

CHAPTER 626

INVESTIGATION AND APPREHENSION; RECORDS

SEARCH WARRANTS

626.01 SEARCH WARRANTS; WHEN ISSUED.

HISTORY. R.S. 1851 c. 110 s. 1; P.S. 1858 c. 99 s. 1; G.S. 1866 c. 102 s. 1; G.S. 1878 c. 102 s. 1; G.S. 1894 s. 7080; R.L. 1905 s. 5196; G.S. 1913 s. 9033; G.S. 1923 s. 10537; M.S. 1927 s. 10537.

Action against defendant for malicious prosecution. A proceeding under General Statutes 1866, Chapter 102, may perhaps in some instance be a substantive criminal proceeding but it is not necessarily so. It may be ancillary to the prosecution for larceny. The facts upon which the warrant is issued may be embraced in the original complaint, or may be in a separate complaint, and at a subsequent stage of the proceedings. *Cole v Curtis*, 16 M 182 (167).

A justice of the peace cannot issue a search warrant for his own property. *Jordan v Henry*, 22 M 245.

An action for damages lies for maliciously and without probable cause procuring the issuance and execution of a search warrant for goods alleged to have been stolen. *Olson v Tvette*, 46 M 225, 48 NW 914.

In response to the officer's knock at the door the defendant admitted him. He found evidence of liquor violation and arrested the defendant. The fact that he had no search warrant was under the circumstances immaterial. *State v Silver*, 169 M 513, 211 NW 463.

Under the evidence and on the record there was no error in condemning and destroying slot machines while they were being kept for gambling in violation of law though there was no search warrant. *State v Falgren*, 176 M 346, 223 NW 455.

The state law does not provide for search and seizure of liquor, though a municipal ordinance may so provide. OAG Dec. 27, 1935 (218f-3).

State securities act regulating the sale of stock, especially provision authorizing state department of commerce, securities division, to investigate sale of securities, is not unconstitutional as authorizing unreasonable search and seizure of books, records, papers, and accounts of bank stock holding company stock which was sold or traded. *Northwest Bank Corporation v Benson*, 6 F. Supp. 719.

Sufficiency of affidavit for issuance of search warrant. 6 MLR 602.

626.02 SEARCH FOR COUNTERFEIT COIN, OBSCENE BOOKS, AND GAMBLING APPARATUS.

HISTORY. R.S. 1851 c. 110 s. 2; P.S. 1858 c. 99 s. 2; G.S. 1866 c. 102 s. 2; G.S. 1878 c. 102 s. 2; G.S. 1894 s. 7081; R.L. 1905 s. 5197; G.S. 1913 s. 9034; G.S. 1923 s. 10538; M.S. 1927 s. 10538.

Merchants of a city gave away tickets to their purchasers and afterwards held a drawing on chance of a cash prize. This action was to enjoin and abate the plan. No search warrant was issued and there was no seizure of the tickets. They were not brought into court. It was error to direct the sheriff to seize and destroy the tickets. *State v Powell*, 170 M 239, 212 NW 169.

SEE: *Northwest Bank Corporation v Benson*, 6 F. Supp. 719.

626.03 SEARCH WARRANTS; TO WHOM DIRECTED; CONTENTS.

HISTORY. R.S. 1851 c. 110 s. 3; P.S. 1858 c. 99 s. 3; G.S. 1866 c. 102 s. 3; G.S. 1878 c. 102 s. 3; G.S. 1894 s. 7082; R.L. 1905 s. 5198; G.S. 1913 s. 9035; G.S. 1923 s. 10539; M.S. 1927 s. 10539.

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A search warrant fair on its face protects the officer executing it, and those called by the officer to assist, even though the complaint upon which it issued is insufficient. The place to be searched is particularly described so as to meet the constitutional requirement, that is: Minnesota Constitution, Article 1, Section 10; and the fourth Amendment to the Federal Constitution. *McSherry v Heimer*, 132 M 260, 156 NW 130.

SEE: *Northwest Bank Corporation v Benson*, 6 F. Supp. 719.

626.04 PROPERTY; SEIZURE, KEEPING, AND DISPOSAL.

HISTORY. R.S. 1851 c. 110 s. 4; P.S. 1858 c. 99 s. 4; G.S. 1866 c. 102 s. 4; G.S. 1878 c. 102 s. 4; G.S. 1894 s. 7083; R.L. 1905 s. 5199; G.S. 1913 s. 9036; G.S. 1923 s. 10540; M.S. 1927 s. 10540; 1929 c. 177.

A justice cannot issue a search warrant for his own property. *Jordan v Henry*, 22 M 245.

