

Game Law, Violation Of, Assessment of Costs as Part of Penalty.

It is not proper to assess costs as a part of the penalty for violation of Chapter 52, Laws 1905, as there is no provision in the law making costs a part of the penalty for its violation.

Helena, Montana, May 12, 1905.

Roy E. Ayers, Esq., County Attorney, Lewistown, Montana.

Dear Sir:—I am in receipt of your favor of the 8th, making inquiry regarding the assessment of costs upon conviction of persons for violation of the provisions of Chapter 52, Laws 1905.

It will be seen upon reference to said chapter that no provision is made for the assessment of costs as a part of the penalty for a violation of the law, and I am therefore of opinion that a defendant should not be imprisoned for costs. It is proper to punish him by fine or imprisonment, or both, and to imprison for non-payment of a fine imposed, but he should not be imprisoned for non-payment of costs.

The following cases will give you light upon this question, viz: State v. Sullivan, 9 Mont. 490, and State v. Reynolds, (Mont.) 36 Pac. 449.

Yours very truly,

ALBERT J. GALEN,
Attorney General.