

(2) There shall be printed, in the manner hereinbefore provided, a sufficient number of ballots \* \* \* *to provide for each voter as indicated in the reports filed pursuant to subsection (1)*. At the time the official ballots are printed, unofficial sample ballots shall be printed upon tinted or colored paper, and in the same form as the official ballots, to an amount not exceeding one-fourth of the official ballots for the county and ten per cent of the sample ballots shall be held by such clerk at his office and shall be distributed to voters upon application therefor. Ninety per cent of the sample ballots shall be sent to the election booths in proportion to the number of \* \* \* *voters as indicated in the report filed in accordance with the provisions of subsection (1)*, to be there distributed by the inspectors of election to voters upon application therefor. Such ballots shall be paid for in the same manner that the official ballots shall be paid for, without additional charge for composition.

SECTION 2. This act shall take effect upon passage and publication.

Approved March 22, 1933.

No. 143, A.]

[Published March 24, 1933.]

### CHAPTER 40.

AN ACT to repeal and recreate chapter 364 and to create section 292.46 of the statutes, relating to the extradition of persons charged with crime, and to make uniform the law with reference thereto.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Chapter 364 of the statutes is repealed.

SECTION 2. A new chapter of the statutes is created to be numbered and entitled and to read:

### CHAPTER 364.

#### UNIFORM CRIMINAL EXTRADITION ACT.

364.01 DEFINITIONS. Where appearing in this chapter, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the

functions of governor in a state other than this state. And the term "state" referring to a state other than this state refers to any other state or territory organized or unorganized of the United States of America.

364.02 CRIMINALS TO BE DELIVERED UPON REQUISITION. Subject to the qualifications of this chapter, and the provisions of the Constitution of the United States controlling, and acts of Congress in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

364.03 FORM OF DEMAND. No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

364.04 GOVERNOR MAY INVESTIGATE CASE. When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney-general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

364.05 WHAT PAPERS MUST SHOW. A warrant of extradition must not be issued unless the documents presented by the executive authority making the demand show that:

(1) Except in cases arising under section 364.06, the accused was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from the state.

(2) The accused is now in this state, and

(3) He is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the

facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of a crime in that state and has escaped from confinement or broken his parole.

**364.06 EXTRADITION OF PERSONS CHARGED WITH HAVING COMMITTED A CRIME IN THE DEMANDING STATE BY ACTS DONE IN THIS OR SOME OTHER STATE.** 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 364.05 with committing an act in this state, or in a third 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, notwithstanding that the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

**364.07 ISSUE OF GOVERNOR'S WARRANT OF ARREST; ITS RECITALS.** If the governor shall decide that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner, or other person whom he may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

**364.08 MANNER AND PLACE OF EXECUTION.** Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and to deliver the accused subject to the provisions of this chapter, to the duly authorized agent of the demanding state.

**364.09 AUTHORITY OF ARRESTING OFFICER.** Every such officer or other person empowered to make the arrest, shall have the same authority in arresting the accused to command assistance therein, as sheriffs and other officers have by law in the execution of any criminal process directed to them, with the like penalties against those who refuse their assistance.

**364.10 ACCUSED MAY APPLY FOR WRIT OF HABEAS CORPUS.** No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he has been informed of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand legal counsel; and if the pris-

oner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. And when such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

**364.11 PENALTY FOR NONCOMPLIANCE WITH PRECEDING SECTION.** Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant in disobedience to section 364.10 shall be guilty of a misdemeanor, and on conviction shall be fined not more than one thousand dollars, or be imprisoned not more than six months, or both.

**364.12 CONFINEMENT IN JAIL WHEN NECESSARY.** The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may when necessary confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route, such person being chargeable with the expense of keeping.

**364.13 ARREST PRIOR TO REQUISITION.** Whenever any person within this state shall be charged on the oath of any credible person before any judge or other magistrate of this state with the commission of a crime in any other state, and, except in cases arising under section 364.06, with having fled from justice; or whenever complaint shall have been made before any judge or other magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 364.06, has fled therefrom and is believed to have been found in this state, the judge or magistrate shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other judge, court, or magistrate who may be convenient of access to the place where the arrest may be made, to answer

the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

**364.14 ARREST WITHOUT A WARRANT.** The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year; but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 364.13; and thereafter his answer shall be heard as if he had been arrested on a warrant.

