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## Some Problems and Aspects of Interstate Extradition

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## NOTES

### SOME PROBLEMS AND ASPECTS OF INTERSTATE EXTRADITION

*The Gods grow angry with your patience. 'Tis their care,  
And must be yours, that guilty men escape not.*

BEN JOHNSON: Catiline, III, 1611

#### INTRODUCTION

In the United States extradition, or rendition as it is called in interstate proceedings, can be traced back to the Articles of Confederation. A provision of the United States Constitution<sup>1</sup> specifically deals with the subject and it is further broadened by federal statute.<sup>2</sup> Each of the states also has a separate law dealing with extradition, and here there has been considerable lack of uniformity and hence great opportunity for confusion in administration.

Since 1926, there has been an effort to make the law uniform in regard to state statutes. This has been achieved by the adoption of the Uniform Criminal Extradition Act in forty-three states.<sup>3</sup> The act brings uniformity in such matters as the form of requisition and the documents to accompany it; the arrest, pending requisition as well as after requisition; bail; habeas corpus proceedings; and the right to withhold extradition while a criminal prosecution is pending in the asylum state against the person claimed. It gives to the governor the power to extradite a person who has come into the state involuntarily. An important provision of the act permits an accused person to be delivered to a demanding state even though he is not a fugitive from justice. Another important provision of the act permits the waiver of extradition.<sup>4</sup>

No attempt will be made to cover all the aspects of the Uniform Act. Instead selected areas will be studied. In addition to the Uniform Act, North Dakota law will be discussed with emphasis on the procedure used in acquiring fugitives from justice by this state. The types of crimes that are extraditable, Section 6 of the Uniform Act, and the procedure used in the asylum state will also be given special consideration.

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1. U.S. Const. art. IV, § 2.

2. 18 U.S.C. § 3182 (1958).

3. 9 U.L.A. 75 (Supp. 1961). States that have not adopted the Act are as follows: Alaska, Louisiana, Mississippi, Nevada, North Dakota, South Carolina and Washington.

4. Uniform Criminal Extradition Act, 9 U.L.A. § 25-A (1957). (hereinafter referred to as U.C.E.A.).

## WHAT TYPES OF CRIMES ARE EXTRADITABLE?

Since the adoption of the Federal Constitution and to a lesser degree in recent times there has arisen the question, what crimes are extraditable? There has never been any question as to the serious grades of crime such as treason and felonies, but the question has been presented in the minds of law enforcement authorities in regard to the crimes which fall into the category of misdemeanors. The Federal Constitution states that, "a person charged in any state with treason, felony or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime".<sup>5</sup>

From the wording of the Federal Constitution it seems clear that any crime from the highest to the lowest in the grade of offenses, including misdemeanors, are crimes subject to extradition.<sup>6</sup> Some cases, however, have held that the words "other crime" means only offenses of the grade of felonies.<sup>7</sup> This view is not taken today and the weight of present judicial opinion is that any act forbidden and made punishable by the laws of the state making the demand is extraditable.<sup>8</sup>

Looking to the language of the clause, it is difficult to comprehend how any doubt could have arisen as to its meaning and construction. The words, treason, felony or other crime, in their plain and obvious import, as well as in their legal and technical sense, embrace every act forbidden and made punishable by a law of the state. The word crime of itself includes every offense, from the highest to the lowest in the grade of offenses, and includes misdemeanors, as well as treason and felony.<sup>9</sup>

North Dakota law on this matter is practically identical to the Federal Constitution.<sup>10</sup> It would seem from analyzing North Dakota law that the Governor of North Dakota is com-

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5. Note 1 *supra*.

6. U.S. *Lascelles v. Georgia*, 148 U.S. 537 (1893); *Ex parte Reggel*, 144 U.S. 642 (1884); *Kentucky v. Dennison*, 16 L. Ed. 717 (1861).

7. See *In re Brown*, 112 Mass. 409, 17 Am. Rep. 114 (1873).

8. *Taylor v. Tainter*, 16 Wall 366, 21 L.Ed. 287 (1873); *Kentucky v. Dennison*, *supra* note 6.

