INDEX

	Page
Stipulation	1
Affidavit of Thomas J. O'Reardon	2
Rule to Show Cause	6
Affidavit of David Conkling	8
Rule to Show Cause	11
Affidavit of Max Reidler	13
Rule to Show Cause	17
Affidavit of John P. Walsh	19
Rule to Show Cause	23
Affidavit of Frederick Hubert	25
Rule to Show Cause	31
Affidavit of Daniel Allen	33
Rule to Show Cause	37
Affidavit of Arthur J. McDonnell	39
Rule to Show Cause	43
Affidavit of Edward L. Clark	45
Rule to Show Cause	48
Notice to Take Depositions	51

DEPOSITIONS.

David Conkling, direct examination	53
Exhibit R. 1. Bill of April 1st, 1925	56
Exhibit R. 2. Bill of May 1st, 1925	59
Daniel Allen, direct-examination	61
Exhibit R. 1. Bill of April 1st, 1925	66
Exhibt R. 2. Bill of May 1st, 1925	69
Exhibit R. 3. Bill of May 28th, 1925	73
Edward L. Clark, direct examination	76
Exhibit R. 1. Bill of April 1st, 1925	80
Exhibit R. 2. Bill of May 1st, 1925	83
Exhibit R. 3. Bill of May 1st, 1925	88
John P. Walsh, direct examination	90

Page

Exhibit R. 1. Bill of April 1st, 1925 94
Exhibit R. 2. Bill of May 1st, 1925 97
Exhibit R. 3. Bill of June 1st, 1925 101
Max Reidler, direct-examination 103
Exhibit R. 1. Bill of April 1st, 1925 108
Exhibit R. 2. Bill of May 1st, 1925 112
Exhibit R. 3. Bill of May 20th, 1925 ... 115
Frederick Hubert, direct examination 118
Exhibit R. 1. Certified Copy of Appointment 119
Exhibit R. 2. Bill of April 1st, 1925 124
Exhibit R. 3. Bill of April 1st, 1925 .. 126
Exhibit R. 4. Bill of April 1st, 1925 129
Exhibit R. 5. Bill of May 1st, 1925 132
Exhibit R. 6. Bill of May 1st, 1925 135
Exhibit R. 7. Bill of May 1st, 1925 138
Exhibit R. 8. Bill of June 1st, 1925 141
Exhibit R. 9. Bill of June 1st, 1925 143
Thomas J. O'Reardon, direct-examination .. 147
Exhibit R. 1. Bill of April 1st, 1925 151
Exhibit R. 2. Bill of May 1st, 1925 154
Exhibit R. 3. Bill of May 16th, 1925 158
James H. Bolitho, direct examination 161
Exhibit A. Request and appointment of Wilfred H. Jayne, Jr., as Assistant Attorney General 174
Exhibit B. Request and appointment of Wilfred H. Jayne, Jr. 176
Arthur J. McDonnell, direct examination .. 178
Exhibit R. 1. Bill of April 1st, 1925 181
Exhibit R. 2. Bill of May 1st, 1925 185
Exhibit R. 3. Bill of June 1st, 1925 189
Certificate of Commissioner 191

Papers Subsequent to Appeal to Court of Errors and Appeals:

Page

Opinion of Supreme Court 192
Rule Allowing Alternative Writ 196
Alternative Writs of Mandamus 197-222
Frederick Hubert 197
David Conkling 201
John P. Walsh 208
Edward L. Clark 211
Arthur J. McDonnell 215
Thomas J. O'Reardon 218
Max Reidler 222
Return to Alternative Writ of Mandamus .. 227
Stipulation 235
Stipulation 237
Stipulation 238
Opinion of Supreme Court 239
Order for Judgment 245
Notice of Appeal 246
Stipulation in all the Cases 247

New Jersey State Library

STIPULATION.

Filed October 6, 1925.

New Jersey Supreme Court

THE STATE, ex rel. THOMAS J. O'REARDON, Relator, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	*On Petition for Mandamus.* *Stipulation.*
THE STATE, ex rel. DAVID CONKLING, Relator, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	*On Petition for Mandamus.* *Stipulation.*
THE STATE, ex rel. MAX REIDLER, Relator, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	*On Petition for Mandamus.* *Stipulation.*
THE STATE, ex rel. JOHN P. WALSH, Relator, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	*On Petition for Mandamus.* *Stipulation.*
THE STATE, ex rel. FREDERICK HUBERT, Relator, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	*On Petition for Mandamus.* *Stipulation.*
THE STATE, ex rel. DANIEL ALLEN, Relator, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	*On Petition for Mandamus.* *Stipulation.*
THE STATE, ex rel. ARTHUR J. McDONNELL, Relator, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	*On Petition for Mandamus.* *Stipulation.*

THE STATE, ex rel. EDWARD L. CLARK, Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.

On Petition for Mandamus.

Stipulation.

IT IS STIPULATED by and between the parties hereto that the above-stated cases be submitted on brief and argued together.

ELMER W. ROMINE,
Attorney for Relators.

C. F. WILSON,
Attorney *Pro Se.*

Affidavit of Thomas J. O'Reardon.

Filed September 18, 1925.

NEW JERSEY SUPREME COURT.

THOMAS J. O'REARDON,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

On Petition for Mandamus.

Affidavit.

STATE OF NEW JERSEY, COUNTY OF MORRIS, } *ss.*

THOMAS J. O'REARDON, of full age, being duly sworn according to law upon his oath, deposes and says, that he resides at 58 Elm street in the

Town of Morristown in the County of Morris and State of New Jersey.

This deponent says that he was employed by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and State of New Jersey, to assist other officers of the Prosecutor's Office in attending to the criminal business of the County, making investigations as to violations of the laws of the State, to detect those who were violators of the law, and assist in making arrests of offenders against the laws, under the direction and supervision of the Prosecutor of the Pleas.

For the services rendered by this deponent, he was allowed the sum of $6.00 per day, which it is alleged was reasonable and the amount allowed other operators and assistants of the Prosecutor's Office as well as necessary expenses of travel, etc., incident thereto.

The bills of this deponent had always heretofore been approved by James H. Bolitho, Prosecutor of the County of Morris and further approved and recommended for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, without any question.

On April 1st, 1925, this deponent made out his bill as was usual to the Board of Chosen Freeholders of the County of Morris, in this instance, for the sum of $191.90, being for services as a Special Officer of the Prosecutor's Office in assisting in the detection of violators against the laws and in the arrest of offenders against the laws, and in general in connection with the administration of the criminal business of the Prosecutor's Office in and for the County of Morris, which bill was for services from March 2nd, 1925, to March 31st, 1925, including in addition thereto certain

items of expense, which said bill after being signed by this deponent and sworn to before a Notary Public was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him approved for payment.

On May 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $187.06, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill was for services rendered from April 1st, 1925 to April 30th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

This deponent submitted the said bills aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for his further approval and recommendation for payment as required by the statute in such case made and provided which bills the said C. Franklin Wilson, Judge as aforesaid, declined to accept or approve, although he had theretofore approved other bills of this deponent for services in connection with the Prosecutor's Office of the County of Morris at the same rate per diam.

This deponent further says that his bills for services are in the same amount per diam as previous bills which were approved for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions, that the services were actually rendered, that the amounts of the charges both

for services and expenses are reasonable and the expense incurred necessary.

This deponent further says that James H. Bolitho, was the duly appointed Prosecutor of the Pleas in and for the County of Morris, having legally qualified as such, not having been disqualified nor resigned, having charge of the criminal business of the County of Morris, during the months of March and April, and part of May, 1925, and under the statute in such case made and provided, was chargeable with the duty of detecting and arresting offenders against the laws and was entitled by law to employ such persons as he thought were necessary to properly administer the criminal business of the County.

This deponent further says that there could be no valid legal objection to the approval of the bills of this deponent and others by the Judge of the Court of Quarter Sessions of the County of Morris, and for that reason this deponent, therefore, prays that a writ of mandamus may issue commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to approve the said bills of this deponent for payment by the Board of Chosen Freeholders of the County of Morris.

THOMAS J. O'REARDON.

Sworn and subscribed to before me this
14th day of September, A. D. 1925.

LEON E. CONE,
A Master in Chancery
of New Jersey.

RULE TO SHOW CAUSE.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* THOMAS J O'REARDON, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Rule to Show Cause.*

Upon reading and considering the affidavit filed in the above-stated cause, it is, on this seventeenth day of September, A. D. 1925, ORDERED by the Court, that C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, show cause before this Court, at the State House, in the City of Trenton, on the 6th day of October, A. D. 1925, at ten o'clock in the forenoon of that day, why a peremptory or alternative writ of mandamus should not be issued out of and under the hand and seal of this Court commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to certify and approve for payment the several bills of Thomas J. O'Reardon, an employee of the Prosecutor's office of the County of Morris, for the months of April, May and a portion of June, 1925, which bills have already been endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

It is further ORDERED that both parties have leave to take affidavits and depositions on notice.

It is also further ORDERED that a copy of the affidavits filed in this case, together with a copy of this rule, certified to be a true copy by the attorney for the relator, be served upon the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, within ten days from the date hereof.

Let this rule be entered.

C. W. PARKER,
J. S. C.

On motion of

ELMER W. ROMINE,
Attorney for Relator.

Affidavit of David Conkling.

THE STATE, *ex rel.* DAVID CONKLING, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Affidavit.*

STATE OF NEW JERSEY, COUNTY OF MORRIS, } *ss.*

DAVID CONKLING, of full age, being duly sworn according to law upon his oath, deposes and says that he resides at Morris Plains, Morris County, New Jersey.

This deponent says that he was employed by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and State of New Jersey, to assist other officers of the Prosecutor's Office in attending to the criminal business of the County, making investigations as to violations of the laws of the State, to detect those who were violators of the law, and assist in making arrests of offenders against the laws, under the direction and supervision of the Prosecutor of the Pleas.

For the services rendered by this deponent, he was allowed the sum of $6.00 per day, which it is alleged was reasonable and the amount allowed other operators and assistants of the Prosecutor's Office as well as necessary expenses of travel, etc., incident thereto.

The bills of this deponent had always heretofore been approved by James H. Bolitho, Prosecutor of the County of Morris and further approved and recommended for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, without any question.

On April 1, 1925, this deponent made out his bill as was usual to the Board of Chosen Freeholders of the County of Morris, in this instance, for the sum of $108.00, being for services as a Special Officer of the Prosecutor's Office in assisting in the detection of violators against the laws and in the arrest of offenders against the laws, and in general in connection with the administration of the criminal business of the Prosecutor's Office in and for the County of Morris, which bill was for services from March 4th, 1925, to March 16th, 1925, including in addition thereto certain items of expense, which said bill after being signed by the deponent and sworn to before a Notary Public was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him approved for payment.

On May 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $72.00, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill was for services rendered from April 4th, 1925 to April 25th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly sworn to before a Notary Public, and duty signed by this deponent, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the Coun-

ty of Morris and by him, the said bill was approved in writing for payment.

This deponent submitted the said bills aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for his further approval and recommendation for payment as required by the statute in such case made and provided which bills the said C. Franklin Wilson, Judge as aforesaid, declined to accept or approve, although he had theretofore approved other bills of this deponent for services in connection with the Prosecutor's Office of the County of Morris at the same rate per diam.

This deponent further says that his bills for services are in the same amount per diam as previous bills which were approved for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions, that the services were actually rendered, that the amounts of the charges both for services and expenses are reasonable and the expense incurred necessary.

This deponent further says that James H. Bolitho, was the duly appointed Prosecutor of the Pleas in and for the County of Morris, having legally qualified as such, not having been disqualified nor resigned, having charge of the criminal business of the County of Morris, during the months of March and April, 1925, and under the statute in such case made and provided, was chargeable with the duty of detecting and arresting offenders against the laws and was entitled by law to employ such persons as he thought were necessary to properly administer the criminal business of the County.

This deponent further says that there could be no valid legal objection to the approval of the bills of this deponent and others by the Judge

of the Court of Quarter Sessions of the County of Morris, and for that reason this deponent, therefore, prays that a writ of mandamus may issue commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to approve the said bills of this deponent for payment by the Board of Chosen Freeholders of the County of Morris.

DAVID CONKLING.

Sworn and subscribed to before me this
26th day of August, A. D. 1925.

DANIEL E. ROMINE,
Commissioner of Deeds
for New Jersey.

RULE TO SHOW CAUSE.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* DAVID CONKLING, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Rule to Show Cause.*

Upon reading and considering the affidavit filed in the above-stated cause, it is, on this

Rule to Show Cause.

twelfth day of September, A. D. 1925 ORDERED by the Court, that C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, show cause before this Court, at the State House, in the City of Trenton, on the 6th day of October, A. D. 1925, at ten o'clock in the forenoon of that day, why a peremptory or alternative writ of mandamus should not be issued out of and under the hand and seal of this Court commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to certify and approve for payment the several bills of David V. R. Conkling, an employee of the Prosecutor's office of the County of Morris, for the months of April, May and a portion of June, 1925, which bills have already been endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

It is further ORDERED that both parties have leave to take affidavits and depositions on notice.

It is also further ORDERED that a copy of the affidavits filed in this cause, together with a copy of this rule, certified to be a true copy by the attorney for the relator, be served upon the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, within ten days from the date hereof.

Let this rule be entered.

C. W. PARKER,
J. S. C.

On motion of

ELMER W. ROMINE,
Attorney for Relator.

Affidavit of Max Reidler.

Affidavit of Max Reidler.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* MAX REIDLER, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Affidavit.*

STATE OF NEW JERSEY, COUNTY OF MORRIS, } *ss.*

MAX REIDLER, of full age, being duly sworn according to law upon his oath, deposes and says; that he resides at Rockaway, Morris County, New Jersey.

This deponent says that he was employed by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and State of New Jersey, to assist other officers of the Prosecutor's Office in attending to the criminal business of the County, making investigations as to violations of the laws of the State, to detect those who were violators of the law, and assist in making arrests of offenders against the laws, under the direction and supervision of the Prosecutor of the Pleas.

