February 2, 1978

Ms. Dorothy K. White
Sedgwick County Clerk
Sedgwick County Courthouse
Wichita, Kansas 67203

Re: Counties--Home Rule--Personnel

Synopsis: K.S.A. 1977 Supp. 19-101a et seq., granting the board of county commissioners power to transact county business, including personnel matters of the county, does not supersede or conflict with K.S.A. 19-302, which authorizes the county clerk to appoint a deputy. Such appointment must be made subject to applicable legislative and administrative directives of the county regarding county officers and employees, and the person so appointed is subject to such directives and policies. A resolution adopted by the Sedgwick County board of county commissioners December 14, 1977, relating to the adoption of classification and compensation plans and providing for the administration thereof, is not a charter resolution, and need not have been adopted as such.

* * *

Dear Ms. White:

You inquire, first, whether K.S.A. 1977 Supp. 19-101a et seq. supersedes K.S.A. 19-302. The latter provision provides in pertinent part thus:

"Every such [county] clerk shall appoint a deputy, in writing, under his hand, and shall file such appointment in his office,
and such deputy, in case of the absence or
disability of such clerk, or in case of va-
cancy in his office, shall perform all such
duties of such clerk during such absence,
or until such vacancy shall be filled."

K.S.A. 1977 Supp. 19-101a confers upon the county the power, to
be exercised by the board of county commissioners,

"to transact all county business and perform
such powers of local legislation and admin-
istration as they deem appropriate, subject
to the following limitations . . . ."

(The enumerated statutory limitations are omitted here, for they
are not pertinent to the question you raise.)

Your authority to appoint a deputy is statutory in nature. How-
ever, the board of county commissioners is empowered to adopt
local legislation, regarding the conduct of county business, as
it deems appropriate and necessary. The appointment of a county
officer or employee, such as a deputy county clerk, who is paid
from county funds and whose duty is to assist in the conduct of
county business, is certainly properly a matter of "county busi-
ness." In the adoption of personnel standards and policies of
the county, the board of county commissioners is free, under
K.S.A. 1977 Supp. 19-101a, to enact both legislative and admin-
istrative policies and directives governing that position. The
board may thus require that the appointment of a deputy county
clerk, and the person so appointed, be subject to those legis-
lative and administrative policies and directives, and may pro-
perly incorporate the position in a county personnel plan or
manual. The statutory power of appointment remains intact, sub-
ject, of course, in its exercise to local legislation enacted
by the board.

You also ask whether a resolution enclosed with your letter, dated
December 14, 1977, and adopted that date by the board of county
commissioners of Sedgwick County, Kansas, is required to have
been adopted as a charter resolution. It is titled thus:

"A Resolution of the board of county commis-
sioners of Sedgwick County, Kansas, relating
to the adoption of classification and compensation plans and their amendments, and providing for the administration thereof."

K.S.A. 19-101b(b) defines a charter resolution thus:

"A charter resolution is a resolution which exempts a county from the whole or any part of an act of the legislature and which may provide substitute and additional provisions on the same subject.

The resolution which you enclose does not exempt the county from any act of the legislature, and thus is not required to have been adopted as a charter resolution.

Yours truly,

CURT T. SCHNEIDER
Attorney General