have been the aggressor. He was the first to draw a deadly weapon, accompanying that action with the exclamation that "he must have revenge," and at the same time warning Frith "to put himself in shape." This can be regarded in no other light than an invitation to a deadly encounter, in which the deceased voluntarily put his life at stake, and deliberately took the chances of getting killed. Where a person thus invites another to a deadly encounter, and does so voluntarily, his death, if he sustains a mortal wound, cannot be regarded as accidental by any definition of that term which has heretofore been adopted. It might as well be claimed that death is accidental when a man intentionally throws himself across a railroad track in front of an approaching train, or leaps from a high precipice, or swallows a deadly poison. It is possible that death may not result from either of these acts, but death is the result which would naturally be expected, and, if such is the result, it is not accidental. The case on which counsel for the plaintiff in error appears to place most reliance is Lovelace v. Association, 126 Mo. 104, 114, 28 S. W. 877, but in that case, while it appeared that the deceased had engaged in a quarrel which he might very well have avoided, it did not appear that he had drawn a weapon of any sort, or that he knew, when he engaged in the quarrel, that his opponent was armed. So far as the case showed, the deceased had no reason to expect, when he engaged in the rencounter, that it would result in any bodily harm to either party, and for that reason the court appears to have held that the unexpected result of the affray was an accident, so far as the deceased was concerned. The case in question, and the other cases to which our attention has been particularly invited, to wit, Hutchcraft's Ex'r v. Travelers' Ins. Co., 87 Ky. 300, 8 S. W. 570, Phelan v. Insurance Co., 38 Mo. App. 640, and Supreme Council Order of Chosen Friends v. Garrigus, 104 Ind. 133, 140, 3 N. E. 818, are clearly distinguishable from the case at bar. According to the undisputed facts disclosed by the present record, the deceased voluntarily engaged in an encounter with deadly weapons, the result of which was not an unlikely result, but was such as any reasonable person might have foreseen. Finding no error in the record, the judgment of the circuit court is accordingly affirmed.

UNITED STATES v. DENISON.

(Circuit Court of Appeals, Eighth Circuit. April 19, 1897.)

No. 782.

DISTRICT ATTORNEYS—EMPLOYMENT OF STENOGRAPHER.

Under the provisions of the sundry civil appropriation bills of 1894 and 1895 (27 Stat. 609; 28 Stat. 417) the attorney general has power to authorize the employment by the district attorney of a stenographer to assist in preparing indictments, and the government is liable for the compensation of such stenographer.

In Error to the District Court of the United States for the District of Colorado.

William H. Clopton and William S. Anthony, for the United States.
John D. Fleming, for defendant in error.

Before SANBORN and THAYER, Circuit Judges, and LOCHREN, District Judge.

SANBORN, Circuit Judge. The attorney general of the United States authorized the district attorney for the district of Colorado to employ the defendant in error, Henry L. Denison, who was a stenographer, to take from dictation, and to copy, certain complaints and indictments and a certain opinion of the district judge in some criminal cases which the United States was prosecuting in that district. Denison was accordingly employed, and between April 29, 1894, and July 28, 1894, he rendered services in these cases as a stenographer and copyist, which were worth $165.30. The rendition of these services enabled the district attorney to discharge a grand jury earlier than he otherwise could have done, and saved to the government expenses much greater than the value of the services. Denison presented his accounts for these services to the judge of the district court for the district of Colorado, and he approved them. The accounting officers of the treasury of the United States refused to audit or pay them. The defendant in error then sued the United States for these services in the court below, under the provisions of the act of March 3, 1887 (24 Stat. 505, c. 359), and recovered a judgment for the amount of his claim. The government has brought this writ of error to reverse that judgment. Its counsel insist that neither the district attorney nor the attorney general had any authority to employ this stenographer on its behalf. They cite U. S. v. Shields, 153 U. S. 88, 91, 14 Sup. Ct. 735, Gibson v. Peters, 150 U. S. 342, 14 Sup. Ct. 134, and Ruhm v. U. S., 66 Fed. 531, and urge that fees allowed to public officers are matters of strict law, and cannot be paid unless their payment is authorized by the very words of the acts of congress. But the authorities they present and the propositions they maintain do not govern this case. Denison was not a public officer. He did not sue for fees allowed by acts of congress to such an officer, but for compensation for clerical services which he had rendered to the United States at the request of the officers of its department of justice. The acts of congress provide that there shall be an executive department known as the "department of justice" and that the attorney general shall be the head thereof (Rev. St. § 346); that the attorney general shall exercise general superintendence and direction over the attorneys and marshals of all the districts in the United States and the territories as to the manner of discharging their respective duties (section 362), and that he shall exercise general supervisory powers over the accounts of the district attorneys, marshals, clerks, and other officers of the courts of the United States (section 368). The acts making provisions for sundry civil expenses of the government for the fiscal years ending June 30, 1894, and June 30, 1895, contain this provision:

"For payment of such miscellaneous expenses as may be authorized by the attorney general, including the employment of janitors and watchmen in rooms or buildings rented for the use of courts, and of interpreters, experts, and stenographers; of furnishing and collecting evidence where the United States

is or may be a party in interest, and moving of records, one hundred and seventy thousand dollars." 27 Stat. 609, c. 208; 28 Stat. 417, c. 301.

In view of this legislation, the proposition that the attorney general had no authority to employ a stenographer to facilitate the transaction of the public business in the office of a district attorney does not seem to us to merit serious consideration. The supreme court has held that a district attorney can lawfully purchase blank indictments at the expense of the United States, and we have no doubt that the attorney general had ample authority, under the acts of congress to which we have adverted, to authorize him to hire a stenographer to write out indictments or complaints, if blanks failed to fit his cases. U. S. v. Harmon, 147 U. S. 268, 270, 13 Sup. Ct. 327; Harmon v. U. S., 43 Fed. 560; Stanton v. U. S., 75 Fed. 357, 358. The judgment below must be affirmed, and it is so ordered.

UNITED STATES v. FLEMING.

(Circuit Court of Appeals, Eighth Circuit. April 19, 1897.)

No. 783.

1. DISTRICT ATTORNEYS—SERVICES OUTSIDE OF DISTRICT—COMPENSATION.
   A district attorney is not entitled to special compensation for services rendered by direction of the attorney general in an appellate court outside of his district. 22 C. C. A. 223, 76 Fed. 359, followed.
2. SAME—EXPENSES.
   Under Rev. St. § 370, a district attorney sent by the attorney general to conduct a cause in a court outside of his district is entitled to recover expenses necessarily incurred.

In Error to the District Court of the United States for the District of Colorado.

William H. Clopton and Walter D. Coles, for the United States.
John D. Fleming, in pro. per.

Before SANBORN and THAYER, Circuit Judges, and LOCHREN, District Judge.

SANBORN, Circuit Judge. The writ of error in this case challenges an item of $288.10 for which John D. Fleming, the defendant in error, recovered a judgment against the United States in the court below under the act of March 3, 1887 (24 Stat. 505, c. 359). Fleming was the district attorney for the United States for the district of Colorado from March 23, 1889, to March 23, 1893, during which time the defendant in a criminal case took an appeal from a judgment of the district court of Colorado to the circuit court of the Eighth judicial circuit. The judge of the circuit court was sitting at Little Rock, in the state of Arkansas, and at the request of the attorney general Fleming followed the case out of his district to Little Rock, and there appeared and acted for the United States before the circuit judge. He necessarily traveled 2,562 miles, and spent $88.10 and six days in making this trip. The attorney general and the court below allowed him $200 special compensation for