

Answer by letter-Wieler

May 7, 1970

OPINION LETTER NO. 287

Honorable John C. Vaughn
Comptroller and Budget Director
State Capitol
State of Missouri
Jefferson City, Missouri 65101



Dear Mr. Vaughn:

This is in response to your request for an opinion with regard to House Bill No. 52, passed by the 75th General Assembly and enacted into law October 13, 1969. Specifically, you ask whether the state or the county is liable for the costs incurred by the sheriff who returns a person to this state after extradition has been waived by that person pursuant to House Bill No. 52 and further, you ask whether these costs are to be paid as provided under Chapter 550, RSMo, or whether they should be paid as extradition costs under Section 548.241, RSMo, if the state is liable for these costs.

House Bill No. 52 provides:

"Section 1. In any criminal proceeding wherein a court in this state has issued a warrant for the arrest of a person and that person was arrested in an adjoining state and then that person waives extradition and consents to return to this state, all necessary expenses, which would be paid by the state if there had been extradition, incurred by the sheriff or his deputy in returning the person shall be paid to the sheriff and shall be taxed as costs in the criminal proceeding."

The bill expressly provides that these expenses are to be taxed as costs in the criminal proceeding initiated in this state against

Honorable John C. Vaughn

the fugitive. In determining who is responsible for these costs, reference must be made to Chapter 550 of the Revised Statutes of Missouri. No further answer can be given to your first question without having the facts of a particular case at hand.

With respect to your second question, if the state is liable for these costs, they should be paid as provided under Chapter 550 of the Revised Statutes of Missouri. The expenses incurred by the sheriff or his deputy in returning a fugitive from an adjoining state where that person waives extradition and consents to return cannot be paid as extradition costs under Section 548.241, RSMo, for the simple reason that they are not extradition costs. Section 548.241 only deals with those costs which arise when the governor makes a formal demand upon the executive authority of another state and issues a governor's warrant naming a specific agent as the governor's representative for purposes of returning the fugitive from the other state pursuant to Section 548.221, RSMo 1959. House Bill No. 52 refers to extradition for the sole purpose of determining which expenses incurred by the sheriff or his deputy in returning the fugitive to this state shall be taxed as costs. These expenses are defined as those necessary expenses ". . . which would be paid by the state if there had been extradition," Therefore, Section 548.241, RSMo, should be looked at in determining what expenses are paid by the state where there has been extradition; but the expenses incurred by the sheriff or his deputy in returning a fugitive from an adjoining state where that person has waived extradition and consents to return, once determined, should be submitted under the provisions of Chapter 550, RSMo, the same as other criminal costs.

Yours very truly,

JOHN C. DANFORTH
Attorney General