9. See *Schick v. United States*, 195 U.S. 65 (1904), quoting Blackstone's *Commentaries* vol. 4, p. 5.

10. N.D. Cent. Code § 29-30-02 (1961). "A person charged in any state or territory of the United States with treason, felony, or other crime, who shall flee from justice and be found in this state, on demand of the executive authority of the state or territory from which he fled, must be delivered up by the governor of this state to be removed to the state or territory having jurisdiction of the crime."

pelled to honor extradition proceedings for any crime, including misdemeanors,<sup>11</sup> occurring in another state for the rendition of a fugitive who has taken refuge in this state. This is in keeping with the federal statutes on extradition which permit the several states to enact legislation in regard to extradition so long as it does not conflict with the Constitution and laws<sup>12</sup> of the United States.

There is no statute in North Dakota which restricts the executive department of this state as to the class of offenders who may be extradited. The governor could, in his discretion, issue a requisition on the governor of another state for the surrender of those charged with misdemeanors.<sup>13</sup> For practical reasons however, a person is seldom extradited for a misdemeanor. The less serious nature of a misdemeanor, the number of law enforcement authorities involved and the time and expense of extradition have to be considered in determining whether or not it will merit the use of extradition proceedings. It becomes a matter of discretion with the governor whether to demand the return of petty offenders, and such applications may not be looked upon with favor.<sup>14</sup>

Another matter to be considered in extradition for misdemeanors is the cost of using extradition as a means of obtaining criminals for prosecution. The expenses involved in sending an agent to some part of the country in order to obtain a fugitive from justice and return him to the jurisdiction making the demand is prohibitive. In many cases the local government has to stand the entire cost of such an undertaking. In North Dakota, for example, the state will pay all the costs of extradition of a person charged with treason or a felony, while the county bears the cost of extradition for other crimes.<sup>15</sup>

#### UNIFORM CRIMINAL EXTRADITION ACT—SECTION 6

A main factor in the wide acceptance of the Uniform Criminal Extradition Act can be attributed to Section 6 of the Act.<sup>16</sup> At first this section does not seem to revolutionize the

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11. *Ex parte Quint*, 54 N.D. 515, 209 N.W. 1006, 1007 (1926).

12. 18 U.S.C. § 3182 (1958).

13. *Ops. Att'y Gen.* 119 (N.D. 1909-10).

14. *Ibid.*

15. N.D. Cent. Code § 29-30-14 (1961).

16. See U.C.E.A., § 6, 9 U.L.A. (1957). "The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 3 with committing an act in this state, or in a third

law on extradition, but in considering some of the older cases it will soon be realized why the inclusion of Section 6 in the Uniform Act has made this act very popular among the states that have adopted it. In *State v. Hall*,<sup>17</sup> the petitioner, while standing near the border in North Carolina, shot across the state line into Tennessee and killed a person. Tennessee made a demand for extradition of the petitioner upon North Carolina. The Supreme Court of North Carolina held that he could not be extradited because he was not in Tennessee at the time of the shooting and therefore not a fugitive from justice in Tennessee.

The United States Constitution,<sup>18</sup> implemented by act of Congress,<sup>19</sup> provides for the interstate rendition of fugitives from justice. To satisfy their terms, actual presence within the demanding state at the time of the alleged crime and subsequent departure are essential.<sup>20</sup> Section 6 of the Act was adopted to fill the gap which permitted many participants in criminal conspiracies to escape. Section 6 provides that a person may be surrendered to a demanding state who has committed acts in the asylum state, or in a third state, which intentionally resulted in a crime in the state whose governor is making the demand.

While this legislation seems desirable and necessary to fulfill the original purpose of extradition, the Uniform Act, because of Section 6, has been attacked as to its constitutionality.<sup>21</sup> Primarily, the question has been raised whether Section 2 of Article IV of the Constitution and federal extradition statutes have so preempted the field as to exclude and render unconstitutional state regulation other than, perhaps, regulation in aid of the federal law.

The sole object of the constitutional provision is to assure rendition to prevent one state from becoming an asylum from another's justice.<sup>22</sup> The United States Supreme Court has

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state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom."

17. 115 N.C. 811, 20 S.E. 729 (1894).

18. U.S. Const. art. IV, § 2.

19. 18 U.S.C. § 3182 (1958).

20. *Hyatt v. People ex rel. Corkran*, 188 U.S. 691 (1903); *State v. Hall*, note 17 *supra*.

21. *Ex parte Morgan*, 86 Cal. App. 2d 217, 194 P.2d 800 (1948); see *Gulley v. Apple*, 213 Ark. 350, 210 S.W.2d 514, 519 (1948).

