

out regard to vacations. This provision, in my opinion, involves such a variation of the procedure under the Rules in regard to delivery of pleadings as necessarily precludes the application of Rule 351 to pleadings delivered under the Act. Were Rule 351 applicable, having regard to the unqualified terms of sec. 24 of the Act, the lien-holder would, in my opinion, be bound to obtain either the consent of the defendant or the direction of a Judge for the filing of his pleading during vacation, and could not in default claim to have the time prescribed by sec. 24 extended.

In my opinion, the decision of the Master is entirely right, and the appeal must be dismissed with costs.

ANGLIN, J.

NOVEMBER 13TH, 1907.

CHAMBERS.

REX v. FARRELL.

*Liquor License Act — Conviction as for Second Offence— Sentence to 4 Months' Imprisonment—Motion for Discharge under Habeas Corpus—Right of Court to go behind Conviction Regular on its Face—Jurisdiction of Police Magistrate—Clerical Error in Date of Warrant of Commitment—No Recorded Evidence of Existence of Prior Conviction—Provision of Act Requiring Evidence to be Taken down in Writing—Admission of Defendant—Variance between Information and Conviction—Defendant not Allowed Fair Opportunity to make his Defence—Refusal of Adjournment.*

Motion by defendant, upon returns to writs of habeas corpus and certiorari, for his discharge from custody in the common gaol of the county of Peel, under a conviction by Robert Crawford, police magistrate for the town of Brampton, for selling liquor without a license, after a previous conviction for a similar offence. The defendant was sentenced to 4 months' imprisonment as for a second offence. He based his claim for discharge upon the following grounds:—

(1) That the police magistrate for Brampton had no jurisdiction, the offence being charged as having been com-