

THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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CHAPTER 103.

DEMANDING FUGITIVES FROM JUSTICE.

§ 7084. Agents to demand fugitives, how appointed—Expenses, how paid.

The governor may, in any case authorized by the constitution and laws of the United States, appoint agents to demand of the executive authority of any state or territory, any fugitive from justice, or any person charged with felony or any other crime, in this state; and whenever an application is made to the governor for that purpose, the attorney general, when required by the governor, shall forthwith investigate, or cause to be investigated by any county attorney, the grounds of such application, and report to the governor all material circumstances which may come to his knowledge, with an abstract of the evidence, and his opinion as to the expediency of the demand; and the accounts of the agents appointed for such purpose shall, in all cases, be audited by the governor, and paid from the state treasury.

(G. S. 1866, c. 103, § 1; G. S. 1878, c. 103, § 1.)

"Fugitive from justice," see *State v. Richter*, 37 Minn. 436, 35 N. W. Rep. 9.

To be a fugitive from justice it is not necessary that the party should have left the state after indictment, or to avoid prosecution. *Roberts v. Reilly*, 6 Sup. Ct. Rep. 291; *Ex parte Brown*, 23 Fed. Rep. 653.

One who goes into another state, and commits a crime there, and then returns to his own state, is a fugitive from justice. *In re Roberts*, 24 Fed. Rep. 132.

The warrant for the arrest and return must bear upon its face the evidence that it was duly issued, and must set forth the indictment or affidavit upon which it is founded. *In re Doo Woon*, 18 Fed. Rep. 898.

Use of stratagem in procuring the arrest. *Ex parte Brown*, 23 Fed. Rep. 653.

One extradited for seduction cannot be arrested for bastardy. *In re Cannon*, (Mich.) 11 N. W. Rep. 230. See, as to arrest of extradited person for a different offense, *State v. Stewart*, (Wis.) 19 N. W. Rep. 429.

See *Hackney v. Welsh*, (Ind.) 8 N. E. Rep. 141; *Ex parte Morgan*, 20 Fed. Rep. 298.

§ 7085. Demand from another state—Proceedings—Warrant of extradition.

When a demand is made upon the governor by the executive of any state or territory, in any case authorized by the constitution and laws of the United States, for the delivery over of any person charged, in such state or territory, with treason, felony, or any other crime, the attorney general, when required by the governor, shall forthwith investigate the ground of such demand, or cause the same to be investigated by any county attorney, and report to the governor all material facts which may come to his knowledge as to the situation and circumstances of the person so demanded, especially whether he is held in custody, or is under recognizance, to answer for any offense against the laws of the state or of the United States, and also whether such demand is made according to law, so that such person ought to be delivered up; and if the governor is notified that such demand is conformable to law, and ought to be complied with, he shall issue his warrant, under the seal of the state, authorizing such person as he shall name therein, either forthwith or at the time designated by the warrant, to take and transport the person so demanded to the line of the state, at the expense of the state or territory in whose name such person may have been demanded, and to deliver over such person, at the line of the state, to the agent of the state or territory making such demand; and shall also, by such warrant, require the civil officers within this state to afford all needful assistance in the execution thereof: *provided, however*, that the governor, when issuing his warrant, shall deliver the same to the sheriff or some other public officer of any county in this state, and such officer, upon receipt of such warrant, shall have power to arrest and detain in his custody

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the person whose surrender is demanded; but no such person arrested upon such warrant shall be delivered to the agent designated therein, or to any other person, until the person so arrested, and whose surrender is demanded, shall be notified of the demand made for his surrender, and of the nature of the criminal charge made against him, and not until he has had an opportunity to apply for a writ of *habeas corpus*, if he claims such right, of the officer making the arrest. When such writ is applied for, notice thereof and of the time and place of the hearing thereon shall be given to the attorney general or other prosecuting officer of the judicial district in which the arrest is made. Any sheriff or other officer making such arrest, who shall deliver over to the agent named in such warrant, or to any other person, for extradition, the person so in his custody under such warrant, without having complied with the provisions of this act, shall, upon conviction thereof, be fined in any sum not exceeding one thousand dollars, or imprisoned in the common jail of the county not exceeding six months, or be subject to both fine and imprisonment, at the discretion of the court.

