

Province of Manitoba.

QUEEN'S BENCH.

Full Court.]

REGINA v. CLOUTIER.

[May 11.

Criminal Code, ss. 22, 552, sub-s. 2, 7—Arrest without warrant—Detention of prisoner.

The prisoner was arrested by the Chief of Police of Winnipeg, at the request of the Chief Constable of Montreal, contained in a telegram which charged him with having, with intent to defraud, by false pretences, at the city of Montreal in the province of Quebec, directly obtained from Doull & Gibson, of Montreal, goods capable of being stolen, of the value of \$1,387. A writ of habeas corpus having been issued, the Chief of Police made his return on the day after the arrest, justifying the arrest and detention of the prisoner on two grounds: first, setting out positively that the prisoner had been guilty of the offence charged, and that he had arrested him without a warrant; second, that the prisoner had been charged with committing such offence, and that he, the Chief of Police, believed on reasonable and probable grounds that the offence had been committed by the prisoner, and so believing had arrested and was detaining him without a warrant.

Held, that under ss. 22, 552, sub-s. 2, of the Criminal Code, as amended by 58-59 Vict., c. 40, both clauses of the return were good; also that section 22 operates not merely to enable the officer to defend himself if proceeded against for the arrest, but authorizes the arrest and makes it lawful under the circumstances set up, and the section also applies not only where the arrest could be made by any person without a warrant, but also to cases in which a peace officer only may so arrest.

It was contended on behalf of the prisoner that even though lawfully arrested he was now being unlawfully detained, and paragraph (a) at the end of sub-s. 7 of s. 552, was relied upon.

Held, that the last mentioned paragraph, requiring a prisoner who has been apprehended to be brought before a Justice of the Peace before noon of the day following his arrest, only applies to the offences referred to in sub-s. 7.

The Court enlarged the application for three days, and allowed the prisoner to go on bail in the meantime, but before the expiration of the time, the prisoner was re-arrested and taken to Montreal under a warrant sent up from that city.

Tupper, Q.C., and *Phippen*, for prosecutor. *Howell, Q.C.*, for prisoner.

Full Court.]

ABELL v. CRAIG.

[June 27.

Contract—Sale of goods—Condition precedent.

Appeal from the County Court of Glenboro. Defendant gave plaintiffs a written order for a second-hand horse power and threshing machine, "the same to be put in good running order . . . by putting in a set of cylinder spikes." The price was to be \$250. After the acceptance of the order and the delivery of the machine, the set of cylinder spikes was put in, and plaintiffs'