

To the first proposition, Has the County Attorney authority to employ an assistant at the expense of the County with the authority of the Board of County Commissioners? we beg leave to suggest as follows: The only authority conferred upon the County Attorney to appoint an assistant is found in paragraph 5 of Chapter 89 of the General Statutes of 1897, which reads as follows: The County Attorney may appoint a Deputy who shall perform all the duties of such County Attorney during his absence or sickness. This section gives the County Attorney general authority to appoint a Deputy but such deputy can only act during the sickness or absence of the County Attorney and he is entitled to no compensation for services he may render, as the services of the County Attorney whether rendered by the deputy or him self are compensated by the salary allowed under the statute to the County Attorney. The County Attorney has no authority to appoint an assistant without the consent of the County Board and should he appoint such an assistant without the consent of the County Board, and the assistant renders services to the County without the knowledge or consent of the County Board he can not recover for such services. Second: Where the County Attorney transacts legal business for the County outside of his County, what fee is he entitled to for such services, and, is he entitled to pay for work done in the County in cases pending in courts outside of the County in which the County is interested for instance, the preparation of a brief in his County for use in a case pending in an other County? The County Attorney is required to perform only such services for the County as are required of him by law. County of Leavenworth vs Brewer, 9 Kan, 318.

The statutes require of County Attorneys that they shall appear in the several courts of their respective Counties and prosecute or defend on behalf of the people by suits &c., and when requested by any Magistrate of his County shall appear on behalf of his County or State before any such Magistrate &c., and shall also prosecute all civil suits before such Magistrate in which the County is a party or interested, and shall also give opinions and advice to the Board of County Commissioners and other civil officers of their respective Counties upon all matters in which the County is interested &c., (But nowhere are they required to attend to cases pending in courts outside of their respective Counties.) Chap-89-Vol 2 Statutes of '97.

The salary of the County Attorney is intended to be sufficient compensation for the performance of all services and duties required by law but where the County Attorney performs services which are not required of him by law he may be paid therefor by the County the value thereof as though he were not the County Attorney, And the County Board may contract with him for such services as are not required of him by law in the same manner and to the same extent as they could contract with any other person for the performance of such duties. there is no law that requires a County Attorney to attend any court or to do any business, civil or criminal that requires his personal attendance outside of his own County, and therefore, if he should perform any such services for his County he may be allowed such compensation therefor as his services are reasonable worth, for instance where a suit for or against his County is to be prosecuted or defended beyond the limits of his County, he can not be allowed any compensation in addition to his salary for any opinion or advice he may give to the County Board concerning said suit, but if he attends the court personally for the County he may be allowed compensation for such last mentioned service in addition to his salary, "If employed by the Board so to do" County of Leavenworth vs Brewer 9 Kan 318

He can not be allowed additional compensation for any advice he may give of any consultation had with the officials of his County or other persons "In discovering and preparing evidence within his County in a case pending in another County, as, for instance, in the prosecution of a criminal action taken from his own to an adjoining County upon a change of venue" Huffman vs Commissioners of Greenwood County, 25 Kan. 66. In the last mentioned case, while not so expressly holding intimates very clearly that for any services performed by a County Attorney for his County done within his County, he was not intitled to recover.

We are very doubtful however if a County can be called upon under the statutes above quoted, to render any legal services either in or out of his County in any action pending in an other County, except as qualified above without entitling him to special compensation therefor, as the statute does not affirmatively require the County Attorney to act in any proceeding not pending in the courts of his own County. If, however, he is employed by the County Board to transact legal business for the County, not required of him by law, he is entitled to the same fees for such services as would be given to any other attorney transacting the same business.