(G. S. 1866, c. 103, § 2, as amended 1874, c. 15, § 1; G. S. 1878, c. 103, § 2; 1879, c. 44, § 1.)

See, as to sufficiency of the papers, *State v. O'Connor*, 33 Minn. 243, 36 N. W. Rep. 462. See *State v. Richardson*, 34 Minn. 115, 24 N. W. Rep. 354; *Hackney v. Welsh*, (Ind.) 8 N. E. Rep. 141; In re *Herres*, 33 Fed. Rep. 165.

§ 7086. Fugitive from another state may be arrested, when—Proceedings.

Whenever any person is found within this state, charged with any offence committed in any state or territory, and liable by the constitution and laws of the United States to be delivered over upon the demand of the executive of such state or territory, any court or magistrate authorized to issue warrants in criminal cases may, upon complaint under oath, setting forth the offence and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the same or some other court or magistrate within the county where such person is found.

(G. S. 1866, c. 103, § 3; G. S. 1878, c. 103, § 3.)

Where a peace-officer, without warrant, arrested a person on suspicion of having committed a crime in another state, detained him five days without taking him before a magistrate, there being nothing to prevent his doing so immediately, and then released him from custody, the detention was, as a matter of law, for an unreasonable time. *Cochran v. Toher*, 14 Minn. 385, (Gil. 293.)

§ 7087. May give recognizance, when—Failure to appear.

If, upon examination of the person charged, it appears to the court or magistrate that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the governor, he shall, if the offence is bailable, be required to recognize with sufficient sureties, in a reasonable sum, to appear before such court or magistrate at a future day, allowing a reasonable time to obtain the warrant of the executive, and to abide the order of the court or magistrate; and if such person shall not so recognize, he shall be committed to prison, and there detained until such day, in like manner as if the offence charged had been committed within this state; and if the person so recognizing fails to appear according to the condition of his recognizance, he shall be defaulted, and the like proceeding shall be had as in case of other recognizances entered into before such court or magistrate; but if the offence is not bailable, he shall be committed to prison, and there detained until the day so appointed for his appearance before the court or magistrate.

(G. S. 1866, c. 103, § 4; G. S. 1878, c. 103, § 4.)

§ 7088. Shall be discharged, when.

If the person so recognized or committed appears before the court or magistrate upon the day ordered, he shall be discharged unless he is demanded by some person authorized by the warrant of the executive to receive him,

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or unless the court or magistrate sees cause to commit him, or to require him to recognize anew, for his appearance at some other day; and if, when ordered, he shall not so recognize, he shall be committed and detained as before provided; whether the person so discharged is recognized, committed, or discharged, any person authorized by the warrant of the executive may at all times take him into custody, and the same is a discharge of the recognizance, if any, and shall not be deemed an escape.

(G. S. 1866, c. 103, § 5; G. S. 1878, c. 103, § 5.)

§ 7089. Complainant liable for expenses—Discharge on failure to pay.

The complainant in such case shall be answerable for the actual costs and charges, and for the support in prison, of any person so committed, and shall advance to the jailor one week's board at the time of commitment, and so from week to week so long as such person shall remain in jail; and if he fails so to do, the jailor may forthwith discharge such person from custody.

(G. S. 1866, c. 103, § 6; G. S. 1878, c. 103, § 6.)

§ 7090. Conveying prisoners through this state.

Any person who has been or shall be convicted of or charged with any crime, in any other state or territory of the United States, and who shall be lawfully in the custody of any officer of the state or territory where such offence is claimed to have been committed, may be by said officer conveyed from and through this state, for which purpose said officer shall have all the powers in regard to the control and custody of said prisoner, that an officer of this state has over a prisoner in his charge.

(1877, c. 104, § 1; G. S. 1878, c. 103, § 7.)

(1871)