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

challenge to the array and if well founded is too late after verdict unless it is shown that the objecting party was injured by the irregularity. Heucke v. Milwaukee C. R. Co. 69 W 401, 34 NW 243.

255.041 History: R. S. 1849 c. 97 s. 33; R. S. 1858 c. 118 s. 34; R. S. 1878 s. 2559; Stats. 1898 s. 2559; 1913 c. 441 s. 13; Stats. 1913 s. 4502o; 1925 c. 4; Stats. 1925 s. 346.55; 1949 c. 488; 1955 c. 696 s. 188; Stats. 1955 s. 255.041.

255.05 History: 1889 c. 493; Ann. Stats. 1889 s. 2537; 1897 c. 176 s. 6, 9; Stats. 1898 s. 2533c; 1925 c. 4; Stats. 1925 s. 255.05; Sup. Ct. Order, 251 W v; 1949 c. 488; 1953 c. 280 s. 10; 1969 c. 29.

The court may use its discretion in summoning jurors. The regular panel need not be always full. Rounds v. State, 57 W 45, 14 NW 865.

Under sec. 2539, R. S. 1878, where 2 juries were out and one juror was excused, so that only 11 of the regular panel remained, the lack could be supplied. Olson v. Solveson, 71 W 663, 38 NW 329.

If the record shows that the sheriff stood indifferent between the state and the accused the fact that he was an important witness for the prosecution does not disqualify him for serving a special venire. Sullivan v. State, 75 W 650, 44 NW 647.

Errors as to the regularity of the jury are waived if no objection is made. French v. State, 98 W 341, 73 NW 991.

Where the court directs the jury be summoned from the county instead of supplying the deficiency by having the names drawn from the box containing the names of the petit jurors for the year, the verdict should not be set aside where the objection was not made before the return of the verdict. Union Nat. Bank v. Cross, 100 W 174, 75 NW 992.

The question of drawing jurors is left to the discretion of the judge. Emery v. State, 101 W 627, 78 NW 145.

255.06 History: 1889 c. 493; Ann. Stats. 1889 s. 2544g; 1897 c. 176 s. 7; Stats. 1898 s. 2533d; 1907 c. 95; 1915 c. 41; 1925 c. 4; Stats. 1925 s. 255.06; 1949 c. 488.

Sec. 2533d, Stats. 1898, does not contemplate that a special venire shall be issued until the regular panel of jurors is actually exhausted. Vogel v. State, 138 W 315, 119 NW 190.

255.07 History: 1889 c. 493; Ann. Stats. 1889 s. 2544j; 1897 c. 176 s. 8, 10; Stats. 1898 s. 2533e; 1925 c. 4; Stats. 1925 s. 255.07; 1949 c. 488; 1953 c. 280 s. 11.

255.08 History: R. S. 1858 c. 118 s. 9; 1871 c. 137 s. 40; R. S. 1878 s. 2535; 1889 c. 140; 1889 c. 294 s. 2; Ann. Stats. 1889 s. 2535; Stats. 1898 s. 2535; 1925 c. 4; Stats. 1925 s. 255.08; 1953 c. 280 s. 12.

255.09 History: R. S. 1849 c. 97 s. 10, 14; R. S. 1858 c. 118 s. 11, 15; 1871 c. 137 s. 42; R. S. 1878 s. 2536; 1889 c. 140 s. 4; Ann. Stats. 1889 s. 2536; Stats. 1898 s. 2536; 1903 c. 90 s. 8; Supl. 1906 s. 2536; 1909 c. 339; 1925 c. 4; Stats. 1925 s. 255.09; 1953 c. 280 s. 13.

Revisers' Note, 1878: Section 11, chapter 118, R. S. 1858, as amended by section 42, chapter 137, Laws 1871, and section 15, chapter 118, R. S. 1858, briefly added so as to declare the duty to execute all venires.

The presumption is that jurors were regularly summoned. Osgood v. State, 64 W 472, 25 NW 529.