For the services rendered by this deponent, he was allowed the sum of $6.00 per day, which it is alleged was reasonable and the amount allowed other operators and assistants of the Prosecu-

tor's Office as well as necessary expenses of travel, etc., incident thereto.

The bills of this deponent had always heretofore been approved by James H. Bolitho, Prosecutor of the County of Morris and further approved and recommended for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, without any question.

On April 1st, 1925, this deponent made out his bill as was usual to the Board of Chosen Freeholders of the County of Morris, in this instance, for the sum of $322.94, being for services as a Special Officer of the Prosecutor's Office in assisting in the detection of violators against the laws and in the arrest of offenders against the laws, and in general in connection with the administration of the criminal business of the Prosecutor's Office in and for the County of Morris, which bill was for services from March 1st, 1925, to March 31st, 1925, including in addition thereto certain items of expense, which said bill after being signed by this deponent and sworn to before a Notary Public was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him approved for payment.

On May 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $335.70, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill was for services rendered from April 1st, 1925 to April 30th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a

Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

On May 20th, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $189.19, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill was for services rendered from May 1st, 1925 to May 19th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

This deponent submitted the said bills aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for his further approval and recommendation for payment as required by the statute in such case made and provided which bills the said C. Franklin Wilson, Judge as aforesaid, declined to accept or approve, although he had theretofore approved other bills of this deponent for services in connection with the Prosecutor's Office of the County of Morris at the same rate per diam.

This deponent further says that his bills for services are in the same amount per diam as previous bills which were approved for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions, that the services were actually rendered, that the amounts of the charges both

for services and expenses are reasonable and the expense incurred necessary.

This deponent further says that James H. Bolitho, was the duly appointed Prosecutor of the Pleas in and for the County of Morris, having legally qualified as such, not having been disqualified nor resigned, having charge of the criminal business of the County of Morris, during the months of March and April, and part of May, 1925, and under the statute in such case made and provided, was chargeable with the duty of detecting and arresting offenders against the laws and was entitled by law to employ such persons as he thought were necessary to properly administer the criminal business of the County.

This deponent further says that there could be no valid legal objection to the approval of the bills of this deponent and others by the Judge of the Court of Quarter Sessions of the County of Morris, and for that reason this deponent, therefore, prays that a writ of mandamus may issue commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to approve the said bills of this deponent for payment by the Board of Chosen Freeholders of the County of Morris.

MAX REIDLER.

Sworn and subscribed to before me this
24th day of August, A. D. 1925.

DANIEL E. ROMINE,
Commissioner of Deeds
for New Jersey.

RULE TO SHOW CAUSE.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* MAX REIDLER, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Rule to Show Cause.*

Upon reading and considering the affidavit filed in the above-stated cause, it is, on this twelfth day of September, A. D. 1925, ORDERED by the Court, that C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, show cause before this Court, at the State House, in the City of Trenton, on the 6th day of October, A. D. 1925, at ten o'clock in the forenoon of that day, why a peremptory or alternative writ of mandamus should not be issued out of and under the hand and seal of this Court commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to certify and approve for payment the several bills of Max Reidler, an employee of the Prosecutor's Office of the County of Morris, for the months of April, May and a portion of June, 1925, which bills have already been endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

Rule to Show Cause.

It is further ORDERED that both parties have leave to take affidavits and depositions on notice.

It is also further ORDERED that a copy of the affidavits filed in this case, together with a copy of this rule, certified to be a true copy by the attorney for the relator, be served upon the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, within ten days from the date hereof.

Let this rule be entered.

C. W. PARKER,
J. S. C.

On motion of

ELMER W. ROMINE,
Attorney for Relator.

Affidavit of John P. Walsh.

Affidavit of John P. Walsh.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* JOHN P. WALSH, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Affidavit.*

STATE OF NEW JERSEY, COUNTY OF MORRIS. } *ss.*

JOHN P. WALSH, of full age, being duly sworn according to law upon his oath, deposes and says: that he resides at Whippany, Morris County, N. J.

This deponent says that he was employed by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and State of New Jersey, to assist other officers of the Prosecutor's Office in attending to the criminal business of the County, making investigations as to violations of the laws of the State, to detect those who were violators of the law, and assist in making arrests of offenders against the laws, under the direction and supervision of the Prosecutor of the Pleas.

For the services rendered by this deponent, he was allowed the sum of $6.00 per day, which it is alleged was reasonable and the amount allowed other operators and assistants of the Prosecu-

tor's Office as well as necessary expenses of travel, etc., incident thereto.

The bills of this deponent had always heretofore been approved by James H. Bolitho, Prosecutor of the County of Morris and further approved and recommended for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, without any question.

On April 1st, 1925, this deponent made out his bill as was usual to the Board of Chosen Freeholders of the County of Morris, in this instance, for the sum of $175.15, being for services as a Special Officer of the Prosecutor's Office in assisting in the detection of violators against the laws and in the arrest of offenders against the laws, and in general in connection with the administration of the criminal business of the Prosecutor's Office in and for the County of Morris, which bill was for services from March 1st, 1925, to March 31st, 1925, including in addition thereto certain items of expense, which said bill after being signed by this deponent and sworn to before a Notary Public was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him approved for payment.

On May 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $159.90, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill was for services rendered from April 1st, 1925 to April 30th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a

Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

On June 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $88.31, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill was for services rendered from May 1st, 1925 to May 18th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

This deponent submitted the said bills aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for his further approval and recommendation for payment as required by the statute in such case made and provided which bills the said C. Franklin Wilson, Judge as aforesaid, declined to accept or approve, although he had theretofore approved other bills of this deponent for services in connection with the Prosecutor's Office of the County of Morris at the same rate per diam.

This deponent further says that his bills for services are in the same amount per diam as previous bills which were approved for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions, that the services were actually rendered, that the amounts of the charges both

for services and expenses are reasonable and the expense incurred necessary.

This deponent further says that James H. Bolitho, was the duly appointed Prosecutor of the Pleas in and for the County of Morris, having legally qualified as such, not having been disqualified nor resigned, having charge of the criminal business of the County of Morris, during the months of March and April, and part of May, 1925, and under the statute in such case made and provided, was chargeable with the duty of detecting and arresting offenders against the laws and was entitled by law to employ such persons as he thought necessary to properly administer the criminal business of the County.

This deponent further says that there could be no valid legal objection to the approval of the bills of this deponent and others by the Judge of the Court of Quarter Sessions of the County of Morris, and for that reason this deponent, therefore, prays that a writ of mandamus may issue commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to approve the said bills of this deponent for payment by the Board of Chosen Freeholders of the County of Morris.

JOHN P. WALSH.

Sworn and subscribed to before me this
17th day of August, A. D. 1925.

DANIEL E. ROMINE,
Commissioner of Deeds
for New Jersey.

RULE TO SHOW CAUSE.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* JOHN P. WALSH, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Rule to Show Cause.*

Upon reading and considering the affidavit filed in the above-stated cause, it is, on this twelfth day of September, A. D. 1925, ORDERED by the Court, that C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, show cause before this Court, at the State House, in the City of Trenton, on the 6th day of October, A. D. 1925, at ten o'clock in the forenoon of that day, why a peremptory or alternative writ of mandamus should not be issued out of and under the hand and seal of this Court commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to certify and approve for payment the several bills of John P. Walsh, an employee of the Prosecutor's Office of the County of Morris, for the months of April, May and a portion of June, 1925, which bills have already been endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

Rule to Show Cause.

It is further ORDERED that both parties have leave to take affidavits and depositions on notice.

It is also further ORDERED that a copy of the affidavits filed in this case, together with a copy of this rule, certified to be a true copy by the attorney for the relator, be served upon the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, within ten days from the date hereof.

Let this rule be entered.

C. W. PARKER,
J. S. C.

On motion of

ELMER W. ROMINE,
Attorney for Relator.

Affidavit of Frederick Hubert.

Affidavit of Frederick Hubert.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* FREDERICK HUBERT, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Affidavit.*

STATE OF NEW JERSEY, COUNTY OF MORRIS. } *ss.*

FREDERICK HUBERT, of full age, being duly sworn according to law upon his oath, deposes and says:

That he resides at Rockaway in the County of Morris and State of New Jersey.

On April 2nd, 1923, this deponent was appointed by James H. Bolitho, Prosecutor of the County of Morris, by an instrument in writing, a County Detective in and for the County of Morris and State of New Jersey at a salary of $2,000.00 per year, together with necessary expenses to be approved by the Prosecutor and other officials as required by the Statute, which appointment was approved in writing by C. Franklin Wilson, Judge of the Court of Common Pleas of the County of Morris.

Your deponent further shows that pursuant to said appointment he qualified and entered upon the duties of his Office as a County Detective of

the County of Morris under direction and instructions from James H. Bolitho, Prosecutor of the Pleas aforesaid.

This deponent further shows that when submitting his bill for services as a County Detective to the Board of Chosen Freeholders of the County of Morris, question arose as to payment thereof and by an agreement with the Board of Chosen Freeholders of the County of Morris, this deponent submitted his bills, in payment for services, on a per diam instead of a yearly basis and said bills were approved by James H. Bolitho, Prosecutor of the Pleas for the County of Morris and also by C. Franklin Wilson, Judge of the Court of Quarter Sessions in and for the County of Morris, in accordance with the Statute in such case made and provided.

This deponent further shows that on April 1st, 1925, he made out a bill to the Board of Chosen Freeholders of the County of Morris in the sum of $90.00 for services in connection with the Prosecutor's Office of the County of Morris, as a County Detective in and for the County of Morris, on a per diam basis at $6.00 per day, from March 1st, 1925, to March 15th, 1925, which bill after being duly signed by this deponent and sworn to was approved for payment by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris.

Deponent further shows that on April 1st, 1925, he made out to the Board of Chosen Freeholders of the County of Morris a certain other bill in the sum of $96.00 for services as a County Detective in connection with the Prosecutor's Office of the County of Morris, on a per diam basis, from March 16th, 1925, to March 30th, 1925, at the rate of $6.00 per day, which bill after being duly

signed by this deponent and sworn to before a notary public, was approved for payment by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris.

Deponent further shows that on April 1st, 1925, he made out a certain other bill to the Board of Chosen Freeholders of the County of Morris in the sum of $208.95 for expenses in connection with his services and work as a County Detective in the office of the Prosecutor of the County of Morris, which bill showed expenses of automobile and other miscellaneous items from March 1st, 1925 to March 31st, 1925, which bill was duly signed and sworn by the deponent before a notary public and thereafter approved for payment by James H. Bothilo, Prosecutor of the Pleas in and for the County of Morris.

Deponent further shows that on May 1st, 1925, he made out a certain other bill to the Board of Chosen Freeholders of the County of Morris for the sum of $90.00 for services as a County Detective in connection with the Prosecutor's Office of the County of Morris, from April 1st, 1925, to April 15th, 1925, on a per diem basis at $6.00 per day, which bill after being signed by this deponent and sworn to before a notary public, was approved for payment by James H. Bolitho, Prosecutor of the Pleas for Morris County.

This deponent further shows that on May 1st, 1925, he made out a certain other bill to the Board of Chosen Freeholders of the County of Morris for the sum of $182.000 being for expenses, including services of an automobile in connection with his duties as a County Detective, in the office of the Prosecutor in and for the County of Morris, from April 1st, 1925, to April 30th, 1925, which bill was duly signed by this de-

ponent and sworn before a notary public and thereafter approved for payment by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris.

This deponent further shows that on June 1st, 1925, he made out a certain other bill to the Board of Chosen Freeholders of the County of Morris for the sum of $96.00 for services as a County Detective, in connection with the Prosecutor's Office of the County of Morris, being on a per diam basis at the rate of $6.00 per day on days from May 1st, 1925, to May 16th, 1925, which bill after being duly signed by this deponent and sworn to before a notary public, was thereafter approved for payment by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris.

This deponent further says that on June 1st, 1925, he made out a certain other bill to the Board of Chosen Freeholders of the County of Morris for auto services and expenses in the amount of $84.00 incurred as a County Detective in connection with the office of the Prosecutor of the County of Morris from May 1st, 1925, to May 16th, 1925, which bill after being duly signed by the deponent and sworn to before a Notary Public was thereafter approved for payment by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris.

This deponent further says that his various bills hereinabove referred to, both for services as a County Detective and for expenses incurred, have been submitted to C. Franklin Wilson, Judge of the Court of Quarter Sessions in and for the County of Morris, for his approval and recommendation for payments, but the said C. Franklin Wilson, Judge of the Court of Quarter

Sessions in and for the County of Morris, has declined to approve these bills so that payment can be made by the Board of Chosen Freeholders in and for the County of Morris, although the said Judge of the Court of Quarter Sessions of the County of Morris has heretofore approved the bills of this deponent for services and expenses since his appointment as a County Detective by James H. Bolitho, Prosecutor of the Pleas for Morris County.

This deponent says that there is due to him for services and expenses from the Board of Chosen Freeholders of the County of Morris a total sum of which up to the present date has not been paid.

This deponent further says that under the Statute in such case made and provided, it is necessary for the Judge of the Court of Quarter Sessions to join with the Prosecutor of the Pleas in the approval and recommendation for payment by certificate under their hand, before the Board of Chosen Freeholders of the County of Morris can make payment of the moneys due this deponent.

This deponent says that his bills for services are in the same amount per diam as previous bills which have always heretofore been approved by C. Franklin Wilson, Judge of the Court of Quarter Sessions, that the amounts are reasonable as to the per diam service charge, and also that the items of expense were necessary and are reasonable.

This deponent further says that James H. Bolitho was duly appointed Prosecutor of the County of Morris by the Governor of the State of New Jersey, and his said appointment was confirmed by the New Jersey State Senate ac-

cording to the Statute in such case made and provided and that the said James H. Bolitho duly qualified as Prosecutor of the County of Morris had not resigned as Prosecutor but continued to hold his office pursuant to his appointment as Prosecutor for the County of Morris, during the days when this deponent rendered services for which the bills were submitted.

