a common law one, was not altered by virtue of the fact that the motive for its commission was political: the offence was to be seen for what it was and the motive, depending on the circumstances, might serve as an extenuating factor.

Held, further, that, bearing in mind the motive which prompted the commission of the

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offence, it was not entirely unrelated to his fitness to practise as an attorney - he had not renounced the acts of sabotage and still regarded them as the only effective method of protest and, if he was required to act for a client facing similar charges who told him that he intended perjuring himself to avoid a conviction, it could not be gainsaid that the ethical requirements of his profession would not prevail.

Held, further, that, taking all the circumstances into account, the constituent acts of the offence were dishonourable and morally reprehensible and disqualified the respondent from continuing to practise as an attorney. Application granted.

Case Information

Application to strike respondent's name from the roll of attorneys. The facts appear from the reasons for judgment.

R P McLaren SC for the applicant.

I G Farlam SC (with him *T L Skweyiya*) for the respondent.

Cur adv vult.

Postea (April 17).

Judgment

KUMLEBEN J: This is an application in terms of s 22 (1) (*d*) of the Attorneys Act 53 of 1979 ("the Act") for an order striking off the name of respondent from the roll of attorneys of the Supreme Court of South Africa on the grounds that he is not a fit and proper person to continue to practise.

The respondent was admitted on 2 June 1980 and commenced practice. On 2 August 1982 he stood trial as accused No 1 with two other accused, Maqhutyna (accused No 2) and Gaba (accused No 3), on a charge of high treason and certain other offences. They pleaded not guilty to all charges. At the trial none of the accused gave or tendered any evidence. Each was found guilty of high treason. Inasmuch as State counsel at the start of the trial intimated that the other counts were intended as alternatives to the main count, that of high treason, there was no verdict on the other counts. The respondent was sentenced to 20 years' imprisonment. He and the other two accused unsuccessfully applied for leave to appeal to the Appellate Division against their convictions.

In July 1983, on the strength of this conviction, applicant launched the present proceedings. Respondent in his first answering affidavit, dated 12 April 1984, after pointing out that he was experiencing difficulty in preparing his case whilst being detained in Pollsmoor Prison, stated that he had instructed his attorneys to petition the Appellate Division for leave to appeal against his conviction and sentence, and for condonation for not having done so timeously. Implicitly it was his contention that the last word on the merits of his conviction

had not yet been spoken and that the decision of the trial Court may be reversed. In his affidavit he canvassed the merits to the extent of denying that he was not a fit and proper person to practise as an attorney and averred:

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"that during the period that I practised as an attorney, I did so to the best of my ability, conducted myself with the necessary propriety and integrity and observed all the rules, regulations and laws applicable to members of my profession. In addition I strictly adhered to all the rules of professional ethics applicable to practising attorneys. There is in my submission therefore no basis for the allegation that I am not a fit and proper person to continue to practise as an attorney."

The replying affidavit of Mr Brokensha, who was at the time the president of applicant, explained in detail the subsequent course of the application, which included attempts to assist the respondent in the preparation of his case and to have the matter brought to finality. It was set down for hearing on 24 September 1984 before BROOME and PAGE JJ. It was however adjourned *sine die* because the attorneys representing the respondent withdrew shortly before the hearing and the respondent was not in Court to present his case personally. In the judgment granting the adjournment it was noted that an appeal on behalf of the other two accused was pending and that the result may have a bearing upon this application. This appeal was subsequently dismissed. As a matter of fact the two issues raised on appeal were unrelated to the merits of respondent's case and conviction.

On 1 August 1985 respondent lodged a further answering affidavit. In neither of his two answering affidavits does he challenge or dispute the correctness of his conviction or the findings of fact in the judgment on which it was based. He submits however that there were circumstances which:

"reduced the degree of my blameworthiness to such an extent that, despite my conviction on (*sic*) high treason, I ought to be allowed to continue to practise as an attorney of this honourable Court".

The extenuating circumstances on which he relies are set out in this second affidavit and will be referred to in due course.