22. See *Appleyard v. Massachusetts*, 203 U.S. 222, 228 (1906); *Lascelles v. Georgia*, 148 U.S. 537, 542 (1893).

said that the federal statute only excludes state action from matters for which that statute expressly, or by necessary implication, provided.<sup>23</sup> Thus, a state may extradite under conditions outside the scope of the federal statute but within the terms of the Constitution.<sup>24</sup>

State courts have consistently sustained Section 6 as part of the powers reserved to the states.<sup>25</sup> Its constitutionality has also been upheld in the federal courts, adding weight to state court decisions to remove any lingering doubts as to its validity.<sup>26</sup> Although the Supreme Court of the United States has yet to pass upon the validity of state statutes regulating non-fugitives, it has recognized that the states are free to act in matters of extradition so long as such action is not expressly or by necessary implication prohibited by federal law.<sup>27</sup>

#### PROCEDURAL STEPS OF EXTRADITION—NORTH DAKOTA (THE DEMANDING STATE)

In North Dakota statutory procedural rules are lacking in regard to the steps necessary to make a demand upon another state for a fugitive from justice. By contrast the states that have adopted the Uniform Criminal Extradition Act have a workable set of procedural rules to follow in using extradition to obtain fugitives from justice.<sup>28</sup> In an area of law that is based on strict procedural standards it is felt that a statutory guide would be most helpful.

While North Dakota does not have such a guide, the Executive Department of the state has published a booklet of rules of practice in matters of requisition and extradition.<sup>29</sup> Appendix I to this article lists the steps to be followed in making a demand for extradition along with comments in regard to each phase.

Rule 69 must be given special notice.<sup>30</sup> It states, "An appli-

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23. See *Innes v. Tobin*, 240 U.S. 127, 134 (1916).

24. *Innes v. Tobin*, note 23 *supra*; *Kelly v. Mangum*, 145 Ga. 57, 88 S.E. 556 (1916).

25. *Culbertson v. Sweeney*, 70 Ohio App. 344, 44 N.E.2d 807, 809 (1942). "Section 109-6, G.C. is within the powers reserved to the states and is therefore not in conflict with § 2, Art. IV of the Federal Constitution and is a valid exercise of the police power of the State of Ohio."

26. *Ex parte Morgan*, 78 F. Supp. 756 (S.D. Cal. 1948).

27. *Innes v. Tobin*, note 23 *supra*.

28. See U.C.E.A. § 9 U.L.A. 263 (1957).

29. Pamphlet, *Rules of Practice Before the Executive Department In Matters of Requisition and Extradition*, Governor's Office, Bismarck, North Dakota. (1931).

30. Note 29 *supra*.

cation must not be made upon a constructive crime. The person charged must have been within the state at the time of the commission of the crime". This rule would seem to be contrary to that of the majority of states and especially so as to the states that have adopted the Uniform Criminal Extradition Act.<sup>31</sup>

In completing the forms to start the extradition, two complete original sets of all papers upon the application must be filed: one set to be attached to the requisition, and the other to be retained in the executive department. When the application for requisition, the warrant of arrest, the complaint, and the necessary affidavits have been sent to the executive department of the state, the governor will examine them. If the governor finds all papers in proper order he will then send a requisition to the authority upon whom made,<sup>32</sup> along with the agent's commission.<sup>33</sup>

#### PROCEDURAL STEPS UNDER UNIFORM ACT—ASYLUM STATE

Under the Uniform Act extradition will succeed if the asylum state has adopted it and it is not necessary that the Act be in effect in the demanding state.<sup>34</sup> This fact is important in that North Dakota has not adopted the Uniform Criminal Extradition Act.

When a demand for extradition has been made upon the asylum state it is necessary to consider several questions. The first question should ask whether the demand has been made in proper form.<sup>35</sup> Extradition is a technical proceeding dealing with alleged criminals, therefore the procedure has to be strictly adhered to in order to protect the rights of the fugitive. If the demand is not made in proper form he will be discharged.<sup>36</sup> This discharge may result if the demand is not accompanied by a copy of the indictment, or if there isn't an affidavit verifying the criminal information.<sup>37</sup> Next, it should be determined if the person whose extradition is requested is identical with the person found in the asylum state.<sup>38</sup> This

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31. U.C.E.A., 9 U.L.A. § 6 (1957).

32. Rule 71 *op. cit. supra* note 29.

33. Rule 72 *op. cit. supra* note 29.

34. *Ex parte* Morgan, 86 Cal. App. 2d 217, 194 P.2d 800 (1948).

