s. 4; 1925 c. 407; 1947 c. 228; 1951 c. 319 s. 254; 1955 c. 183; 1967 c. 26, 33, 226.

Revisers' Note, 1878: To provide compensation; and it is left discretionary, so that the circuit judge may fix it according to character and importance of the business to be done, and the ability of the county, etc.

CHAPTER 253.

County Courts.

Editor's Note: Ch. 253, Stats. 1957, except 253.29, was repealed by ch. 315, Laws 1959, effective January 1, 1962, and the repealed sections were replaced by new sections numbered 253.01, 253.02, 253.05-253.07, 253.10-253.14, 253.16, 253.18, 253.19, 253.30-253.33, and 253.35. Some of these sections were amended and various additional sections were incorporated in ch. 253 by subsequent legislation. For the most part, the cases and opinions cited in the annotations dealt with problems arising under ch. 253 prior to 1959.

On extra compensation and salary change see notes to sec. 26, art. IV; on jurisdiction of the supreme court see notes to sec. 3, art. VII, and notes to 251.08; on jurisdiction of circuit courts see notes to sec. 8, art. VII, and notes to 252.03; on judges of probate see note to sec. 14, art. VII; on general provisions concerning courts of record see notes to various sections of ch. 256; on bonds in county courts see notes to various sections of ch. 321; on appeals and miscellaneous provisions see notes to various sections of ch. 324; and on appeals, new trials and writs of error see notes to various sections of ch. 974.

253.01 History: 1959 c. 315; Stats. 1959 s. 253.01.

253.015 History: 1959 c. 259, 664; Stats. 1959 s. 253.015; 1961 c. 33 s. 46; 1961 c. 495; 1967 c. 276; 1969 c. 87, 255, 392.

Legislative Council Note, 1969: The specialized removal provision is deleted to make removal uniform throughout the state. This removal provision had never been used, because Menominee County has never had any municipal justices. (Bill 9-A)

253.02 History: 1959 c. 315; 1959 c. 621 s. 14; 1959 c. 633, 693; Stats. 1959 s. 253.02; 1961 c. 1, 491, 492, 495, 503, 527, 538, 614, 640, 642; 1961 c. 682 ss. 12, 13, 15; Spl. S. 1963 c. 1; 1965 c. 256; 1967 c. 26, 275; 1969 c. 17, 55; 1969 c. 158 s. 106.

253.05 History: 1959 c. 315; Stats. 1959 s. 253.05; 1963 c. 6.

253.055 History: 1955 c. 486 s. 13; Stats. 1955 s. 256.50; 1959 c. 675; 1963 c. 6; 1969 c. 55 s. 103; Stats. 1969 s. 253.055.

Editor's Note: A predecessor statute (252.02, Stats. 1925) was construed in State ex rel. Fugina v. Pierce, 191 W 1, 209 NW 693. See also 4 Atty. Gen. 558 and 26 Atty. Gen. 77.

253.06 History: 1959 c. 315; Stats. 1959 s. 253.06; 1961 c. 495, 614; 1961 c. 682 s. 19; 1965 c. 433; 1967 c. 226.

A county judge-elect may signify his refusal to qualify before the expiration of the time fixed by law for qualifying. State ex rel. Finch v. Washburn, 17 W 658.

A county judge vacates his office by accepting an election as justice of the peace. State v. Jones, 130 W 572, 110 NW 431.

Ch. 91, Laws 1905, did not extend an appointee's right to hold office. State ex rel. Dithmar v. Bunnell, 131 W 198, 110 NW 177.

253.07 History: 1959 c. 315; 1959 c. 659 s. 75; Stats. 1959 s. 253.07; 1961 c. 495, 541, 642; 1963 c. 225; 1965 c. 253, 495, 580; 1967 c. 43, 54; 1967 c. 291 s. 14; 1969 c. 55; 1969 c. 449 ss. 4, 8.

Editor's Note: For a history of the legislation concerning the fees of probate judges, see the dissenting opinion of Taylor, J. in State ex rel. Sanderson v. Mann, 76 W 469, 483, 45 NW 526, 46 NW 51.

