

Transfer of Criminal Case—Costs, Payment Of.

Under the provisions of Sections 4682 and 4683, Political Code, Lewis and Clark County must pay all costs, as allowed and certified by the court of Cascade County, upon the removal and trial of the case of State v. Keerl from Lewis and Clark County, upon warrant drawn for the amount thereof upon the treasurer of Lewis and Clark County by the board of county commissioners of Cascade County.

Helena, Montana, June 12, 1905.

H. S. Green, Esq., County Attorney, Great Falls, Montana.

Dear Sir: I am in receipt of your favor of the 9th, asking my con-

struction of Sections 4682 and 4683 of the Political Code, in relation to the removal of a criminal action and the payment of costs therein.

On the 9th, in answer to your telephonic communication, you were by my office referred to said sections as your guidance respecting the method of procedure in such matters, and I now give you my construction of said sections, as requested.

The sections in question are ambiguous and about as clumsy as any with which I have yet had to deal, but in my judgment, when they are carefully studied over and simmered down, their correct interpretation, as applied to the case of *State v. Keerl*, removed from Lewis and Clark County to Cascade County, is the following:

The costs accruing, upon removal and trial of the case of *State v. Keerl*, is a charge against Lewis and Clark County, and the procedure for perfecting such charge is the following: The district court of Cascade County must certify to the board of county commissioners of Cascade County the amount of costs allowed by said court, and the board of county commissioners of Cascade County shall thereupon audit the same and draw their warrant for such amount upon the treasurer of Lewis and Clark county and forward to the treasurer and board of county commissioners of Lewis and Clark County a certified copy of the total amount of costs allowed by the court, giving each item as certified to them by the clerk of the court and the court, and the board of county commissioners of Lewis and Clark County, upon receiving such certified copy of such costs, allowed as aforesaid, shall enter the same in their books as a charge against the treasurer of Lewis and Clark County, and the treasurer of Lewis and Clark County must immediately, upon presentation, pay said warrant drawn by the board of county commissioners of Cascade County out of the general fund of Lewis and Clark County, or, if at the time of presentation, there is not sufficient moneys in the general fund, he must endorse upon such warrant "not paid for want for funds," etc., and such warrant shall draw interest at the same rate and be paid in the same manner as though it had been drawn by the board of county commissioners of Lewis and Clark County.

Hoping that this construction of said sections will aid you and the board in solving the problems presented in the case of *State v. Keerl*, I remain,

Yours respectfully,

ALBERT J. GALEN,

Attorney General.