

fully authorizing him to so act, or that the person issuing the warrant acted as a court, justice or other person having such authority, although in fact such appointment or commission did not exist or had expired, or although in fact the court or the person passing the sentence or issuing the process was not the court or the person authorized by the commission to act, or the person issuing the warrant was not duly authorized so to act. 55-56 V., c. 29, s. 19.

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

28. ARRESTING WRONG PERSON.—Every one duly authorized to execute a warrant to arrest, who thereupon arrests a person, believing in good faith and on reasonable and probable grounds that he is the person named in the warrant, shall be protected from criminal responsibility to the same extent and subject to the same provisions as if the person arrested had been the person named in the warrant.

2. ASSISTING IN SUCH ARREST — GAOLER.—Every one called on to assist the person making such arrest, and believing that the person in whose arrest he is called on to assist is the person for whose arrest the warrant is issued, and every gaoler who is required to receive and detain such person, shall be protected to the same extent and subject to the same provisions as if the arrested person had been the person named in the warrant. 55-56 V., c. 29, s. 20.

Where the defendant, arrested by a provincial constable, who believed that a robbery had been committed, and that the defendant was one of the persons who committed it, and who, being asked to shew his authority, produced and read a warrant against F. E. and others, for breaking and entering a shop and stealing a quantity of goods therefrom, seeing that his name was not mentioned in the warrant, resisted arrest, and in so doing assaulted a constable, and was tried and convicted for assaulting a police officer in the discharge of his duty, with intent to resist lawful arrest, it was held that the arrest could be justified under the statute, notwithstanding the insufficiency of the warrant: *R. v. Sabean*, 37 N. S. R. 223, 7 Can. C. C. 498.

See *Hore v. Bush*, 1 M. & Gr. 775; *R. v. Hood* (1830), Moody's C. C. R. 281, and note under section 24, as to the words "criminal responsibility."

"As an officer arresting for felony without warrant is by the common law justified even if he by mistake arrests the wrong person, we think that the man who arrests any person with a warrant for any offence shall at least be protected from criminal responsibility. The right of action is not affected by it."—Imp. Coma. Rep.

29. IRREGULAR WARRANT OF PROCESS.—Every one acting under a warrant or process which is bad in law