

CHAPTER 253.

COUNTY COURTS.

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253.01 County court established; where held. There is established in each county a county court which shall be held by the county judge at the county seat of such county and at such other places as the county judge shall order.

253.02 County judges; election; term. (1) There shall be a general election of county judge in each county on the first Tuesday in April, 1913, and every sixth year thereafter. The term of office of county judge shall be six years, commencing on the first Monday in January after such election.

(2) Where any county judge shall be elected in a newly organized county the judge first elected shall hold his office until the first Monday of January following the first general election for county judges thereafter. No person shall be eligible to the office of county judge who shall not, at the time of his election or appointment thereto, be an attorney of a court of record; provided, that the foregoing provision as to the qualifications shall not apply to any county having a population of less than fourteen thousand inhabitants according to the last official census preceding such election, and in which the county court has no civil or criminal jurisdiction. Such provision shall not disqualify any person who held such office in this state on or before the first day of July, 1933. [1933 c. 90]

Note: Candidate for county judge who is not attorney as required in certain instances under 253.02 (2) is nevertheless entitled to place upon ballot upon complying with 5.17 (3). 26 Atty. Gen. 77. County judge in county having population under 14,000 and in which county court has no civil or criminal jurisdiction, need not be attorney at law. 26 Atty. Gen. 125.

253.03 Jurisdiction. The jurisdiction of the county court shall extend to the probate of wills and granting letters testamentary and of administration on the estates of all persons deceased who were at the time of their decease inhabitants of or residents in the same county and of all who shall die without the state having any estate within such county to be administered, and to any other cases authorized by law; to the appointment of guardians to minors and others in the cases prescribed by law; to all matters relating to the settlement of the estates of such deceased persons and of such minors and others under guardianship; to all cases of constructions of wills admitted to probate in such court; and to all cases of trusts and trust powers created by will admitted to probate in such court; and to hearing objections to the granting of licenses to marry, to ordering the refusal of such licenses, and to the granting of stays upon the issuance thereof, and such court shall have and exercise such other jurisdiction and powers as are or may be conferred by law.

Note: It is erroneous for the circuit court to take jurisdiction of the administration of estates unless the county court cannot afford equally adequate remedy. Such assumption was held erroneous in this case. *Connell v. Connell*, 203 W 545, 234 NW 894. Order settling guardian's account is res judicata as to further liability to ward in another action for alleged negligence in handling ward's funds, where ward at time order was made was competent and there was no allegation of mistake, fraud or other circumstances that would render order void. *Byington v. Harper*, 217 W 418, 259 NW 406. Publication of regular notices in administration proceeding gives county court jurisdiction of subject-matter and of all parties interested, and hence jurisdiction to order unconstitutional judgment. *In re Trustees of Milwaukee County Orphans' Board*, 218 W 518, 261 NW 676. In probate proceedings under a will, the

court's jurisdiction to assign the assets is limited to the assignment thereof in accordance with the will, since to assign them in pursuance of an agreement between the legatees or heirs for a division of the estate contrary to the terms of the will would be giving effect to a contract which cannot be enforced in the probate proceedings because it would defeat the will of the testator. This section does not confer jurisdiction on the county court in respect to trusts or trust powers created otherwise than by will; but the county court can assign assets to a trustee properly appointed. The county court, while not a court of equity in the sense that it has general jurisdiction of actions in equity, has the same power to recognize and apply equitable rules and principles, so far as they are applicable to matters relating to the settlement of estates of decedents, that courts of equity have to apply rules of law. Estate of Richardson, 223 W 447, 271 NW 56.

The county court has plenary power in law and equity with respect to matters in probate. Estate of George, 225 W 251, 274 NW 294.

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, whether such conclusion of the county court be treated as a finding of fact or a conclusion of law and whether G's action against L was on the same or a different cause of action. Gray v. Lord, 226 W 403, 275 NW 432.

