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OCTOBER 10TH, 1904.

C.A.

REX v. WHITESIDES.

*Criminal Law—Conviction under Liquor License Act—Warrant of Commitment—Arrest in another County—Warrant not Indorsed by Justice of that County—Habeas Corpus—Conviction for Second Offence—Form—Finding of Previous Conviction—Order of Proceedings—Amendment.*

Appeal by prisoner from order of ANGLIN, J., ante 113, upon the return of a habeas corpus and certiorari in aid, refusing to discharge the prisoner and remanding him to the custody of the keeper of the common gaol of Northumberland and Durham. The prisoner was in custody by virtue of a warrant of commitment issued upon his conviction by the police magistrate for the town of Bowmanville and county of Durham on 11th July, 1904, for selling liquor without license. He was sentenced to imprisonment with hard labour for 4 months as for a second offence against the Act, sec. 72. The gaoler made his return to the habeas corpus, assigning the warrant of commitment as the cause of detention. The conviction and proceedings before the magistrate were returned upon the writ of certiorari in aid, and an amended conviction was also returned. It was objected that the warrant was defective in form; that the arrest thereunder was irregular or void, the warrant not having been backed by a justice of the peace of the county of Victoria, in which county the prisoner was arrested, and whence he was taken to gaol at Cobourg. It was contended that the conviction, as well in its amended as in its original form, was invalid, as the finding in respect of the previous conviction was omitted in the latter and improperly set forth in the former, and also because the magistrate had entered upon the inquiry as to the previous conviction before adjudicating upon the guilt of the prisoner in respect of the