

REX v. JIM MAKAYE.

1910. *July 23, December 17.* WARD, J.*Criminal law.—Review.—Jurisdiction.—Railway.*

This was a case heard before the Assistant Resident Magistrate of Bloemfontein, which came up for review.

WARD, J.: Accused was convicted of contravening clause (a), sec. 44 of Act 29 of 1908 (the Railway Regulation Act), in that at a place to the prosecutor unknown, on a line of railway passing from Germiston, in the Transvaal Colony, to Bloemfontein, in the Orange Free State, the said Jim Makaye did steal 2 lbs. of tobacco, &c. He was sentenced on this count to three months' hard labour. He was also convicted of contravening clause (a), sec. 13 of the same Act, in that at Germiston he, Jim Makaye, with intent to defraud the railway authorities, did wrongfully, &c., enter a carriage or other rolling stock on the railway and did travel to Bloemfontein, &c. There is no evidence to show that the accused committed within the Orange Free State the offences charged in the first count, and the conviction and sentence on that count will be quashed.

On the second count the accused was sentenced to a fine of £1 or fourteen days' imprisonment with hard labour. The Attorney-General was not prepared to support the conviction, which was accordingly quashed on the 17th December on the ground that the offence with which the accused had been charged had been committed outside this province.