A judgment of the county court in an action within the jurisdiction of the justice court was not invalid because judgment was not rendered within seventy-two hours after submission of the case in view of the statute which gives the court full power to grant continuances. State ex rel. Leverance v. Frey, 231 W 661, 286 NW 705.

The power of supervisory control over all inferior courts vested in the circuit courts may be exercised to keep inferior courts, including county courts, within their jurisdiction. In re Farm Drainage Dist. No. 1, Waupaca County, 232 W 455, 287 NW 806.

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 and authority to construe the will so far as it related to a devise of real estate located in the county. Will of Ruppert, 233 W 527, 290 NW 122.

In proceedings in the county court 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 possession 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.

While the county courts derive their powers from the statutes, they have plenary jurisdiction in all matters of administration, settlement, 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.

253.04 Two counties; jurisdiction retained. If a case be originally within the jurisdiction of the county courts of two or more counties the court which shall first take cognizance thereof by the commencement of proceedings shall retain the same throughout.

253.05 Jurisdiction; residence collateral attack. The jurisdiction assumed by any county court in any case, so far as it depends on the place of residence of any person or the location of his estate, shall not be contested in any action or proceeding whatever ex-

County courts, as courts of probate, have full equity jurisdiction over the administration of estates disposed of by will, including jurisdiction to vacate orders and judgments made and rendered in administering such estates that were induced by fraud, including final judgments of distribution. 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.

The circuit court, although having jurisdiction of the divorce proceedings, should not have assumed jurisdiction of a proceeding by the divorced wife of a beneficiary of a testamentary trust to charge the trust with the payment of alimony due under the divorce decree, and requiring a construction of the terms of the trust, since such proceeding could have been brought in the county court before which the trust was being administered, and that court, in the exercise of its broad general powers over testamentary trusts, could have applied the same rules of equity and afforded as adequate, complete and efficient a remedy as the circuit court. Razall v. Razall, 243 W 15, 9 NW (2d) 72.

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.

Under sec. 1, ch. 68, laws of 1927, providing that the county court of Monroe county, to certain amounts and within certain limits, shall be a court of general jurisdiction concurrent with and equal to the circuit court "in all matters of law and equity," that court has jurisdiction of an action to abate a public nuisance. [Jones v. State ex rel. Falligant, 211 W 9, followed; State ex rel. Owens v. Reisen, 164 W 123, distinguished.] State ex rel. Goodman v. McFadden, 245 W 501, 15 NW (2d) 802.

The interpretation of a will in the instant case 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 46, 16 NW (2d) 373.

Probate jurisdiction is limited in the general scope as to subject matter to the undisputed property of decedents and wards. The county court cannot try title to property which is in dispute. Central Wisconsin Trust Co. v. Schumacher, 230 W 591, 234 NW 562; Estate of Martin, 246 W 133, 16 NW (2d) 306.

The county court in probate has jurisdiction to determine adverse claims and the title to property in dispute, where the property is in the hands of an administrator or executor and the claim is asserted by the adversary on application to the court, but not where the property is in the possession of the person claiming adversely to the estate. This distinction, although illogical in view of the language of this section, that the jurisdiction of the county court shall extend to "all matters relating to the settlement of the estates" of deceased persons, has been applied over the years, and will be followed in deference to the principle that there must be some certainty in the law. Estate of Nols, 251 W 90, 23 NW (2d) 360.

A suit by beneficiaries of a trust created by a will probated in Wisconsin county court against trustees for an accounting was dismissed where there was no dispute as to the rights of beneficiaries to participate in the trust funds since the 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 Pond du Lac Nat. Bank, 31 F Supp. 169.

cept on an appeal from the county court in the original case or when the want of jurisdiction appears on the same record.

253.06 May issue process. The several county courts shall have power to issue all summonses, citations, subpoenas, executions, warrants and processes authorized by law which may be necessary to carry into effect any order, judgment or decree thereof, to compel the attendance of witnesses or to carry into execution the powers with which they are vested.

