

state government, or any department, office or institution thereof." The offices of numerous state boards are located in Columbus in the various privately owned office buildings of the city. It is my opinion that there is no requirement that your office be located in the State House.

Your attention is further directed to the provisions of Section 1295-24, General Code, which provides that your board "shall make rules and regulations governing the practice of optometry and such other rules as may be necessary to carry out the provisions of this chapter." The legislature has manifestly seen fit to vest considerable discretion in your board as to the detailed manner in which its activities shall be carried out. I am advised that it has been the custom for the secretary to transact most of the business of the board from his residence in whatever city in Ohio he may be located. Such a procedure is obviously not violative of any provision of law relating to your board.

By virtue of Section 154-46, General Code, your board is attached to the Department of Education. I think, therefore, that your board would undoubtedly be justified in the interest of economy in housing its permanent records in the office of the Department of Education, where they may be open to the public, thereby relieving the state of the necessity of paying office rent. The obvious purpose of the requirement that your records be kept in your Columbus office is to provide that they be available for inspection by the public in a convenient location. The office of the Department of Education would, in my opinion, meet this requirement. Furthermore, in lieu of compensating its secretary to a sufficient extent to warrant him coming to Columbus and devoting his full time to the duties of his office, if your board should decide to have such part of its permanent records as may be needed by its secretary copied, such a procedure may very probably be more economical. It is my opinion that these are matters to be determined by your board in the exercise of its sound discretion with a view of administering the provisions of the law with reference to the practice of optometry in the most efficient and economical manner.

Summarizing, it is my opinion that:

1. The record of the proceedings of the State Board of Optometry, a register of persons registered as optometrists and a register of licenses revoked by such board, are required to be kept at the office of the board at Columbus where such records shall be open to public inspection.
2. In the event such records are so kept at the office of the Department of Education at Columbus, the requirements of law as to maintenance of an office at Columbus are complied with.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3099.

SERVING WITNESSES—SHERIFF'S CHARGE—WHAT COSTS FOR MILEAGE ALLOWED WHEN SERVING MORE THAN ONE WITNESS IN A COMMUNITY.

SYLLABUS:

Under the provisions of Section 2845, General Code, a sheriff, in serving witnesses not named in the same writ, should charge as costs mileage from the court house to where each witness is found and return.

COLUMBUS, OHIO, March 28, 1931.

HON. H. E. CULBERTSON, *Prosecuting Attorney, Ashland, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of recent date, in which you ask my opinion as follows:

“I am writing you in regard to the fees that may be collected by a Sheriff for mileage in serving summons.

Can the Sheriff in serving more than one witness in the same community charge mileage for each one, if he only makes one trip; or can he in any case charge mileage from the county seat to the home of the witness, if he serves the summons when on the same trip he has served others?”

Section 2845, General Code, entitled “Fees of County Sheriff” reads in part as follows:

“For the services hereinafter specified, when rendered, the sheriff shall charge the following fees, and no more, which the court or clerk thereof shall tax in the bill of costs against the judgment debtor or those legally liable therefor; * * * all summons, writs, orders or notices, for the first name, seventy-five cents, and for each additional name, twenty-five cents; in addition to the fee for service and return the sheriff shall be authorized to charge on each summons, writ, order or notice, except as otherwise specifically provided by law, a fee of eight cents per mile, going and returning, provided that where more than one person is named in such writ, mileage shall be charged for the shortest distance necessary to be traveled.”

The question you evidently present is whether or not a sheriff in making one trip from the county seat for the purpose of serving subpoenas on witnesses named in more than one writ should charge mileage based upon the distance from the court house to where each witness is found and return.

It should be noted that in the language of the above section the legislature made the express stipulation that where more than one person is named in a writ, mileage shall be charged for the shortest distance necessary to be traveled.

Under the doctrine of “the expression of one particular class implies the exclusion of other classes,” the legislature by implication, limited the effect of such language to the serving of witnesses named in the one writ.

The word “writ” in the above section is evidently used as a generic term and would include all directory instruments from the clerk to the sheriff whether technically summons, order, writ or notice.

In view of the express statutory provision which limits a charge for mileage for the shortest distance necessary to be traveled to those cases alone where more than one witness is named in a writ, I am of the opinion that under the provisions of Section 2845, General Code, a sheriff, in serving witnesses not named in the same writ, should charge as costs mileage from the court house to where each witness is found and return.

Respectfully,

GILBERT BETTMAN,
Attorney General.