

Opinion No. 20.**Offices and Officers—Mileage.**

HELD: Where a public officer finds it necessary to use his automobile in the performance of his official duties, he may collect mileage for the round trip of the car when his official business does not permit him to return with the car and where, for the remainder of the journey, he may use rail transportation.

January 4, 1935.

Hon. John J. Holmes
State Auditor
The Capitol

You have submitted the question whether the Governor is entitled to

mileage for the use of his automobile from Glacier Park to Helena, where he made a trip by automobile from Helena to Glacier Park, but did not himself return with the car from Glacier Park to Helena. His official business took him from Glacier Park to Ft. Peck and to Great Falls, whither he was able to, and did travel by rail.

By Chapter 16, Laws of 1933, amending Sections 4884 and 958, Revised Codes, the legislature provided for compensation at the rate of seven cents per mile to a public official whenever it shall be necessary for him to use his automobile in the performance of his official duty. This mileage undoubtedly was intended to cover merely the actual cost of operation of the automobile. When a public official finds it necessary in the performance of his duty that he travel by automobile in order to reach a certain destination, he should be permitted to collect mileage for the return of the automobile to his home where the return of the automobile is actually necessary and when his official business does not permit him to return with the car himself, for the cost to him is the same whether he returns with the automobile or not. If he was justified in using his car to reach Glacier Park, then he should be permitted to charge for the round trip. Apparently it was the intention of the legislature to compensate an official for using his car for the distance his car necessarily travels where such means of transportation is necessary in the performance of his official duty. The purpose of the Act is to provide a fair compensation for the use of the car. We believe this is a reasonable construction of the Act.

Upon the facts presented, I am of the opinion that a claim for mileage for use of the car from Glacier Park to Helena, is proper and should be allowed.