

on account of some defect in substance or in form apparent on the face of it, if he in good faith and without culpable ignorance and negligence believes that the warrant or process is good in law, shall be protected from criminal responsibility to the same extent and subject to the same provisions as if the warrant or process were good in law, and ignorance of the law shall in such case be an excuse.

2. QUESTION OF LAW.—It shall be a question of law whether the facts of which there is evidence may or may not constitute culpable ignorance or negligence in the belief of such person that the warrant or process is good law. 55-56 V., c. 29, s. 21.

See note under section 24 as to the words "criminal responsibility."

"It is at least doubtful on the existing authorities whether a person honestly acting under a bad warrant, defective on the face of it, has any defence, though only doing what would have been his duty if the warrant was good. The section, as framed, protects him. The proviso is new, but seems to be reasonable. It does not touch the question of civil responsibility."—Imp. Comm. Rep.

See *R. v. Monkman*, 8 Man. L. R. 509 under section 296 post.

30. ARREST BY PEACE OFFICER.—Every peace officer who, on reasonable and probable grounds, believes that an offence for which the offender may be arrested without warrant has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed that offence, is justified in arresting such person without warrant, whether such person is guilty or not. 55-56 V., c. 29, s. 22.

This section protects the officer making the arrest from criminal and civil proceedings, and it also authorizes the arrest. It applies to cases where a peace officer may arrest without a warrant as well as to private persons may arrest without a warrant. But this section does not authorize a justice of the peace to direct a constable to make an arrest without a warrant. *McGinness v. Dufoe* (1896), 27 O. R. 117; 23 A. R. 704, 3 Can. C. C. 139.

Verbal statements to officer that a person had committed a theft the day before does not justify him in arresting such person without warrant: *Housen v. City of Montreal*, Q. R. 12 S. C. 61.

A workman in Central Prison was detected conveying tobacco to convict contrary to rules. The warden directed a constable to arrest the workman and in so doing handcuffed him. *Held*, arrest legal, but the handcuffing under the circumstances was not justifiable, and the constable liable in trespass, but the warden not liable, as evidence failed to shew him a party to the handcuffing. *Hamilton v. Massie*, 18 O. R. 585.

31. PERSONS ASSISTING PEACE OFFICER.—Every one called upon to assist a peace officer in the arrest of