This deponent further says that there is no legal reason why said bills of this deponent herein above referred to cannot be approved for payment and he therefore, prays that a writ of mandamus may issue commanding and directing the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to proceed with his official duty to the end that the bills of this deponent may be approved for payment by the said C. Franklin Wilson, Judge as aforesaid.

FREDERICK HUBERT.

Sworn and subscribed to before me
this 17th day of August, A. D. 1925.

THOMAS J. HANNAN,
Notary Public for New Jersey.

RULE TO SHOW CAUSE.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* FREDERICK HUBERT, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Rule to Show Cause.*

Upon reading and considering the affidavit filed in the above-stated cause, it is, on this twelfth day of September, A. D. 1925, ORDERED by the Court, that C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, show cause before this Court, at the State House, in the City of Trenton, on the 6th day of October, A. D. 1925, at ten o'clock in the forenoon of that day, why a peremptory or alternative writ of mandamus should not be issued out of and under the hand and seal of this Court commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to certify and approve for payment the several bills of Frederick Hubert, a County detective, of the County of Morris, for the months of April, May and a portion of June, 1925, which bills have already been endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

Rule to Show Cause.

It is further Ordered that both parties have leave to take affidavits and depositions on notice.

It is also further Ordered that a copy of the affidavits filed in this case, together with a copy of this rule, certified to be a true copy by the attorney for the relator, be served upon the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, within ten days from the date hereof.

Let this rule be entered.

C. W. PARKER,
J. S. C.

On motion of

Elmer W. Romine,
Attorney for Relator.

Affidavit of Daniel Allen.

Affidavit of Daniel Allen.

NEW JERSEY SUPREME COURT.

The State, *ex rel.* Daniel Allen, *Relator,* *vs.* C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Affidavit.*

State of New Jersey, County of Morris. } *ss.*

Daniel Allen, of full age, being duly sworn according to law upon his oath, deposes and says: that he resides at Mt. Hope, Morris County, New Jersey.

This deponent says that he was employed by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris, to assist other officers of the Prosecutor's Office in attending to the criminal business of the County, making investigations as to violations of the laws of the State, to detect those who were violators of the law, and assist in making arrests of offenders against the laws, under the direction and supervision of the Prosecutor of the Pleas.

For the services rendered by this deponent, he was allowed the sum of $6.00 per day, which it is alleged was reasonable and the amount allowed other officers and assistants of the Prosecu-

New Jersey State Library

tor's Office as well as necessary expenses of travel, etc., incident thereto.

The bills of this deponent had always heretofore been approved by James H. Bolitho, Prosecutor of the County of Morris and further approved and recommended for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, without any question.

On April 1st, 1925, this deponent made out his bill as was usual to the Board of Chosen Freeholders of the County of Morris, in this instance, for the sum of $301.90, being for services as a Special Officer of the Prosecutor's Office in assisting in the detection of violators against the laws and in the arrest of offenders against the laws, and in general in connection with the administration of the criminal business of the Prosecutor's Office in and for the County of Morris, which bill was for services from March 1st, 1925, to March 31st, 1925, including in addition thereto certain items of expense, which said bill after being signed by this deponent and sworn to by a Notary Public was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him approved for payment.

On May 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $274.70, for services, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor, which bill was for services rendered from April 1st, 1925 to April 30th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and

sworn to before a Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

On May 28th, 1925, this deponent made out a certain other bill to the Board of Chosen Freeholders of the County of Morris in the sum of $150.00 for services as a Special Officer of the Prosecutor's Office in connection with the administration of the criminal business of the County of Morris for services ordered to be done by the Prosecutor which bill was for services rendered from May 1st, 1925 to May 18th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a Notary Public was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him the said bill was approved.

This deponent submitted the said bills aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for his further approval and recommendation for payment as required by the statute in such case made and provided which bills the said C. Franklin Wilson, Judge as aforesaid, declined to accept or approve, although he had theretofore approved other bills of this deponent for services in connection with the Prosecutor's Office of the County of Morris at the same rate per diam.

This deponent says that his bills for services are in the same amount per diam as previous bills which were approved for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions, that the amounts of the charges both for services and expenses are reasonable and the expense incurred necessary.

Affidavit of Daniel Allen.

This deponent further says that James H. Bolitho, was the duly appointed Prosecutor of the Pleas in and for the County of Morris, having legally qualified as such, not having resigned or been disqualified, but having charge of the criminal business of the County of Morris, during the months of March and April, and part of May, 1925, and under the statute in such case made and provided, was chargeable with the duty of detecting and arresting offenders against the laws and was entitled by law to employ such persons as he thought were necessary to properly administer the criminal business of the County.

This deponent further says that there could be no valid legal objection to the approval of the bills of this deponent and others by the Judge of the Court of Quarter Sessions of the County of Morris, and for that reason this deponent, therefore, prays that a writ of mandamus may issue commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to approve the said bills of this deponent for payment by the Board of Chosen Freeholders of the County of Morris.

DANIEL ALLEN.

Sworn to before me this 17th day
of August, A. D. 1925.

DANIEL E. ROMINE,
Commissioner of Deeds
for New Jersey.

Rule to Show Cause.

RULE TO SHOW CAUSE.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* DANIEL ALLEN, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Rule to Show Cause.*

Upon reading and considering the affidavit filed in the above-stated cause, it is, on this twelfth day of September, A. D. 1925, ORDERED by the Court, that C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, show cause before this Court, at the State House, in the City of Trenton, on the 6th day of October, A. D. 1925, at ten o'clock in the forenoon of that day, why a peremptory or alternative writ of mandamus should not be issued out of and under the hand and seal of this Court commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to certify and approve for payment the several bills of Daniel Allen, an employee of the Prosecutor's office of the County of Morris, for the months of April, May and a portion of June, 1925, which bills have already been endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

Rule to Show Cause.

It is further Ordered that both parties have leave to take affidavits and depositions on notice.

It is also further Ordered that a copy of the affidavits filed in this case, together with a copy of this rule, certified to be a true copy by the attorney for the relator, be served upon the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, within ten days from the date hereof.

Let this rule be entered.

C. W. PARKER,
J. S. C.

On motion of

Elmer W. Romine,
Attorney for Relator.

Affidavit of Arthur J. McDonnell.

Affidavit of Arthur J. McDonnell.

NEW JERSEY SUPREME COURT.

The State, *ex rel.* Arthur J. McDonnell, *Relator,* *vs.* C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Affidavit.*

State of New Jersey, County of Morris. } *ss.*

Arthur J. McDonnell, of full age, being duly sworn according to law upon his oath, deposes and says: That he resides at Madison, Morris County, New Jersey.

This deponent says that he was employed by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and State of New Jersey, to assist other officers of the Prosecutor's Office in attending to the criminal business of the County, making investigations as to violations of the laws of the State, to detect those who were violators of the law, and assist in making arrests of offenders against the laws, under the direction and supervision of the Prosecutor of the Pleas.

For the services rendered by this deponent, he was allowed the sum of $6.00 per day, which it is alleged was reasonable and the amount allowed other operators and assistants of the Prosecu-

tor's Office as well as necessary expenses of travel, etc., incident thereto.

The bills of this deponent had always heretofore been approved by James H. Bolitho, Prosecutor of the County of Morris and further approved and recommended for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, without any question.

On April 1st, 1925, this deponent made out his bill as was usual to the Board of Chosen Freeholders of the County of Morris, in this instance, for the sum of $241.40, being for services as a Special Officer of the Prosecutor's Office in assisting in the detection of violators against the laws and in the arrest of offenders against the laws, and in general in connection with the administration of the criminal business of the Prosecutor's Office in and for the County of Morris, which bill was for services from Marst 1st, 1925, to March 31st, 1925, including in addition thereto certain items of expense, which said bill after being signed by this deponent and sworn to before a Notary Public was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him approved for payment.

On May 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $150.00, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill was for services rendered from April 1st, 1925 to April 30th, 1925, at the rate of $6.00 per day, which bill after being duly signed by this deponent and sworn to before a Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

On June 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $99.00, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill for services rendered from May 2nd, 1925 to May 18th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payments.

This deponent submitted the said bills aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for his further approval and recommendation for payment as required by the statute in such case made and provided which bills the said C. Franklin Wilson, Judge as aforesaid, declined to accept or approve, although he had theretofore approved other bills of this deponent for services in connection with the Prosecutor's Office of the County of Morris at the same rate per diam.

This deponent further says that his bills for services are in the same amount per diam as previous bills which were approved for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions, that the services were actually rendered, that the amounts of the charges both for services and expenses are reasonable and the expense incurred necessary.

Affidavit of Arthur J. McDonnell.

This deponent further says that James H. Bolitho, was the duly appointed Prosecutor of the Pleas in and for the County of Morris, having legally qualified as such, not having been disqualified nor resigned, having charge of the criminal business of the County of Morris, during the months of March and April, and part of May, 1925, and under the statute in such case made and provided, was chargeable with the duty of detecting and arresting offenders against the laws and was entitled by law to employ such persons as he thought were necessary to properly administer the criminal business of the County.

This deponent further says that there could be no valid legal objection to the approval of the bills of this deponent and others by the Judge of the Court of Quarter Sessions of the County of Morris, and for that reason this deponent, therefore, prays that a writ of mandamus may issue commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to approve the said bills of this deponent for payment by the Board of Chosen Freeholders of the County of Morris.

ARTHUR J. McDONNELL.

Sworn and subscribed to before me this
20th day of August, A. D. 1925.

DANIEL E. ROMINE,
Commissioner of Deeds
for New Jersey.

Rule to Show Cause.

RULE TO SHOW CAUSE.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* ARTHUR J. McDONNELL, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Rule to Show Cause.*

Upon reading and considering the affidavit filed in the above-stated cause, it is, on this twelfth day of September, A. D. 1925 ORDERED by the Court, that C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, show cause before this Court, at the State House, in the City of Trenton, on the 6th day of October, A. D. 1925, at ten o'clock in the forenoon of that day, why a peremptory or alternative writ of mandamus should not be issued out of and under the hand and seal of this Court commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to certify and approve for payment the several bills of Arthur J. McDonnell, an employee of the Prosecutor's office of the County of Morris, for the months of April, May and a portion of June, 1925, which bills have already been endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

Rule to Show Cause.

It is further Ordered that both parties have leave to take affidavits and depositions on notice.

It is also further Ordered that a copy of the affidavits filed in this case, together with a copy of this rule, certified to be a true copy by the attorney for the relator, be served upon the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, within ten days from the date hereof.

Let this rule be entered.

C. W. PARKER,
J. S. C.

On motion of

Elmer W. Romine,
Attorney for Relator.

Affidavit of Edward I. Clark.

Affidavit of Edward L. Clark.

NEW JERSEY SUPREME COURT.

The State, *ex rel.* Edward L. Clark, *Relator,* *vs.* C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Affidavit.*

State of New Jersey, County of Morris. } *ss.*

Edward L. Clark, of full age, being duly sworn according to law upon his oath, deposes and says: That he resides at Parsippany, Morris County, New Jersey.

This deponent says that he was employed by James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and State of New Jersey, to assist other officers of the Prosecutor's Office in attending to the criminal business of the County, making investigations as to violations of the laws of the State, to detect those who were violators of the law, and assist in making arrests of offenders against the laws, under the direction and supervision of the Prosecutor of the Pleas.

For the services rendered by this deponent, he was allowed the sum of $6.00 per day, which it is alleged was reasonable and the amount allowed other operators and assistants of the Prosecu-

tor's Office as well as necessary expenses of travel, etc., incident thereto.

The bills of this deponent had always heretofore been approved by James H. Bolitho, Prosecutor of the County of Morris and further approved and recommended for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, without any question.

On April 1st, 1925, this deponent made out his bill as was usual to the Board of Chosen Freeholders of the County of Morris, in this instance, for the sum of $147.33, being for services as a Special Officer of the Prosecutor's Office in assisting in the detection of violators against the laws and in the arrest of offenders against the laws, and in general in connection with the administration of the criminal business of the Prosecutor's Office in and for the County of Morris, which bill was for services from March 4th, 1925, to March 31st, 1925, including in addition thereto certain items of expense, which said bill after being signed by this deponent and sworn to before a Notary Public was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him approved for payment.

On May 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $171.80, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office, which bill was for services rendered from April 1st, 1925 to April 30th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a

Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

On May 1st, 1925, this deponent again made out his bill to the Board of Chosen Freeholders of the County of Morris in the sum of $84.50, as a Special Officer of the Prosecutor's Office in connection with the criminal business of the County of Morris for services ordered to be done by the Prosecutor's Office in connection with services, which bill for services rendered from May 1st, 1925, to May 18th, 1925, at the rate of $6.00 per day, together with certain items of expense, which bill after being duly signed by this deponent and sworn to before a Notary Public, was submitted to James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris and by him, the said bill was approved in writing for payment.

This deponent submitted the said bills aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for his further approval and recommendation for payment as required by the statute in such case made and provided which bills the said C. Franklin Wilson, Judge as aforesaid, declined to accept or approve, although he had theretofore approved other bills of this deponent for services in connection with the Prosecutor's Office of the County of Morris at the same rate per diam.

This deponent further says that his bills for services are in the same amount per diam as previous bills which were approved for payment by C. Franklin Wilson, Judge of the Court of Quarter Sessions, that the services were actually rendered, that the amounts of the charges both

for services and expenses are reasonable and the expense incurred necessary.

This deponent further says that James H. Bolitho, was the duly appointed Prosecutor of the Pleas in and for the County of Morris, having legally qualified as such, not having been disqualified nor resigned, having charge of the criminal business of the County of Morris, during the months of March and April, and part of May, 1925, and under the statute in such case made and provided, was chargeable with the duty of detecting and arresting offenders against the laws and was entitled by law to employ such persons as he thought were necessary to properly administer the criminal business of the County.

This deponent further says that there could be no valid legal objection to the approval of the bills of this deponent and others by the Judge of the Court of Quarter Sessions of the County of Morris, and for that reason this deponent, therefore, prays that a writ of mandamus may issue commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to approve the said bills of this deponent for payment by the Board of Chosen Freeholders of the County of Morris.

