

OF JUSTICE'S COURT.

LORD'S OREGON LAWS

CHAPTER V.

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Code Commissioner

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§ 953. Where Action May Be Commenced.

In an action to recover a penalty or forfeiture given by statute, the cause of action, or some part thereof, must have arisen within the county where the action is commenced, or upon a lake, river, or other water bordering upon such county and opposite thereto; but otherwise than this the jurisdiction of a justice's court does not depend upon where the cause arose; *provided*, that the plaintiff or defendant shall reside in the precinct where the action is commenced, or personal service can be had on the defendant in any precinct in the county; *and further provided*, that in counties having a population exceeding eighty thousand inhabitants no action in a justice's court shall be commenced except in the precinct or district where the defendant resides or may be found, and if the defendant do not reside in the state the action may be commenced in any precinct or justice district in the state. [L. 1862; D. § 883; L. 1865, p. 40, § 12; H. § 910; L. 1901, p. 295; B. & C. § 928.]

A justice's court has jurisdiction, without regard to the residence of the parties, when personal service of the summons is made on the defendant in any precinct in the county, although such precinct is not the one in which the action is brought. Such service may be brought by the constable of the precinct in which the action is brought: *Taylor v. Jenkins*, 11 Or. 275, 3 Pac. 681.

Justice's courts have jurisdiction of actions of replevin where the value of the property and the damages claimed do not exceed \$250, and such jurisdiction does not depend upon where the cause of action arose, provided the plaintiff or defendant reside in the precinct where the action is commenced, or service be had upon the defendant within the county, or where the defendant does not reside in the state: *Kirk v. Matlock*, 12 Or. 319, 7 Pac. 322.

A summons issuing out of a justice's court

must be served on the defendant within the county where the court sits: *Pierce v. Rock Creek Min. Co.* 37 Or. 342, 61 Pac. 348.

These decisions were made before the amendment of 1901 to this section.

The rules of procedure in justices' courts being the same as the rules in courts of record since 1899 (§ 2428, *post*), and it being the duty of the circuit court on appeal to try the case anew, disregarding irregularities or imperfections in matters of form (§ 2463, *post*), a replevin complaint in a justice's court alleging only the venue of the seizure, and being silent as to the venue of the detention, is sufficient after answer and trial, as, applying the rules prevailing in the courts of record, it might be implied from the allegation as to the locality of the taking that the property remained within the county: *Byers v. Ferguson*, 41 Or. 81, 65 Pac. 1067, 68 Pac. 5.