See note to 59.15, on elective officials, citing Axelberg v. Bayfield County, 233 W 533, 290 NW 276.

For discussion of 253.07 (2) and 66.195, Stats. 1961, relative to increase or decrease of county judges' compensation during term of office see 51 Atty. Gen. 203.

253.08 History: 1961 c. 495, 642; Stats. 1961 s. 253.08; 1963 c. 343.

253.10 History: 1959 c. 315; Stats. 1959 s. 253.10; 1961 c. 487, 495; 1963 c. 6, 269; 1969 c. 283; 1969 c. 339 ss. 11, 27; 1969 c. 352; 1969 c. 411 s. 2.

Revisor's Note, 1963: Prior to the revision of Ch. 253 in 1959, 253.10 (4) to (8) were 253.035. Making them separate subsections in 253.10 did not make it clear that they were to be read as a unit. This change makes their application clear without changing the law. (Bill 44-S)

When facts showing jurisdiction of subject matter are alleged and adjudged the finding of such facts is conclusive in collateral proceedings. Wanzer v. Howland, 10 W 7.

County courts have power, in furtherance of justice, at any time to revoke their orders irregularly made or procured by fraud (In re Fisher, 15 W 511) but not after the statute of limitations has run in favor of a purchaser at an administrator's sale. Betts v. Shotton, 27 W 667.

The extent and limitation of the jurisdiction must often be determined by the principles and practice of the court of chancery. Brook v. Chappell, 34 W 405.

If the record shows want of jurisdiction the proceedings are void. Mohr v. Tulip, 40 W 66.

The county court may compel a purchaser at guardian's sale to complete the purchase by paying into court a part of her bid. Israel v. Silsbee, 57 W 222, 15 NW 144.

A testamentary trust should not be terminated without a hearing and some proceeding to which all persons interested in the trust fund are parties. Sumner v. Newton, 64 W 210, 25 NW 30.

A judgment of the Louisiana court appointing an administrator, based on a petition alleging that deceased died while a resident of that state, is not conclusive as to the domicile of the deceased and does not preclude a Wisconsin court from probating his will and

administering his estate located in Wisconsin. But so far as the judgment of the Wisconsin court attempted to legitimize adult children of testator residing in another state it was extrajudicial. Frame v. Thormann, 102 W 653, 79 NW 39.

Acts done by the county court although without jurisdiction as to some parties because of lack of notice are valid as to parties who receive notice or appear. Flood v. Kerwin, 113 W 673, 89 NW 845.

A county court may pass upon the amount justly allowable to the attorneys of the administrator for legal services performed by them, and make the same a lien on the estate, and order them paid by using funds for which the administrator was responsible. Carpenter v. United States F. & G. Co. 123 W 209, 101 NW 404.

The jurisdiction of the county court over the settlement of the estate of a deceased inhabitant or a resident of the county does not depend upon the presence or absence of a will. Letters of administration should be set aside where a will is afterwards found. Perkins v. Owen, 123 W 238, 101 NW 415.

See note to 311.01 citing Barlass v. Barlass, 143 W 497, 128 NW 58.

The county court has no jurisdiction to allow a proceeding to contest the validity of a will to be converted into a proceeding to substitute a scheme for the settlement of an estate different from that prescribed by the will. Will of Rice, 150 W 401, 136 NW 956, 137 NW 778.

The county court has jurisdiction to decide whether an administrator should distribute the estate according to the statute or subject to an antenuptial contract. Where an application by an administrator is made to the court for direction, and it is an attempt to specifically enforce against a widow an alleged antenuptial contract, the proceeding is for specific performance which can be granted by a court of equity only. But equity powers are conferred upon county courts by statute. State ex rel. Peterson v. Circuit Court, 177 W 548, 188 NW 645.

A county court has jurisdiction over the persons of the beneficiaries in a will it admitted to probate. Its jurisdiction over the subject matter in probate proceedings is designed to enable creditors to present their claims and participate in the distribution of the assets to them, and to enable the court to distribute the remainder in accordance with the provisions of the will. Such proceedings are in rem, and affect the property of the deceased solely. The general jurisdiction of the circuit court is suspended as to such administrations except when county courts do not afford complete remedies. Estate of Sipchen, 180 W 504, 193 NW 385.