The use in evidence of intoxicating liquor taken without a search warrant from defendant's automobile is proper. *State v Pluth*, 157 M 145, 195 NW 789; *State v McLean*, 15 M 359, 196 NW 278.

SEE: *State v Powell*, 170 M 241, 212 NW 169; *State v Falgren*, 176 M 347, 223 NW 455.

SEE: *Northwest Bank Corporation v Benson*, 6 F. Supp. 719; Laws 1929, Chapter 177. 14 MLR 69.

Disposition of money found with seized gambling devices; slot machines. 23 MLR 977.

BUREAU OF CRIMINAL APPREHENSION

626.32 BUREAU OF CRIMINAL APPREHENSION CREATED.

HISTORY. 1927 c. 224 s. 1; M.S. 1927 s. 9950-5.

626.33 SUPERINTENDENT; RULES AND REGULATIONS.

HISTORY. 1927 c. 224 s. 1; M.S. 1927 s. 9950-6; 1935 c. 197 s. 1.

The superintendent of the bureau of criminal apprehension and the superintendent of the highway patrol are not incompatible offices. 1940 OAG 287, Jan. 14, 1939 (213f)

Increase in powers and duties through Laws 1935, Chapter 197. 20 MLR 76.

626.34 EMPLOYEES; CIVIL SERVICE; COMPENSATION.

HISTORY. 1927 c. 224 s. 3; M.S. 1927 s. 9950-7; 1935 c. 197 s. 3; 1939 c. 441 s. 41.

Veteran's preference law applies. OAG July 27, 1935 (618a-2).

There is nothing in the civil service act to prohibit an employee on his own time to stamp and post bills for candidate for political office. 1940 OAG 286, April 26, 1940 (644c).

New appointments must be made from a list of persons who have passed the necessary examinations. OAG Feb. 1, 1939 (985).

626.35 DIVISION OF CRIMINAL STATISTICS.

HISTORY. 1927 c. 224 s. 3; M.S. 1927 s. 9950-7; 1935 c. 197 s. 3; 1939 c. 441 s. 41.

The mayor, chief of police, or marshal may make reports to the bureau. OAG Feb. 5, 1936 (985f).

As to reports by judges and clerks of the municipal courts to the bureau. 1942 OAG 26, March 10, 1942 (985f).

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626.36 DIVISION POWERS AND DUTIES; LOCAL OFFICERS TO COOPERATE.

HISTORY. 1927 c. 224 s. 3; M.S. 1927 s. 9950-7; 1935 c. 197 s. 3; 1939 c. 441 s. 41.

626.365 RESTORATION OR DISPOSAL OF STOLEN PROPERTY.

HISTORY. 1941 c. 389.

626.37 BONDS OF SUPERINTENDENT AND EMPLOYEES.

HISTORY. 1927 c. 224 s. 4; M.S. 1927 s. 9950-8; 1935 c. 197 s. 3.

626.38 SYSTEM FOR IDENTIFICATION OF CRIMINALS; RECORDS AND INDEXES.

HISTORY. 1927 c. 224 s. 5; M.S. 1927 s. 9950-9.

626.39 FINGER-PRINTS, BERTILLON MEASUREMENTS, PHOTOGRAPHS; POWERS OF SHERIFFS AND POLICE OFFICERS.

HISTORY. 1927 c. 224 s. 6; M.S. 1927 s. 9950-10; 1935 c. 197 s. 4; 1939 c. 46 s. 1.

Consent of the court is not necessary to take finger-prints or other identification data under this statute. It is in fact the duty of the police officers. 1938 OAG 186, May 14, 1937 (605a-7).

626.40 PRINTS, FURNISHED TO BUREAU BY SHERIFFS AND CHIEFS OF POLICE.

HISTORY. 1927 c. 224 s. 7; M.S. 1927 s. 9950-11; 1935 c. 197 s. 5; 1939 c. 46 s. 2.

626.41 RECORDS OF FELONIES COMMITTED TO BE KEPT BY PEACE OFFICERS; REPORTS TO BUREAU.

HISTORY. 1927 c. 224 s. 8; M.S. 1927 s. 9950-12.

626.42 INFORMATION AS TO CRIMINALS TO BE FURNISHED BY BUREAU TO PEACE OFFICERS.

HISTORY. 1927 c. 224 s. 9; M.S. 1927 s. 9950-13.

Except such records of criminal offenses as are required by the superintendent of the bureau of criminal apprehension, and are kept by the courts, no other register of crime is required of municipalities. OAG Feb. 5, 1936 (985f).

