GENERAL STATUTES

OF THE

STATE OF MINNESOTA

IN FORCE

JANUARY 1, 1889.

COMPLETE IN TWO VOLUMES.

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VOLUME 2, Supplement.—Changes effected in the General Statutes of 1878 by the General Laws of 1879, 1881, 1881 Extra, 1883, 1885, and 1887, arranged by H. J. HORN, Esq., with Annotations by STUART RAPALJE, Esq., and others, and a General Index by the Editorial Staff of the NATIONAL REPORTER SYSTEM.

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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§ 17. Arrest by private person—When allowed.

See Kennedy v. State, (Ind.) 6 N. E. Rep. 305; Morley v. Chase, (Mass.) 9 N. E. Rep. 767; Judson v. Reardon, 16 Minn. 431, (Gil. 387.)

§ 20. Same—Person arrested to be taken before a magistrate.

See Judson v. Reardon, 16 Minn. 431, (Gil. 387.)

CHAPTER 106.

EXAMINATION OF OFFENDERS, COMMITMENT FOR TRIAL, AND TAKING BAIL.

§ 1. Process to apprehend offenders—When issuable.

See State v. Grant, 10 Minn. 39, (Gil. 22.)

§ 9. Adjournments—Recognizance.

A justice of the peace has no authority to receive a deposit of money, instead of a recognizance, as security for the appearance of the prisoner before him for examination, and, where he does so, the party entitled to it may demand and recover it from him. Cressey v. Gierman, 7 Minn. 398, (Gil. 316.)

Upon being brought up on *habeas corpus*, a person in custody charged with crime may waive objections to his caption and detention, and be admitted to bail without an examination. State v. Grant, 10 Minn. 39, (Gil. 22.)

§ 10. Default of accused—Proceedings on recognizance.

See Flanigan v. City of Minneapolis, 36 Minn. 406, 31 N. W. Rep. 359.

§ 12. Examination.

Section 20, *c.* 65, *supra*, relating to transfer of actions from one justice to another, is not applicable to examinations under this chapter. State v. Bergman, (Minn.) 34 N. W. Rep. 737.

§ 18. Bail—Commitment.

Sufficiency of a warrant of commitment to await the action of a grand jury, to justify the officer holding the prisoner, in an action for false imprisonment, see Collins v. Brackett, 34 Minn. 339, 25 N. W. Rep. 708.

§ 22. Commitment of witness.

See State v. Grace, 18 Minn. 398, (Gil. 359.)

§ 25. (Sec. 24.) Certifying testimony, recognizances, etc.

If a recognizance is of record in the proper court, at the time when the parties who entered into it are called upon to perform its conditions, it is in time as respects filing. The provision of § 25, requiring a recognizance to be filed on or before the first day of the term of the district court before which the prisoner is bound to appear, is as to time directory. State v. Perry, 28 Minn. 455, 10 N. W. Rep. 778.

Sections 15 and 25 simply relieve the proofs taken from their otherwise extrajudicial character; they are still mere secondary evidence. Chapman v. Dodd, 10 Minn. 350, (Gil. 277.) Depositions taken before a justice, in a criminal examination before him, are not part of his record. Id.

§ 27. (Sec. 26.) Payment by surety.

See Flanigan v. City of Minneapolis, 36 Minn. 406, 31 N. W. Rep. 359.

§ 32. (Sec. 31.) Application to judge for bail.

If the officer in charge brings before a magistrate, having general jurisdiction to admit to bail, a prisoner, who is there permitted to make his application to be admitted to bail, all the substantial purposes of the statutory provisions as to the mode of bringing him up are accomplished, and, so far as they are concerned, any recognizance which the prisoner may enter into is well taken. State v. Perry, 28 Minn. 455, 10 N. W. Rep. 778.

*§ 34. Surrender of principal by bail.

Whenever the surety or sureties for any person held to answer upon any charge or otherwise, or any of them, shall believe that the person or principal for whom they are such sureties is about to abscond, or that he will not appear as required by [the] recognizance or other instrument of bail, which they have executed with or for him, or that he will not otherwise perform the conditions thereof, such sureties or bail, or either of them, may arrest and take such principal, or cause him to be arrested and taken, as hereinafter stated, before the officer who admitted him to bail, or the judge of the court before which person or principal was required thereby to appear, and surrender him up to such officer or judge; such surety or sureties, or either of them, may have such person or principal so arrested by the sheriff of the county by delivering to such sheriff a certified copy of the recognizance, or instrument of bail, under which he or they are held as sureties, with a direction to such sheriff indorsed thereon, requiring him to arrest such principal, and bring him before such officer or judge, to be so surrendered, and it shall be the duty of such sheriff, upon the receipt of any such copy so indorsed, and a tender or payment to him of his fees for so doing, to so arrest such principal and bring him before such officer or judge to be so surrendered. (1881, *c.* 105, § 1.*)

*§ 35. Same—Notice to sheriff.

Before any such surety or sureties shall personally so surrender the person for whom he or they are bail, the sheriff of the county shall be notified to be, and he or one of his deputies shall be, present to take such person so surrendered into custody, if he fails or refuses to give new bail, as herein provided. (*Id.* § 2.)

*§ 36. Commitment of principal.

When any such person is so surrendered, the officer or judge to whom he is surrendered shall, by a new commitment, commit him to jail, unless he shall give sufficient bail, with new sureties, as he was required by law to do in the first instance. (*Id.* § 3.)

*§ 37. Fees of sheriff.

The sheriff is allowed the same fees and mileage for making an arrest or attending before said officer or judge under this act as he is allowed for arresting a person under a bench-warrant; and in all cases his fees shall be paid by the surety or sureties surrendering any principal as herein provided for. (*Id.* § 4.)

*"An act to provide for the surrender of a principal by his sureties or bail." Approved March 7, 1881.