The county court has power to grant equitable relief, including power to control its own judgments, and to grant relief therefrom. Libby v. Central W. T. Co. 182 W 599, 197 NW 206.

The county court has no jurisdiction to enforce claims against debtors of an estate who have filed no claims against the estate. Estate of Kallenbach, 184 W 171, 199 NW 152.

The county court has jurisdiction to probate wills and administer estates of such persons, only, as were residents of the county at the time of death. Estate of Read, 195 W 128, 217 NW 709.

The county court had power to construe a will in final judgment so far as necessary to assign the testator's estate. In re Brandstedter's Estate, 198 W 457, 224 NW 735.

The judgment of a county court probating a will and distributing an estate, necessarily construing the will, is res judicata of a petition to declare a testamentary trust void for indefiniteness. In re Monaghan's Will, 199 W 273, 226 NW 306.

An order settling a guardian's account is res judicata as to further liability to a ward in another action for alleged negligence in handling the ward's funds, where the ward, at the time the order was made, was competent and there was no allegation of mistake, fraud or other circumstances that would render the order void. Byington v. Harper, 217 W 418, 259 NW 406.

Publication of regular notices in an administration proceeding gives a county court jurisdiction of the subject-matter and of all parties interested, and hence jurisdiction to order an unconstitutional judgment. In re Trustees of Milwaukee County Orphans' Board, 218 W 518, 261 NW 676.

The several judgments and decrees of the county court of Milwaukee county, directing distribution of the personal estate of certain estates, in which there were no heirs, to a board, was res adjudicata as to the state, notwithstanding the statute under which the county court acted was subsequently declared unconstitutional. In re Trustees of Milwaukee County Orphans' Board, 218 W 518, 261 NW 676.

The conclusion of the county court, in the proceedings relating to the estate of an insane person, that he and his creditor L were not partners in their operation of a farm, was binding on L and on creditor G who had filed a claim against the estate and had objected to a claim of L against the estate on the ground that the insane person and L were partners, and precluded G from recovering for cattle in an action against L on the theory of partnership. Gray v. Lord, 226 W 403, 275 NW 432.

The county court, in which ancillary proceedings for administration of the estate of a nonresident were commenced after his will had been admitted to probate in the state of his residence, had jurisdiction to construe the will so far as it related to real estate located in the county. Will of Ruppert, 233 W 527, 290 NW 122.

On the petition of the guardian of an incompetent executor for the allowance of the executor's final account, a question as to the liability of the executor to account for certain property owned by the testator and his wife as joint tenants, and taken possesion of by the executor in his representative capacity, did not involve trying or determining title to property, but involved solely a matter of accounting of which the county court has full jurisdiction. Estate of Christopher, 235 W 616, 293 NW 921.

The county courts have plenary jurisdiction in all matters of administration, settle-

ment, and distribution of estates of decedents, and their jurisdiction is in considerable part concurrent with that of courts of equity. Laabs v. Milwaukee, 236 W 192, 294 NW 1, 814.

County courts, as courts of probate, have full equity jurisdiction over the administration of estates disposed of by will. Where the county court has jurisdiction in probate matters, the circuit court is without jurisdiction. Hicks v. Hardy, 241 W 11, 4 NW (2d) 150.

In general, a judgment construing a will is conclusive only as to matters which it decides. Estate of Trowbridge, 244 W 519, 13 NW (2d) 66.

The interpretation of a will presented a question of law, so that the determination of the county court was not within the rule that findings of the trial court cannot be disturbed on appeal unless against the great weight and clear preponderance of the evidence. Will of Mechler, 246 W 45, 16 NW (2d) 373.

The county court, in the probate of wills or the settlement of estates, may grant equitable relief or enforce a trust. The jurisdiction conferred on the county court by statute is coextensive with that possessed by any court of equity or of law, in respect to the settlement and distribution of the estate of a testator. The county court has jurisdiction over the persons of beneficiaries named in a will admitted to probate in such court. State ex rel. Schaech v. Sheridan, 254 W 377, 36 NW (2d) 276.