The essential inquiry in order to decide the fate of this application is therefore a determination of the gravity of respondent's misconduct and the cogency of such factors as are properly to be regarded as extenuatory.

Whether the conviction for an offence, the correctness of which is unchallenged, warrants disqualification depends upon "what the offence was that the respondent committed and what he did in committing it". (*Incorporated Law Society, Transvaal v Mandela* 1954 (3) SA

102 (T) at 104.) As RAMSBOTTOM J observed in reference to the facts of that case at 107:

"There can be no doubt that in his speech on May 25 1952, the respondent advocated and encouraged the scheme which had been proposed by the Planning Council and that the scheme aimed at bringing about social and political changes in the Union by unlawful acts or omissions, namely by disobedience to laws. The respondent has not denied his participation in the scheme.

It was contended on behalf of the applicant that the respondent's contravention of Act 44 of 1950 was made with full knowledge of what Parliament had forbidden, and was deliberate, that respect for the law was required from an attorney, and that by his deliberate disobedience to a command of the law-giver the respondent has shown himself to be unfit to be allowed to practise as an attorney of this Court.

While I think that in certain circumstances an attorney who is privileged to practise in the Courts may be expected to observe the laws more strictly than other persons, the fact that an attorney has deliberately disobeyed the law does not necessarily disqualify him from practising his profession or justify the Court in

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removing his name from the roll. We are not concerned in this case with misconduct committed by an attorney in his professional capacity; the offence committed by the respondent had nothing to do with his practise as an attorney. It is clear however that the Court will in a proper case remove an attorney from the roll where he has been convicted of a crime which was not committed in his professional capacity."

(See too *Incorporated Law Society, Natal v Hassim (also known as Essack)* 1978 (2) SA 285 (N) at 291 and *Natal Law Society v N* 1985 (4) SA 115 (N) at 118.) These decisions lay stress on the fact that the commission of an offence does not *per se* disqualify an attorney from continuing to practise but at the same time make it plain that a political or altruistic motive will not necessarily excuse such misconduct.

I turn to examine more closely the unlawful acts proved in this case which gave rise to the conviction.

The preamble to the main charge alleged that at all relevant times a conspiracy existed between members of the African National Congress and the three accused and others unlawfully to overthrow the Government of the Republic by violence. To this end persons were recruited to join and support the conspiracy. They were trained in the art of subversion and sabotage and the three accused were responsible for deploying them in the Republic in order to carry out such acts. With particular reference to the respondent, in the charge (in annexure A thereto) it is alleged that he was a member or active supporter of the ANC; that

stationed in Durban he served as a link between its members based in Durban and those in Swaziland; that he arranged for vehicles to be used by the ANC or its members to convey explosives, couriers and information from Swaziland to Durban and to establish caches of explosives and arms for the purpose of sabotage in Durban; and that acting alone or in concert with the other two accused in the furtherance of the conspiracy he caused explosives to be detonated resulting in damage to various buildings in Durban and injuries to persons. These allegations were either admitted or proved as appears from the following passage in the judgment:

"As already mentioned it was formally admitted that the AnC with its military wing Umkhonto we Sizwe is involved in a conspiracy to overthrow the Government of the Republic of South Africa by means which include violence and that in furtherance of that conspiracy certain acts as formally also admitted have been committed. The evidence clearly establishes that despite being banned as an unlawful organisation the ANC and its military wing are still alive and active. That it is still involved in such a conspiracy and had been so involved during the period covered by the indictment is fully substantiated by the evidence. The evidence does not sufficiently establish that any of the accused ever formally became members of the ANC. The inference on the evidence is strong that they did at some time or another become members but what the evidence indisputably, and in any event beyond reasonable doubt, establishes is that all three of them were very much acquainted with the objectives of the ANC and that they were all three active supporters of the ANC during at least the time that is covered by the indictment. It is not proposed to canvass the evidence again in support of what has just been said. Suffice it to repeat the following: Accused No 1 was found in possession of ANC literature, vast quantities of explosives, offensive and defensive hand grenades of Russian origin, an AK 47 rifle and over 120 rounds of ammunition. The evidence establishes that he acted as a link between people with strong ANC connections in Swaziland and accused Nos 2 and 3 with whom he was closely associated and that he arranged for vehicles in Durban for the conveyance to and from Swaziland well knowing what the object of the journey was. The Court finds paras 1 to 5 of annexure A to the indictment proved against accused