EDWARD L. CLARK.

Sworn and subscribed to before me this
21st day of August, A. D. 1925.

DANIEL E. ROMINE,
Commissioner of Deeds
for New Jersey.

RULE TO SHOW CAUSE.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* EDWARD L. CLARK, *Relator,* *vs.* C. FRANKLIN WILSON, Judge of Court of Quarter Sessions of the County of Morris and State of New Jersey, *Defendant.*	*On Petition for Mandamus.* *Rule to Show Cause.*

Upon reading and considering the affidavit filed in the above-stated cause, it is, on this twelfth day of September, A. D. 1925, ORDERED by the Court, that C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, show cause before this Court, at the State House, in the City of Trenton, on the 6th day of October, A. D. 1925, at ten o'clock in the forenoon of that day, why a peremptory or alternative writ of mandamus should not be issued out of and under the hand and seal of this Court commanding and enjoining the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to certify and approve for payment the several bills of Edward L. Clark, an employee of the Prosecutor's office of the County of Morris, for the months of April, May and a portion of June, 1925, which bills have already been endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

Rule to Show Cause.

It is further Ordered that both parties have leave to take affidavits and depositions on notice.

It is also further Ordered that a copy of the affidavits filed in this case, together with a copy of this rule, certified to be a true copy by the attorney for the relator, be served upon the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, within ten days from the date hereof.

Let this rule be entered.

C. W. PARKER,
J. S. C.

On motion of

Elmer W. Romine,
Attorney for Relator.

Notice to Take Depositions.

NOTICE

To C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris;

Take Notice, that I shall proceed to take depositions on behalf of the relators in the above-stated applications for writs of mandamus and in support thereof before Nicholas W. Bindseil, a Supreme Court Commissioner at my office, six (6) Washington street, Morristown, New Jersey, on Thursday morning, October 15, 1925, at ten o'clock in the morning and you are requested to be present if you so desire.

Dated September 29, 1925.

ELMER W. ROMINE,
Attorney for Relators.

Due and legal service of a copy of within is hereby acknowledged this 2nd day of October, 1925.

C. F. WILSON.

DEPOSITIONS.

NEW JERSEY SUPREME COURT.

THE STATE, ex rel.
THOMAS J. O'REARDON,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, ex rel. DAVID CONKLING,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, ex rel. MAX REIDLER,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, ex rel. JOHN P. WALSH,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

On Petition for Mandamus.

THE STATE, ex rel.
FREDERICK HUBERT,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

Depositions.

THE STATE, ex rel. DANIEL ALLEN,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, ex rel.
ARTHUR J. McDONNELL,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, ex rel. EDWARD L. CLARK,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

Transcript of depositions taken in the above-entitled suits, pursuant to notice, before Nicholas W. Bindseil, a Supreme Court Commissioner of New Jersey, at the office of Elmer W. Romine, 6 Washington street, Morristown, New Jersey, on Thursday, October 15, 1925, at 10 A. M.

Appearances:

Mr. Elmer W. Romine for relators.

It is stipulated and agreed by and between Mr. Elmer W. Romine, attorney for relators, and the defendant, C. Franklin Wilson, Judge of the Court of Quarter Sessions of Morris County, New Jersey, that the testimony may be taken stenographically by the Commissioner and afterwards reduced to typewriting, the signatures of the witnesses to their said testimony being waived.

DAVID CONKLING, called on his own behalf, being duly sworn according to law, on his oath says:

Direct examination by Mr. Romine.

Q Mr. Conkling, you are one of the parties in this proceeding, seeking to have a mandamus to compel the Judge of the Court of Quarter Sessions of the County of Morris to approve your bill, are you? A Yes, sir.

Q Where do you live, Mr. Conkling? A Morris Plains, Morris County.

Q And you have lived in Morris County how long? A Nineteen years—twenty years.

Q Were you employed by James H. Bolitho, former prosecutor of the County of Morris, to assist in any way in the criminal business of the county? A I was.

Q Do you recall when you were first employed by him? A That was when he first took office, two years ago, April or May; I forget which month.

Q That was what year? A 1923.

Q And shortly after he took office you were employed by him? A I was.

Q And was any amount fixed for your services per day? A Yes.

Q How much? A Six dollars a day and expenses; when I used the car, three dollars a day for the car.

Q That was when you used your own car? A Yes.

Q Would you work regularly or at intervals? A At intervals.

Q Would you submit bills for your services? A Yes.

Q Were those bills previously submitted to and approved by the prosecutor? A Yes, they were.

Q Were they paid by the County of Morris? A They were.

Q Coming down to the particular case in question, did you render services for the prosecutor in connection with the criminal business of the county in April of 1925? A I did.

Q And also in the month of May? A I did.

Q Did you make out bills for your services in that connection? A I did.

Q I submit to you what purports to be a bill, dated April 1, 1925, for services during the month of March, 1925, total of $108, and ask you if that is the bill that you sent for your services for that month? A That is.

Q And was that bill, after you made it out, signed it, and sworn to, submitted to the prosecutor for approval? A It was.

Q And was it approved by James H. Bolitho, former prosecutor of the County of Morris? A It was.

Q This bill represents services from March 4 to March 16 at six dollars a day and car three dollars a day; what were those services for; in connection with what character of work? A That was in liquor cases and criminal investigations.

Q In connection with the prosecutor's office of the County of Morris? A Yes.

Q You actually rendered your services on each of the days as mentioned in this bill? A I did.

Q After this bill was approved by James H. Bolitho, Prosecutor of the Pleas of Morris County, was the bill submitted to Judge Wilson for his further approval? A It was.

Q Did he approve the bill? A He did not.

Q Do you recall whether he gave any reason why he did not care to approve the bill? A No, I do not.

Mr. Romine: I will offer this bill dated April 1, 1925, signed by Mr. Conkling, approved by Mr. Bolitho, and sworn to by Mr. Conkling before Edward A. Quayle, Jr., Master in Chancery of New Jersey, showing services from March 4 to March 16, 1925.

(Marked Exhibit R. 1 for relator David Conkling.)

(Exhibit R. 1 for relator David Conkling.)

P. O. Address, Morris Plains, N. J.

Date April 1st, 1925.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS

To David Conkling, Dr.

Date of Delivery or Service 1925		By Order of Prosecutor			Voucher No.
Mar. 4	One Day's	Services	$6.00 car	$3.00	$9.00
" 5	" "	"	6.00 "	3.00	9.00
" 6	" "	"	6.00 "	3.00	9.00
" 7	" "	"	6.00 "	3.00	9.00
" 8	" "	"	6.00 "	3.00	9.00
" 9	" "	"	6.00 "	3.00	9.00
" 10	" "	"	6.00 "	3.00	9.00
" 11	" "	"	6.00 "	3.00	9.00
" 13	" "	"	6.00 "	3.00	9.00
" 14	" "	"	6.00 "	3.00	9.00
" 15	" "	"	6.00 "	3.00	9.00
" 16	" "	"	6.00 "	3.00	9.00
					——$108.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed) James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and approved for payment by Committee.
Chairman.

Affidavit on back of this bill must be executed or bill will be returned. Received payment in full settlement of above account.

David Conkling.
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. David Conkling

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

David Conkling (Signed).

Subscribed and sworn before me
this 2nd day of April, A. D. 1925.
(Signed) Edward A. Quayle, Jr.,
Master in Chancery of New Jersey."

Q I have before me another bill, bearing date May 1, 1925, for services from April 4th to April 25th, amounting to $72; I submit that to you and ask you if that is your bill rendered for services for the month of April in connection with the criminal business of the County of Morris? A Yes, sir, it is.

Q Did you actually render the services on the days as mentioned in this bill? A Yes, sir.

Q And that was in connection with what character of work? A In liquor cases and other criminal business of the prosecutor's office of the County of Morris.

Q This bill, was it approved by Mr. Bolitho, former Prosecutor of the Pleas of the County of Morris? A Yes, it was.

Q And did you thereafter submit it to Judge Wilson for his further approval? A Yes.

Q And did he approve the bill? A No.

Q He declined to do so? A Yes.

Q Did he give you any reason? A None whatever.

Q Have you ever been paid this amount of money? A I never have.

Mr. Romine: I offer that bill in evidence, dated May 1, 1925, signed by Mr. Conkling, approved by Mr. Bolitho, and sworn to by Mr. Conkling before John P. Walsh, Notary Public, showing services from April 4th to April 25th.

(Marked Exhibit R. 2 for Relator David Conkling.)

(Exhibit R. 2 for Relator David Conkling.)

"P. O. Address Morris Plains, N. J.

Date May 1st, 1925.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS.

To David Conkling, Dr.

Date of Delivery or Service 1925	By Order of Prosecutor				Voucher No.
Apr. 4	One Day's Services	$6.00, car	$3.00		$9.00
" 8	" " "	6.00 "	3.00		9.00
" 9	" " "	6.00 "	3.00		9.00
" 10	" " "	6.00 "	3.00		9.00
" 11	" " "	6.00 "	3.00		9.00
" 13	" " "	6.00 "	3.00		9.00
" 24	" " "	6.00 "	3.00		9.00
" 25	" " "	6.00 "	3.00		9.00
					$ 72.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed) James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and approved for payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed) David Conkling.
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, } ss.
County of Morris. }

David Conkling being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

David Conkling.

Subscribed and sworn before me this
1st day of May, A. D., 1925.

(Signed) John P. Walsh,
Notary Public."

Q As I understand it, all previous bills for services rendered prior to April 1, 1925, were for the same amount per diem? A Yes.

Q Together with the expenses for your car, when you used it, at three dollars a day? A Yes.

Q There never was any question raised by Judge Wilson prior to this time as to the reasonableness of the amount? A No.

Q The amounts stated in these two bills just referred to are the same amounts per diem as in the other bills approved and paid, are they? A Yes.

Q Do you remember when the bills were submitted to Mr. Bolitho for his approval, whether or not he actually checked up the rendition of your services as stated in the bills? A He did.

Q Did you work in conjunction with any other officers of the County of Morris when you would go out on your investigations? A Yes.

Q And do you recall in the months of March and April, whether the criminal business of the county was such as to require officers to go about the county and make investigations and arrests and so on? A Yes.

Q Principally, did it have to do with liquor violations? A Yes.

Q And, of course, other criminal business as well? A Yes.

DANIEL ALLEN, called on his own behalf, being duly sworn according to law, on his oath says:

Direct examination by Mr. Romine.

Q Mr. Allen, are you one of the parties seeking to have a mandamus directed to Judge Wilson for the approval of your bill for services rendered in connection with the prosecutor's office of the County of Morris? A I am.

Q And you live where? A At Mount Hope, Morris County.

Q How long have you lived there? A The last twelve years.

Q Do you recall the time when Mr. Bolitho was appointed Prosecutor of the Pleas of the County of Morris? A Yes.

Q That was about two years ago? A It was.

Q Shortly after that time were you employed to assist in making investigations in connection with the criminal business of the County of Morris, by the prosecutor's office? A I was.

Q You took orders and operated under whom? A Under the assistant prosecutor and the prosecutor; mostly the prosecutor.

Q That is, James H. Bolitho? A James H. Bolitho.

Q And what would be the nature of the work that you did? A The general work that came up, mostly criminal investigations, including liquor investigations.

Q Violations of the liquor law? A Yes.

Q Were there many of those in the County of Morris? A Yes, there were.

Q A great many people were arrested and brought into court and fined? A Yes.

Q As a result of your investigations and the other men? A Yes.

Q How much were you to be paid a day for your services? A Six dollars per diem, three when we used an automobile, and other expenses, such as telephone calls; we were allowed meals out of the county, and if we were out late at night and couldn't get home for supper, we were allowed that.

Q Previous to April, 1925, did you render bills for services in connection with work at the prosecutor's office? A I did.

Q And were those bills for services per day and expenses? A Yes.

Q How much per day? A Six dollars per day.

Q And car three dollars? A Car three dollars.

Q And such other expenses as you may have had? A Yes.

Q Were those bills approved by the prosecutor? A They were.

Q And by the Judge of the Quarter Sessions Court? A They were.

Q And had they been paid regularly by the County of Morris? A They were.

Q Taking up your bills, I have before me one made out April 1, 1925, for services in the month of March, from the first of March until March 31, including expenses of car and other expenses, total $301.90. I submit this bill to you first and ask you if that was made out by you? A Yes, sir.

Q And that is your bill for that month? A Yes, sir.

Q Sworn to by you before John P. Walsh, notary public, on April 1, 1925? A Yes.

Q Was the bill approved by Mr. Bolitho, former prosecutor? A Yes, sir, it was.

Q And was the bill submitted to Judge Wilson for his further approval and recommendation? A Yes, sir.

Q Did Judge Wilson approve it? A He did not.

Q Did he give any reason whatsoever why he did not approve the bill? A He did.

Q What was his reason? A He claimed that Justice Parker had made an order putting Jayne as the prosecutor, or to take charge of all the criminal matters in the county; therefore, he didn't see why he should approve any bills that were approved by James H. Bolitho; he claimed that Mr. Bolitho didn't have anything to do with the criminal business.

Q No objection was made as to the reasonableness of your bill? A No, sir.

Q It was merely a question of whether Mr. Bolitho had the right to employ these men under his general power? A Yes.

Q The days that you have referred to, in your bill of April 1st, as rendering services, you actually rendered the service on each of those days? A I did.

Q That was in connection with investigations as to violations of the liquor law and other criminal violations of the county? A Yes.

Q You had rendered services prior to the time that Mr. Jayne was appointed to take charge of the special investigations in Morris County, had you? A Yes.

Q And your bills for that had been paid? A Yes, sir.

Q And after Mr. Jayne came up here, under the first order, to make investigations in the county, you continued to render services for the prosecutor's office, did you? A I did.

Q And were your bills for that work approved, notwithstanding the fact that Mr. Jayne was here making investigations under an order of Justice Parker? A Yes, sir, they were paid; that is, on the first order.

