

EXTRADITION: Officers' expenses are paid - in what manner.

9/2
August 28, 1933.



Send Copy to Forest Smith

Mr. J.M. Sanders,
Warden - Mo. State Penitentiary,
Jefferson City, Missouri.

Dear Warden:

Your request for an opinion dated August 9, 1933
is at hand and contains the following query:

"As you know, the expense of returning from another state a fugitive from justice who has signed a waiver of extradition is paid from general revenue or earnings of the penitentiary. On the other hand, the expense of returning a fugitive whom it has been necessary to extradite is paid from a fund created for the apprehension of criminals.

Frequently a fugitive will waive extradition after the papers have been issued by the Governor, and it is then not necessary that they be used.

Would it not then, in such cases, be regular and proper to requisition the State Auditor to reimburse the Penitentiary for the expense involved in the return of the fugitive, such payment to be made from the fund for the apprehension of criminals?"

Section 3587, R.S. Mo. 1929 provides as follows:

"Whenever the governor of this state shall demand a fugitive from justice from the executive of another state or territory, and shall have received notice that such fugitive will be surrendered,

he shall issue his warrant, under the seal of the state, to some messenger, commanding him to receive such fugitive and convey him to the sheriff of the county in which the offense was committed, or is by law cognizable."

Section 3588 R.S. Mo. 1929 provides as follows:

"The expenses which may accrue under the last section, being first ascertained to the satisfaction of the governor, shall, on his certificate, be allowed and paid out of the state treasury, as other demands against the state."

It is our opinion that when the Governor of this State appoints a messenger as above provided, that said messenger may present the Executive Department with a list of his expenditures which he was out in the performance of his mission, and that the Governor, being satisfied that these expenditures are correct, has it within his power to allow said claim from a fund created for the apprehension of criminals.

It is not necessary that such expenses be paid from the general revenue or earnings of the Penitentiary. The fact that after requisition papers have been granted by the Governor and before extradition is perfected the prisoner waives extradition and is returned to this state by the messenger would not alter the messenger's right to present his claim to the Governor and have it allowed from the fund created for the apprehension of criminals.

Where no requisition has been requested of the Governor and the authorities at the Penitentiary return a prisoner on their own initiative, then the expenses of such messenger, if paid at all, could only be paid from the general revenue or earnings of the penitentiary.

If we have not fully answered your question, we will appreciate your consulting us further.

Respectfully submitted,

WILLIAM ORR SAWYERS,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General

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