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No 1. As far as para 6 is concerned the evidence does not establish that he personally assisted in actually causing the explosions. The further particulars to the indictment alleges that the explosions were caused by accused Nos 2 and 3 acting in furtherance of a common purpose with accused No 1 and that they all three acted in furtherance of the alleged conspiracy. The Court is satisfied and finds that all these explosions, except the one at the Umlazi railway bridge in regard to which the State

conceded that the evidence was not sufficient, were caused in furtherance of the conspiracy."

The acts of sabotage involving the use of explosives took place over a period of some nine months from 7 February 1981 to 3 November 1981 as a result of which seven buildings in the centre of Durban were extensively damaged. The damage was estimated at approximately R474 381. Nine people were injured. Miss Evelyn Masuku was walking with a friend at about 2.20 pm in Field Street on 7 February 1981 when the explosion at Scotts Stores took place. Her foot was injured and the wound was sutured at King Edward VIII Hospital after she had been conveyed there by ambulance. At the time she gave evidence she was still suffering from the after effects of this injury. On the evening of 10 October 1981 Miss Mary Jane Mathandela accompanied by a friend was on her way to the Playhouse Theatre when the Stanger Street explosion occurred. It flung her from the pavement onto the road where she lay with her clothing on fire. Her chin, stomach, leg and face were burnt. She was detained in hospital for two weeks and was left with partial deafness in one ear. Miss Cynthia Dlamini was her companion. She too sustained burns, in her case on her hip, face, breast and leg. She was in hospital for three weeks and spent a further two weeks at home recuperating. She too complained of impaired hearing and she said that she had difficulty in standing for long periods as a result of her injuries. Miss Isabel Mchunu injured her back and leg on this occasion and was detained in hospital for just over two months. She too at the time of the trial had not fully recovered. Mr Maphumalo was a further person injured in this incident. He sustained extensive injuries, was detained in hospital for seven weeks, his motor vehicle was completely destroyed and he suffered certain other after effects which were still evident at the trial some ten months after the occurrence. On 3 November Sgt Swarts of the SA Police spotted what appeared to him to be an explosive device moments before it went off at the Indian Affairs offices on the corner of Stanger Street and the Esplanade at about 5 am. His chest and ribs were injured by the flying debris and the force of his fall injured his back. Constable Olwagen was injured as a result of the same explosion. He was in hospital for two weeks after being operated upon to remove glass shards. On 26 July 1981 Mr Moodley was injured, though not seriously, as the result of the explosion at the premises of McCarthy Leyland in Smith Street.

High treason consists in

"any overt act unlawfully committed by a person owing allegiance to the State possessing *majestas* who intends to impair that *majestas* by overthrowing or coercing the Government of the State."

Hunt *South African Criminal Law and Procedure* vol II 2nd ed at 14. The "overt act" may be a comparatively insignificant one or one having far-reaching consequences. In the present case it is difficult to overstate the gravity of the acts committed. They caused damage to property on a massive scale and injuries, some serious, to a number of innocent people.

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The actual perpetrators and the respondent must have foreseen the likelihood of people being injured, or possibly killed, by the explosions yet nevertheless decided to proceed with these acts of sabotage. It follows that, apart from the special intent which brought such acts within the definition of high treason, the accused could have been competently charged with, and would have been convicted on, a number of charges of malicious injury to property and of attempted murder or at the very least assault with intent to do grievous bodily harm. Viewing the unlawful acts in relation to such other offences serves to illustrate how serious they were.

