



**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

**GERALD G. MAHON**  
~~XXXXXXXXXXXXXXXXXXXX~~  
ATTORNEY GENERAL

Hon. E.Y. Cunningham  
County Auditor  
Navarro County  
Corsicana, Texas

Dear Sir:

Opinion No. 0-767

Re: The right of an officer to draw half of his fees when the arrested person serves his fine in jail at so much a day and does not work.

This is to acknowledge receipt of your letter of June 15th requesting our opinion on the question stated above.

We recently rendered opinion 0-907 construing the validity and constitutionality of H.B. 205 passed by the Forty-Sixth Legislature. We enclose a copy of said opinion for your consideration.

The plain provision of the recently enacted statute (H.B. 205, supra) would give an officer the right to one-half of his costs even though the convict laid out his fine and costs, without labor, from and after the effective date of the bill. We quote:

"Article 1055. The county shall not be liable to the officer and witness having costs in a misdemeanor case where defendant pays his fine and costs. The county shall be liable for one-half of the fees of the officers of the court, when the defendant fails to pay his fine and lays his fine out in the county jail or discharges the same by means of working such fine out on the county roads or on any county project. And to pay such half of costs, the county clerk shall issue his warrant on the County Treasurer in favor of such officer to be paid out of the Road and Bridge Fund or other funds not otherwise appropriated."

Trusting the above satisfactorily answers your question,  
we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Benjamin Woodall  
Benjamin Woodall

BW:AM:wc

APPROVED JUNE 27, 1939  
s/ Gerald G. Mahon  
ATTORNEY GENERAL OF TEXAS