It is common practice for county courts in Wisconsin to assign the remaining personal estate of a testator in trust where a life estate is created by the will, as an orderly and efficient means of carrying out the terms of the will, even though a trust is not provided for therein by express words, and the county courts have jurisdiction so to do and their acts in so doing are not coram non judice. Estate of Lenahan, 258 W 404, 46 NW (2d) 352.

Where the proceeding was instituted after the time had expired within which to appeal from, or move to modify or set aside, the final judgment assigning an estate under a will creating a spendthrift trust, the county court had no jurisdiction to hear a petition of the divorced wife of a beneficiary for the construction of the will and for an order directing the trustee to pay over to the petitioner the income of such beneficiary in payment of the petitioner's claim against him for accrued alimony and support money. Estate of Austin, 258 W 578, 46 NW (2d) 861.

The county court in probate had no jurisdiction of the subject matter of a petition of a hospital, which had furnished room and board to a decedent and was a judgment creditor of his estate, praying that a son of the decedent, who had filed no claim against the estate, be required to account to the estate for the reasonable cost of care which the son had allegedly failed to furnish to the decedent under a bond of support; and it had no jurisdiction of a petition that such son of the decedent be required to account to the estate for the sum of $7,000 by reason of an attempted election by a guardian, appointed shortly before the death of the decedent, to declare such sum due under the bond of support because of an alleged disagreement between the decedent and the son. Will of Reinke, 259 W 398, 48 NW (2d) 613.

Where a wife—living on friendly terms with her husband, who retained his legal residence at Appleton in Outagamie county—maintained a home in Milwaukee for her convenience, but, in dealing with statutory privileges and duties, such as voting and filing income-tax returns, she recognized the city of Appleton as her residence, the latter facts were controlling and the county court of Outagamie county had exclusive jurisdiction over her estate. Will of Baldwin, 260 W 195, 50 NW (2d) 463, 51 NW (2d) 361.

253.10 (2) does not require the jurisdiction of the county court, including the Milwaukee county court, to be invoked by summons and complaint in controversies over titles to realty; it may be invoked by petition and order to show cause. Estate of King, 261 W 266, 52 NW (2d) 885.

253.10 (2) does not confer on the county court exclusive jurisdiction to try and determine all matters and controversies relating to title to property involved in probate proceedings, and where an action to enforce a partnership agreement has already been commenced in the circuit court, and such court has assumed jurisdiction, and can determine title to real estate as well as dispose of all other matters arising in such action, the matter should be left there, and should not be tried or determined in the county court in which the estate of a deceased partner is being administered. State ex rel. Sommer v. Stauff, 265 W 388, 62 NW (2d) 384.

In determining the place of residence of a testator at the time of his death, it was immaterial that when he moved from Outagamie to Brown county he established his residence in the home of his daughter rather than setting up his own home, and that he occasionally returned for temporary visits to Outagamie county, if such circumstances were accompanied by an intention to remain a resident of Brown county. Estate of Morey, 272 W 79, 74 NW (2d) 823.

An order or judgment of the county court assuming jurisdiction of a probate proceeding, where jurisdiction depends on the place of residence of the decedent, is appealable by objectors who have an interest in the estate as beneficiaries named in the will. Estate of Morey, 272 W 79, 74 NW (2d) 823.

The county court in probate has no jurisdiction of a purely tort action but, where facts which give rise to a tort cause of action against a decedent are also the basis of a cause of action on implied contract, plaintiff may wave the tort and proceed on the implied contract by filing a claim in county court. A claim against an estate is a proper remedy for alleged conversion. Monart Motors Co. v. Home Ind. Co. 1 W (2d) 601, 85 NW (2d) 478.