Q Do you know whether there was a second order appointing Mr. Jayne? A Only what Judge Wilson had told me himself.

Q Do you know about when that second order was made? Did Judge Wilson inform you when that was? A He did; I believe it was some time, the way he put it to me, either February 5th or 25th, I just cannot recall, of this year.

Q Was it after that second order was made that Judge Wilson declined to approve the bills? A The way that came about, he was at dinner with someone and they asked him if he had seen this order, and he said no, so he went to the County Clerk's office, and I believe they couldn't find it, the first attempt, and they looked around; finally they got hold of it, and he read it, and from then on he refused to approve any bills.

Q Were you present when Judge Wilson read the order? A No, sir. What I have said is the conversation I had with Judge Wilson.

Q Then, the principal reason that Judge Wilson gave to you for declining to approve the bills was because of his construction of the effect of that order, namely, that it might deprive Mr. Bolitho of the right to take charge or continue with the criminal business of the county? A That is right.

Mr. Romine: I offer this bill of April 1, 1925, in evidence.

(Marked Exhibit R. 1 for relator Daniel Allen.)

(Exhibit R. 1 for Relator Daniel Allen.)

"P. O. Address Mt. Hope, N. J.

Date Apr. 1st, 1925.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS

To Daniel Allen Dr.

Date of Delivery or Service 1925	By Order of Prosecutor					Voucher No.	
Mar. 1	One Day's Services	$6.00	car	$3.00,	ex. $1.10		$ 10.10
" 2	" " "	6.00	"	3.00	" 4.20		13.20
" 3	" " "	6.00	"	3.00	" 2.30		11.30
" 4	" " "	6.00	"	3.00	" 1.20		10.20
" 5	" " "	6.00	"	3.00	" .90		9.90
" 6	" " "	6.00	"	3.00	" 1.00		10.00
" 7	" " "	6.00	"	3.00	" 1.10		10.10
" 8	" " "	6.00	"	3.00	" 1.10		10.10
" 9	" " "	6.00	"	3.00	" .40		9.40
" 10	" " "	6.00	"	3.00	" .90		9.90
" 11	" " "	6.00	"	3.00	" 1.00		10.00
" 12	" " "	6.00	"	3.00	" .75		9.75
" 13	" " "	6.00	"	3.00	" 1.00		10.00
" 14	" " "	6.00	"	3.00	" .90		9.90
" 15	" " "	6.00	"	3.00			9.00
" 16	" " "	6.00	"	3.00	" 1.00		10.00
" 17	" " "	6.00	"	3.00	" .65		9.65
" 18	" " "	6.00	"	3.00	" 1.00		10.00
" 19	" " "	6.00	"	3.00	" .90		9.90
" 20	" " "	6.00	"	3.00			9.00
" 21	" " "	6.00	"	3.00			9.00
" 22	" " "	6.00	"	3.00			9.00
" 23	" " "	6.00	"	3.00			9.00
" 24	" " "	6.00	"	3.00			9.00
" 25	" " "	6.00	"	3.00			9.00
" 26	" " "	6.00	"	3.00			9.00
" 27	" " "	6.00	"	3.00			9.00
" 28	" " "	6.00	"	3.00			9.00
" 29	" " "	6.00	"	3.00			9.00
" 30	" " "	6.00	"	3.00	ex. .50		9.50
" 31	" " "	6.00	"	3.00	" 1.00		10.00
							$301.90

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the

amount thereby claimed is due and owing the claimant.

(Signed) James H. Bolitho,
Prosecutor of the Pleas for Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and approved for payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed) Daniel Allen.

Sign here before presenting bill."

"AFFIDAVIT:

State of New Jersey, County of Morris. } ss. Daniel Allen

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Daniel Allen.

Subscribed and sworn before me this
1st day of April, A. D. 1925.

John P. Walsh,
Notary Public.''

Q Mr. Allen, I have before me another bill, bearing date May 1, 1925, which appears to have been made out by you for services from April 1, 1925, to April 30, 1925, including expenses of car and other expenses, a total of $274.70. I submit this bill to you and ask you if that in fact is a bill which you made out and swore to? A It is.

Q Does it represent your bill for services in connection with the prosecutor's office for the month of April? A Yes.

Q That bill you swore to before John P. Walsh, notary public? A Yes.

Q On May 1, 1925? A Yes.

Q And on the days that are stated in this bill did you actually render services on each of those days in connection with the criminal business in the county for the prosecutor's office? A I did.

Q That was in connection with the investigation of cases and violations of liquor law and otherwise? A Yes.

Q That bill, was it submitted to Mr. Bolitho for his approval? A Yes.

Q And was it approved by Mr. Bolitho? A Yes, sir.

Q And was the bill afterward submitted to Judge Wilson for his approval? A It was.

Q And did Judge Wilson approve it? A No, sir, he did not.

Q And did he give you the same reason for not approving it as you have already stated? A The same reasons.

Q He did not object to the reasonableness of the bill in any way, did he? A No, sir.

Q Do I understand that the same amounts for services per diem and for the use of your car as appearing in this bill of April, 1925, are the same as those that appeared in previous bills, which were approved and paid? A Yes, sir.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 2 for relator Daniel Allen.)

(Exhibit R. 2 for Relator Daniel Allen.)

''Date May 1st, 1925.

P. O. Address Mt. Hope, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS

To Daniel Allen Dr.

Date of Delivery or Service 1925				By Order of Prosecutor			Voucher No.	
Apr.	1	One	Day's	Services $6.00	car $3.00			$ 9.00
"	2	"	"	" 6.00	" 3.00			9.00
"	3	"	"	" 6.00	" 3.00			9.00
"	4	"	"	" 6.00	" 3.00			9.00
"	5	"	"	" 6.00	" 3.00			9.00
"	6	"	"	" 6.00	" 3.00			9.00
"	7	"	"	" 6.00	" 3.00			9.00
"	8	"	"	" 6.00	" 3.00			9.00
"	9	"	"	" 6.00	" 3.00			9.00
"	10	"	"	" 6.00	" 3.00			9.00
"	11	"	"	" 6.00	" 3.00			9.00
"	12	"	"	" 6.00	" 3.00			9.00
"	13	"	"	" 6.00	" 3.00			9.00
"	14	"	"	" 6.00	" 3.00			9.00
"	15	"	"	" 6.00	" 3.00	ex. $ .40		9.40
"	16	"	"	" 6.00	" 3.00			9.00
"	17	"	"	" 6.00	" 3.00			9.00
"	18	"	"	" 6.00	" 3.00			9.00
"	19	"	"	" 6.00	" 3.00			9.00
"	20	"	"	" 6.00	" 3.00	ex. .60		9.60
"	21	"	"	" 6.00	" 3.00	" 1.05		10.05
"	22	"	"	" 6.00	" 3.00			9.00
"	23	"	"	" 6.00	" 3.00			9.00
								9.00

"	24	"	"	"	6.00	"	3.00 ex.	1.00	10.00
"	25	"	"	"	6.00	"	3.00 "	.90	9.90
"	26	"	"	"	6.00	"	3.00 "	.75	9.75
"	27	"	"	"	6.00	"	3.00		9.00
"	28	"	"	"	6.00	"	3.00		9.00
"	29	"	"	"	6.00	"	3.00		9.00
"	30	"	"	"	6.00	"	3.00		9.00
									$274.70

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Charge the amount of this bill to Prosecutor's Office.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

_____
Judge, &c.

Examined and Approved for Payment by Committee.

_____
Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
Daniel Allen,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Daniel Allen

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Daniel Allen.

Subscribed and sworn before me this
1st day of May, A. D. 1925.

John P. Walsh,
Notary Public."

Q I have before me another bill, dated May 28, 1925, which appears to be for services from May 1st to May 18th, amounting to $150. I ask you if that is your bill for services for the month

of May, in connection with the criminal business of the county? A Yes, sir.

Q And that was for services rendered in connection with the prosecutor's office? A Also Mr. Jayne's.

Q And some for Mr. Jayne? A Yes.

Q Do you know how much of that bill represents services for Mr. Jayne? A I believe it was nine or ten days.

Q Did Mr. Bolitho have knowledge of the rendition of those services? A Yes.

Q Was it with Mr. Bolitho's approval? A Yes.

Q And was it particular business of Mr. Jayne's or general criminal business of the county in which Mr. Bolitho was interested as well? A It was serving subpoenaes.

Q For witnesses to the Grand Jury? A Yes, sir.

Q And you actually rendered the services on each of the days as mentioned in this bill, did you? A Yes, sir, I did.

Q This bill appears to be sworn to before John P. Walsh, notary public, on May 28th? A Yes, sir.

Q Did you submit this bill to Mr. Bolitho for his approval? A I did.

Q And did he approve it? A He did.

Q Did you afterward submit it to Judge Wilson? A Yes, sir.

Q Did he approve the bill? A No, sir.

Q Did he give you any reason for it? A No, sir; the only reason he gave was the same as to the previous bills.

Q The same reasons? A Yes.

Q So that bill is still unpaid and the amount due you? A Yes, sir.

Q And the amounts charged in that bill are the same as in the previous bills that have been submitted, and some of which have been paid? A Yes, sir.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 3 for relator Daniel Allen.)

(Exhibit R. 3 for Relator Daniel Allen.)

"Date May 28, 1925.

P. O. Address Wharton, N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Daniel Allen Dr.

Date of Delivery or Service		By Order of Prosecutor					Voucher No.
May	1, 1925	$6.00	One day and Car			$3.00	$9.00
"	2 "	6.00	" " " "			3.00	9.00
"	3 "	6.00	" " " "			3.00	9.00
"	4 "	6.00	" " " "			3.00	9.00
"	5 "	6.00	" " " "			3.00	9.00
"	6 "	6.00	" " " "			3.00	9.00
"	7 "	6.00	One day service				6.00
"	8 "	6.00	" " "	Car		3.00	9.00
"	9 "	6.00	" " " "			3.00	9.00
"	10 "	6.00	" " " "			3.00	9.00
"	11 "	6.00	" " " "			3.00	9.00
"	12 "	6.00	" " " "			3.00	9.00
"	13 "	6.00	" " " "			3.00	9.00
"	14 "	6.00	" " " "			3.00	9.00
"	15 "	6.00	" " " "			3.00	9.00
"	16 "	6.00	" " " "			3.00	9.00
"	18 "	6.00	" " " "			3.00	9.00
							——$150.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon

are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Charge the amount of this bill to Law Enforcement.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

_____

Judge, &c.

Examined and approved for payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Daniel Allen,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Daniel Allen

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Daniel Allen.

Subscribed and sworn before me this 28th day of May, A. D. 1925.

John P. Walsh,
Notary Public."

Q During the time that you rendered the services for Mr. Bolitho, or in connection with the prosecutor's office, for which you have submitted bills, which bills have not as yet been approved by Judge Wilson or paid, did Mr. Jayne in anywise notify you not to render any services to Mr. Bolitho or to his office? A He did not.

Q Did Mr. Jayne at any time notify you that he had charge of the criminal business of the county to the exclusion of Mr. Bolitho? A He did not.

Q Were you notified by anyone not to render any services? A I was not.

Q Did you submit these bills to Mr. Jayne for his approval? A I did.

Q Did he agree to approve them or not? A I don't believe he agreed; he didn't approve them.

Q At the time that you rendered your services for these months of March, April and May, was Mr. Bolitho Prosecutor of the Pleas of the County of Morris during those months? A He was.

Q Up until the time of your last bill, which is unpaid? A May 18th, I am pretty sure.

Q So that from March 1, 1925, until May 18th, James H. Bolitho, the man who approved your bills, was acting as prosecutor of the County of Morris? A He was.

EDWARD L. CLARK, called on his own behalf, being duly sworn according to law, on his oath says:

Direct examination by Mr. Romine.

Q Where do you live? A Parsippany, Morris County, New Jersey.

Q You are one of the parties making application for mandamus to have your bill approved by the Judge of the Quarter Sessions of the County of Morris, are you? A Yes, sir.

Q And when did you begin rendering services for the prosecutor's office of the County of Morris in connection with the criminal business? A Sometime last fall.

Q That would be the year 1924? A Yes.

Q Who was prosecutor at that time? A James H. Bolitho; I did work for him before that, but I wasn't there steady until early in the fall.

Q So that sometime early in the fall of 1924 you began steadily to do work for the prosecutor's office of the County of Morris? A Yes.

Q Did you render your services under the direction of the prosecutor and his county detectives? A Yes, sir.

Q And what was the general class of work that you had to do? A Investigating cases—criminal cases, liquor cases.

Q Violations of the liquor law? A Any complaints that came into the office.

Q Were you kept busily engaged from day to day from the fall of 1924? A Yes, sir.

Q About how many men did the prosecutor employ to pursue these investigations of liquor violations and other criminal violations? A I should say six or seven were in the office when I was there.

Q Would you say that there were a great many cases that came to the attention of the prosecutor that needed investigation? A Yes, sir.

Q And were there numerous arrests made? A Yes, sir.

Q And during that period of time was it mostly for violations of the liquor law? A A number of cases were liquor cases and a number of criminal cases.

Q As to the liquor cases, were those that were arrested fined or indicted? A Yes, sir.

Q As a result of your investigation and work? A Yes.

Q You submitted your bills, did you, each month? A Yes, sir.

Q From the fall on? A Yes, sir.

Q And what were you to get a day? A Six dollars a day.

Q That was for your services? A Yes.

Q Did you have a car of your own? A I did not.

Q Were you to be allowed anything extra for anything at all? A There were times when I had to go out when the cars were not available, and I had to hire one, or else go on the trolley or bus or some way.

Q You were allowed the extra expense for travel, then? A Yes.

Q Were you allowed anything for meals in the event you had to remain out at night, or times when you couldn't get home to get your meals? A If I was out of town.

Q Those bills were submitted along that line, were they? A Yes.

Q Were they approved prior to April 1, 1925, by the prosecutor? A Yes, sir.

Q As well as the Judge of the Court of Common Pleas? A Yes, sir.