626.43 OFFICERS OF PENAL INSTITUTIONS TO FURNISH BUREAU WITH DATA RELATING TO RELEASED PRISONERS.

HISTORY. 1927 c. 224 s. 10; M.S. 1927 s. 9950-14.

626.44 BUREAU TO COOPERATE WITH OTHER CRIMINAL IDENTIFICATION ORGANIZATIONS.

HISTORY. 1927 c. 224 s. 11; M.S. 1927 s. 9950-15.

626.45 BUREAU TO BROADCAST INFORMATION TO PEACE OFFICERS.

HISTORY. 1927 c. 224 s. 12; M.S. 1927 s. 9950-16.

626.46 POLICE SCHOOLS FOR TRAINING OF PEACE OFFICERS.

HISTORY. 1927 c. 224 s. 13; M.S. 1927 s. 9950-17.

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626.47 REPORTS TO BUREAU BY CLERKS OF COURT.

HISTORY. 1927 c. 224 s. 14; M.S. 1927 s. 9950-18; 1935 c. 197 s. 6.

626.48 REPORTS BY SUPERINTENDENT TO GOVERNOR AND LEGISLATORS.

HISTORY. 1927 c. 224 s. 15; M.S. 1927 s. 9950-19; 1935 c. 197 s. 7.

626.49 EMPLOYEES INCLUDED IN WORKMEN'S COMPENSATION LAWS.

HISTORY. 1927 c. 224 s. 16; M.S. 1927 s. 9950-20.

626.50 CONSTRUCTION OF SECTIONS 626.32 to 626.50.

HISTORY. 1927 c. 224 s. 17; M.S. 1927 s. 9950-21.

626.51 PENALTY ON LOCAL OFFICERS REFUSING INFORMATION.

HISTORY. M.S. 1927 s. 9950-22; 1935 c. 197 s. 8.

626.52 PHYSICIANS AND OTHER AIDS TO HEALING TO REPORT INJURIES FROM FIREARMS.

HISTORY. M.S. 1927 s. 9950-22a; 1935 c. 165 s. 1.

626.53 REPORT BY TELEPHONE AND LETTER.

HISTORY. M.S. 1927 s. 9950-23; 1935 c. 165 s. 2.

626.54 APPLICATION OF SECTIONS 626.52 to 626.55.

HISTORY. M.S. 1927 s. 9950-24; 1935 c. 165 s. 3.

626.55 PENALTY.

HISTORY. M.S. 1927 s. 9950-25; 1935 c. 165 s. 4.

BROADCASTING

626.56 RADIO BROADCASTING STATIONS MAY BE INSTALLED.

HISTORY. M.S. 1927 s. 9950-41; 1935 c. 195 s. 1.

Employees authorized by Section 626.34 include employees under this and following sections. OAG June 7, 1935 (985h).

626.57 BUREAU TO MAINTAIN STATION.

HISTORY. M.S. 1927 s. 9950-42; 1935 c. 195 s. 2.

626.58 POLICE CARS TO HAVE RADIOS.

HISTORY. M.S. 1927 s. 9950-43; 1935 c. 195 s. 3; Ex. 1936 c. 104 s. 1.

County boards are required to install radio receiving sets. OAG Oct. 16, 1935 (390a-10).

626.59 RECEIVING STATIONS IN CITIES AND VILLAGES.

HISTORY. M.S. 1927 s. 9950-44; 1935 c. 195 s. 4; Ex. 1936 c. 104 s. 2.

City councils must install receiving sets. OAG Oct. 16, 1935 (390a-10).

626.60 COMMISSIONER TO SUPPLY BROADCASTING SETS.

HISTORY. M.S. 1927 s. 9950-45; 1935 c. 195 s. 5; Ex. 1936 c. 104 s. 3.

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Sets must be paid for by the municipality.

626.61 BUREAU TO BROADCAST CRIMINAL INFORMATION.

HISTORY. M.S. 1927 s. 9950-46; 1935 c. 195 s. 6.

626.62 TELEPHONE AND TELEGRAPH COMPANIES TO GIVE PRIORITY TO MESSAGES.

HISTORY. M.S. 1927 s. 9950-47; 1935 c. 195 s. 7.

626.63 PERMISSION FOR SHORT WAVE SETS MUST BE SECURED.

HISTORY. M.S. 1927 s. 9950-48; 1935 c. 195 s. 8.

626.64 VIOLATIONS; PENALTIES.

HISTORY. M.S. 1927 s. 9950-50; 1935 c. 195 s. 10.

UNIFORM LAWS ON FRESH PURSUIT

626.65 UNIFORM LAW ON FRESH PURSUIT; RECIPROCAL.

HISTORY. 1939 c. 64 s. 1; M. Supp. s. 10547-1.