35. *Ex parte* Kaufman, 73 S.D. 166, 39 N.W.2d 905 (1949); *Ex parte* Riccardi, 68 Ariz. 180, 203 P.2d 627 (1949).

36. *Russell v. State*, 251 Ala. 268, 37 So. 2d 233 (1948).

37. See U.C.E.A., 9 U.L.A. § 3 (1957).

38. *State v. Parrish*, 242 Ala. 7, 5 So. 2d 828 (1941); *Splak v. Seay*, 185 Va. 710, 40 S.E.2d 250 (1946).

matter must be carefully determined in order to save innocent victims of circumstance the embarrassment and humiliation that would result if positive identity could not be established. A third question to be determined is whether or not the alleged fugitive is a "fugitive from justice,"<sup>39</sup> or has committed an act which intentionally resulted in a crime in the demanding state.<sup>40</sup> His reason for leaving the demanding state is not determinative of the issue whether or not he is a fugitive.<sup>41</sup> He is deemed a fugitive from justice even though he may not have known that he was charged with the commission of a crime.<sup>42</sup> This happens quite frequently in cases of non-support. The fugitive is conscious of the fact that he is not supporting his family, but he is not in a position to know if formal charges have been made against him. Finally, it should be determined whether the alleged fugitive has been charged with a substantial crime.<sup>43</sup> If the alleged fugitive wishes to show that the acts charged are not a crime under the laws of the demanding state, the burden is on him to produce the statutes or laws which show the conduct charged to be noncriminal.

In determining the issues presented in the extradition proceeding, the governor may presume that the request for extradition is valid and has been made in good faith.<sup>44</sup> A hearing is not necessary to determine these issues,<sup>45</sup> and the constitutional rights of the alleged fugitive are not violated if the governor refuses a hearing and decides the issues on the basis of the papers comprising the request alone.<sup>46</sup> In most cases a hearing is granted when requested in order to afford the alleged fugitive every opportunity and right under the law.<sup>47</sup> The evidence presented at such a hearing is not limited to matter legally admissible in a court of law.<sup>48</sup> The evidence need only be of a type satisfactory to the governor,<sup>49</sup> the hearing being an executive function and not a judicial one.

If the questions presented above can be answered in the affirmative, the governor of the asylum state is said to be

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39. *Ex parte* Galbreath, 24 N.D. 582, 139 N.W. 1050, 1051 (1913).

40. See *State v. Parrish*, note 38 *supra*. See U.C.E.A., 9 U.L.A. §§ 3, 6 (1957).

41. *Lincoln v. State*, 199 Md. 194, 85 A.2d 765 (1952).

42. See *State ex rel. Gildar v. Kriss*, 191 Md. 568, 62 A.2d 568, 572 (1948).

43. *State ex rel. Kojis v. Barczak*, 264 Wis. 136, 58 N.W.2d 420, 422 (1953); see U.C.E.A., 9 U.L.A. § 3 (1957).

44. See *Ex parte Birch*, 89 Okla. 417, 209 P.2d 510, 512 (1949).

45. *Ex parte Moore*, 256 S.W.2d 103 (Tex. 1953).

46. *Ex parte Collier*, 140 N.J. Eq. 469, 55 A.2d 29 (1947).

47. *Application of Robinson*, 150 Neb. 443, 34 N.W.2d 887, 888 (1948).

48. *In re Murphy*, 321 Mass. 206, 72 N.E.2d 413, 416 (1947).

49. *Ibid.*



under a duty to issue a warrant of extradition.<sup>50</sup> However, he cannot be compelled by any agency or tribunal to issue a warrant,<sup>51</sup> even though the act may make it his duty to do so under particular circumstances.<sup>52</sup>

If the alleged fugitive is not satisfied with the results of the hearing, he may test the legality of his detention by a writ of habeas corpus after he has been taken into custody pursuant to the warrant of extradition.<sup>53</sup> His right to a writ of habeas corpus is the same as if he was being illegally detained in proceedings other than in connection with extradition. It is in this proceeding that the governor's decision on the issues before mentioned is tested.