Under 72.75 to 72.81, Stats. 1955, and income-tax provisions incorporated by reference, the sole authority to determine in the first instance whether gift taxes are due from any person or estate rests exclusively with the department of taxation and assessor of incomes, and under 73.015 (1), (2), and ch. 227,

review of the department's determination lies soley with the board of tax appeals, circuit court, and supreme court, so that the county court has no jurisdiction to determine that there is no gift-tax liability to the state on the part of a decedent or his estate, although 253.03 (1) provides that the jurisdiction of the county court shall extend to all matters relating to the settlement of the estates of deceased persons. Estate of Michels, 3 W (2d) 353, 88 NW (2d) 726.

Probate courts have full equity jurisdiction to vacate orders and judgments made and and rendered in the administration of estates when they were induced by fraud, even though the time for appeal has expired. Will of Pettee, 266 W 347, 63 NW (2d) 715; Estate of Kammerer, 8 W (2d) 494, 99 NW (2d) 841.

Where one county court has determined that a decedent resided in that county, has issued letters of administration and no appeal is taken, another county court has no jurisdiction over a petition for probate of the will of decedent. Estate of Hertzfeld, 10 W (2d) 333, 102 NW (2d) 838.

In determining the jurisdiction of a county court, which has been given some additional jurisdiction concurrent within certain limits with that of circuit courts, the distinction between the county court acting in probate and one acting under its concurrent jurisdiction must always be kept in mind. 253.10 (2) is construed as giving such jurisdiction to the county courts as probate courts. A county court, as a probate court, had jurisdiction to try a controversy arising between an executor and the widow of the testator, relating to the title to real and personal property, and for an accounting or determination of the amount of rent due to the estate from the widow as occupant of the real property. Estate of Elsinger, 12 W (2d) 471, 107 NW (2d) 580.

Under 253.10 (2) the county court in probate had jurisdiction to hear and determine a claim against an estate which arose out of a controversy concerning a lease of land by the deceased testatrix to the claimant, which claim was for loss of seed oats and plowing. Estate of Kuepper, 12 W (2d) 577, 107 NW (2d) 621.

The county court sitting in probate acquired no jurisdiction over the person of the commissioner of motor vehicles by the service of an order to show cause which eventuated in an order directing him to issue a certificate of title to an automobile which the executrix of an estate transferred to herself as an individual, since under 253.10 (2) (a) the issuance of a formal certificate of title was not necessary for the complete administration of the estate. Estate of Von Wald, 24 W (2d) 256, 128 NW (2d) 398.

While it is true that the circuit courts have concurrent jurisdiction with the county courts in probate, administrations, and other matters recognized as exclusively within the realm of county court probate jurisdiction, ch. 253 indicates the purpose to keep all matters affecting the probate of estates in one court, and hence 253.10 (2) gives the county court jurisdiction to hear matters incidental to and necessary for the complete administration of estates, regardless of who has possession of the property, including an action to set aside transfers of property as being fraudulent. Estate of Mayer, 26 W (2d) 671, 133 NW (2d) 322.

The jurisdiction given by 253.10 (1) to county courts in probate matters extending to all matters relating to the settlement of estates of deceased persons, of minors, and others under guardianship, clearly indicates judicial authority to act in a probate proceeding seeking to compel a guardian of the person to repay certain sums of money to the guardian of the estate and to return certain properties to the coadministrators. In re Guardianship of Bose, 39 W (2d) 80, 158 NW (2d) 337.

A federal court is without jurisdiction to take from the county court control of a trust created by a will probated in the county court. West v. First Fond du Lac Nat. Bank, 31 F Supp. 169.

The testamentary nature of revocable inter vivos and life insurance trusts. 1956 WLR 313.

253.11 History: 1959 c. 315; Stats. 1959 s. 253.11; 1961 c. 495, 614; Sup. Ct. Order, 14 W (2d) vii; 1963 c. 88, 407; 1967 c. 276 ss. 28, 39; 1969 c. 87, 149, 331, 352.

253.12 History: 1959 c. 315; Stats. 1959 s. 253.12; 1961 c. 495; 1965 c. 422.

See note to 970.03, citing State ex rel. Sucher v. County Court, 16 W (2d) 565, 115 NW (2d) 611.

