



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. E. P. Jennings
County Auditor
Hardin County
Kountze, Texas

Dear Sir:

Opinion No. O-1009
Re: Half costs under Article 1055,
C. C. P., from January to May,
1939.

This will acknowledge receipt of your letter of June 19th, asking that we render our opinion on the following question:

"Under the recent amendment to Article 1055, C. C. P., allowing officers one-half cost in cases where the judgments of conviction are satisfied by jail lay-outs, is the county liable for one-half cost to such officers in cases tried and disposed of prior to the recent amendment, i. e., January 1939 to May 1939 inclusive?"

We respectfully call to your attention our Opinion No. O-23 (conference opinion No. 3033), wherein we held the attempted amendment of Article 1055, C. C. P., known as H. B. 727 of the Forty-Fifth Legislature to be void. A copy of said opinion is herewith enclosed. After an analysis of the act in question and our conclusion of its invalidity, we determined (see page 6 of O-23) Article 1055 to be operative as though there had been no amendment attempted by the Legislature.

In a recent opinion (opinion No. O-907) we held H. B. 205 passed by the Forty-Sixth Legislature at its recently adjourned session to be a valid and constitutional law. We also enclose a copy of this opinion.

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Inasmuch as Article 1055 was operative as codified in the revision of 1925 until amended by H. B. 205, supra, and did not provide for any payment to officers where prisoners satisfied their respective fines and costs by mere jail confinement without labor as provided in Article 1055, supra, your question is answered in the negative. Officers would be entitled to their fees as provided in H. B. 205, supra, from and after its effective date only.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Benjamin Woodall*
Benjamin Woodall
Assistant

BW:AW

ENCLOSURES



APPROVED JUN 27, 1939

Greeneb. Mann

ATTORNEY GENERAL OF TEXAS