

No. 352

**WITNESSES—MILEAGE—COURTS not of record, mileage
of witnesses in—INQUESTS, mileage of witnesses at**

**Held: Witnesses in courts not of record and on coroner's inquests are
entitled to 7¢ per mile for each mile actually and necessarily
traveled.**

February 2, 1942.

Mr. D. W. Doyle
County Attorney
Pondera County
Conrad, Montana

Dear Mr. Doyle:

You have asked this office whether witnesses in courts not of record and on coroner's inquests are entitled to seven cents per mile for each mile actually and necessarily traveled, as provided by Section 4942, Revised Codes of Montana, 1935, or are governed by Section 4884, Revised Codes of Montana, 1935, as amended by Chapter 121, Laws of 1941, which provides for payment of mileage at five cents per mile for enumerated officers, witnesses and "all other persons."

This office has already held Section 4884, Revised Codes, as amended, is a general law relating to all mileage and the general act does not repeal a special act but the latter will continue to have effect and the general words with which it conflicts will be restrained and modified accordingly. (Equitable Life Assurance Co., et al., v. Hart, et al., 55 Mont. 76, 87, 173 Pac. 1062). This office has also held the amendment of Section 4884 would not affect special statutes relating to mileage for county coroners (Vol. 19, Report and Official Opinions of the Attorney General, No. 125); mileage of constables (Vol. 15, No. 202); mileage of physicians attending insanity hearings (Vol. 19, No. 350). It appears Section 4942, Revised Codes of Montana, 1935, relating to mileage of witnesses in courts not of record in criminal actions and on coroners inquests, as well as Section 4941, Revised Codes of Montana, 1935, relating to mileage of witnesses in courts not of record in civil actions and proceedings, are special statutes. Both of these sections were last amended by Chapter 18, Laws of 1935, to reduce mileage from ten cents per mile to seven cents per mile.

It is my opinion witnesses in courts not of record and on coroner's inquests are entitled to seven (7¢) cents per mile for each mile actually and necessarily traveled, as provided in Sections 4941 and 4942, Revised Codes of Montana, 1935.

Sincerely yours,

JOHN W. BONNER
Attorney General