

Opinion No. 12-896

May 20, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Mr. J. D. Walker, Carlsbad, New Mexico.

JURISDICTION OF JUSTICES OF THE PEACE.

Until legislature acts, the jurisdiction of a justice of the peace in civil actions shall not exceed \$ 100.00.

OPINION

{*37} I have just received your letter of the 16th inst. in which you ask whether as a justice of the peace you now have jurisdiction in cases where the amount in dispute, exclusive of interest, is more than \$ 100.00 or less than \$ 200.00.

The present statute of New Mexico is not negative as is the clause in the Constitution but affirmatively gives each justice of the peace jurisdiction in civil actions where the debt, damages or value of property shall not exceed \$ 100.00 with certain exceptions as you will see by reference to Section 3232 of the Compiled Laws of 1897. The Constitution in Section 26 of Article VI negatively prohibits justices of the peace from having jurisdiction in any matter in which the debt or sum claimed shall be in excess of \$ 200.00 exclusive of interest. This does not confer any jurisdiction on the justice but requires legislation to make it operative beyond the jurisdiction already conferred by statute. As you say the Constitution provides that all laws in force in conformity with the Constitution shall remain in force. There is no inconsistency between the statute above referred to and the clause of the Constitution. While the Constitution forbids the giving to justices of jurisdiction above \$ 200.00, yet the legislature might consistently limit the jurisdiction to a less amount. Therefore, until the legislature acts, the jurisdiction must remain the same as fixed by the Territorial statute.