

Opinion No. 16-1816

June 5, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Mr. J. M. Mays, Des Moines, New Mexico.

Jurisdiction of justices of the peace \$ 100.00 in replevin cases.

OPINION

{*379} I have just received your letter of the 3rd instant calling attention to the fact that Section 3173 of the Codification of 1915, says that justices of the peace shall have jurisdiction in all civil actions in which the debt or sum claimed shall not be in excess of \$ 200, exclusive of interest; while Section 3252 provides that whenever goods or chattels are wrongfully taken or obtained, the value of which shall not exceed \$ 100, an action of replevin may be brought by the person having a right to the immediate possession for the recovery thereof and for damages; and you desire to know what is the limit of the jurisdiction of a justice of the peace in a replevin suit.

Section 3173 applies to civil actions brought for the recovery of a debt or for the recovery of a sum of money for damages, while the sections as to the action of replevin in the courts of justice of the peace are for the recovery of the specified articles of personal property which must not exceed \$ 100 in value, and for damages in addition thereto. As to the statutes now in existence, I am of opinion that in replevin suits the value of the goods or chattels cannot exceed \$ 100 in order to give a justice of the peace jurisdiction. It is altogether probable that the intention of the Legislature was to increase the jurisdiction to \$ 200 even in replevin cases, but we {*380} can ascertain the legislative intent only from the language used in the statute, and both sections must stand, if possible.