253.13 History: 1959 c. 315; Stats. 1959 s. 253.13; 1961 c. 495, 643, 673; 1967 c. 275; 1969 c. 352.

On the effect of the enactment of 48.01, Stats. 1929, relating to neglected and dependent or delinquent children, see Guardianship of Bagley, 203 W 89, 233 NW 563.

See note to 48.91, citing Estate of Christl, 6 W (2d) 525, 95 NW (2d) 381.

253.135 History: 1961 c. 495; Stats. 1961 s. 253.135.

253.14 History: 1959 c. 315; Stats. 1959 s. 253.14.

253.142 History: 1961 c. 495, 643; Stats. 1961 s. 253.142; 1963 c. 407.

An attorney appointed guardian ad litem in an estate for the purpose of a particular proceeding could afterwards act as county judge in the same estate. Richter v. Estate of Leiby, 107 W 404, 83 NW 694.

In a will contest where the issue tried was as to the effect of interlineations in the will, and where the court, after the trial and before rendering a decision, discovered that the testator had made a statement to the register in probate at the time of withdrawing the will from the probate office, an order on the court's own motion, after conference with the parties, for a new trial before another judge, was an order for a new trial in the interest of justice because of the fact that information had come to the court in advance of its decision which the court not only thought should be heard, but which impaired its capacity to render a fair decision. Estate of Noe, 241 W 173, 5 NW (2d) 726.

An affidavit of prejudice, offered during a hearing in county court and after the court had already made findings on matters in issue, was too late, and the court correctly refused to honor it. Will of Kuttig, 260 W 415, 50 NW (2d) 669.

An affidavit of prejudice, merely reciting the affiant's belief that "from prejudice or other cause" the judge will not decide impartially, is void as neither stating the fact of prejudice nor any other cause, but simply that it is one or the other, without any possibility of ascertaining which. Will of Hill, 264 W 410, 59 NW (2d) 437.

Where the petitioner by his own petition consolidated the matter of his objections to the will with the matter of his claim against the estate, so that there was only one matter, he was thereby limited to the filing of of one affidavit of prejudice, and he was not entitled to file a second affidavit even if the first affidavit was filed in the matter of the objections to the will. Estate of Landauer, 264 W 456, 59 NW (2d) 676.

A county judge of another county called in to act in the administration of an estate may continue to act until he disqualifies himself. Estate of Williams, 266 W 403, 63 NW (2d) 736.

Although 253.07 (1) (b), Stats. 1953, provides that a judge against whom an affidavit of prejudice has been filed "shall thereupon be disqualified to act in relation to that matter," 253.07 (1) (d) preserves the judge's jurisdiction to order a person filing such affidavit without giving the prescribed notice to the adverse party to pay to such party the fees of his witnesses, etc., and expressly restores all original jurisdiction to the judge for default in compliance with such order. Will of Draheim, 267 W 382, 66 NW (2d) 172.

Where an outside county judge had not relinquished jurisdiction and, after an adjudication of the matter over which he presided, he issued an order to show cause as to why one of the trustees under a will should not be determined guilty of contempt of court for having failed to comply with the court's order, the proceeding on the order to show cause was not a new matter over which such outside judge had no jurisdiction, and his declination to disqualify himself in response to a second affidavit of prejudice filed by such trustee, and his disposition of the order to show cause, did not constitute error, particularly in view of participation by such trustee in the proceeding on the order to show cause. Estate of Hill, 272 W 197, 75 NW (2d) 582.

Where the contestant, contending that the county judge lost jurisdiction of the case when he appointed a substitute judge, and that he was not qualified to cancel such appointment and appoint a second substitute judge when the first one decided not to act, failed to raise objection to the assumption of jurisdiction by the second substitute judge and initiated proceedings after the assumption of jurisdiction by the second substitute judge, calling on such judge to act, the contestant thereby made a general appearance in the proceedings and waived all objections to the power of the second substitute judge to act. Will of Hopkins, 273 W 632, 79 NW (2d) 131.

