

Opinion No. 69**Fish and Game—Justice Courts—Forfeitures—Search Warrants.**

HELD: A justice court, being a court of limited jurisdiction and having only such as is provided by statute, it is doubtful whether it would have jurisdiction of a case where a forfeiture was imposed; in all such cases the district court is the proper court in which to proceed.

The issuance of a search warrant for the purpose of discovering game possessed in violation of the laws, or showing evidence of illegal taking, is authorized by section 3659, R. C. M. 1921.

February 8, 1933.

You have referred to this office a letter of Mr. Dean King, County Attorney of Flathead County. Mr. King calls attention to the fact that justice courts have jurisdiction where the penalty is imprisonment not exceeding six months or a fine not exceeding \$500, or both, and that the district court has jurisdiction in all other cases. His conclusion is that the district court has jurisdiction of game law violations and I believe that this is true where a forfeiture is attempted to be imposed.

A justice court, being a court of limited jurisdiction, and having only such as is provided by statute, it is doubtful whether it would have jurisdiction of a case where a forfeiture was imposed; in all such cases the district court is the proper court in which to proceed.

Mr. King also calls attention to section 3659, R. C. M. 1921, which authorizes a game warden to enter various places with or without a search warrant and suggests that there is no provision in the statute for issuing a search warrant to uncover game law violations. The search warrant law provides that a warrant may issue to discover stolen property or where property has been used for the commission of a felony. In my opinion, section 3659 grants authority to issue a search warrant by the use of the following language: "and with a search warrant to search and examine the contents of any dwelling house or other buildings, to seize all game, fish, game birds and quadrupeds, or any parts thereof, possessed in violation of the laws, or showing evidence of illegal taking, * * *".

For the purpose of discovering such game, or parts thereof, this section, in my opinion, must be read into the law in regard to issuing search warrants and is sufficient authority for issuing a search warrant for the purposes therein specified.