After these acts of sabotage had taken place the interception of four envelopes sent from Swaziland to Durban, containing letters, money, passports and railway baggage tickets, led to the arrest of respondent and the other two accused. Respondent admitted to Warrant Officer Andrews that the four envelopes and their contents were intended for him. One was marked Q, a "name" by which respondent was known. These letters, without referring to them or their contents in any detail, make it plain that the respondent was a vital link in the sabotage activities. On the morning of his arrest the respondent took Major Welman to his flat in Clermont. There further incriminating evidence was found. Three sets of keys which respondent admitted belonged to him were discovered there. They were those of motor vehicles in which traces of plastic explosives and their wrappings were found. That same afternoon he took Major Welman to another house, K120 Umlazi, where the respondent had stayed at one stage. There suitcases were found containing 15 kg of plastic explosives, a quantity of TNT, hand grenades, an AK 47 rifle and rounds of ammunition. These facts indicate the extent of the complicity of the respondent in the acts of sabotage. According to certain evidence he was known as "The Godfather". Whether or not this sobriquet was apt he was certainly, as the trial Court found, at the centre of these unlawful activities. It is also to be noted, as both relevant and significant, that, but for the fortunate interception of the letters and the detection of respondent and the other accused, further acts of this nature, which had been planned, would have been perpetrated.

Respondent in his opposing affidavit does not attempt to minimise the seriousness of these unlawful acts and concedes that high treason is ordinarily a very serious offence. He however submits that the objective of and motive for such conduct on his part amounts to substantial extenuation which is to be taken into ccount in deciding whether or not he is a fit and proper person to continue to practise as an attorney. He stresses that though a South African citizen he was at the time and still is precluded from taking part in those democratic structures of government which do exist in this country and that he was thus prevented from bringing about any change by constitutional means. Discrimination based on colour, he points out, has been practised since the Act of Union in 1910 (in point of fact before that date as well) and has operated harshly and unjustly on members of his community.

In a letter written to the applicant asking it to reconsider its decision to make this application to Court, he wrote:

"The policy of Apartheid was designed expressly to keep all power in the hands of the White man especially the Afrikaner. This policy is founded squarely on

inequality and injustice. It is a policy which cannot be implemented without coercion, force and violence. Violence is inherent in it because it must be carried out against millions of people who cannot meekly submit to blatant humiliation. It is a policy which seeks to subjugate perpetually the vast majority of the people in this country. It is a policy inspired by racial bigotry and chauvinism of a scale unequalled in modern times."

As a lawyer he said that he was more conscious than others of the prevailing injustice and inequality and more sensible of the need for change. He came to regard the situation as a desperate one calling for desperate action. The history of hardship, inequality and deprivation, which he recounts in that letter, does explain, but cannot justify, the means chosen by him to attain his desired goals. As I have said, he was prepared to embark upon a course of destruction of property on a massive scale and injury to persons which may have proved fatal. For all he knew, or apparently cared, those who suffered loss or injury, or some of them, may have shared his commitment to reform and were doing all that they could in this regard short of damaging property and endangering lives of innocent people by unlawful acts of sabotage.

In this connection Mr *Farlam*, who with Mr *Skweyiya* appeared for the respondent, submitted, as did respondent in his affidavit, that the unlawful acts were to be regarded as "political offences" having regard to the motive which lay behind their commission; that they were a special category of offence calling for special treatment and appraisement. Conceivably, and perhaps accurately, certain statutory offences may be thus termed or labelled (and for the purpose of extradition apparently an attempt is made to do so - cf *Ex parte Krause* 1905 TS 221 at 226). But to my mind the inherent character of an offence, particularly a common law one, is not altered by virtue of the fact that the motive for its commission is proved to be political. The offence is to be seen for what it is and the motive, depending on the circumstances, may serve as an extenuating factor.

Mr *Farlam* drew our attention to certain decisions in which attorneys, though they had committed treasonable and other offences, were not disqualified from practising. In doing so he tended to stress certain similarities between such cases and the present without emphasising as forcibly the points of difference. Each case was decided on its own particular facts and with regard to the prevailing historical and political atmosphere. For this reason I do not consider that a detailed analysis of each is warranted or particularly helpful

in this enquiry. I shall however comment on those cases on which counsel placed particular reliance without attempting to recapitulate in any detail the facts of each.

