

REX v. M'PAMA.

1910. April 15. WARD, J.

*Criminal law.—Appeal.—Secs. 3 and 11 of Ordinance 6 of 1906.—  
Labour agent.—Conducting.*

Where five natives had been engaged for work on a mine by A, another native, and B came down from Johannesburg to fetch the natives so engaged, *Held*, on appeal, that B's conviction on a charge of exercising the calling of a labour agent without holding a license must be upheld, as his action amounted to a "conducting" of coloured persons from within the colony to beyond the borders.

This was an appeal against a decision of the Acting Resident Magistrate of Kroonstad. The appellant had been found guilty of contravening secs. 3 and 11 of Ordinance 6 of 1906, in that he had exercised the calling of a labour agent without holding the requisite license. He had been sentenced to a fine of £30, or in default of payment to six months' imprisonment.

From the record it appeared that on the 4th April a native named Ramaqubone had engaged five other natives for work on the Robinson Deep mine. The appellant, in the employ of the mine referred to, came down to Kroonstad on the 6th with instructions to take the natives thus engaged to the mine, and told them so. There was also evidence to the effect that the appellant had paid 7s. for the food supplied to two of the five natives engaged by Ramaqubone.

*De Jager*, for the appellant: Sec. 6 only refers to engaging and collecting coloured labourers; neither of these functions was performed by the appellant.

[WARD, J.: How do you get over the word "conducting" used in sec. 2?]

WARD, J.: The appeal must be dismissed. The Ordinance would be rendered a dead letter were the facts here held not to constitute a "conducting" of labourers from this colony

beyond the borders thereof. Sec. 6 does not repeat all the functions of a labour agent; these are to be found in sec. 2, and clause 1 of the last-mentioned section, by providing that those who conduct coloured persons for the purpose of doing farm work in the colony or for their own domestic or personal service are not to be deemed labour agents, makes it quite clear that when the conducting is, as in this case, of coloured labourers beyond the limits of the colony, the person so acting must be considered a labour agent.

Appellant's Attorneys: *Botha & Goodrick.*