It should be noted that throughout the extradition proceedings the warrant of extradition is *prima facie* valid,<sup>54</sup> and the petitioner for the writ has the burden of proof.<sup>55</sup> If his evidence merely creates conflict or doubt, habeas corpus will be denied and he will be extradited.<sup>56</sup>

The petitioner's alibi,<sup>57</sup> his guilt or innocence,<sup>58</sup> or the demanding state's motive<sup>59</sup> behind the demand for extradition may not be considered in habeas corpus proceedings. Courts in commenting on these points state that in no way is habeas corpus a final determination of the criminal charges. The petitioner has to take these matters to the courts in the demanding state for determination. Also legally irrelevant in such proceedings is the fact that the statute of limitations has run in the demanding state.<sup>60</sup> There is a split of authority whether the violation of petitioner's constitutional rights in the course of his past criminal trial in the demanding state is grounds for denial of extradition,<sup>61</sup> most authorities hold that it is not.<sup>62</sup> Most of the cases decided in this area have been the so-called "chain-gang fugitive" cases where the petitioner contends that he was not afforded the due process of law in the

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50. *Ex parte* Paulson, 168 Ore. 457, 124 P.2d 297 (1942).

51. *Kentucky v. Dennison*, 16 L. Ed. 717, 730 (1861).

52. *State v. Rogers*, 30 Ala. App. 515, 9 So. 2d 758 (1942); See U.C.E.A., 9 U.L.A. § 2 (1957).

53. U.C.E.A., 9 U.L.A. § 10 (1957).

54. *In re* Murphy, note 48 *supra*.

55. *State ex rel. Stephenson v. Ryan*, 235 Minn. 161, 50 N.W.2d 259 (1952).

56. *Id.* at 264.

57. *State ex rel. Davey v. Owen*, 133 Ohio St. 96, 12 N.E.2d 144 (1937).

58. *Id.* at 148. See U.C.E.A., 9 U.L.A. § 20 (1957).

59. *Ex parte* Cohen, 23 N.J. 209, 92 A.2d 837 (1952).

60. Note 57 *supra*.

61. Application of Middlebrooks, 88 F. Supp. 943 (S.D. Cal. 1950); *Harper v. Wall*, 85 F. Supp. 783 (D.N.J. 1949).

62. *Ex parte* Marshall, 85 F. Supp. 771 (D.N.J. 1949); *United States ex rel. Paris v. McClain*, 42 F. Supp. 429 (M.D. Penn. 1942).

demanding state. The majority of courts contend that the petitioner has to look to the courts in the demanding state for his protection and due process.

Under the Uniform Act a fugitive is immune from civil process in all causes arising out of the same series of acts as the criminal charge on which he was returned to the demanding state.<sup>63</sup> He is immune until he has either been convicted on the criminal charge, or, if acquitted, until he has had a reasonable opportunity to return to the state from which he was extradited. He is not immune, however, from prosecution on criminal charges other than the charges on which he was extradited.<sup>64</sup> Once a person is before the court it will not concern itself as to how the person got there.

An appeal is usually granted from the denial of a writ of habeas corpus.<sup>65</sup> Failure to raise objections or issues in the original hearing on the writ precludes their being raised on appeal.<sup>66</sup> Defects in the demand for extradition not raised in the hearing below are deemed waived for purposes of appeal.<sup>67</sup> Where extradition has been once denied and again requested, the first proceeding is usually not held to be a binding adjudication of any of the issues raised, although the second request may allege substantially the same circumstances.<sup>68</sup> If on appeal the petitioner is turned down he will then be delivered over to the demanding state's agent who will return him to that state for prosecution.

#### THE UNIFORM ACT AND THE UNIFORM SUPPORT ACT

In certain situations the Uniform Reciprocal Enforcement of Support Act has had to be construed together with the Uniform Criminal Extradition Act. In the area of the crime of non-support, needs have arisen which often cannot be met by the extradition laws alone. A husband who does not support his family while in the demanding state, and who then leaves that state, is clearly extraditable.<sup>69</sup> But a husband who provides his family while residing with them in the demanding state, and who thereafter deserts them by fleeing to another

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63. U.C.E.A., 9 U.L.A. § 25 (1957).

64. U.C.E.A., 9 U.L.A. § 26 (1957).

65. *Petty v. Morrow*, 149 Kan. 875, 89 P.2d 835 (1939).

66. *Ex parte Rubens*, 73 Ariz. 101, 238 P.2d 402 (1951); *State v. Wilson*, 135 N.J.L. 398, 52 A.2d 50 (1947).

67. *Lawrence v. King*, 203 Ind. 252, 180 N.E. 1 (1932).

68. *Letwick v. State*, 211 Ark. 1, 198 S.W.2d 830 (1947).

