

WESSELS, J. } EUROPEAN HOTEL, PRETORIA, *vs.* BECKETT.  
 Feb. 2nd, 1911. }

*Execution.—Property attachable.—Wages of workman.  
 —Common Law.*

*The wages of a workman are attachable, at common law, in satisfaction of a judgment debt of such workman.*

Return day of a rule granted on January 25th calling upon respondents to show cause why an amount of £20 in the hands of the Paymaster of the South African Railways, being salary due and payable to Beckett, should not be attached in part satisfaction of a judgment obtained in the Magistrate's Court by applicant against Beckett, and why the Paymaster should not be authorised to pay out such amount to the applicant. The rule was to operate as a provisional interdict restraining the Paymaster from paying the said £20 to Beckett. Beckett was a daily paid employé in the South African Railways, and received salary for each working day actually put in by him, and his pay was due and payable immediately he had completed each working day's work. For the sake of the inner working of the Railway wages were only paid monthly. On January 25th there was an amount of £6 18s. 6d. due and payable by the Railway to Beckett. The Magistrate had granted an order against Beckett to pay off £10 per month in reduction of his judgment debt and costs. Beckett alleged that his monthly earnings amounted from £16 to £18, and that he could not pay £10 per month. He was civilly imprisoned, but discharged owing to the charges for maintenance being unsatisfied.

*I. G. Ferris*, for the applicant, moved for confirmation of the rule.

*C. Barry*, for the respondent, submitted that wages could not be attached under the common law. See *Van Leeuwen, Censura Forensis*, Part II., Bk. 1, Ch. 15, sects. 28 and 29. Salaries of professors, advocates, doctors and soldiers were protected. Salaries were protected in principle, and the salary of a workman was only a living wage.

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[WESSELS, J.: At what salary do you stop; where must the limit be drawn?]

Counsel submitted that a workman only received a living wage. If he earned more than a living wage the surplus only could be attached, *e.g.*, if a workman had a deposit in a bank. *Voet* (2, 4, 52) was of opinion that wages could be attached, but not to the full amount. Counsel further cited *Berlichius I.*, Concl. 74, sect. 45; *Peckius, de Jure Sist*, Ch. V., sect. 13; *Bort, Tractaat van Arresten*, Ch. V., sects. 27 and 28.

*I. G. Ferris*, in reply, submitted that the authorities did not show that all wages were protected, but only the wages of the persons enumerated. According to *Voet* (*supra*) wages could be attached.

WESSELS, J.: The only question to decide is whether the wages of a workman are capable of attachment or not. *Prima facie*, if a man has incurred a debt for which judgment is given against him, then in the ordinary course everything he possesses can be attached in order to pay the judgment debt, and it is for him to show that in his particular case some exception should be made. In none of the authorities quoted is any exception made in favour of a workman or other person who earns a wage. Exception is made with regard to the salaries of professors, doctors, advocates and soldiers. The exception as to professors was made during a time when learning was held in far higher esteem than it is to-day. The exception with regard to advocates was probably made by lawyers, who had a habit of looking after themselves, whilst soldiers were always somewhat privileged in the civil courts. There is nothing, however, in the authorities to show that a person who earns a wage is exempted from the operation of the ordinary rule that his money can be attached in satisfaction of a judgment debt. Here we have a man who incurred a debt of £15 odd to the European Hotel for board and lodging. When called upon to pay he refused to do so, and compelled the European Hotel to take judgment against him. Then when they proceeded against him by way of civil imprisonment he said he had nothing. He

was civilly imprisoned, and has refused obstinately to pay anything whatsoever towards the debt of the persons who for some two months actually supplied him with the means of living. Although he says he possesses nothing, he has always been able to engage an attorney and a counsel on his behalf. Such a man is contemptible, and the Court will not go out of its way to aid him. There is an amount of £17 odd due to him by the railway. I am not prepared to allow the whole of that amount to be attached, because that would mean that it would be impossible for the respondent to support himself during the coming month, and so earn sufficient to enable him to pay off the balance of the debt. The Magistrate made an order that he should pay £10 a month. I do not know the merits of the application upon which that order was granted. It may be that the amount is too large, but I cannot alter it at present. So long as the judgment of the Magistrate stands, it must be obeyed. Leave is granted to attach an amount of £10 out of the £17 odd due, and the respondent must pay the costs of the application.

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[Applicant's Attorney, A. KANTOR.  
Respondent's Attorneys, NESER & HOPLEY.]

[Reported by GEY VAN PITTIUS, Esq., Advocate.]

BRISTOWE, J. }  
Feb 9th, 1911. }

HO YING *vs.* MINISTER OF JUSTICE  
AND OTHERS.

*Asiatic.—Registration.—Refusal of certificate.—Deportation order.—Mandamus to Registrar and Minister.—Act 36 of 1908, sects. 4 and 6.*

*Where a Magistrate has dismissed an appeal brought by an Asiatic, under sect. 6 (2) of Act 36 of 1908, against the decision of the Registrar of Asiatics refusing to issue a certificate of registration, the only available redress is by application to the Court for a mandamus to the Registrar of Asiatics, or the Minister of Justice. To obtain such an order the applicant must*