Honorable Otto K. Jensen,
State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter requesting an opinion of this office which reads as follows:

"If the Board of County Commissioners of any county in this state furnish and maintain automobiles at county expense for the use of the county sheriff in the performance of his official duties, is the sheriff and the chief or second deputy sheriff entitled to receive the mileage allowance provided in Sections 2 and 3, of Chapter 188, Acts of 1951?"

The Board of County Commissioners is given authority to purchase a motor vehicle for the sheriff by Chapter 26, Section 2, p. 40, Acts of 1932 (Special Session), the same being Section 49-1316 Burns Indiana Statutes, Volume 10, part 1, 1951 Replacement, which reads as follows:

"The board of commissioners of any county may purchase for and furnish to the sheriff of such county a motor vehicle which may be equipped for use as an ambulance or may be used for the transportation of persons who are in the custody of the sheriff. The motor vehicle so furnished shall have a seating capacity for not less than six (6) persons, excluding the driver and two (2) guards. The board of commissioners shall provide for the maintenance and upkeep of such motor vehicle. Where a conveyance is furnished and maintained by the county for the use of the sheriff, no mileage shall be allowed, but the sheriff shall be entitled to be reimbursed for any other expenses which (he) may lawfully incur other than mileage."
1951 O. A. G.

Chapter 36, Section 1, p. 111, Acts 1941, same being Section 49-1008 Burns Indiana Statutes, Volume 10, part 1, 1951 Replacement reads in part as follows:

"* * * Provided, however, That where a county owned conveyance maintained by the county is used by the sheriff in any service, no mileage charges shall be payable by the county."

It appears to be the clear intent of the legislature to deny sheriffs the mileage allowance to which they would otherwise be entitled where such sheriff uses a conveyance furnished by the county and such vehicle is maintained by the county.

It has been held that a statute clear and unambiguous on its face need not and can not be interpreted by court, and only statutes which are ambiguous and of doubtful meaning are subject to the process of statutory interpretation.

Section 4502 Southerland Statutory Construction, 3rd edition;

Sections 2 and 3 of Chapter 188, Acts of 1951, read as follows:

"SEC. 2. The chief deputy and second deputy sheriff in all counties shall be paid an additional sum of one dollar per day on account of the imposition of additional official duties; and they shall be paid in addition to any allowance now provided for mileage, the additional sum of one dollar per day."

"SEC. 3. The sheriff in all counties shall be paid, in addition to any allowance now provided by law for mileage, the additional sum of one dollar and fifty cents per day."

It is a well established rule of statutory construction that statutes must be construed as a whole in order to determine the legislative intent.

State ex rel. v. Ritter's Estate (1943), 221 Ind. 456;
Snider v. State ex rel. Leap (1934), 206 Ind. 474, 478.
Chapter 188, Acts of 1951 is entitled:

"An Act concerning additional compensation and allowances for county officers, prosecuting attorneys and deputies of the various counties of the State of Indiana, and declaring an emergency."

Section 1 of Chapter 188, Acts of 1951 reads in part as follows:

"Section 1. The * * * sheriff * * *, shall be paid a per diem of two dollars for each day such official shall be engaged in the official duties of his office, said per diem to be in addition to all other provisions of law for his compensation, regardless of any limitation set by law on the compensation received by any such county official."

and section 7 reads:

"Sec. 7. The additional compensation and mileage as herein provided for shall be paid to such officers in monthly payments at the same time as their salaries are paid."

On full examination, Section 1 makes provision for additional compensation to sheriffs which is not in question, Section 2 provides for additional compensation and also an additional mileage allowance to the chief deputy and second deputy sheriff and Section 3 provides solely for additional mileage allowance to the sheriff.

Unless repealed, Chapter 26, Section 2, p. 40, Acts of 1932 (Special Session) and Chapter 36, Section 1, p. 111 Acts of 1941 prohibit the payment of mileage allowances where the conveyance is owned and maintained by the county.

If the above Acts are repealed it must be by implication, since Chapter 188 of the Acts of 1951 contains no express or general repeal.

Repeals by implication are not favored, and where there are two or more acts on a subject, such construction must be made, if possible, as will give effect to all. It is only where
the later acts are so repugnant to the earlier ones that both cannot stand that the earlier is repealed by implication.

Sweigart v. State (1938), 213 Ind. 157;
Nash v. State ex rel. Adams (1933), 205 Ind. 22;
Gaebler v. Town of Rockville (1933), 96 Ind. App. 715.

There is no difficulty in construing the foregoing Acts together and it also is clear that there is no conflict between the earlier statutes and the later one that would give rise to a repeal by implication.

Therefore, it is my opinion that the answer to your question is in the negative. If the motor vehicles are furnished and maintained by the county, the officials using such vehicles in the performance of their duties are not entitled to receive the mileage allowance provided in Sections 2 and 3 of Chapter 188, Acts of 1951.

OFFICIAL OPINION NO. 57

December 4, 1951.

Honorable W. H. Skinner,
Indiana State Personnel Bureau,
311 West Washington Street,
Indianapolis, Indiana.

Dear Sir:

Your request of 3 July 1951 for an official opinion reads as follows:

"You are probably aware of the number of displaced persons and other aliens who have become residents of Indiana during the past year. Occasionally these individuals apply for state positions under the State Personnel Act.

"The increase in industrial employment and the lure of higher salaries elsewhere have made it difficult to attract enough applicants for state positions in many types of work. Some of the foreign nationals