255.095 History: R. S. 1849 c. 97 s. 8; R. S. 1858 c. 118 s. 33; R. S. 1878 s. 2558; Stats. 1898 s. 2558; 1913 c. 441 s. 12; Stats. 1913 s. 4502n; 1925 c. 4; Stats. 1925 s. 346.54; 1955 c. 696 s. 187; Stats. 1955 s. 255.095.

255.10 History: 1953 c. 280 s. 14; Stats. 1953 s. 255.10; 1969 c. 252.

Editor's Note: In Baker v. State, 80 W 416, 50 NW 518, an early statute governing the summoning of grand jurors (sec. 2545, R. S. 1878, as amended) was held to be inapplicable to prosecutions by information.

A grand jury may be summoned at an extra jury term of the circuit court, and indictments found by it are valid. A criminal cause may be tried at such term. The decision of the circuit judge as to the necessity for holding such term is not subject to question or review. Oshoga v. State, 3 Pin. 56.

Where the circuit judge by mistake permitted 2 more persons to be sworn on grand jury than the statute allowed (sec. 13, ch. 118, Laws 1858), but before any action was taken discharged the 2 last sworn, it was not ground for quashing indictments. State v. Fee, 19 W 562.

Where the clerk of the circuit court acted as one of the jury commissioners in the drawing of the grand jury, sometimes suggested names at the request of the commissioners, and participated in the discussion but not in the final decision, there was no irregularity. Schutz v. State, 133 W 215, 113 NW 428.

The fact that only 50 names were selected for service on the grand jury and this list was not certified by all of the commissioners did not prejudice the accused person, where a sufficient number of qualified grand jurors was drawn and impaneled. A party has no right to complain if a competent person is excused, so long as the jurors trying his case are impartial. In a proceeding to prohibit the circuit court from proceeding with a criminal trial, an allegation by the accused, on information and belief, that members of the grand jury conferred with the judge, without alleging that any matter connected with the charges against accused were discussed or that the indictment in any way resulted from such conferences, is insufficient to show that any of the substantial rights of the accused were affected. State v. Wescott, 194 W 410, 217 NW 283.

John Doe and grand jury proceeding. 33 MLR 121.

Right to counsel before investigatory grand jury. 1967 WLR 1007.

255.11 History: R. S. 1849 c. 97 s. 16; R. S. 1858 c. 118 s. 17; R. S. 1878 s. 2547; Stats. 1898 s. 2547; 1925 c. 4; Stats. 1925 s. 255.19; 1953 c. 280 s. 18; Stats. 1953 s. 255.11.

255.12 History: R. S. 1849 c. 97 s. 18; R. S.

1858 c. 118 s. 19; R. S. 1878 s. 2550; Stats. 1898 s. 2550; 1925 c. 4; Stats. 1925 s. 255.22; 1953 c. 280 s. 21; Stats. 1953 s. 255.12.

255.13 History: 1903 c. 90 s. 7; Supl. 1906 s. 2546f; 1913 c. 441; Stats. 1913 s. 2546f, 4502m; 1919 c. 190; 1925 c. 4; Stats. 1925 s. 255.18, 346.53; 1953 c. 280 s. 16; Stats. 1953 s. 255.13, 346.53; 1955 c. 696 s. 186; Stats. 1955 s. 255.13.

The minutes of the clerk of the grand jury of their proceedings are not a public record. Such record is secret and such secrecy must be maintained. One accused of crime is not entitled to the inspection of the records of the grand jury so far as they relate to the testimony given by him before it, for the purpose of preparing for trial or laying the foundation for impeaching immune witnesses. Havenor v. State, 125 W 444, 104 NW 116.

An official court reporter cannot be excused for delay in furnishing transcripts of evidence taken by him on trials in the circuit court by reason of his attending the sittings of a grand jury. In re Snyder, 184 W 10, 198 NW 616.

