

Schrader v. Bank, 133 U. S. 67, 10 Sup. Ct. 238, is plainly distinguishable from the present case. If it could be given the effect now sought to be ascribed to it, it would, I think, conflict with the law as generally laid down, and especially by the courts of Kansas, in cases which are cited upon the plaintiff's brief, but which need not be here mentioned. *Schrader v. Bank* was in several respects essentially different from the present case. It arose under the statute relating to national banks, and the decision was put mainly upon the ground that under that statute the individual liability which it imposes upon stockholders is restricted to such contracts, debts, and engagements as had been duly contracted in the ordinary course of its business, and that when the bank went into liquidation there was no authority on the part of its officers to transact any business in the name of the bank, so as to bind its shareholders, except that which is implied under the duty of liquidation. That case is clearly without pertinency to this one. The plaintiff's rule for judgment for want of a sufficient affidavit of defense is made absolute.

UNITED STATES v. STANTON.

(Circuit Court of Appeals, Second Circuit. March 10, 1898.)

No. 9.

UNITED STATES ATTORNEYS—COMPENSATION.

Under Rev. St. § 835, a United States attorney is entitled to all the fees and emoluments of his office, when, in addition to the amount of his necessary expenses, they do not exceed \$6,000 per annum.

In Error to the Circuit Court of the United States for the District of Connecticut.

This was a petition by Lewis E. Stanton to recover from the United States certain fees claimed to have been earned by him as United States attorney. The court below gave judgment in plaintiff's favor for \$1,496.82 (75 Fed. 357), and the United States have appealed.

Chas. W. Comstock, U. S. Atty.

Lewis E. Stanton, for defendant in error.

Before WALLACE and LACOMBE, Circuit Judges.

PER CURIAM. We agree with the court below that it is the meaning of section 835 of the Revised Statutes of the United States that the United States attorney is entitled to all of the fees and emoluments of his office, when, in addition to the amount of his necessary expenses, they do not exceed the sum of \$6,000 per annum. As it now appears that the defendant in error had not received the amount of the items in controversy from the emoluments of his office, the judgment should be affirmed.

SILL v. UNITED STATES.

UNITED STATES v. SILL.

(Circuit Court of Appeals, Second Circuit. April 7, 1898.)

Nos. 77 and 78.

1. DISTRICT ATTORNEY—FEES—CLERK HIRE.

A district attorney is entitled to recover for clerk hire. U. S. v. Stanton, 87 Fed. 698, followed.

2. SAME—EXTRA SERVICES—COMPENSATION.

A district attorney is not entitled to extra compensation for services rendered in examining titles to sites for public buildings. U. S. v. Ady, 22 C. C. A. 223, 76 Fed. 359, followed.

3. SAME—ATTENDING COURT.

Section 824 of the Revised Statutes, which allows compensation to a district attorney for each day of the term where court is held at a place other than his place of abode, is limited by the act of congress of March 3, 1887 (24 Stat. 509, 541, c. 362), to each day when the court is opened by the judge for business, or business is actually transacted in the court.

4. SAME—EXAMINATION OF INTERNAL REVENUE CASES NOT PROSECUTED.

A district attorney is entitled to compensation for services rendered in investigating violations of the customs laws reported to him by a collector in accordance with section 838 of the Revised Statutes, and in which he determined that no prosecution should be instituted.

In Error to the Circuit Court of the United States for the District of Connecticut.

George G. Sill, per se.
Chas. W. Comstock, U. S. Atty.

Before WALLACE and LACOMBE, Circuit Judges.

PER CURIAM. These writs of error involve the right of the United States attorney for the district of Connecticut to recover the following items disallowed in his accounting by the accounting officers of the treasury: (1) Disbursements for clerk hire; (2) opinions and services as to title to post office building sites; (3) per diem fees for attending terms of the circuit and district courts held at places other than his place of abode; (4) fees for examination of internal revenue cases reported to him by the collector, in which he determined that no prosecution should be instituted.

As to the first item, the case is controlled by the decision of this court in U. S. v. Stanton (decided at this term) 87 Fed. 698, where we concurred in the opinion of Judge Shipman in 37 Fed. 252, and adjudged that the disbursements should be allowed.

As to the second item, we approve of the decision of the circuit court of appeals in U. S. v. Ady, 22 C. C. A. 223, 76 Fed. 359, where the reasons why there can be no compensation for such services are convincingly stated.

The third item is claimed under section 824 of the Revised Statutes, which allows compensation to a district attorney "for each day of his necessary attendance in the courts of the United States, when the court is held at the place of his abode, five dollars; and for his attendance when the court is held elsewhere, five dollars for