Q And were those bills which you submitted on that basis paid by the Board of Freeholders of the County of Morris? A Yes.

Q Without any objection on the part of anyone? A Yes.

Q I have a bill under date of April 1, 1925, which appears to be for services from March 4, 1925, to March 31st, and some expenses, a total of $147.35. I ask you to look at that bill and tell me whether that is a bill made out by you for your services during that month in connection with the prosecutor's office? A Yes, sir.

Q And that bill was sworn to by you before Robert L. Murphy, a Master in Chancery of New Jersey, on April 1, 1925? A Yes.

Q The days you have stated in this bill as rendering services for the county at $6 a day, were you actually in attendance and did you render services for those days? A Yes, sir.

Q In connection with the criminal business of the county? A Yes, sir.

Q On orders from the prosecutor's office? A Yes, sir.

Q And would you say that the amounts stated therein for services and expenses were reasonable and necessary? A Yes, sir.

Q Was this bill, after it was made out by you, submitted to the prosecutor's office? A Yes, sir.

Q And was it approved by anyone? A Approved by the prosecutor.

Q James H. Bolitho? A Yes, sir.

Q And did you thereafter submit the bill to the Judge of the Court of Quarter Sessions for his approval? A The bills of one year ago I didn't personally.

Q You had it sent in? A Yes.

Q Was the bill approved by the judge? A No, sir.

Q Did you have any talk with the judge personally as to your bill? A I did not.

Q You don't know any reason yourself why he didn't approve it? A He didn't say anything to me, only what I have heard from the others.

Q The former bills had been approved by the judge? A Yes.

Q And were they in the same amount per diem for services? A Yes.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 1 for relator Ed. L. Clark.)

(Exhibit R. 1 for Relator Edward L. Clark.)

"Date Apr. 1st, 1925.

P. O. Address Parsippany, N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Edward L. Clark, Dr.

Date of Delivery or Service 1925	By Order of Prosecutor	Voucher No.
Mar. 4	One Day's Services $6.00	$6.00
" 5	" " " 6.00 ex. 80c	6.80
" 6	" " " 6.00	6.00
" 7	" " " 6.00	6.00
" 9	" " " 6.00	6.00
" 10	" " " 6.00	6.00
" 11	" " " 6.00	6.00
" 12	" " " 6.00	6.00
" 13	" " " 6.00	6.00
" 14	" " " 6.00	6.00
" 16	" " " 6.00	6.00
" 17	" " " 6.00	6.00
" 18	" " " 6.00	6.00
" 19	" " " 6.00	6.00
" 20	" " " 6.00 ex. 55c	6.55
" 21	" " " 6.00 ex. 1.00	7.00
" 22	" " " 6.00	6.00
" 23	" " " 6.00	6.00
" 25	" " " 6.00 ex. 1.00	7.00
" 26	" " " 6.00	6.00
" 27	" " " 6.00	6.00
" 28	" " " 6.00	6.00
" 30	" " " 6.00	6.00
" 31	" " " 6.00	6.00
		$147.35

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Charge the amount of this bill to Law Enforcement.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

_____
Judge, &c.

Examined and Approved for Payment by Committee.

_____
Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Edward L. Clark,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, } ss. Edward L. Clark
County of Morris. }

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Edward L. Clark.

Subscribed and sworn before me this
1st day of April, A. D. 1925.

Robert L. Murphy,
M. C. C. of N. J."

Q I have before me another bill, bearing date May 1, 1925, which appears to have been made out by you for services from April 1, 1925, to April 30, 1925, a total, together with some expenses, of $171.80, and ask you to look at that bill and tell us whether in fact that is your bill for services for that month, made out by you? A Yes, sir, it is.

Q Did you actually render the services yourself on the days as mentioned in this bill? A Yes, sir.

Q And the expenses attached thereto on certain days were necessary in connection with your work? A Yes, sir.

Q Did you after making out this bill and swearing to it before John P. Walsh, a notary public, submit the bill to anyone at the prosecutor's office for approval? A Yes, sir.

Q Whom did you submit the bill to? A James H. Bolitho.

Q And did he approve the bill? A He did.

Q Was the bill approved by the judge? A No, sir.

Q The reason you don't know personally? A No, sir.

Q The previous bills submitted by you, however, were approved by the judge, previous to this time, previous to, we will say, April first? A Yes.

Q They had been approved? A Yes, sir.

Q And were they in the same amount per diem? A Yes.

Mr. Romine: I offer this bill in evidence.

(Marked Exhibit R. 2 for relator Ed. L. Clark.)

(Exhibit R. 2 for Relator Edward L. Clark.)

"Date May 1st, 1925.

P. O. Address Parsippany, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS.

To Edward L. Clark, Dr.

Date of Delivery or Service 1925	By Order of Prosecutor		Voucher No.
Apr. 1	One Day's Services	$6.00	$6.00
" 2	" " "	6.00	6.00
" 3	" " "	6.00 ex. 30c	6.30
" 4	" " "	6.00 " 1.00	7.00
" 5	" " "	6.00 " 30c	6.30
" 6	" " "	6.00 " 20c	6.20
" 7	" " "	6.00	6.00
" 8	" " "	6.00 ex. 50c	6.50
" 9	" " "	6.00 " 50c	6.50
" 10	" " "	6.00 " 50c	6.50
" 11	" " "	6.00 " 50c	6.50
" 13	" " "	6.00	6.00
" 14	" " "	6.00	6.00

	" 15	"	"	6.00	6.00
	" 16	"	"	6.00	6.00
	" 17	"	"	6.00	6.00
	" 18	"	"	6.00	6.00
	" 19	"	"	6.00	6.00
	" 20	"	"	6.00	6.00
	" 21	"	"	6.00	6.00
	" 22	"	"	6.00	6.00
	" 23	"	"	6.00	6.00
	" 24	"	"	6.00	6.00
	" 25	"	"	6.00	6.00
	" 27	"	"	6.00	6.00
	" 28	"	"	6.00	6.00
	" 29	"	"	6.00	6.00
	" 30	"	"	6.00	6.00
					—$171.80

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Charge the amount of this bill to Law Enforcement.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

_____

Judge, &c.

Examined and Approved for Payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Edward L. Clark,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Edward L. Clark

being duly sworn, deposes and says that the items charged in this bill are correct, that the services specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Edward L. Clark.

Subscribed and sworn before me
this 1st day of May, A. D. 1925.

John P. Walsh,
Notary Public."

Q I have before me another bill, under date of May 1, 1925, which appears to be a bill made out by you from May 1, 1925, to May 18th, and ask you to look at that bill and tell us whether that in fact is a bill made out by you for services rendered in connection with the criminal business of the county? A I don't know just how many days there were—at the end of that period sometime, it was serving subpoenaes.

Q Some of that bill was for serving subpoenaes? A Yes, and expenses.

Q You had a car on two occasions? A Yes.

Q The amounts charged are reasonable, are they? A Yes, sir.

Q And you actually rendered your services on those days? A I did.

Q And the same amounts per diem as you had previously charged, and formerly had been paid? A Yes.

Q After making out this bill, was it approved by Mr. Bolitho? A It was.

Q And was it ever approved by the judge? A No, sir.

Q It was submitted to him, however? A Yes.

Q But not approved? A Yes.

Q You don't know yourself the reason why it was not approved? A I had no talk with him personally.

Q And that amount is still due, as well as the other amounts? A Yes, sir.

Q Never having been paid? A No, sir.

Q From April 1, 1925, until May 18th, which is the last date of services in your bills, was Mr. Bolitho Prosecutor of the Pleas of the County of Morris? A Yes, sir.

Q In the last bill that you have submitted, and which is unpaid, you say that for some of the days in May, the latter part, you served some subpoenaes? A Yes, sir.

Q Was that in connection with the Grand Jury? A Yes.

Q That was being held by Mr. Jayne? A Yes, sir.

Q Did you serve the subpoenaes at his request or at the request of Mr. Bolitho? A They were given to me there in the office.

Q In what office? A In the prosecutor's office.

Q Was Mr. Bolitho there? A Yes.

Q Did he direct you to serve them? A Yes.

Q Did you ever ask Mr. Jayne to approve your bills? A I don't know whether I did personally or not. I talked to Mr. Jayne two or three times.

Q Was it about the approval of the bills? A I asked him about the bills and he said that would have to be settled later.

Q He put you off and said it would have to be settled later? A Yes.

Q Did Mr. Jayne at any time that he was here in the county as special investigator notify you not to render any service for or in connection with the prosecutor's office? A No, sir.

Q Did anybody notify you not to do so? A No, sir.

Mr. Romine: I offer in evidence the bill of May 1, 1925, for $84.50.

(Marked Exhibit R. 3 for relator Ed. L. Clark.)

(Exhibit R. 3 for Relator Edward L. Clark.)

"Date May 1st, 1925.

P. O. Address Morris Plains, N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Edward L. Clark, Dr.

Date of Delivery or Service			By Order of Prosecutor	Voucher No.
May	1	1 Day		$6.00
"	2	"		6.00
"	4	"		6.00
"	5	"		6.00
"	8	"		6.00
"	9	"		6.00
"	11	"		6.00
"	12	"		6.00
"	13	"	Car 3.00	9.00
"	14	"		6.00
"	15	"	50	6.50
"	16	"		6.00
"	18	"	Car 3.00	9.00
				$84.50

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

_____
Judge, &c.

Charge the amount of this bill to Law Enforcement.

Examined and Approved for Payment by Committee.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Edward L. Clark.
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Edward L. Clark

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

Edward L. Clark.

Subscribed and sworn before me this
16th day of June, A. D. 1925.

C. A. Dobbins,
Notary Public, New Jersey."

JOHN P. WALSH, called on his own behalf, being duly sworn according to law, on his oath says:

Direct examination by Mr. Romine.

Q Mr. Walsh, are you one of the parties making application for a writ of mandamus to compel the approval of your bill by the Judge of the Quarter Sessions of the County of Morris? A Yes, sir.

Q You live where? A Whippany.

Q Were you connected with the prosecutor's office of the County of Morris during Mr. Bolitho's time? A Yes.

Q When did you begin rendering service? A About June 1, 1923.

Q That was shortly after Mr. Bolitho had been appointed prosecutor? A Yes.

Q And what was the character of the services that you were employed to do? A Investigating liquor cases and other criminal affairs.

Q The criminal business of the county? A Yes.

Q And you were employed by Mr. Bolitho? A Yes.

Q Was there any agreement as to how much you were to get a day? A Six dollars a day.

Q And anything said about expenses? A Yes.

Q What about that? A All necessary expenses.

Q Were to be paid in addition to the six dollars? A Yes.

Q And you went about on those investigations with other men and caused arrests and so on? A Yes.

Q And each month did you submit your bill for your services? A Yes.

Q And was it approved by the prosecutor as well as the judge? A Yes.

Q And paid by the County of Morris? A Yes.

Q Coming down to April 1, 1925, and from then on until Mr. Bolitho ceased to be prosecutor, in the latter part of May, were your bills paid then? A No.

Q You rendered services, did you? A Yes.

Q I have before me a bill dated April 1, 1925, which appears to be for your services from March 1 to March 31, together with some expenses, a total of $175.15, and ask you to look at that bill and tell us whether that is your bill for services rendered in connection with the

prosecutor's office of the County of Morris? A Yes, sir.

Q That was sworn to by you before Mr. Murphy, a Master in Chancery? A Yes.

Q And that represents services rendered by you for that particular month? A Yes.

Q And on all of the days mentioned in this bill you were actually in attendance doing some work in connection with the prosecutor's office? A Yes.

Q Was this bill submitted to the prosecutor of the County of Morris for his approval? A It was.

Q And was it approved by him? A Yes.

Q Was the bill afterward submitted to the Judge of the Court of the Quarter Sessions for his approval? A Yes, I think I brought these bills down to Judge Wilson.

Q Yourself? A I think I brought the whole of them down.

Q All of them, yours and the others as well? A Yes.

Q And did Judge Wilson approve them? A We used to leave them there; this time they was left there.

Q Did you again call for them? A I think that I did. I think that I called for them in April, but they wasn't ready.

Q Did Judge Wilson give you any reason for not having approved them? A No, sir.

Q Did he finally turn the bills back to you? A No.

Q How did you get them back? A I don't know how; I think they were sent for. All the bills were sent for; I don't know how they came back in the prosecutor's office. Of course, we had to have them back.

Q They eventually got back to the prosecutor's office? A Yes.

Q That is, after the bills had accumulated for the various months and allowed to remain in Judge Wilson's office, they eventually got back to the prosecutor's office? A Yes.

Q You understood, did you not, that Judge Wilson had declined to approve the bills? A Yes.

Q You didn't have any personal talk with him about why he didn't? A No.

Q He never made any objection to you about the reasonableness of the bill, did he? A No.

Q Do I understand that the bill that you have submitted here in the amount of six dollars a day is in the same amount per day that you had submitted for services previous thereto? A Yes, sir.

Q And which bills had been previously approved and paid? A Yes, sir.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 1 for relator J. P. Walsh.)

John P. Walsh, direct.

"P. O. Address Whippany, N. J.

Date Apr. 1st, 1925.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To John P. Walsh, Dr.

Date of Delivery or Service 1925	By Order of Prosecutor		Voucher No.
Mar. 1	One Day's Services	$6.00	$6.00
" 2	" " "	6.00	6.00
" 3	" " "	6.00	6.00
" 4	" " "	6.00	6.00
" 5	" " "	6.00	6.00
" 6	" " "	6.00 ex. 1.25	7.25
" 7	" " "	6.00 " 1.10	7.10
" 8	" " "	6.00 " 1.15	7.15
" 9	" " "	6.00 " 80c	6.80
" 10	" " "	6.00	6.00
" 11	" " "	6.00 ex. 1.00	7.00
" 12	" " "	6.00 " 90c	6.90
" 13	" " "	6.00	6.00
" 14	" " "	6.00	6.00
" 16	" " "	6.00	6.00
" 17	" " "	6.00	6.00
" 18	" " "	6.00 ex. 65c	6.65
" 19	" " "	6.00	6.00
" 20	" " "	6.00	6.00
" 21	" " "	6.00	6.00
" 23	" " "	6.00	6.00
" 24	" " "	6.00	6.00
" 25	" " "	6.00	6.00
" 26	" " "	6.00	6.00
" 27	" " "	6.00	6.00
" 28	" " "	6.00	6.00
" 30	" " "	6.00	6.00
" 31	" " "	6.00 ex. 30c	6.30
			$175.15

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
for Morris County.