255.14 History: R. S. 1849 c. 97 s. 17; R. S. 1858 c. 118 s. 18; R. S. 1878 s. 2549; Stats. 1898 s. 2549; 1925 c. 4; Stats. 1925 s. 255.21; 1953 c. 280 s. 20; Stats. 1953 s. 255.14.

255.15 History: R. S. 1849 c. 97 s. 23, 36; R. S. 1858 c. 118 s. 24; R. S. 1878 s. 2551; Stats. 1898 s. 2551; 1925 c. 4; Stats. 1925 s. 255.23; 1953 c. 280 s. 22; Stats. 1953 s. 255.15.

An erroneous instruction by the court to a grand jury is not ground for quashing an indictment or sustaining a plea in abatement, for the reasons that a grand jury merely presents an accusation, is not bound by instructions of the court as to the law, may be advised by the district attorney, and the secrecy of the proceedings makes it impossible for the court to determine whether an erroneous instruction was prejudicial. State v. Lawler, 221 W 423, 267 NW 65.

255.16 History: 1866 c. 128 s. 3; R. S. 1878 s. 2552; Stats. 1898 s. 2552; 1925 c. 4; Stats. 1925 s. 255.24; 1953 c. 280 s. 23; Stats. 1953 s. 255.16.

255.17 History: 1903 c. 90 s. 6; Supl. 1906 s. 2546e; 1925 c. 4; Stats. 1925 s. 255.17.

The record sufficiently showed that the indictment was returned into court by the grand jury. It is not necessary that the name of the judge holding the term should appear in the indictment. Hogan v. State, 30 W 428.

The report of the grand jury criticizing the practice of an unnamed member of the city attorney's staff in accepting retainers was unauthorized, and should be stricken from the court files. In re Grand Jury Report: Petition of Williams, 204 W 409, 235 NW 789.

Although the court should instruct a grand jury, the failure to do so does not invalidate the indictment. The weight or sufficiency of the evidence before a grand jury to warrant an indictment is not reviewable upon a plea in abatement or a motion to quash the indictment. If it be made to appear that there was no evidence before a grand jury, or the sole evidence upon which it acted was illegal, the indictment may be quashed. A grand jury is warranted in returning an indictment where it has before it competent, credible evidence which excites in its mind after careful consideration an honest, reasonable belief that the accused committed the offense charged. State v. Lawler, 221 W 423, 267 NW 65.

255.18 History: 1953 c. 280 s. 17; Stats. 1953 s.255.18.

An accused is not entitled to inspect the minutes of the grand jury to enable him to prepare his defense, pleas and motions. Inspection of the minutes of the grand jury is not allowed except in the instances provided for by legislation and permitted by the courts when necessary to protect the rights of citizens in the administration of justice. Steensland v. Hoppmann, 213 W 593, 252 NW 146.

255.19 History: R. S. 1849 c. 97 s. 20; R. S. 1858 c. 118 s. 21; R. S. 1878 s. 2553; Stats. 1898 s. 2553; 1925 c. 4; Stats. 1925 s. 255.25; 1953 c. 280 s. 24; Stats. 1953 s. 255.19.

The injunction of secrecy as to grand jury proceedings is for the benefit of the jurors and the public, and not the one who is indicted by the jury, and the one who is indicted cannot complain of alleged failure of the grand jury to maintain the secrecy of its proceedings. One tried on an indictment returned by a grand jury was not entitled to claim a mistrial by reason of the fact that 2 special investigators were permitted in the grand jury room during sessions of the grand jury, such special investigators not having been present during the deliberations of the grand jury when the question of voting on indictments was being considered, and the defendant having failed to show that his rights were in any way prejudiced by the presence of such 2 investigators in the grand jury room. State v. Krause, 260 W 313, 50 NW (2d) 439.

255.20 History: R. S. 1849 c. 97 s. 23; R. S. 1858 c. 118 s. 22; R. S. 1878 s. 2554; Stats. 1898 s. 2554; 1925 c. 4; Stats. 1925 s. 255.26; 1953 c. 280 s. 24; Stats. 1953 s. 255.20.