Laws 1939, Chapter 64, enacts the uniform state crime commissions uniform act of fresh pursuit and has been adopted by Colorado, Maine, Michigan, Minnesota, South Dakota, Tennessee and Wisconsin.

626.66 ARREST; HEARING.

HISTORY. 1939 c. 64 s. 2; M. Supp. s. 10547-2.

626.67 CONSTRUCTION OF SECTION 626.65.

HISTORY. 1939 c. 64 s. 3; M. Supp. s. 10547-3.

626.68 STATE INCLUDES DISTRICT OF COLUMBIA.

HISTORY. 1939 c. 64 s. 4; M. Supp. s. 10547-4.

626.69 FRESH PURSUIT.

HISTORY. 1939 c. 64 s. 5; M. Supp. s. 10547-5.

626.70 CITATION.

HISTORY. 1939 c. 64 s. 8; M. Supp. s. 10547-8.

and spent it. The crime was committed in Hennepin county. *State v Heidelberg*, 216 M 385, 12 NW(2d) 781.

For an interesting treatment of the historical development of the rule as to place of venue, see *State v Brown*, 103 Vermont 312, 76 ALR 1029.

Where a traveler collected money and did not pay it over to his employer the crime, in this case, was committed at the place where the collection was made. OAG April 25, 1935 (605a-24).

A husband who has an established home, must be prosecuted there for the crime of desertion of wife and family, rather than in the county to which the wife has removed. OAG Dec. 28, 1936 (840a-1).

In proceedings to establish paternity, the statute relating to paternity of illegitimate children prevails; but where the person accused absconds to avoid prosecution, the rule as to felonies establishes the venue. OAG Jan. 28, 1939 (193b-20).

2. Change of venue

An application for change of venue is addressed to the discretion of the trial court and its action will rarely be reversed on appeal. *State v Gut*, 13 M 341 (315); *State v Miller*, 15 M 344 (277); *State v Stokely*, 16 M 282 (249); *State v Nelson*, 91 M 143, 97 NW 652.

In the instant case the trial was properly changed to a county in an adjoining district. *State v Gut*, 13 M 342 (315).

Upon a motion on affidavit by a defendant in a criminal case, for a change of venue, counter-affidavits may be used. *State v Stokely*, 16 M 282 (249).

The writ of certiorari will not lie to remove to the supreme court, for review, an intermediate decision, such as change of venue, of the district court in a criminal case. It must be embraced in a bill of exceptions, when the defendant may bring them up only by a writ of error upon the judgment, or appeal from the judgment, or order denying a new trial. *State v Weston*, 23 M 366.

A defendant is entitled, as a matter of strict legal right, to but one change of judges. *State v Gardner*, 88 M 130, 92 NW 529.

While the newspapers aroused public feeling against the perpetration of the crime in question there was no reason to think that a fair trial could not be had, and the trial judge did not abuse his discretion in denying defendant's motion for a change of venue. *State v Shepard*, 171 M 414, 214 NW 280.

No abuse of discretion found in denial of a motion for change of venue on the dismissal of an entire jury panel and calling a new one. *State v Waddell*, 187 M 191, 245 NW 140.

627.02 PROCEEDINGS ON CHANGE OF VENUE; COSTS.

HISTORY. R.S. 1851 c. 124 s. 139; P.S. 1858 c. 110 s. 2; G.S. 1866 c. 113 s. 2; 1870 c. 75 s. 2; G.S. 1878 c. 113 s. 2; G.S. 1894 s. 7314; 1902 c. 31; R.L. 1905 s. 5355; G.S. 1913 s. 9197; G.S. 1923 s. 10702; M.S. 1927 s. 10702.

The rule as to costs laid down in *Board of Hennepin County v Board of Wright County*, 84 M 267, 87 NW 846, is overruled or modified by the amendment to this section by Ex. Laws 1902, Chapter 31.

627.03 RECOGNIZANCE; WARRANT.

HISTORY. R.S. 1851 c. 124 ss. 140, 141; P.S. 1858 c. 110 ss. 3, 4; G.S. 1866 c. 113 ss. 3, 4; G.S. 1878 c. 113 ss. 3, 4; G.S. 1894 ss. 7315, 7316; R.L. 1905 s. 5356; G.S. 1913 s. 9198; G.S. 1923 s. 10703; M.S. 1927 s. 10703.