In *Ex parte Krause* (*supra*) there was no active opposition to the petitioner's application for admission as an advocate on the part of the Bar Council of the Transvaal or from the Cape Bar of which he was a member at the time. The need to apply to Court at all arose from the fact that the Benchers of his Inn in London refused to reinstate him as a member of the English Bar. His unlawful act, on the strength of which he had been convicted of attempt to incite to the commission of the crime of murder, was a letter written from England to a friend in South Africa. In

it he urged that a certain Mr Foster should killed. He held a position on the staff of the general officer commanding and in the words of SOLOMON J at 231 of his judgment

"was advocating a somewhat harsh policy against the Republican forces, a policy which the CHIEF JUSTICE has called the policy of 'thorough.' He no doubt honestly believed it was the proper policy to pursue under the circumstances. But one can quite understand that a member of the Republican Government would take a different view of the matter, and would be highly incensed at seeing publications of the nature of those written for the press by Mr Foster. Naturally the applicant would resent Mr Foster advocating the policy that the Republican forces should be treated as robbers and bandits and should be shot down in cold blood; and it was under the pressure of feelings of that nature that these letters were written to Broeksma, upon which he was convicted of attempting to incite to murder."

The applicant, who before his capture and release on parole in England, was a member of the Republican forces, was thus to an extent justified in considering that Foster, as he wrote in his letter, was "nothing less than a common criminal publicly inciting to murder". Principally on these facts the Court concluded that the motive was political and not personal and that the crime, though serious, did not so reflect on the applicant's character as to disentitle him from practising as an advocate. The differences between the facts of that case and the present are self-evident, the most striking being that in that case the unlawful act was directed at someone who could be regarded as a hostile combatant and not at the wholesale destruction of property with attendant injury to innocent people.

Counsel next referred to decisions in which attorneys found guilty of high treason in the Anglo-Boer War (*Incorporated Law Society v Vermooten* (1900) 17 SC 312; *Incorporated Law Society v Badenhorst* (1902) 19 SC 73) and in the 1914 Rebellion (*Incorporated Law Society v De Villiers* 1915 OPD 98 and *Incorporated Law Society v Roos and Others* 1915 OPD 112) were suspended from practice for a period of time or were disqualified. He however correctly pointed out that these cases are clearly distinguishable and are therefore

of no real assistance in deciding the issue in the present case.

In *Mandela's* case *supra*, as appears from the passage quoted at the start of this judgment, the respondent sought to effect reform by advocating that certain specific laws, notably the pass laws, should be disobeyed. This constituted a contravention of s 11 (*b*) read with s 1 (1) (ii) (*b*) of the Suppression of Communism Act 44 of 1950. The latter subsection defined "communism" *inter alia* as

"any doctrine or scheme which aims at bringing about any political, industrial, social or economic change within the Union... by unlawful acts...".

The respondent was convicted of this statutory offence and was sentenced to nine months' imprisonment, the whole of which period was suspended.

One only has to state these facts to appreciate the extent to which they differ from those now under consideration and such differences are not to be left out of account when seeking to apply certain of the general remarks in that judgment to the facts of this case.

Mr *McLaren*, who appeared for the applicant, in turn relied on the facts and decision in *Incorporated Law Society, Natal v Hassim* (*supra*). The unlawful act, on which the respondent's conviction and disqualification to continue practising as an attorney was based, was that he, as a member of

an unlawful organisation, was a party to a conspiracy aimed at recruiting persons in the Republic to undergo political and military training with the intent to overthrow the Government of the Republic by force of arms and with foreign assistance. On appeal (*Hassim (also known as Essack) v Incorporated Law Society, Natal* 1979 (3) SA 298 (A)) the decision of the Court *a quo* was confirmed, MULLER JA stating at 307:

"In my opinion, whether the decision of the Court *a quo* is looked upon as the exercise of a discretion or whether it is regarded as a finding of fact by that Court, there is no ground for interfering with the Court's order striking the appellant off. That order was, in my view, fully justified. The offences committed by the appellant were very serious offences, and can be regarded as the equivalent of high treason. Moreover, the trial Court found that the appellant was an untruthful witness. In my judgment the appellant cannot, in the circumstances, be said to be a fit and proper person to remain on the roll of attorneys."