253.07 Disqualification of judge by relationship or interest; by affidavit; another judge called; procedure; pay and expenses. (1) (a) When the county judge or his wife, child, parent, brother or sister is interested, or when the judge is the executor, administrator or guardian in any matter to be decided by the court, he shall be disqualified to act in relation to that matter.

(b) When any person, or the attorney for any person, interested in a matter in the county court, either at the time of filing any petition or any objection, notice of contest or other paper raising an issue, or at any other time up to and including the day set for hearing such matter, files an affidavit stating that he has good reason to believe and verily believes that from prejudice or other cause the judge of the county court, naming him, will not decide impartially, the judge shall thereupon be disqualified to act in relation to that matter. No person shall be allowed to file an affidavit against more than one judge in any matter.

(c) The disqualified judge shall thereupon request another judge to hold court for the purpose of settling or deciding such matter.

(d) The person who files such an affidavit of prejudice may be ordered by the court to immediately pay to the adverse party the fees of his witnesses in attendance on the hearing date and an attorney's fee of \$10, unless the adverse party was notified in writing at least 5 days prior to the hearing that such an affidavit had been or would be filed. Failure to make payment as ordered shall nullify the effect of the affidavit of prejudice. This paragraph does not apply in case an outside judge is presiding at the hearing of such matter unless the affiant has had 8 days' written notice that he was to preside.

(2) The request to another judge to hold court shall be filed in the court forthwith by the judge thereof and a copy mailed to the judge requested to act, and if said matter has been set for hearing the same shall stand continued until the judge so requested to act shall be ready to take it up for disposition. If the matter has not been set for hearing, the judge requested to act shall order a hearing thereon.

(3) The judge requested to act shall attend and act in such matter, so far as in his judgment the proper discharge of his other duties will permit. Ex parte orders, letters, bonds, petitions and affidavits may be presented to such acting judge, by mail or in person, for signing or approving, wherever he may be holding court, who shall execute or approve the same and forthwith transmit the same to the attorney who presented it, for filing with the county judge of the county where the records and files of the matter are kept.

(4) Whenever any county judge is required to hold court in any county other than that for which he was elected he shall receive \$5 per day and his actual expenses, to be audited and paid by the county board of the county in which he so holds court. [1941 c. 82; Supreme Court Order, effective July 1, 1945; 1945 c. 431]

Comment of Advisory Committee: The section has been rewritten to clarify the language, but its substance is not changed except by the addition of (1) (d). The purpose of (1) (d) is to prevent the filing of affidavits of prejudice merely to harass other parties by surprise. The provision for fees is somewhat like that found in 270.145 (6). [Re Order effective July 1, 1945]

Note: In a contest over the probate of a will, wherein the issue tried was as to the effect of interlineations made in the will, and where the trial court, after 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 proper as plainly 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 on the record. Estate of Noe, 241 W 173, 5 NW (2d) 726.

253.08 Courts of record; seals. Every county court is a court of record and shall have a seal, and may direct and from time to time alter the inscriptions and devices thereon, and the respective county boards shall furnish such seals as shall be ordered; and when any such court shall be unprovided with a seal the judge thereof may authorize the use of any temporary seal or any device by way of seal until a seal shall be so provided. The seals now in use by said courts shall continue to be the seals thereof until others shall be provided according to law.

253.09 Filing signature and seal. Every county judge now serving in the state of Wisconsin, and every county judge hereafter elected to that office upon entering upon the duties of his office, shall file with the secretary of state his official signature, together with a certified impression of the seal of his court.

253.10 County court terms; adjournments; court always open. (1) A regular term of the county court shall be held on the first Tuesday of each month, except July and August, and shall continue to the commencement of the next regular term; and in case any matter shall not be heard at the term appointed therefor it shall stand continued until the next regular term unless the court shall otherwise order; but every county court shall be open at all times for the transaction of business.

