

**OPINION**  
**61-66**

July 21, 1961 (OPINION)

COUNTY COURTS OF INCREASED JURISDICTION

RE: Justice Court Procedure

This is in reply to your letter of July 17, 1961, concerning the new county justice act.

In your letter you set forth the following facts and question:

Under the Justice Code, a civil action may be heard at anytime between three and fifteen days. Stutsman County has a County Court of Increased Jurisdiction, and as Judge of this Court, my question is this: The Jurisdiction conferred upon this Court by the constitution and statutes is concurrent with that of the District Court in that a summons may be answered within twenty days. Does this also hold true of an action brought under the old Justice Code jurisdiction where the defendant is requested to answer before the Court after three days and not later than fifteen days, or may the defendant put in an answer within twenty days."

We note that section 27-08-20 of the North Dakota Century Code, effective July 1, 1961, provides as follows:

JURISDICTION OF COUNTY COURTS OF INCREASED JURISDICTION. A county court of any county of this state which, by an election, has been given increased jurisdiction, in addition to its prior jurisdiction, shall have concurrent jurisdiction with the district court in all civil actions where the amount in controversy does not exceed one thousand dollars and in all criminal actions below the grade of felony. The jurisdiction and powers formerly vested in the justices of the peace are hereby conferred concurrently upon such county court." See also Section 111 of the North Dakota Constitution.

We also note that under the provisions of section 33-01-04 of the North Dakota Century Code the justice court has jurisdiction in all civil actions when the amount in controversy exclusive of costs does not exceed two hundred dollars. This jurisdiction of the justice court is concurrent with that of the District Court. See Section 112 of the North Dakota Constitution. Therefore, the civil jurisdiction of the county court of increased jurisdiction and that of the justice court would also be concurrent within the limits set forth by the statutes and the Constitution of North Dakota.

The county court of increased jurisdiction and the justice court had concurrent jurisdiction in certain civil matters prior to the amendment of section 27-08-20 by the 1959 Legislature. The amendment consisted of the addition of the words: "The jurisdiction and powers formerly vested in the justices of the peace are hereby conferred concurrently upon such county court." Since the county court of

increased jurisdiction already had concurrent jurisdiction in certain civil matters, the amendment did not serve to increase or alter the powers and jurisdiction of the county court of increased jurisdiction in such civil matters.

As noted in your letter, a summons in any action in a county court having increased jurisdiction shall require the defendant to answer within twenty days after the service of the summons, exclusive of the day of service. This was also the requirement at the time the county court of increased jurisdiction and the justice court had concurrent jurisdiction in certain civil matters.

Since the 1959 amendment did not serve to increase or alter the powers and jurisdiction of the county court of increased jurisdiction in civil matters, we do not believe there was any intent on the part of the Legislature to alter the twenty day period in which a summons may be answered in such court. We believe the Legislature intended there be a uniform time in the county court of increased jurisdiction in which to answer the summons. If the justice court procedure were to be adopted in certain civil cases it would result in some confusion in that certain summons would have to be answered in three to fifteen days and other summons would have a twenty day period. This would be an unjust result in view of the fact there is no distinction, insofar as jurisdiction of the court is concerned, between the cases.

It is, therefore, our opinion that the procedural rules heretofore applicable to civil actions in county courts of increased jurisdiction have not been altered by the enactment of the county justice act and that a defendant in such a court may submit an answer within twenty days after service of the summons although he is requested to appear before the court at a time specified within the three to fifteen day period applicable to justice court.

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