255.21 History: R. S. 1849 c. 97 s. 23; R. S. 1858 c. 118 s. 23; R. S. 1878 s. 2555; Stats. 1898 s. 2555; 1925 c. 4; Stats. 1925 s. 255.27; 1953 c. 280 s. 25; Stats. 1953 s. 255.21.

Secs. 2553-2555, Stats. 1898, do not abrogate the common-law rules as to the competency of evidence as to statements made before the grand jury. Murphy v. State, 124 W 635, 102 NW 1087.

The procedure followed by the state in establishing, in the absence of the jury, that a witness had given inconsistent testimony before the grand jury from that given at the trial, by calling a grand jury member and permitting him to testify as to inconsistencies, was proper. The grand jury member having no independent recollection of the testimony given before the grand jury, it was proper that he be permitted to refresh his memory from the grand jury transcript, the accuracy of such transcript having been established by the reporter who had recorded the testimony in shorthand. The proper groundwork was thus laid by the state for the impeachment of

the witness. The trial court's refusal to permit defense counsel to make use of a transcript of grand jury testimony, which had been used by a grand jury member to refresh his memory in testifying as to inconsistencies in the testimony of a witness who had also testified before the grand jury, was proper, since defense counsel, if he believed that there was other testimony of such witness before the grand jury which would explain away the inconsistent testimony, as established by the questions and answers read into the record from the transcript, had the right to ask such grand jury member, or any other grand jury member, as to the existence of such other testimony. State v. Krause, 260 W 313, 50 NW (2d) 439.

255.22 History: R. S. 1849 c. 97 s. 19; R. S. 1858 c. 118 s. 20; R. S. 1878 s. 2556; Stats. 1898 s. 2556; 1925 c. 4; Stats. 1925 s. 255.28; 1953 c. 280 s. 26; Stats. 1953 s. 255.22.

255.23 History: R. S. 1849 c. 97 s. 11; R. S. 1858 c. 118 s. 12; R. S. 1878 s. 2557; Stats. 1898 s. 2557; 1925 c. 4; Stats. 1925 s. 255.29; 1953 c. 280 s. 26; Stats. 1953 s. 255.23.

255.24 History: R. S. 1849 c. 97 s. 34; R. S. 1858 c. 118 s. 35; 1859 c. 91 s. 2; R. S. 1878 s. 2560; Stats. 1898 s. 2560; 1901 c. 93 s. 1; Supl. 1906 s. 2560; 1923 c. 307 s. 18; 1925 c. 4; Stats. 1925 s. 255.30; 1929 c. 286; 1953 c. 280 s. 26; Stats. 1953 s. 255.24.

Revisers' Note, 1878: Section 35, chapter 118, R. S. 1878, as amended by section 2, chapter 91, Laws 1859, amended to require certificates to be countersigned. Frauds have been perpetrated on the county for the want of this safeguard. So much of chapter 225, Laws 1877, as directs the treasurer to pay for such certificates as included.

255.25 History: 1877 c. 225; R. S. 1878 s. 2561; Stats. 1898 s. 2561; 1903 c. 126 s. 1; Supl. 1906 s. 2561; 1907 c. 617; 1919 c. 76; 1923 c. 307 s. 19; 1925 c. 4; Stats. 1925 s. 255.31; 1945 c. 146; 1949 c. 498; 1953 c. 280 s. 26; Stats. 1953 s. 255.25; 1955 c. 187; 1961 c. 495.

The circuit court may dismiss from attendance upon it for a limited and specified time a juror summoned for service at a term without finally discharging him from other duties; a juror so excused is not entitled to per diem fixed by statute for jury service. 17 Atty. Gen. 33.

A county board has no authority to decrease the statutory mileage allowance of jurors. 38 Atty. Gen. 571.

A county can pay a juror only the per diem and mileage allowed. The court, however, may make arrangement for payment for meals under certain circumstances. 53 Atty. Gen. 120.