69. *Gatewood v. Culbreath*, 47 So. 2d 725 (Fla. 1950); *Lincoln v. State*, 199 Md. 194, 85 A.2d 765 (1952).

state, may sometimes not be reached by the Uniform Criminal Extradition Act, particularly in those instances where the law of the demanding state requires the act of non-support to have taken place within its own borders. Under these circumstances, he is neither a fugitive from justice nor does he come within the scope of Section 6.<sup>70</sup> This situation is avoided in states which have adopted the Uniform Reciprocal Enforcement of Support Act.<sup>71</sup>

### CONCLUSION

There can be no doubt in anyone's mind that criminal activity has been on the rise in the United States during the past several decades. This fact has led us to make several changes in the procedure by which criminal justice is administered.

One of the most apparent needs in modernizing the administration of criminal justice is that of facilitating the transfer of criminals from one state to another. This prevents one state from becoming a sanctuary for criminals who are engaged in the commission of crimes in neighboring states.

The Uniform Criminal Extradition Act brings uniformity to all the procedural steps involved in criminal extradition. The adoption of the Act by the various states constitutes a definite recognition of the duty imposed by the Constitution. Moreover, it provides a method by which complete uniformity of action can be achieved in a very difficult field. This highly desirable result can be accomplished only by legislation in each state, defining the duties and prescribing the actions of the governor and other interested officers.

Unfortunately, North Dakota has not adopted the Uniform Criminal Extradition Act. It is felt that the Uniform Act should be adopted by this state to secure the advantages it offers in its complete coverage of interstate extradition. Uniformity would eliminate loopholes which exist when separate laws are attempted to be enforced against organized crime, which knows no boundaries.

If North Dakota doesn't adopt the Uniform Act verbatim, careful attention should be paid to it in the interest of promoting uniformity with the procedures of other states.

KERMIT EDWARD BYE

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70. *McKnight v. Forsyth*, 129 Colo. 64, 266 P.2d 770 (1954).

71. For a more detailed discussion on this see 37 N.D. L. Rev. 421 (1961).

## APPENDIX I

NORTH DAKOTA PROCEDURE FOR MAKING  
EXTRADITION DEMAND

## 1. Application to Governor.

- a. Name of fugitive.
- b. Fact that the person requested is a fugitive from justice.
- c. Fact that the person requested fled from state to avoid arrest.
- d. Type of arrest. (civil or criminal)
- e. Fact of such arrest.
- f. Statement as to time and place of flight.
- g. Application must be signed and verified.

In the case of forgery, false pretenses, embezzlement, seduction under promise of marriage, fraudulent transfers, and selling mortgaged property, the application should be verified by the injured party, and if not so done the reason why should be given.

## 2. Affidavits required.

- a. Principal complaining witness.
- b. County Justice.
- c. Clerk of Court.
- d. District Judge.

These affidavits, which cross-certify the previous named officials, should accompany the application and criminal complaint.

## 3. Warrant of arrest.

If the alleged fugitive from justice is known to be under arrest in either civil or criminal proceedings, the fact of such arrest and the nature of such proceedings must be fully stated.

## 4. Criminal complaint.

An affidavit of the Clerk of the District Court should be included attesting to the fact that the warrant of arrest and criminal complaint are true and literal copies and the same remain on file in the office of the Clerk of the District Court. If no indictment has been found, the reason must be shown under oath. If the offense is not of recent occurrence, reasons must be given why the application has been delayed.

## 5. Agents commission.

- a. Must state agents residence.
- b. Must state agents official capacity.

An affidavit to the effect that the principal complaining witness is not using this as a means of collecting a debt or for any private purpose whatsoever should be included with the application. In cases of seduction under promise of marriage, the affidavit of one or more persons of well known respectability must be furnished as to the previous chaste char-

acter of the injured party. Proof by affidavit of facts and circumstances, satisfying the Governor that the alleged criminal has fled from the justice of the state, must be given. A statement to the effect that the fugitive is not sought for the purpose of collecting a debt or enforcing a civil remedy, nor that criminal proceeding will be used when said offender is arrested, for any of said objects, must be set forth in the application otherwise no requisition will be issued. The opinion of the States Attorney as to the propriety of granting the requisition must be stated, and he must also certify that he has carefully examined the application and accompanying papers, and approves the same. In no cases will a requisition for a fugitive from justice be granted at the same time upon the Governor of more than one state.