(2) Special terms may be appointed by a general or special order entered in the minutes of the court; and when any order shall be made and notice given for the hearing of any matter at a term, such order shall be a sufficient appointment of a special term.

(3) In case any matter appointed to be heard at a special term is not heard at the appointed term, it stands continued to the current regular term and may be heard at any time, unless the court orders otherwise. [*Court Rules V, VI; Supreme Court Order, effective Jan. 1, 1934; Supreme Court Order, effective July 1, 1945*]

Comment of Advisory Committee: 253.26 from the regular terms to such special authorizes the holding of special terms of terms, but not vice versa. 253.10 (3) harmonizes 253.26 and 324.17. [Re Order effective July 1, 1945] It provides, also, for continuances

253.11 Judge may hold court in other counties. Any county judge may act as county judge of any county upon the request of the county judge thereof, and while so acting he shall have the same powers as if elected for the county in which he is acting. In case the office of county judge is vacant or the county judge is totally incapacitated, such request may be made by the circuit judge for the county where the vacancy or disability exists. [*1939 c. 513 s. 50*]

253.12 Orders to be made in open court. Every order and judgment in probate proceedings which affects the rights of any person shall be made in open court; except that a judge who holds court in a county other than his own may file findings of fact, order or judgment with the same effect as if done in open court. [*Supreme Court Order, effective Jan. 1, 1937*]

Note: A mere mental conclusion by the county judge to allow an administrators' account, without announcing or otherwise duly making an order in open court, was without legal effect. Estate of Richardson, 223 W 447, 271 NW 56.

253.13 Judges, partners, clerk, not to be counsel. No judge of the county court, his law partner, clerk or any person employed in or about his office shall be retained or employed as solicitor, attorney or counsel in any action or matter which may depend on or in any way relate to any judgment or decree made or passed by him; nor shall he or any such person be solicitor, attorney or counsel for or against any executor, administrator, trustee or guardian appointed within his jurisdiction in any action brought by or against the executor, administrator, trustee or guardian as such, nor in any action relating to the official conduct or duty of such party.

Note: This section does not disqualify a county judge in a proceeding on a claim against the estate of a decedent wherein the public administrator of the county, who is appointed by the county judge, acts as attorney for the claimant. Estate of Evans, 248 W 456, 22 NW (2d) 497.

253.14 Clerks, etc., not to be appraisers, etc. No clerk or other person employed in the office of any county judge shall be commissioner, appraiser or divider of any estate in any case that is within the jurisdiction of such county judge or of the county court.

253.15 Salary, judges not to take fees when. (1) The annual salary of the county judge shall be payable out of the county treasury and shall be fixed by the county board at the annual meeting preceding the ensuing year in which he is to be elected. The salary so fixed shall not be increased or diminished during the term of the county judge.

(2) Every county judge is prohibited from taking or receiving, either directly or indirectly, any fees whatever for his official services in the administration of the estates of deceased persons, including proceedings to determine the descent of lands, and for certificates of title by descent, or termination of life estates, or of joint tenancy in lands or real estate mortgages, or certifying copies of any proceedings had before the court, or in the appointment of guardians, or in the administration of the estates of wards, except in the counties in which it is otherwise expressly provided by law.

(3) The judge of any county court where no other provision is made by law shall be entitled to receive five dollars per day, to be paid from the county treasury, for each day he shall be actually engaged in the examination of any person upon a criminal charge, or engaged upon any other matter, not appertaining to probate business, compensation for which is not otherwise provided.

(4) The county board may by resolution provide that the salary fixed shall be in lieu of all fees, per diem or other compensation out of the county treasury for the performance of any official duty imposed upon the county judge by law by virtue of his office which are

authorized under the provision of subsection (3) of this section or of any other statute.
[1935 c. 468]

Note: A resolution of the county board of a county wherein the office of juvenile judge was also held by the county judge, fixing the salary of the juvenile judge at a specified sum per year "in lieu of all fees payable to the juvenile judge as well as the county judge," contemplated that the county judge was not to retain any fees and made "other provision" for compensation of the county judge for nonprobate business than the fees provided for by 253.15 (2), and the resolution was effective to limit the compensation of the county judge, beginning with his next term, to the annual salary fixed for that position by earlier resolutions, even if the county board could not legally substitute the salary of a juvenile judge for the fees of a county judge. *Axelberg v. Bayfield County*, 233 W 533, 290 NW 276.