This was the conclusion of the Court notwithstanding the fact that the offence committed was unrelated to the respondent's professional work; that his good name, honesty and integrity as an attorney was beyond question; and that his unlawful conduct was prompted by a desire to change the political situation in this country. There is much to be said for the

view, as submitted by applicant's counsel, that the unlawful acts committed by the respondent in the present case were at least as serious and that this decision does therefore serve as a useful guide in this case. Mr *Farlam* raised as a point of distinction the fact that Hassim was found to be an untruthful witness whereas there is no imputation whatsoever of dishonesty as far as the respondent is concerned. I do not regard this as a distinguishing feature. I am certain that had his dishonesty been regarded as a significant fact in confirming the order on appeal this would have been more explicitly stated in that judgment.

Mr *McLaren*, as an independent ground for submitting that the respondent forfeited his right to practise as an attorney, relied on the fact that he had breached the oath of allegiance to the Republic of South Africa taken at the time of his admission. Mr *Farlam* countered this by submitting that the taking of an oath is no longer a condition precedent to admission as an attorney of this Division and therefore not obligatory and, secondly, that in any event the conduct of respondent did not amount to a breach of the oath in a form taken by him, viz "to be faithful to the Republic of South Africa". I find it unnecessary to express a view on the merits of either of these two contentions since to my mind other more important features are the determining ones in this case. Whether he did or did not breach his oath is therefore not a consideration I take into account.

The fact that respondent had an unblemished record as an attorney and that his offence is unrelated to his profession was stressed in both his opposing affidavits and by his counsel in argument. In his first answering affidavit in this regard he said:

"I aver that during the period that I practised as an attorney, I did so to the best of my ability, conducted myself with the necessary propriety and integrity and observed all the rules, regulations and laws applicable to members of my profession. In addition I strictly adhered to all the rules of professional ethics applicable to practising attorneys. There is in my submission therefore no basis for the allegation that I am not a fit and proper person to continue to practise as an attorney."

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Applicant does not dispute the correctness of these averments. However, as appears from the quoted extract from *Mandela's* case and the decision of the Appellate Division in *Hassim's* case, these features, which are always relevant, are not decisive when countervailing facts, such as the seriousness of the offence, outweigh them. I am in any event not satisfied that the offences, bearing in mind the motive which prompted them, are entirely unrelated to his fitness to practise as an attorney. Respondent has not renounced these acts of sabotage and still regards them as the only effective method of protest. In the course of argument his counsel was asked what respondent's decision would be were he to act for a client facing similar charges who told him that he intended perjuring himself to

avoid a conviction. It could hardly be gainsaid that the ethical requirements of his profession would not prevail. Counsel was hard-pressed not to concede this. He said that there was no suggestion that the respondent had ever acted unprofessionally in the past. This is certainly so, but this reply does not adequately answer the question posed.

In the result, having regard to the inherent gravity of the offence, its constituent unlawful acts and their consequences, I do not consider they can be excused by the underlying motive for their commission. Taking all relevant considerations into account I regard them as dishonourable and morally reprehensible and consider that they disqualify respondent from continuing to practise as an attorney.

Section 22 (1) (*d*) of the Act does make provisions for *suspension* from practice and it was the alternative submission of respondent's counsel that such an order should be made. The respondent has not repudiated the unlawful acts in question and there can therefore be no assurance that, should the opportunity present itself, he would not repeat them. In the circumstances the suspension from practice for a fixed period would not be an appropriate orde (see *Law Society of the Cape of Good Hope v C* 1986 (1) SA 616 (A) at 640H).

An order is accordingly granted in favour of the applicant in terms of paras 1 - 10 inclusive of the order prayed which is annexed to the notice of motion.

THIRION J and LAW J concurred.

Applicant's Attorneys: *Bale, Greene & Morcom*. Respondent's Attorneys: *A M Moleko & Co.*