John P. Walsh, direct.

Charge the amount of this bill to Law Enforcement.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed) John P. Walsh.

Sign here before presenting bill."

John P. Walsh, direct.

"AFFIDAVIT.

State of New Jersey, } ss. John P. Walsh
County of Morris. }

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) John P. Walsh.

Subscribed and sworn before me this
18th day of April A. D. 1925.
Robert L. Murphy,
M. C. C. of N. J."

Q I have before me another bill, dated May 1, 1925, which appears to be a bill made out by you for services from April 1, 1925, to April 30, 1925, together with some items of expenses, total $159.90, and ask you to look at that bill and tell us whether that in fact is a bill made out by you for services for that month? A Yes, sir.

Q That was sworn to by you before Robert L. Murphy, a Master in Chancery of New Jersey? A Yes, sir.

Q That represents actual services on your part on the dates as named in the bill? A Yes, sir.

Q In connection with the business of the prosecutor's office? A Yes, sir.

Q And the amounts charged therein are the same as previously charged? A Yes, sir.

Q All of which prior to April first had been approved and paid? A Yes.

John P. Walsh, direct.

Q Did you submit this bill after it was made out, to Mr. Bolitho for his approval? A Yes.

Q And was it approved by him? A Yes.

Q And thereafter it was submitted to the judge? A Yes.

Q But not approved by Judge Wilson? A No.

Mr. Romine: I offer this bill in evidence.

(Marked Exhibit R. 2 for relator John P. Walsh.)

"P. O. Address Whippany, N. J.

Date May 1st, 1925.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS.

To John P. Walsh, Dr.

Date of Delivery or Service 1925	By Order of Prosecutor	Voucher No.
Apr. 1	One Day's Services $6.00	$6.00
" 2	" " " 6.00 ex. 70c	6.70
" 3	" " " 6.00 " 1.00	7.00
" 4	" " " 6.00 " 50c	6.50
" 5	" " " 6.00 " 30c	6.30
" 6	" " " 6.00 " 60c	6.60
" 7	" " " 6.00	6.00
" 8	" " " 6.00	6.00
" 9	" " " 6.00	6.00
" 11	" " " 6.00	6.00
" 13	" " " 6.00	6.00
" 14	" " " 6.00	6.00
" 15	" " " 6.00	6.00
" 16	" " " 6.00	6.00
" 17	" " " 6.00	6.00
" 18	" " " 6.00	6.00
" 20	" " " 6.00	6.00
" 21	" " " 6.00	6.00
" 22	" " " 6.00	6.00
" 23	" " " 6.00	6.00
" 24	" " " 6.00 ex. 80c	6.80
" 25	" " " 6.00	6.00
" 27	" " " 6.00	6.00
" 28	" " " 6.00	6.00
" 29	" " " 6.00	6.00
" 30	" " " 6.00	6.00
		——$159.90

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
of Morris County.

Charge the amount of this bill to Law Enforcement.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed) John P. Walsh.

Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, } ss. John P. Walsh
County of Morris. }

being duly sworn, deposes and says that the items charged in this bill are correct, that the services specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) John P. Walsh.

Subscribed and sworn before me
this 1st day of May A. D. 1925.

Robert L. Murphy,
Master in Chancery of N. J."

John P. Walsh, direct.

Q I have before me another bill, bearing date June 1, 1925, which appears to be a bill of yours for services from May 1 to May 18th, together with some items of expense, amounting to $88.31. Will you look at that bill and tell us whether that is your bill for services in that month? A Yes.

Q Sworn to before Robert L. Murphy, Master in Chancery of New Jersey? A Yes.

Q The amount you charge here at six dollars a day is the same amount previously charged? A Yes.

Q And which prior to April 1st had been approved by the judge and paid by the county? A Yes.

Q You actually rendered the services, did you, for the days mentioned here? A Yes.

Q And was that bill submitted to Mr. Bolitho for his approval? A Yes.

Q And approved by him? A Yes.

Q It was submitted to the judge for his approval? A Yes.

Q But the judge declined to approve it? A Yes.

Q And this bill, together with the other bills, still remain unapproved and unpaid? A Yes.

Q Although you have rendered the services? A Yes.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 3 for relator Walsh.)

John P. Walsh, direct.

"P. O. Address Whippany, N. J.

Dated June 1, 1925.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS

To Dr.

Date of Delivery or Service 1925	By Order of		Voucher No.
May 1	One Day Service	$6.00	$6.00
" 2	" " "	6.00	6.00
" 4	" " "	6.00	6.00
" 5	" " "	6.00	6.00
" 6	" " "	6.00	6.00
" 7	" " "	6.00	6.00
" 8	" " "	6.00	6.00
" 9	" " "	6.00	Expense $2.50 8.50
" 11	" " "	6.00	6.00
" 12	" " "	6.00	6.00
" 13	" " "	6.00	Expense 1.00 7.00
" 14	" " "	6.00	6.00
" 16	" " "	6.00	6.00
" 18	" " "	6.00	Expense .81 6.81
			$88.31

Charge the amount of this bill to Law Enforcement.

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)

James H. Bolitho,
Prosecutor of the Pleas
of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed) John P. Walsh.

Sign here before presenting bill."

Q Between March 1st and May 18th, the last date of services on your bill, was Mr. Bolitho the Prosecutor of the Pleas of the Coounty of Morris? A Yes.

Q And actually in charge of the criminal business here? A Yes.

Q Was Mr. Jayne also in the county doing some investigation and preparing cases for the Grand Jury? A He was.

Q Did Mr. Jayne or anybody for him or on his behalf ever notify you that you were not to render any services to the prosecutor, Mr. Bolitho? A No, sir.

Q You were not in any way told to desist and refrain from assisting the prosecutor in the ordinary criminal business of the county? A No, sir.

MAX REIDLER, called on his own behalf, being duly sworn according to law, on his oath says:

Direct examination by Mr. Romine.

Q You are one of the parties seeking to have some bills approved by the Judge of the Quarter Sessions of the County of Morris for mandamus? A Yes, sir.

Q You live where? A Rockaway, New Jersey.

Q You remember the time when Mr. Bolitho was appointed prosecutor? A Yes, sir.

Q Do you remember what year that was? A April, 1923.

Q After his appointment and qualification as prosecutor, did you have any connection with that office in the way of rendering service? A Yes, sir, I began on November 9, 1923, with James H. Bolitho as prosecutor, I think, then acting as county detective.

Q Your particular work was what? A Feret out crime, make arrests and serve subpoenaes and serve capias and warrants.

Q And investigate violations of the crime law? A Yes.

Q Were you busy each day of the week from the time that you took office? A In fact most every day.

Q As well as nighttime? A Yes, sir, day and night.

Q How many men did Mr. Bolitho have on his staff in the matter of investigating violations of law? A At the office there different quantity of men, according to the work we had to do. If we had a big raid we would take some outside constables with us, if some of our other men

were busy. Other times it would just be the regular men, but on the average we generally took from seven to eight men; we did the regular work.

Q Were there many violations of the liquor law during your time as an officer of the prosecutor's office? A Yes, sir, quite many.

Q These men, after being apprehended, were they fined, or cases disposed of by the Grand Jury or otherwise? A Yes, sir.

Q What were you to be paid a day? A Six dollars per day.

Q Was anything said about expenses? A Whatever expense I had put in; of course, also the use of my car.

Q What were you to be allowed for the use of your car? A Three dollars a day.

Q And these expenses generally consisted of what? A Meals; very little expense that I had while in the county; I did most of the work outside of the county, in different States, acting on extradition work. If there was anybody to be apprehended in another county outside of Morris I generally went out of the county to do that work, and my expenses generally were higher than the average man.

Q You submitted bills, I presume, for your work each month after beginning your work in the prosecutor's office? A We sent our bill in every day; Miss Margaret Repp, in the office, would take it daily, retain slips, and at the end of the month make out an itemized bill.

Q So that there was in the prosecutor's office a daily record of where you were rendering service and what case you were on? A Yes, and made a report to the prosecutor daily.

Q Did that pertain to each one of the men that did any work for the prosecutor's office? A Yes, every man was supposed to, unless if I was out of the State and did not return for three or four days, of course, I would make my report when I came in.

Q But for work in the county it was rendered each day, or the next day after the service was rendered? A Yes, sir, daily report.

Q The bills that you submitted previous to April 1, 1925, were they all for six dollars a day? And such expense of car and other expenses you had? A Yes.

Q Were those bills approved by the prosecutor and by the Judge of the Quarter Sessions? A Yes.

Q And paid by the County of Morris? A Yes.

Q Without any question and without any dispute? A Yes, sir.

Q Mr. Bolitho continued as prosecutor until when? A May 19, 1925. That is the time his resignation took effect.

Q Then, up until that time he was actively in charge of the criminal business of the county? A Yes.

Q I have before me a bill dated April 1, 1925, which appears to be one of your bills for services from March 1, 1925, to March 31, including expense of car and other miscellaneous expenses, a total of $322.94. I ask you to look at that bill and tell us whether in fact that bill was signed by you and made out and sworn to, for services rendered by you for that particular month? A Yes, sir, this bill was signed by me and sworn to before John P. Walsh, notary public.

Q That represents the actual services that you rendered during that month in connection

with the criminal business of the prosecutor's office? A Yes.

Q As well as the expenses? A Yes.

Q This bill was made out where? A Made out in the prosecutor's office by Miss Repp.

Q She was a stenographer in the prosecutor's office? A She did the stenographer's work.

Q One of the assistants, at any rate? A Yes.

Q And Miss Repp was the one that had the records in the office of the prosecutor of the actual services rendered by you and the others? A Yes.

Q So that this bill was made out in the prosecutor's office by her? A Yes.

Q And after it was made out, was it submitted to Mr. Bolitho for approval? A I took it myself to him.

Q Did he check it up and approve it? A Yes, he had our regular time slips on the first of every month, and when we brought our bills in to him for his O. K., he would generally check back on the daily reports to the place that we tendered to him.

Q After Mr. Bolitho approved this bill, was it submitted to Judge Wilson for his approval? A To the best of my knowledge.

Q That is, it was sent in with a batch of other bills for approval? A Yes.

Q That bill was not approved by the judge? A No.

Q Did you have any talk with Judge Wilson as to why he did not approve the bills? A I did after we had—after Mr. Bolitho had resigned.

Q That is, after you had submitted all of your bills? A Yes.

Q And Judge Wilson still held the bills? A Yes.

Q And had not approved them? A No, sir.

Q You then had a talk with him? A Yes.

Q What reason did he give for not approving the bills? A That Mr. Jayne had told him that Mr. Bolitho was not prosecutor from, I think it was February 19, 1925, the time that he had been appointed special deputy attorney general, that he took over the criminal business of the County of Morris.

Q That is what Judge Wilson told you that Mr. Jayne had told him? A In the presence of Mr. Jayne.

Q Did Mr. Jayne make any reply to that? A I replied that Mr. Jayne did not act as prosecutor, he was only appointed as special deputy attorney general; he had nothing to say over our bills, as Mr. Bolitho was prosecutor until that time, as he was not taking up his position as prosecutor; he had not resigned and that he was still prosecutor.

Q What did Mr. Jayne say to that? A Mr. Jayne did not answer to that, but Judge Wilson answered that that was a technical point that they would have to look into.

Q The principal reason, then, was because Mr. Jayne had been appointed to come into the county, and claimed that he had charge of the criminal business; that was the reason why Judge Wilson— A Mr. Jayne had said that we were not in the employ of the county, as he did not employ us.

Q But that was the reason Judge Wilson didn't approve the bills? A Yes, sir.

Q Judge Wilson didn't make any objection to your bills being unreasonable or anything of that kind? A No, sir.

Q In fact, these bills were in the same amounts per diem as had previously been approved and paid, were they? A Yes.

Q This bill has never been approved since by the judge? A No.

Q And is still due and owing you for services? A Yes.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 1 for relator Max Reidler.)

"Date Apr. 1st, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Max Reidler, Dr.

Date of Delivery or Service 1925				By Order of Prosecutor				Voucher No.	
Mar.	1	One	Day's	Ser.	$6.00	car	$3.00		$ 9.00
"	2	"	"	"	6.00	"	3.00	ex. 5.89	14.89
"	3	"	"	"	6.00	"	3.00	" 4.25	13.25
"	4	"	"	"	6.00	"	3.00	" 5.26	14.26
"	5	"	"	"	6.00	"	3.00	" 1.20	10.20
"	6	"	"	"	6.00	"	3.00	" 4.79	13.79
"	7	"	"	"	6.00	"	3.00	" 2.20	11.20
"	8	"	"	"	6.00	"	3.00	" .90	9.90
"	9	"	"	"	6.00	"	3.00	" 6.32	15.32
"	10	"	"	"	6.00	"	3.00	" 2.30	11.30
"	11	"	"	"	6.00	"	3.00	" 3.65	12.65
"	12	"	"	"	6.00	"	3.00	" 4.20	13.20
"	13	"	"	"	6.00	"	3.00	" 3.15	12.15
"	14	"	"	"	6.00	"	3.00	" 2.43	11.43
"	15	"	"	"	6.00	"	3.00	" 1.10	10.10
"	16	"	"	"	6.00	"	3.00		9.00
"	21	"	"	"	6.00	"	3.00		9.00
"	22	"	"	"	6.00	"	3.00	ex. .90	9.90
"	23	"	"	"	6.00	"	3.00	" .85	9.85
"	24	"	"	"	6.00	"	3.00	" 8.65	17.65
"	25	"	"	"	6.00	"	3.00	" 3.20	12.20
"	26	"	"	"	6.00	"	3.00	" 1.80	10.80
"	27	"	"	"	6.00	"	3.00	" 3.60	12.60
"	28	"	"	"	6.00	"	3.00	" 1.10	10.10
"	29	"	"	"	6.00	"	3.00	" .80	9.80
"	30	"	"	"	6.00	"	3.00	" 2.75	11.75
"	31	"	"	"	6.00	"	3.00	" 8.65	17.65
									$322.94

Charge the amount of this bill to Law Enforcement.