County judge is entitled to only five dollars per day under 253.15 (2), Stats. 1933, although he passes upon number of commitments on same day. 20 Atty. Gen. 457.

County judge on salary basis is not entitled to receive extra compensation under (2). 24 Atty. Gen. 46.

Ch. 468, Laws 1935 (253.15 (4)) repealed 59.15 (1), in so far as latter section applies to salary of county judge. Under 253.15 (4) county judge is entitled to fees, per diem or compensation provided by general or spe-

cial statutes and county boards may not legislate with respect thereto except as to fees, per diem or compensation payable from or referable to county treasury, and as to such latter county board may by affirmative action legislate with respect thereto, whether same arise from general or special acts. Fee, per diem or compensation is referable to or payable from county treasury if county treasury may ultimately or in some event be liable therefor. 28 Atty. Gen. 139.

Salary paid county judge by virtue of special act of legislature conferring upon county court certain circuit court and justice of peace jurisdiction and providing that judge, in exercise of such jurisdiction, shall receive salary of \$1200 until said salary is changed by county board, is not affected by 253.15 (4), nor is judge entitled to fees collected by virtue of said section in administration of jurisdiction conferred by special act. 253.15 (4) does not convert salary method of compensation into fee method where neither special act nor resolutions of county board authorize fee method. 23 Atty. Gen. 204.

Validity of numerous fee items filed as claims by county judge against county analyzed in light of particular resolution of county board fixing salary of county judge. 29 Atty. Gen. 73.

253.16 County judge not to draft papers for actions; penalty. No county judge or his clerk or any person employed by him in or about his office shall be allowed to draft or prepare any paper or give advice pertaining to the drafting or preparation of papers or as to who shall prepare them, relating to any matter, proceeding or action pending in or which there is good reason to believe will be brought or instituted in the county court over which such judge presides, except such as are expressly given by law. The prohibitions of this section shall apply to the drawing of wills. Any county judge who shall violate any of the provisions of this section shall be fined not less than fifty dollars nor more than five hundred dollars and be subject to impeachment.

[253.17 Stats. 1945 repealed by 1947 c. 110]

253.18 What books to be kept. There shall be kept in every county court the following books:

(1) A court record in which the judge shall cause every matter or proceeding had in said court to be entered under a proper title, with a brief statement of the nature thereof, and of all papers filed, which in anywise relate to the same, with the date of filing and a reference to the page and volume of the minute book where any minute record shall have been made in any such matter or proceeding, so that such record shall be a complete index or brief history of the matter or proceeding from the beginning to the final disposition thereof.

(2) A minute book in which shall be entered a brief statement of all the proceedings of the court during its sessions, and show all motions made and by whom, and all orders granted in open court or otherwise and the names of all witnesses sworn or examined in any matter or proceeding in such court.

(3) A record book in which all wills admitted to probate with the probate thereof, all orders, judgments or decrees made in any matter or proceeding, all letters testamentary, of administration or guardianship shall be recorded in full.

(4) An alphabetical index to each of such books.

Note: Subsection (3) is mandatory and requires that order of county court determining inheritance tax be recorded. 21 Atty. Gen. 1023.

253.19 Testimony to be written. When any witness is sworn and examined in any contested matter or proceeding in any county court and an appeal is taken, the judge thereof shall cause the testimony to be reduced to writing, and the stenographic reporter of such court shall receive the fees provided by law for transcripts of testimony in circuit court; provided, that nothing herein shall prohibit the judge in his discretion from causing the testimony to be so reduced to writing even in the absence of an appeal.

