

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Note: This section, which was created by ch. 495, Laws 1961, and subsequently amended, replaced 253.29, which was repealed by that chapter.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.

254.09 History: 1969 c. 87, 255, 392; Stats. 1969 s. 254.09.

Legislative Council Note, 1969: Subs. (1) and (2) are substantially similar to present s. 300.02. Sub. (3) is a restatement of s. 300.03. (Bill 9-A)

Editor's Note: In connection with this section see *Newcomb v. Trempealeau*, 24 W 459.

254.10 History: 1967 c. 276; Stats. 1967 s. 254.10.

Draftsman's Note, 1967: This section is new. (Bill 75-S)

254.11 History: 1969 c. 87; Stats. 1969 s. 254.11.

254.12 History: 1969 c. 87; Stats. 1969 s. 254.12.

254.13 History: 1969 c. 87; Stats. 1969 s. 254.13.

254.14 History: 1969 c. 87; Stats. 1969 s. 254.14.

254.15 History: 1969 c. 87; Stats. 1969 s. 254.15.

254.16 History: 1969 c. 87; Stats. 1969 s. 254.16.

CHAPTER 255.

Jurors.

255.01 History: R. S. 1849 c. 97 s. 1, 6; R. S. 1858 c. 118 s. 1, 6; R. S. 1878 s. 2524, 2530; 1897 c. 176; Stats. 1898 s. 2524, 2530; 1913 c. 441; Stats. 1913 s. 2524; 1925 c. 4; Stats. 1925 s. 255.01; 1949 c. 488; 1953 c. 280 s. 1; 1967 c. 303.

After conviction the presumption is that the jurors were competent, and satisfactory evidence must be produced to establish the contrary. *Keenan v. State*, 8 W 132.

The alienage of a grand jury cannot be taken advantage of after a plea to the merits, although the disqualification was not known before such plea was filed. *Byrne v. State*, 12 W 519.

Objection to the grand jury cannot be taken by motion in arrest of judgment. *Grubb v. State*, 14 W 434.

Objection to the grand jury may be taken by plea in abatement. *Newman v. State*, 14 W 393; *State v. Cole*, 17 W 674.

A verdict should not be set aside on the ground that one of the jurors had removed to another county before the trial. *Rockwell v. Elderkin*, 19 W 367.

Alienage of a petit juror is not a ground for setting aside a verdict in a criminal case not capital, though the fact was unknown to the accused when the jury was impaneled. *State v. Vogel*, 22 W 471.

Where a member of the grand jury was on the petit jury by which the accused was convicted, the fact not being known to him or his counsel at the time, it is ground for a new trial. *Bennet v. State*, 24 W 57.

Jurors may be disqualified because their knowledge of the English language is too limited and imperfect to enable them to understand the proceedings. *Sutton v. Fox*, 55 W 531, 13 NW 477.

Jurors drawn for a term according to the law when drawn remain jurors for such term unless excused or discharged, regardless of any change in the law for obtaining jurors made subsequent to such drawing and before the commencement of the term. *Ray v. Lake Superior T. & T. R. Co.* 99 W 617, 75 NW 420.

If an alien serves without objection, his incompetency is waived. *Schwantes v. State*, 127 W 160, 106 NW 237.

An objection to a disqualified juror is waived by a failure to challenge or otherwise object to his presence on the jury. *Okershauser v. State*, 136 W 111, 116 NW 769.

A juror, whose sister married a cousin of plaintiff's wife, was not so closely related to the latter as to disqualify him to sit in the trial of the action for alienating her affections. *Maahs v. Schultz*, 207 W 624, 242 NW 195.

An alleged violation of the procedure governing the selection of jurors could not be raised for the first time on motions after verdict, for objections on these grounds then came too late and were waived. *State v. Burnett*, 30 W (2d) 375, 141 NW (2d) 221.

255.02 History: R. S. 1849 c. 97 s. 2; R. S. 1858 c. 118 s. 2; 1870 c. 71; R. S. 1878 s. 2525; 1883 c. 270; Ann. Stats. 1889 s. 2525; 1893 c. 40; 1893 c. 292 s. 18; Stats. 1898 s. 2525; 1905 c. 81 s. 1; Supl. 1906 s. 2525; 1921 c. 590 s. 29; 1925 c. 4; Stats. 1925 s. 255.02; 1949 c. 488; 1951 c. 34; 1953 c. 280 s. 2 to 4; 1969 c. 305; 1969 c. 366 s. 117 (2) (a).

Revisers' Note, 1878: Section 2, chapter 118, R. S. 1858, as amended by chapter 71, Laws 1870, amended and enlarged to cover various persons who manifestly ought to be embraced.

255.03 History: 1889 c. 493; Ann. Stats. 1889 s. 2544k to 2544 n; 1897 c. 176 s. 1 to 6; Stats. 1898 s. 2533a; 1911 c. 306; 1913 c. 441; 1915 c. 326; 1919 c. 93 s. 36; 1919 c. 280; 1919 c. 362 s. 27; 1925 c. 4, 140; Stats. 1925 s. 255.03; 1945 c. 540; 1949 c. 488, 498, 643; 1953 c. 280 s. 6; 1961 c. 179, 495; 1963 c. 185.

See note to sec. 9, art. XIII, citing *State ex rel. Gubbins v. Anson*, 132 W 461, 112 NW 475.

The offices of jury commissioner and justice of the peace are compatible. 3 Atty. Gen. 732.

255.031 History: R. S. 1858 c. 167 s. 24, 25; R. S. 1878 s. 4502; 1889 c. 493; Ann. Stats. 1889 s. 2544o, 4502; 1897 c. 176 s. 15; Stats. 1898 s. 2533f, 4502; 1913 c. 441 s. 5; Stats. 1913 s. 4502; 1925 c. 4; Stats. 1925 s. 346.52; 1955 c. 696 s. 185; Stats. 1955 s. 255.031.

255.04 History: 1889 c. 493; Ann. Stats. 1889 s. 2544b to 2544d; 1897 c. 176 s. 1 to 6; Stats. 1898 s. 2533b; 1901 c. 35; 1903 c. 254; Supl. 1906 s. 2533b; 1907 c. 323; 1911 c. 219; 1913 c. 441; 1915 c. 326 s. 3; 1925 c. 4; Stats. 1925 s. 255.04; 1949 c. 488; 1953 c. 280 s. 7-9; 1955 c. 167; 1959 c. 167; 1961 c. 495; 1963 c. 180, 193; 1967 c. 276 s. 40; 1969 c. 29, 87.

Editor's Note: This section is cited in some of the criminal cases noted under 972.01.

An objection that no list of jurors was made and certified according to secs. 2526 and 2527, R. S. 1878, is in the nature of a