

Opinion No. 77**County Attorneys—Powers—Action to Which County Is Party—County Commissioners.**

HELD: The county attorney must determine, under the facts, whether or not an action or defense is necessary under Section 4819, R. C. M. 1921, subdivision 3, and may do so without specific directions from the county commissioners.

February 13, 1933.

I have your request relative to the provisions of Section 4819, R. C. M. 1921, and subdivision 3 thereof, which provides that it shall be the duty of the county attorneys to prosecute all recognizances forfeited in the courts of record and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or to his county.

You wish to know whether under this section it is necessary for the board of county commissioners to instruct you to proceed before you have authority to do so in cases of this kind.

Subdivision 15 of Section 4465, R. C. M. 1921, as amended, provides that the board of county commissioners has power "To direct and control the prosecution and defense of all suits to which the county is a party."

Under this provision the board of county commissioners has general supervisory control over actions brought by or in defense of the county, but, in my opinion, the county attorney must determine, under the facts, whether or

not an action or defense is necessary
and may bring the same without spe-
cific directions to do so.