

It was objected that the depositions were not read over to or signed by the witnesses, as required by sec. 74 of the Act. Assuming that all the facts stated on affidavit by the defendant were regularly established, failure on the part of the magistrate to comply with sec. 74 did not invalidate the conviction: *Rex v. Leach* (1908), 17 O.L.R. 643; at all events unless it was shewn that the defendant was in some way prejudiced: *Rex v. McDevitt* (1917), 39 O.L.R. 138; *Montreal Street R. W. Co. v. Normandin*, [1917] A.C. 170. This objection failed.

The second objection was, that no offence was proved. The defendant had in her possession the liquor in respect of which she was prosecuted, and it was for her to prove that she did not commit the offence with which she was charged: sec. 88. There was nothing to shew whether the magistrate refused to credit her explanation, or, giving credit to it, was of opinion that she had not brought herself within sec. 43, as amended by 7 Geo. V. ch. 50, sec. 14. If the magistrate did not believe the defendant's statement, that was the end of the case: *Rex v. Le Clair* (1917), 12 O.W.N. 163, 39 O.L.R. 436. The Judge could not assume that the magistrate did believe the statement, but proceeded upon a view of the effect of sec. 43 different from the view put forward on behalf of the defendant. Therefore, the question as to the true construction of sec. 43 did not arise; and the second objection failed.

Motion dismissed with costs.

MIDDLETON, J., IN CHAMBERS.

OCTOBER 3RD, 1917.

**REX v. DAVIS.*

Infant—"Neglected Child"—Commissioner of Juvenile Court—Conviction of Person for Contributing to Making Child a "Neglected Child"—Immorality of Mother—Conviction of Adulterer—Absence of Actual Injury to Child—Children's Protection Act of Ontario, R.S.O. 1914 ch. 231, sec. 18 (d)—Powers of Provincial Legislature—Statutory Crime—Creation of Tribunal.

Motion to quash a conviction of the defendant by the Commissioner of the Juvenile Court for the City of Toronto for contributing to the infant child (2 years old) of Katherine Vera Reynolds being or becoming a neglected child.

The conviction was under the Children's Protection Act of