

REX v. APRIL KOBILE.

1909. July 16. WARD, J.

Criminal procedure.—Review.—Ordinance 52 of 1903, sec. 2.—Removal of stock without permit.—Meaningless wording of section.

Where A had removed stock from Basutoland into this colony after having obtained a pass from the Basutoland authorities, and had been convicted of removing stock into the colony without a permit, *Held*, that the conviction and sentence must be quashed. *Rex v. Jacob Klari* (unreported, see Appendix) followed.

The accused had been charged before the special justice of the peace at Dewetsdorp with contravening sec. 2 of Ordinance 52 of 1903 in that he had removed stock from Basutoland into this colony without a permit, and had been convicted and sentenced to a fine of 20s., or in default to seven days' imprisonment with hard labour. The section reads as follows:—

It shall not be lawful for any person to remove any stock into this colony from outside its borders or from within any district to any place beyond the limits of such district unless he shall have obtained a permit for such removal from a magistrate or justice of the peace of the district in which such stock is, or from an officer of the constabulary or other member of such force in charge of a police post within such district: Provided that nothing in this section contained shall be deemed to apply to stock conveyed by railway from any place outside the boundaries of this colony to any other place beyond the said boundaries.

WARD, J.: The facts are the same as they were in the case of *Rex v. Jacob Klari* (unreported, see Appendix), which was quashed by the CHIEF JUSTICE. Following that case, therefore, I must quash the conviction and sentence.
