

appear that such person is detained without legal warrant or authority he shall immediately be released or discharged, or if the court or judge shall deem his detention to be lawful and proper he shall be remanded to the same custody, or admitted to bail if his offense be bailable, and if bailed the court or judge shall take a recognizance to answer in the proper court and shall transmit the same to such court.

If a prisoner is brought up on *habeas corpus*, and it appears that the offense was committed in another county, he may be recognized to appear before the court having jurisdiction. *Parrish v. State*, 14 Md. 245.

The facts being admitted, it is competent for judge to decide whether there is sufficient legal cause for detention of prisoner. *McDonald v. State*, 45 Md. 98 (note).

Cited but not construed in *Baltimore v. Libowitz*, 159 Md. 32.

See notes to sec. 3.

An. Code, 1924, sec. 11. 1912, sec. 12. 1904, sec. 12. 1888, sec. 12. 1813, ch. 175.

11. Any person at whose instance or in whose behalf a writ of *habeas corpus* has been issued may controvert by himself or his counsel the truth of the return thereto or may plead any matter by which it may appear that there is not a sufficient legal cause for his detention or confinement, and the court or judge, on the application of the party complaining or the officer or other person making the return shall issue process for witnesses or writings returnable at a time and place to be named in such process, which shall be served and enforced in like manner as similar process from courts of law is served and enforced, but before issuing such process the court or judge shall be satisfied by affidavit or otherwise of the materiality of such testimony.

The facts stated in return may be controverted, and it may be shown that no judgment or execution in fact exists, or that the court had no jurisdiction; but if there is a judgment by a competent court, then there can be no inquiry as to whether judgment is erroneous. *Habeas corpus* is not a writ of error. *Ex Parte Maulsby*, 13 Md. 637. See also *State v. Glenn*, 54 Md. 574.

Cited but not construed in *Baltimore v. Libowitz*, 159 Md. 32.

An. Code, 1924, sec. 12. 1912, sec. 13. 1904, sec. 13. 1888, sec. 13. 1809, ch. 125, sec. 2. 1880, ch. 6, sec. 13.

12. If the court granting the said writ of *habeas corpus* shall not be in session at the return thereof or if the judge granting the said writ of *habeas corpus* shall be absent at the return thereof the said writ shall be returned before any court or judge which or who would originally have had power or jurisdiction to issue such writ under the provisions of sections 1 and 3 if application in the particular case had been originally made to such court or judge.

An. Code, 1924, sec. 13. 1912, sec. 14. 1904, sec. 14. 1888, sec. 14. 1886, ch. 255.

13. No person who shall have been delivered upon a *habeas corpus* shall afterwards be imprisoned or committed for the same offense otherwise than by the order or process of the court wherein he or she shall be bound by recognizance to appear or some other court having jurisdiction of the cause or upon surrender by his or her bail.

An. Code, 1924, sec. 14. 1912, sec. 15. 1904, sec. 15. 1888, sec. 15. 1809, ch. 125, sec. 6.

14. If any judge, whether in court or out of court, shall refuse any writ of *habeas corpus* by this article required to be granted, he shall be liable to the action of the party grieved.