253.20 Penalty for noncompliance. Every county judge who shall neglect or refuse to comply with the provisions of sections 253.18 and 253.19 shall forfeit for each such neglect or refusal not less than twenty-five nor more than two hundred dollars.

253.21 Presumption in favor of orders. When the validity of any order or judgment of a county court shall be drawn in question in any other action or proceeding every-

thing necessary to have been done or proved to render the order or judgment valid, and which might have been proved by parol at the time of making the order or judgment and was not required, shall, after twenty years from such time, be presumed to have been done or proved unless the contrary appears on the same record.

253.22 Orders, etc., how enforced. If any person shall refuse or neglect to perform any order, judgment or decree of a county court such court may issue a warrant, directed to any sheriff, constable or other proper officer in this state, requiring him to apprehend and imprison such person in the common jail of the county until he shall perform such order, judgment or decree, or be delivered by due course of law.

253.23 Revocation of warrants, etc. Any warrant or commission for the appraisement of any estates, for examining claims against estates for partition of real estate or for the assignment of dower may be revoked by the judge of the county court for sufficient cause; and the judge may thereupon issue a new commission or proceed otherwise therein as the circumstances of the case shall require.

253.24 Judge to give notice of escheats. Whenever any county judge shall have knowledge or information that any real estate in his county has escheated to the state or that the state is entitled to receive any personal property belonging to the state of any deceased person for want of heirs or next of kin he shall forthwith notify the attorney-general of such fact.

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

253.25 Office and records to be kept at county seat. Every county judge in this state shall keep his office and the books, papers and records of the office of county judge at the county seat of the county in which he holds his office, which office and the books, papers and records thereof shall at all reasonable times be open to access and inspection by any person having any business therewith.

253.26 Except in certain counties. (1) The county judges of the counties of Chippewa, Columbia, Dodge, Fond du Lac, Grant, Green Lake, Jefferson, Monroe, Pepin, Pierce, Shawano, Trempealeau, Walworth, Washington and Waukesha may keep their offices and hold special terms of the county court at any time between the times of holding the regular terms and transact any business which might be done at, or which may be continued from, any regular term to such special term at the following places, in their respective counties:

In the county of Chippewa, at the cities of Chippewa Falls and Stanley;

In the county of Columbia, at the city of Columbus;

In the county of Dodge, at the cities of Beaver Dam, Fox Lake, Horicon, Mayville, Watertown and Waupun;

In the county of Fond du Lac, at the cities of Ripon and Waupun;

In the county of Grant, at the city of Platteville;

In the county of Green Lake, at the village of Princeton, the city of Berlin and village of Markesan;

In the county of Jefferson, at the city of Watertown;

In the county of Monroe, at the cities of Sparta and Tomah;

In the county of Pepin, at the village of Pepin;

In the county of Pierce, at the city of River Falls;

In the county of Shawano, at the village of Wittenberg;

In the county of Trempealeau, at the villages of Galesville and Osseo;

In the county of Walworth, at the city of Whitewater;

In the county of Washington, at the city of Hartford;

In the county of Waukesha, at the city of Oconomowoc.

(2) All orders, judgments, and business which shall be made and done at such special terms and places, or as shall have heretofore been so made or done, are declared valid.

(3) Any such county judge so authorized to keep his office and hold special terms of such county court and transact business at any such city as above provided may, when such city is located partly in the county for which such judge was elected, and partly in an adjoining county in this state, keep his office and hold such terms of court and transact any business which might be done at any regular term, within that part of such city in the county adjoining such county for which such judge was so elected, and may compel the attendance of witnesses and issue subpoenas and citations ordering and compelling the attendance of parties and witnesses at such office or place of holding such special term within such adjoining county, and may there transact any and all business which might be done at, or which may be continued from any regular term to such special term so held by order of such county judge within such adjoining county. [1939 c. 95; 1948 c. 127]