627.04 CHANGE OF VENUE BY STATE.

HISTORY. R.S. 1851 c. 124 s. 142; P.S. 1858 c. 110 s. 5; G.S. 1866 c. 113 s. 5; G.S. 1878 c. 113 s. 5; G.S. 1894 s. 7317; R.L. 1905 s. 5357; G.S. 1913 s. 9199; G.S. 1923 s. 10704; M.S. 1927 s. 10704.

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627.05 JURISDICTION

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In a criminal case, a change of place of trial on the application of the state may be made from a county in one judicial district to an adjoining county in another district. *State v Miller*, 15 M 344 (277).

627.05 OFFENSE COMMITTED ON VESSEL, WHERE INDICTABLE AND TRIABLE.

HISTORY. R.S. 1851 c. 119 s. 89; P.S. 1858 c. 105 s. 25; G.S. 1866 s. 108 s. 19; G.S. 1878 c. 108 s. 19; G.S. 1894 s. 7256; R.L. 1905 s. 5314; G.S. 1913 s. 9151; G.S. 1923 s. 10656; M.S. 1927 s. 10656.

An allegation in an indictment that the offense was committed in a certain county, is sustained by proof of its having been committed on a vessel which passed through that county, on a voyage during which the act took place. *State v Timmens*, 4 M 325 (241).

627.06 OFFENSES ON PUBLIC CONVEYANCES; JURISDICTION.

HISTORY. 1885 c. 189; G.S. 1878 Vol 2 (1888 Supp.) c. 108 s. 19a; G.S. 1894 s. 7257; R.L. 1905 s. 5315; G.S. 1913 s. 9152; G.S. 1923 s. 10657; M.S. 1927 s. 10657.

"Station" considered and defined. *Minn. Transfer v R.R. and Whse. Comm.* 200 M 426, 274 NW 408.

Constitutionality of statutes relating to offenses committed on trains or boats; trial in county in which offense committed. 5 MLR 149.

627.07 OFFENSE COMMITTED ON COUNTY LINES; WHERE PROSECUTED.

HISTORY. R.S. 1851 c. 109 s. 7; P.S. 1858 c. 98 s. 7; G.S. 1866 c. 108 s. 20; G.S. 1878 c. 108 s. 20; G.S. 1894 s. 7258; R.L. 1905 s. 5316; G.S. 1913 s. 9153; G.S. 1923 s. 10658; M.S. 1927 s. 10658.

It may be alleged in an indictment that the other offense was committed in the county in which the indictment is found; or the allegation may be that the offense was committed in an adjoining county, and within one hundred rods of the dividing line. *State v Robinson*, 14 M 447 (333); *State v Masteller*, 45 M 28, 47 NW 541.

An offense triable before a justice of the peace may, if committed within 100 rods of the dividing line between the two counties, be prosecuted and tried before a justice in either county under General Statutes 1866, Chapter 108, Section 20 (section 627.07). *State v Anderson*, 25 M 66, 47 NW 541.

627.08 DEATH ENSUING IN ANOTHER COUNTY; PROSECUTION.

HISTORY. R.S. 1851 c. 109 s. 8; P.S. 1858 c. 98 s. 8; G.S. 1866 c. 108 s. 21; G.S. 1878 c. 108 s. 21; G.S. 1894 s. 7259; R.L. 1905 s. 5317; G.S. 1913 s. 9154; 1923 c. 53 s. 1; G.S. 1923 s. 10659; M.S. 1927 s. 10659.

An indictment charging defendant with committing the crime of murder in Washington county, Minnesota, by stabbing, the victim dying the same day in Pierce county, Wisconsin, properly charged the commission of the offense in Washington county. *State v Gessert*, 21 M 369.

The defendant was wounded in Kittson county, Minnesota, and died in North Dakota. The offense was committed and defendant properly indicted and tried in Kittson county. *State v Smith*, 78 M 362, 81 NW 17.

627.09 PROSECUTION IN COUNTY WHERE DEATH ENSUES IN ALL CASES.

HISTORY. R.S. 1851 c. 109 s. 9; P.S. 1858 c. 98 s. 9; G.S. 1866 c. 108 s. 22; G.S. 1878 c. 108 s. 22; G.S. 1894 s. 7260; R.L. 1905 s. 5318; G.S. 1913 s. 9155; G.S. 1923 s. 10660; M.S. 1927 s. 10660.

627.10 DEATH OUT OF STATE; PROSECUTION.

HISTORY. 1875 c. 42 s. 1; G.S. 1878 c. 108 s. 23; G.S. 1894 s. 7261; R.L. 1905 s. 5319; G.S. 1913 s. 9156; G.S. 1923 s. 10661; M.S. 1927 s. 10661.

See notes, Section 627.08.