

*Office Memorandum* • UNITED STATES GOVERNMENT

STATINTL : Files

DATE: 21 December 1948

FROM

SUBJECT: Use of Metered Parking Space by Government Cars

1. The question has been raised regarding the propriety of paying for metered parking space when cars bearing Government tags are used.

2. The Comptroller General has indicated in two opinions that payment for the use of metered spaces for Government cars will not be allowed as long as there is no statutory provision or judicial decision permitting it. In 18 Comp. Gen. 151, it was held that appropriate monies could not be considered available for the purchase of service cards for the parking of Government vehicles in a metered zone in lieu of payment of parking fee rates. This was so notwithstanding the fact that the charge for the cards was normal and the fee covered the cost of inspection, installation, operation, control, etc. of the parking area and meters. The question arose when the Veterans' Administration indicated their need to park cars within a metered zone for the convenience of disabled beneficiaries obtaining prosthetic appliances. The Comptroller decided that it was not necessary to determine whether the charge was a tax or a fee incidental to the exercise of the police power. His opinion was based on the fundamental freedom of the Federal Government from interference by a State or Municipality, and he specifically called attention to the opinion of Mr. Justice Holmes in *Johnson v. Maryland*, 254 U.S. 51, in which it was stated that the subjection of agents of the Federal Government to local law may properly be extended to general rules that only incidentally affect the mode of carrying out the employment. Inferentially, the Comptroller indicated that the identification of the car as a Government-owned vehicle would obviate any liability for payment of the parking fee. The opinion was approved and amplified in 26 Comp. Gen. 397 in a situation where meters were removed and the restricted space was rented from the city. Again, he emphasized the fact that payment of the rent was not authorized in the absence of a court decision or a statutory provision.

3. In practice, the problem does not appear to have arisen - or at least not to have been questioned - in several Government Agencies queried in Washington. In the

OGC Has Reviewed

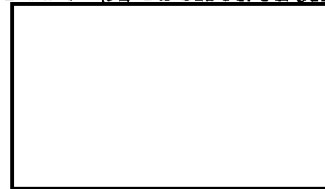
MORI/CDF

-2-

case of the Army, the fee is paid, when necessary, by the person to whom the car is assigned. This is also true in the Corps of Engineers. The Treasury Department obtains police permits for everyone using cars within restricted or metered areas, and the Department of Interior is completely unaware of any difficulty.

4. Unfortunately, there does not appear to have been any instance in which a Government car was left in an unpaid metered space and notice of traffic infraction served by the local police. When this happens, we shall probably have the clearest presentation of the issue.

STAT



*CR 515 Vehicles*