



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

January 16, 1939

Hon. Ben F. Thorpe
County Attorney
Scurry County
Snyder, Texas

Dear Sir:

Opinion No. 0-149
Re: Article 1055 C. C. P.

Your request for an opinion on the following questions:

"1. Is the county attorney allowed half fees from the county in cases where defendant pleads guilty, or convicted on trial, and defendant lays out his fine in jail?"

"2. Is constable entitled to half of his mileage fees on misdemeanor cases laid out in jail?"

"3. Is constable entitled to collect from county either half or all of mileage fees when travels to another county to return prisoner to constable's own county for trial and trial results in conviction of some misdemeanor with which the prisoner stands charged?"

has been received by this Department.

You are respectfully advised that on January 11, 1939, in opinion No. 0-32, this Department held that the amendment to Article 1055 of the Code of Criminal Procedure was void as unconstitutional. A copy of this opinion is enclosed herewith to which reference is here made for all purposes.

Hon. Ben F. Thorpe, January 16, 1939, Page 2

Under this opinion questions Nos. 1 and 2 are answered in the negative. The constable is not entitled to any fee where the defendant lays out his fine in jail.

In answer to question No. 3 you are respectfully advised that the constable would not be entitled to collect any fee from the county under such circumstances as outlined in question No. 3.

The enclosed opinion above referred to, holds that the old Article 1055 of the Code of Criminal Procedure which provided that officers should receive half fees when convicts worked out their fines either upon the public roads or upon the county farm is still in effect.

Very truly yours

ATTORNEY GENERAL OF TEXAS

BY (Signed) Wm. J. Fanning
Assistant

WJF:AW

APPROVED

(Signed) Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

ENCLOSURE