255.26 History: 1877 c. 225; R. S. 1878 s. 2562; Stats. 1898 s. 2562; 1903 c. 126 s. 2; Supl. 1906 s. 2562; 1919 c. 76; 1925 c. 4; Stats. 1925 s. 255.32; 1953 c. 280 s. 26; Stats. 1953 s. 255.26.

CHAPTER 256.

General Provisions Concerning Courts of Record, Judges, Attorneys and Clerks.

256.01 History: 1848 p. 21 s. 6; R. S. 1849 c. 87 s. 1; R. S. 1858 c. 117 s. 7; R. S. 1858 c. 119 s. 1; R. S. 1878 s. 2564; Stats. 1898 s. 2564; 1919 c. 93 s. 6; 1925 c. 4; Stats. 1925 s. 256.01.

Revisers' Note, 1878: Section 1, chapter 119, R. S. 1858, omitting the declaration that courts having a seal are courts of record; each court of record, intended to be such, having been so declared, adding a fourth subdivision to express, generally, powers of judges covering section 6, judiciary act of 1848, section 7, chapter 117, R. S. 1858, and others.

On judicial power generally see notes to sec. 2, art. VII.

The power conferred upon the several courts of record to issue process of subpoena is limited to any matter or cause pending or triable in such courts and does not extend to matters pending before administrative agencies. State ex rel. Thompson v. Nash, 27 W (2d) 183, 133 NW (2d) 769.

256.02 History: 1848 p. 20 s. 3; 1848 p. 21 s. 6; R. S. 1849 c. 87 s. 1; R. S. 1858 c. 117 s. 7; R. S. 1858 c. 119 s. 1; R. S. 1878 s. 2419, 2564; Ann. Stats. 1889 s. 2419, 2564; Stats. 1898 s. 2419, 2564; 1903 c. 407 s. 1, 2; 1913 c. 592 s. 2; 1913 c. 705; Stats. 1913 s. 113.02, 2523—22, 2564 sub. 4; 1917 c. 651; 1919 c. 93 s. 4, 5, 6; Stats. 1919 s. 2564m; 1923 c. 134; 1925 c. 4; Stats. 1925 s. 256.02; 1929 c. 32; 1929 c. 262 s. 18; 1943 c. 180; 1947 c. 584; 1951 c. 206; 1961 c. 495; 1967 c. 276 s. 39.

Editor's Note: Ch. 93, Laws 1919, revised the statutes as to official oaths and bonds. The bill was No. 2-S (by the revisor) and had many notes. A long and learned note followed sec. 4 of the bill which amended 256.02. That note, with some deletions, is printed in the Wis. Annotations, 1930. Its value is historic.

The official oath to which a circuit judge subscribes under 256.02 (1) does not affirm the present existence of a fact but relates to future conduct and is a promissory oath, the violation of which does not constitute perjury or grounds for impeachment. State v. McCarthy, 255 W 234, 38 NW (2d) 679.

256.025 History: 1959 c. 405; Stats. 1959 s. 256.025; 1969 c. 253.

256.03 History: R. S. 1849 c. 85 s. 12; R. S. 1849 c. 86 s. 27; R. S. 1849 c. 87 s. 7; R. S. 1858 c. 117 s. 12, 45; R. S. 1858 c. 119 s. 7; R. S. 1878 s. 2565; Stats. 1898 s. 2565; 1925 c. 4; Stats. 1925 s. 256.03.

On certiorari to a justice of the peace the county court has ample power to compel him to amend his return and to administer punishment for refusal. Talbot v. White, 1 W 444.

One committed for refusal to obey an order for payment of suit money is entitled to jail liberties. In re Gill, 20 W 686.

After judgment of contempt, if it is shown that the party adjudged guilty failed to appear through mistake or excusable neglect the judgment may be vacated. Mead v. Norris, 21 W 310.

In supplementary proceedings a judgment debtor's wife may be required to disclose whether she has property of the husband under her control, and may be attached as for contempt on refusing. In re O'Brien, 24 W 547.