253.27 Register in probate. Any county judge may appoint, from time to time, by an instrument in writing filed with the county clerk, a competent person to act as clerk of the county court, who shall be officially designated as register in probate for the county in which such court is held. Such register shall, before entering upon his duties, take and subscribe the constitutional oath of office and file the same in the office of the clerk of the circuit court for such county. He shall perform such duties as the judge may direct, and whenever such judge shall be absent from the county seat or unable to discharge his duties and any application shall be made to such court which requires notice of hearing to be given such register may cause such notice to be given and make an order directing that it be given. Such order and notice when signed "by the court,, register in probate," shall have the same effect as if signed by the county judge. If the board of any county in which such register may be appointed and in which his salary is not fixed by law shall not fix a salary for him the judge shall compensate such register for his services. The foregoing shall not apply to any county in which a register in probate is provided for by any other statute; but any register may administer any oath required in proceedings in such court and certify to copies of records and files therein.

253.28 Certified copies. Registers in probate shall have the same powers as clerks of courts, to certify to copies of papers, records and judicial proceedings. And copies so certified to by such registers in probate shall be receivable in evidence with like effect as if certified to by clerks of courts.

253.29 Register in probate; clerks; oaths; certified copies. (1) The registers in probate and clerks of the county courts, and duly authorized deputy clerks, shall have the power to administer oaths, and certify to copies of any judgment, order, report or other paper or record of the county courts, and, in counties of a population of less than five hundred thousand, shall collect therefor the same fees as is provided by law for clerks of the circuit courts for like services, such fees to be disposed of according to law.

(2) The fees enumerated in this subsection, in counties of a population of five hundred thousand or more, shall be charged and collected by the registers in probate, and clerks of the county court, in full for all services rendered in the respective proceedings. The term "register of probate" appearing in any special act means the same as the term "register in probate".

(a) For filing a petition whereby any proceeding in estates of deceased persons is commenced, where the gross estate or value of the property is ten thousand dollars or less, a fee of three dollars; where the gross estate is more than ten thousand dollars and under twenty-five thousand dollars, a fee of six dollars; where the gross estate is twenty-five thousand dollars or more, a fee of twenty-five dollars. Such fees shall be paid at the time of the filing of the inventory, or other documents, setting forth the value of the estate in such proceedings. The fees fixed in this subsection shall also be paid in survivorship proceedings and in such survivorship proceedings the value shall be based on the value of the property passing to the survivor or survivors.

(b) For a certificate terminating a life estate, one dollar.

(c) For a certificate or judgment of descent of lands the same fees shall be charged and collected as are charged in estate proceedings in paragraph (a) of this subsection based upon the valuation of the property passing by said certificate or judgment of descent.

(d) For filing objections to the probate of a will, ten dollars, except that this fee may be waived by the court when objection is made by a guardian ad litem, and further except that the court shall have discretion to order a refund of said fee to the objector from the assets of the estate.

(e) For receiving a will for safekeeping, one dollar.

(f) For filing claims against estates, twenty-five cents, except that the state or the political subdivisions thereof and bureaus and boards of the state and its political subdivisions shall be exempt from the payment of this fee.

(g) For each certificate issued by the registers in probate or county judges, fifty cents.

(h) For copies of records or other papers in the custody and charge of registers in probate at the rate of fifty cents a page; and for the comparison and attestation of such copies as are not provided by the registers, twenty-five cents for each page, but the minimum charge in each of the above mentioned instances shall be one dollar.

(3) The register in probate and the clerk of the county court shall, on the first Monday of each month, pay into the office of the county treasurer, for the use of the county, all fees collected by him and in his hands and still unclaimed as of said day.

(4) Nothing herein contained shall be construed as depriving the county judge or any official of the county court of any compensation by way of fees, to which he may be entitled prior to the passage of this section; and the county treasurer shall reimburse such county judge or official on account of all such fees which shall hereafter be paid into the county treasury.