Where a probate matter has been remanded to the county court for further proceedings, the judge may properly refuse to honor an affidavit of prejudice filed against him. Estate of Scheibe, 35 W (2d) 89, 150 NW (2d) 427.

253.143 History: 1961 c. 495; Stats. 1961 s. 253.143.

253.145 History: 1961 c. 495; Stats. 1961 s. 253.145.

253.15 History: 1961 c. 495; Stats. 1961 s. 253.15.

253.16 History: 1959 c. 315; Stats. 1959 s. 253.16; 1961 c. 503, 527, 640; 1963 c. 121.

253.164 History: 1961 c. 495, 643; Stats. 1961 s. 253.164; 1969 c. 255.

253.165 History: 1961 c. 495; Stats. 1961 s. 253.165.

253.17 History: 1961 c. 495; Stats. 1961 s. 253.17; 1965 c. 252.

253.18 History: 1959 c. 315; Stats. 1959 s. 253.18; 1961 c. 495; 1963 c. 490; 1967 c. 275; 1969 c. 352, 469.

253.185 History: 1967 c. 275; Stats. 1967 s. 253.185.

253.19 History: 1959 c. 315; Stats. 1959 s. 253.19; 1961 c. 261.

253.11 and 253.07 (1) (c), Stats. 1953, are separate and distinct, and a county judge, under authority of 253.11, may request other county judges to hold court for him at his pleasure and notwithstanding that he is not disqualified to act. Estate of Hill, 272 W 197, 75 NW (2d) 582.

A county judge may validly act as a temporary circuit judge under 253.19, if he meets the requirements for circuit judges enumerated in secs. 10 and 14, art. VII, Const. State ex rel. McCormack v. Foley, 18 W (2d) 274, 118 NW (2d) 211.

253.195 History: 1961 c. 55, 671; Stats. 1961 s. 253.115; 1963 c. 6; Stats. 1963 s. 253.195; 1967 c. 2; 1969 c. 115, 154.

253.20 History: 1961 c. 495; Stats. 1961 s. 253.20.

253.21 History: 1961 c. 495; Stats. 1961 s. 253.21; 1963 c. 459; 1969 c. 339 s. 27.

253.25 History: 1961 c. 495; Stats. 1961 s. 253.25.

The positions of part-time district attorney and public administrator are compatible, and the individual serving in both capacities is entitled to such fees as public administrator, in addition to his salary as district attorney. 52 Atty. Gen. 14.

253.26 History: 1961 c. 495, 614; Stats. 1961 s. 253.26; 1969 c. 339 s. 27.

253.30 History: 1959 c. 315; Stats. 1959 s. 253.30; 1961 c. 495; 1969 c. 339 s. 27.

253.31 History: 1959 c. 315; Stats. 1959 s. 253.31; 1961 c. 33 s. 46; 1961 c. 495.

Where a county board has fixed the salary for the register in probate, it cannot thereafter prohibit the payment of such salary when it has collected and appropriated the money therefor. Roberts v. Erickson, 117 W 324, 94 NW 29.

The office of register in probate is not made vacant by the death of the county judge. 3 Atty. Gen. 789.

A minor may be appointed register in probate. 5 Atty. Gen. 613.

253.32 History: 1959 c. 315; Stats. 1959 s. 253.32; 1961 c. 33 s. 46; 1961 c. 495; 1969 c. 339 s. 27.

253.18, Stats. 1931, is mandatory and requires that an order of a county court determining inheritance tax be recorded. 21 Atty. Gen. 1023.

253.33 History: 1959 c. 315; Stats. 1959 s. 253.33; 1961 c. 33 s. 46; 1961 c. 495; Sup. Ct. Order, 34 W (2d) vii; 1969 c. 339 s. 27.

253.34 History: 1961 c. 495, 614, 674; Stats. 1961 s. 253.34; 1965 c. 108, 433; 1969 c. 120; 1969 c. 339 s. 27.

Editor's Note: This section, which was created by ch. 495, Laws 1961, and subsequently amended, replaced 253.29, which was repealed by that chapter. Opinions of the attorneys general construing 253.29 are cited in notes in Wis. Annotations, 1960.

