

FAWKES & WARD, JJ. }  
December 17th, 1912. }

MANOBIA vs. REX.

*Chapter cxxxiii, Article 33.*

*Article 33 of chapter cxxxiii. of the Law Book constitutes no substantive offence and a coloured person who refuses to produce his pass on demand is thereunder only liable to arrest.*

1912.  
Dec. — 17.  
Manobia vs.  
Rex.

Appeal from a decision of the Resident Magistrate of Edenburg.

Appellant had been convicted of contravening article 33\* of Chapter cxxxiii of the Law Book, for refusing to produce his pass on demand to a burgher residing in Edenburg, and sentenced to pay a fine of £4 or undergo one month's imprisonment with hard labour.

*G. Brebner*, for appellant: Refusing to produce a pass is no substantive offence in terms of Article 33 of Chapter cxxxiii of the Law Book.

*C. L. Botha*, for the Crown.

FAWKES, J.: Under Article 33 of Chapter cxxxiii of the Law Book failure to produce a pass on demand simply renders the accused liable to arrest and to be brought before a magistrate for enquiry. The Article constitutes no substantive offence. The appeal must therefore be allowed and the conviction and sentence quashed.

WARD, J., concurred.

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\* Section 33, so far as material, reads as follows:—"It shall be the duty of every burgher to ask every [coloured] person . . . for his pass and . . . if he shall refuse to produce such pass . . . he shall be detained and brought before the Justice of the Peace . . . who shall be competent after further enquiry . . . to send him to the Landdrost to whom authority is hereby granted, on further enquiry, to convict any such person who shall be found guilty of the offence of vagrancy and to punish him as a vagrant . . ."

[Appellant's Attorney, C. A. EVENWEL.]

[Reported by C. A. BECK, Esq., Advocate.]

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