(5) Any provision of any section or part of any section of the statutes in conflict with the provisions of this section shall be construed to be controlled by the provisions of this section. [1939 c. 350]

253.295 Borrowing court files regulated. The registers in probate and clerks of the county courts shall not permit any papers filed in their offices to be taken therefrom except upon the same terms and conditions specified in section 269.60. [1945 c. 318]

253.30 Board of county judges. The several county judges of the state shall constitute a board to be known as the "Board of County Judges." They shall hold a meeting each year, at such time and place as they may determine. They shall make such rules and regulations in accordance with law, and not inconsistent with the rules of practice adopted by the supreme court, as they shall deem advisable to promote the administration of the judicial business of the county courts of the state, and transact such other business as may properly come before them. Said board shall elect such officers as they may deem advisable for the proper conduct of their business, and such officers shall be elected for such terms as the board of county judges may determine. Such board may prescribe rules or by-laws for the conduct of their business. Each county judge attending the meeting or meetings of the board shall on presenting his certificate of attendance to the county treasurer of his county be reimbursed for his travel and hotel bills out of the general fund in the county treasury. [1931 c. 65]

253.31 Uniform forms for county courts. (1) The board of county judges or its duly authorized committee shall from time to time adopt such uniform forms for use in the administration of the judicial business of the county courts as they deem necessary.

(2) Duly authenticated copies of all legal forms so adopted shall be furnished the office of secretary of state and there be kept on file and copies thereof shall, by the secretary of state, be transmitted to all of the county courts of Wisconsin.

(3) Only such applications and other process when properly presented to the county court on such uniform forms shall in the discretion of the court be received and accepted by every such court on and after January 1, 1931.

253.32 Public administrator; appointment; qualifications, oath, bond, term. The county court shall appoint a public administrator who shall, before entering upon his duties, take the official oath and give bond, with sufficient sureties, to the judge of said court, in a sum not less than one thousand dollars, with conditions substantially like the conditions of administrators' bonds, and that he will faithfully perform his duties; which bond shall be approved by the county court and with the oath filed and recorded therein. Additional bonds may be required by the court. The expense of surety upon such bonds shall be paid by the county treasurer out of inheritance tax funds belonging to the state, on the order of the county judge. The person appointed shall be an attorney if one is available and his term shall terminate upon the appointment of his successor. This section does not apply to Milwaukee county. [Stats. 1931 s. 311.15; 1933 c. 190 s. 7]

253.33 County court reporter. (1) APPLICATION OF THIS SECTION. This section does not apply to any county court provided with a phonographic reporter under any law existing on May 4, 1903.

(2) APPOINTMENT, OATH, DUTIES. The judge of the county court may appoint, and remove at pleasure, a reporter to take the testimony in contested matters and may require him to file a transcript of such testimony. Every person so appointed is an officer of the court, and shall discharge such duties as the court or judge thereof shall require, and before entering upon his duties shall file his official oath in such court.

(3) COMPENSATION. Such reporter shall be paid by the county for his services, such sum, not exceeding ten dollars for each day, and five dollars for each half day as the board shall allow. The county judge shall certify from time to time to the county board the number of days, and the number of half days occupied by such reporter in the performance of his duties.

(4) TRANSCRIPT OF TESTIMONY. Such reporter shall furnish to any party a transcript of the testimony taken by him in any matter or proceeding mentioned in this section upon being paid therefor at the rate of five cents per folio. [Stats. 1931 s. 324.31 to 324.34; 1933 c. 190 s. 100]

Note: 253.33 (4) applies to all county court reporters appointment of whom must be justified by 253.33 (exclusive of exception by (1)). Where appointment is so justified reporter is entitled to fees provided by (4) and county board has no power to pre-

scribe functioning of or duties of such reporter, as those powers are vested in county judge by (2). Reporter's shorthand notes constitute property of court. 31 Atty. Gen. 219.

254.01 to 254.20 [Repealed by 1943 c. 179]