**364.15 COMMITMENT TO AWAIT REQUISITION; BAIL.** If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and that he probably committed the crime, and, except in cases arising under section 364.06, that he has fled from justice, the judge or magistrate must commit him to jail by a warrant reciting the accusation for such a time specified in the warrant as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in section 364.16, or until he shall be legally discharged.

**364.16 BAIL EXCEPT IN CAPITAL AND LIFE IMPRISONMENT CASES; CONDITION AND REQUISITES OF BOND.** Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

**364.17 IF NO ARREST MADE ON GOVERNOR'S WARRANT BEFORE THE TIME SPECIFIED.** If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge or magistrate may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in section

364.16; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

364.18 FORFEITURE OF BAIL. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the condition of his bond, the court, by proper order, shall declare the bond forfeited; and recovery may be had thereon in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

364.19 IF A PROSECUTION HAS ALREADY BEEN INSTITUTED IN THIS STATE. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor at his discretion either may surrender him on the demand of the executive authority of another state, or may hold him until he has been tried and discharged, or convicted and punished in this state.

364.20 GUILT OR INNOCENCE OF ACCUSED, WHEN INQUIRED INTO. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

364.21 GOVERNOR MAY RECALL WARRANT OR ISSUE ALIAS. The governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

364.22 FUGITIVES FROM THIS STATE. Whenever the governor of this state shall demand a person charged with crime in this state from the chief executive of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

364.23 MANNER OF APPLYING FOR REQUISITION. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney of the county in which the of-

fense is committed shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, and the approximate time, place and circumstances of its committal, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged. The prosecuting officer may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment or complaint or information and affidavit, shall be filed in the office of the governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

**364.24 EXPENSES OF EXTRADITION.** The compensation of the agent of the demanding state shall be eight dollars per day for the time necessarily devoted to the performance of his duties, and his actual and necessary expenses, which compensation and expenses shall be allowed by the county board of the county in which the crime was committed, upon presentation to said board of a verified account, stating the number of days he was engaged and the items of expense incurred while acting as such agent.

NOTE: This section is in substance the same as old 364.01 (2).

**364.25 EXEMPTION FROM CIVIL PROCESS.** A person brought into this state on extradition based on a criminal charge, shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

**364.26 NO RIGHT OF ASYLUM.** After a person has been brought back to this state upon extradition proceedings, he may be tried in

this state for other crimes which he may be charged with having committed here, as well as that specified in the requisition for his extradition.

364.27 INTERPRETATION. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 3. A new section is created to read:

292.46 HABEAS CORPUS NOT AVAILABLE TO PRISONERS PASSING THROUGH THIS STATE. The officers of all other states, territories and countries are given the right to hold and convey all persons in their custody and charged with or convicted of crime into and through the state of Wisconsin. It shall be a sufficient answer to a writ of habeas corpus sued out in this state by any such person so in custody that the officer holds him in custody by authority of a warrant or a commitment of such other state, territory or country, a copy of which warrant or commitment shall be attached to the answer of such officer.

SECTION 4. This act shall take effect upon passage and publication.

Approved March 22, 1933.

No. 73, A.]

[Published March 25, 1933.

## CHAPTER 41.

AN ACT to amend section 256.17 of the statutes, relating to legal holidays.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Section 256.17 of the statutes is amended to read: 256.17 The first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, *the twelfth day of October (which shall be known as "Landing Day" in commemoration of the landing of Columbus)*, the eleventh day of November, the twenty-fifth day of December, the day appointed by the governor as Labor day and by the governor or the president of the United States as a day of public thanksgiving in each year, the day of holding the September primary election, and the day of holding the general election in November, are legal holidays. In every city of the first class the day of holding any municipal election is a legal holiday, and in every such city the afternoon of each