Under 253.34 (1) (a), Stats. 1961, only one filing fee for one estate should be accepted. 51 Atty. Gen. 12.

253.344 History: 1961 c. 495; Stats. 1961 s. 253.344.

253.345 History: 1961 c. 495; Stats. 1961 s. 253.345.

253.35 History: 1959 c. 315; Stats. 1959 s. 253.35; 1961 c. 495, 642; Sup. Ct. Order, 34 W (2d) v, vii; 1967 c. 275; 1967 c. 291 s. 14; 1969 c. 449.

The county board has no power to prescribe the functioning of or duties of the reporter, as those powers are vested in the county judge. The reporter's shorthand notes constitute property of the court. 31 Atty. Gen. 219.

253.36 History: 1961 c. 495; Stats. 1961 s. 253.36.

253.40 History: 1961 c. 495; Stats. 1961 s. 253.40; 1963 c. 91.

253.41 History: 1969 c. 263; Stats. 1969 s. 253.41.

CHAPTER 254.

Municipal Court.

254.01 History: 1967 c. 276; Stats. 1967 s. 254.01.

Draftsman's Note, 1967: (1) provides for the establishment of the court to conform to the constitution. (2) is from 62.24 (4). (Bill 75-S)

On actions for violations of municipal regulations see notes to 66.12; on kinds of actions see notes to 260.05; and on municipal court procedure see notes to various sections of ch. 300.

254.02 History: 1967 c. 276; Stats. 1967 s. 254.02.

Draftsman's Note, 1967: The former statutes were not clear as to the term of a municipal justice. Some municipalities are reported to have established 3 or 4-year terms by charter ordinance. (Bill 75-S)

254.03 History: 1967 c. 276; Stats. 1967 s. 254.03.

Draftsman's Note, 1967: (1) is from old 61.30 with the added provision that the governing body is to fix the amount of the bond. (2) is from 60.58 (2). (Bill 75-S)

254.04 History: 1967 c. 276; Stats. 1967 s. 254.04; 1969 c. 87.

Draftsman's Note, 1967: From 62.24 (1) (b). (Bill 75-S)

254.045 History: 1969 c. 87; Stats. 1969 s. 254.045.

Legislative Council Note, 1969: A municipal court only has the jurisdiction specifically given by statute. Its jurisdiction here is limited to exclusive jurisdiction over violations of local ordinances, but does not include cases where equitable relief is demanded. (Bill 9-A)

Editor's Note: In connection with this section see the following: Henckel v. Wheeler & M. Co. 51 W 363, 7 NW 780; Holz v. Rediske, 119 W 563, 97 NW 162; and opinions of the attorney general published in 57 Atty. Gen. 11 and 166.

On actions for violations of city or village regulations see notes to 66.12; and on recovery of municipal forfeitures see notes to 288.10.

254.05 History: 1967 c. 276; Stats. 1967 s. 254.05; 1969 c. 87, 255, 392.

Editor's Note: Questions concerning jurisdiction in justice courts were considered by the supreme court in the following cases (among others): Baizer v. Lasch, 28 W 268; Coffee v. Chippewa Falls, 36 W 121; Jones v. Hunt, 90 W 199, 63 NW 81; and Fontaine v. Sullivan, 248 W 441, 221 NW (2d) 535.

254.06 History: 1967 c. 276; Stats. 1967 s. 254.06.

Draftsman's Note, 1967: From 62.24 (3) (a). (Bill 75-S)

254.07 History: 1969 c. 87; Stats. 1969 s. 254.07.

Legislative Council Note, 1969: The word "magistrate" has several meanings in the statutes. In order to avoid giving the justice powers which are not intended, the meaning is sharply restricted as to a justice. (Bill 9-A)

254.08 History: 1967 c. 276; Stats. 1967 s. 254.08.

Draftsman's Note, 1967: From 62.24 (1) (c) and 300.20. (Bill 75-S)

Editor's Note: A similar statutory provision, sec. 3586, R. S. 1878, was invoked in Gallager v. Serfling, 92 W 544, 66 NW 692.