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and approved for Payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Max Reidler,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Max Reidler

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Max Reidler.

Subscribed and sworn before me this
1st day of April, A. D. 1925.

John P. Walsh,
Notary Public."

Q I have another bill here, under date of May 1, 1925, which appears to be one of your bills for services from April 1, 1925, to April 30, 1925, together with expenses of car and other miscellaneous expenses, a total of $335.70. I ask

you if that bill was made out by you and represents your services for that month? A The bill was made out by Miss Repp, but it was signed by me, and sworn to before John P. Walsh, notary public, and also certified to by James H. Bolitho, then Prosecutor of Morris County.

Q That represents actual services that you rendered the prosecutor's office in connection with the criminal business of the county for that month? A Yes.

Q Together with expenses that you had? A Yes.

Q And was that in connection with this pursuit of violators of the law and investigations that you already referred to? A Yes.

Q And under the direction of the prosecutor's office and the prosecutor? A Yes.

Q The services were necessary, were they? A Yes, sir; otherwise, they wouldn't be there.

Q The bill you say was approved by Mr. Bolitho? A Yes.

Q Was it submitted to the judge? A It was.

Q But not approved by him? A No, sir.

Q For the reason that you have previously given? A Yes, sir.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 2 for relator Max Reidler.)

"Date May 1st, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Max Reidler, Dr.

Date of Delivery or Service 1925				By Order of Prosecutor					Voucher No.
Apr.	1	One	Day's	Services	$6.00	car	$3.00,	ex.	$6.65	$ 15.65
"	2	"	"	"	6.00	"	3.00	"	8.40	17.40
"	3	"	"	"	6.00	"	3.00	"	1.10	10.10
"	4	"	"	"	6.00	"	3.00	"	3.10	12.10
"	5	"	"	"	6.00	"	3.00	"	.80	9.80
"	6	"	"	"	6.00	"	3.00	"	1.80	10.80
"	7	"	"	"	6.00	"	3.00	"	4.20	13.20
"	8	"	"	"	6.00	"	3.00	"	1.10	10.10
"	9	"	"	"	6.00	"	3.00	"	.85	9.85
"	10	"	"	"	6.00	"	3.00	"	2.10	11.10
"	11	"	"	"	6.00	"	3.00	"	.90	9.90
"	12	"	"	"	6.00	"	3.00	"	.30	9.30
"	13	"	"	"	6.00	"	3.00	"	2.25	11.25
"	14	"	"	"	6.00	"	3.00	"	1.15	10.15
"	15	"	"	"	6.00	"	3.00	"	6.40	15.40
"	16	"	"	"	6.00	"	3.00	"	1.10	10.10
"	17	"	"	"	6.00	"	3.00	"	1.80	10.80
"	18	"	"	"	6.00	"	3.00	"	1.60	10.60
"	19	"	"	"	6.00	"	3.00	"	.35	9.35
"	20	"	"	"	6.00	"	3.00	"	1.15	10.15
"	21	"	"	"	6.00	"	3.00	"	.90	9.90
"	22	"	"	"	6.00	"	3.00	"	1.40	10.40
"	23	"	"	"	6.00	"	3.00	"	7.65	16.65
"	24	"	"	"	6.00	"	3.00	"	2.10	11.10
"	25	"	"	"	6.00	"	3.00	"	.80	9.80
"	26	"	"	"	6.00	"	3.00			9.00
"	27	"	"	"	6.00	"	3.00	"	1.25	10.25
"	28	"	"	"	6.00	"	3.00	"	.95	9.95
"	29	"	"	"	6.00	"	3.00	"	1.10	10.10
"	30	"	"	"	6.00	"	3.00	"	2.45	11.45
										$335.70

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

Charge the amount of this bill to Law Enforcement.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

_____

Judge, &c.

Examined and Approved for Payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Max Reidler,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, }
County of Morris, } ss. Max Reidler

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

Max Reidler.

Subscribed and sworn before me this
4th day of May, A. D. 1925.

John P. Walsh,
Notary Public."

Q I have here another bill, dated May 20, 1925, for services from May 1st to May 19th, a total of $189.19, which includes some expenses of car and otherwise, and ask you if that is the bill that you made out, or had made out, and swore to, for services in that month? A I made this bill out myself, as Miss Repp was not in the office at the time, and also signed it myself, and was sworn to before Robert L. Murphy, Master.

Q Did you have the daily time sheets in the office? A Yes, I copied it from the daily time slips.

Q And this represents services that you actually rendered on these particular dates? A Yes.

Q In connection with the criminal business of the county—the prosecutor's office? A Yes.

Q This bill was approved by James H. Bolitho, was it? A Yes.

Q But after having been submitted to the Judge of the Court of Quarter Sessions, he declined to approve it for the reasons that you have already stated? A Yes.

Q These bills that you have submitted here, together with this one, are still unapproved by the judge? A Yes.

Q The service although rendered has never been paid for? A No, sir.

Mr. Romine. I offer that bill in evidence.

(Marked Exhibit R. 3 for relator Max Reidler.)

"Date May 20, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS.

To Max Reidler Dr.

Date of Delivery or Service		By Order of Prosecutor of Pleas						Voucher No.
May	1	One Day's Services	$6.00	ex.	.90	car	$3.00	$ 9.90
"	2	" "	6.00	"	1.60	"	3.00	10.60
"	3	" "	6.00			"	3.00	9.00
"	4	" "	6.00			"	3.00	9.00
"	5	" "	6.00			"	3.00	9.00
"	6	" "	6.00	ex.	.45	"	3.00	9.45
"	7	" "	6.00	"	1.20	"	3.00	10.20
"	8	" "	6.00	"	1.10	"	3.00	10.10
"	9	" "	6.00			"	3.00	9.00
"	10	" "	6.00	"	.60	"	3.00	9.60
"	11	" "	6.00	"	.60	"	3.00	9.60
"	12	" "	6.00	"	4.94	"	3.00	13.94
"	13	" "	6.00	"	.75	"	3.00	9.75
"	14	" "	6.00	"	.90	"	3.00	9.90
"	15	" "	6.00	"	1.40	"	3.00	10.40
"	16	" "	6.00	"	.75	"	3.00	9.75
"	17	" "	6.00	"	1.10	"	3.00	10.10
"	18	" "	6.00	"	1.90	"	3.00	10.90
"	19	" "	6.00			"	3.00	9.00
								$189.19

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

Charge the amount of this bill to Law Enforcement.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

_____

Judge, &c.

Examined and Approved for Payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full Settlement of above account.

(Signed)
Max Reidler,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Max Reidler

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Max Reidler.

Subscribed and sworn before me this
28th day of May, A. D. 1925.

Robert L. Murphy,
M. C. C. of N. J."

FREDERICK HUBERT, called on his own behalf, being duly sworn according to law, on his oath says:

Direct examination by Mr. Romine.

Q You are one of the parties seeking for a writ of mandamus to have your bills approved by the Judge of the Court of Quarter Sessions of the County of Morris, are you? A Yes, sir.

Q And where do you live? A Rockaway.

Q And have resided there how long? A I have never been away from there but nine months in forty-three years.

Q Do you recall the time when Mr. James H. Bolitho was appointed Prosecutor of the Pleas of the County of Morris? A I don't know the exact date; I think two years ago last April.

Q That would be April, 1923? A Yes.

Q And shortly after Mr. Bolitho's appointment and qualification as prosecutor were you engaged in anyway in connection with his office? A He hired me as a detective.

Q He appointed you as a county detective? A Yes.

Q Was that by a written appointment? A Yes, sir.

Q I show you herewith what purports to be a certified copy of your appointment and ask you to look it over and see if that is about the time when you were in fact appointed by Mr. Bolitho as county detective? A Yes, sir.

Mr. Romine: I offer that in evidence.

(Marked Exhibit R. 1 for relator Fred Hubert.)

"By Virtue of the Authority vested in me by the Statute of the State of New Jersey, in such case made and provided, I hereby appoint Frederick Hubert, as and for a County Detective of the County of Morris and State of New Jersey, to serve as such during such period as I shall be satisfied with such service, and not exceeding the period provided by law for my term of office, at the salary of Two Thousand Dollars per year, and necessary expenses to be approved by me, and the other officials required so *do to* when satisfied therewith, said salary and expenses to be paid monthly hereafter by the Board of Freeholders of the County of Morris aforesaid.

JAMES H. BOLITHO,
Prosecutor of the Pleas of the
County of Morris.

Dated April 2nd, 1923.

I approve of the above appointment.

C. F. WILSON,
Judge of the Court of Common Pleas
of the County of Morris."

Endorsed:

"Appointment

Frederick Hubert
County Detective

Filed Apr. 2, 1923.
E. Bertram Mott,
Clerk."

"State of New Jersey, }
County of Morris. } ss.

I, E. Bertram Mott, Clerk of the County of Morris, and also Clerk of the Court of Common Pleas, holden in and for said County, Do Hereby Certify, that the foregoing is a full, true and correct copy of the Appointment of Frederick Hubert as County Detective as fully and entirely as the same remains on file in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court and County at Morristown, this Fourth day of April, A. D., Nineteen Hundred and Twenty-three.

(County Seal)

(Signed) E. BERTRAM MOTT,
Clerk."

"Endorsed:

Morris County Clerk's Office
Morristown, New Jersey

Appointment
Frederick Hubert
County Detective

Certified Copy.
Elias Bertram Mott, Clerk."

Q You were to receive a salary of how much per year? A $2,000.

Q Were you sworn into office? A Yes.

Q And began your duties after that written appointment? A Yes.

Q Did you have any difficulty about the payment of your bills? A I had once before.

Q That was with the county? A Yes.

Q And by agreement with the county did you stipulate as to how the bills were to be submitted thereafter? A Yes.

Q And how was that to be done? A That was between the prosecutor and Mr. Rathbun, the county counsel, that we were to be paid on a per diem basis.

Q Instead of submitting your bill for a monthly salary, you submitted your bill on a per diem basis? A Yes.

Q And did you attach to your bills any statement as to that fact? A Yes, sir.

Q So that before that matter was settled, you received your compensation, did you, each month? A Yes, sir.

Q The bills were approved first by the prosecutor and then by the Judge of the Court of Quarter Sessions? A Yes.

Q Were you in actual attendance every day on the criminal business of the county in connection with the prosecutor's office? A Yes.

Q Mr. Bolitho, from the time he was appointed, in 1923, continued as prosecutor how long? A I think it was May 16 or 18, 1925.

Q About that time he resigned? A Yes.

Q Up to that time he was prosecutor of Morris County in charge of the criminal business? A Yes.

Q During his period of time did the prosecutor have occasion to call in other men to assist in the ordinary investigations and criminal business of the county? A He did.

Q What have you to say as to whether there are many violations of the liquor law? A Lots of them.

Q And was it necessary to employ additional men for that purpose? A Yes, sir.

Q There were beside yourself how many other regular county detectives? A One.

Q In other words, Morris County was entitled to two? A Yes.

Q And you were one of them? A Yes.

Q Who was the other? A James C. Bellingham.

Q You submitted your bills per diem basis for how much? A Six dollars a day and necessary expenses.

Q Were your previous bills, after having been approved by the prosecutor and the judge, paid by the Board of Freeholders of the County of Morris? A Yes, up until this one.

Q Do you remember Mr. Jayne coming into the county for the purpose of making investigations? A Sure.

Q Do you recall about when the first order was made putting him in the county as a special investigator? A No, I don't.

Q Do you know whether there was more than one order? A No, sir.

Q Your bills had been approved and paid down to what time? A April 1, 1925, my bill for March.

Q Prior to March, 1925, everything had been approved and paid? A Yes.

Q I have before me a bill purporting to be one of your bills, dated April 1, 1925, for services from March 1, 1925, to March 15th, amounting to $90, and another bill, dated April 1, 1925, for services from March 16th to March 31st, for $96, and another bill, dated May 1, 1925, for services from April 1, 1925, to April 15, 1925, amounting to $90, and another bill, dated May 1,

1925, for services from April 16, 1925, to April 30, 1925, for $90, and another bill, dated May 1, 1925, for expenses of automobile from April 1, 1925, to April 30, 1925, amounting to $182, and another bill, dated June 1, 1925, for services from May 1st to May 16th, amounting to $96, and another bill, dated June 1, 1925, for automobile hire from May 1st to May 16th, amounting to $84. I will ask you to look at these bills and tell us whether they are all made out by you and represent your services rendered and expenses in connection with the criminal business of the county? A Yes, sir.

Q They were all sworn to before John P. Walsh? A Yes, sir.

Mr. Romine: I offer these bills in evidence.

(Marked Exhibits R. 2 to R. 9, inclusive, for relator, Frederick Hubert.)

(Exhibit R. 2 for Relator Frederick Hubert.)

"The claimant only desires to receive payment of $83.33 for the half-monthly service from March 1st, 1925, to March 15th, 1925, inclusive, upon the yearly basis of $2,000.00 per year, but upon the suggestion of the Morris County Board of Freeholders this bill for $90.00 for service rendered to the Morris County Prosecutor's Office in the administration of Justice, is submitted upon a per diem basis, and if paid upon such basis, is to be considered in full settlement of all pay due for the time specified, under the yearly basis or under any other basis, but is not to be considered as a waiver of the contention that the appointment upon a

yearly basis by the Prosecutor is valid until revoked by him.

(Signed) Frederick Hubert."

"Date April 1st, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS

To Frederick Hubert, Dr.

Date of Delivery or Service 1925		By Order of Prosecutor	Voucher No.
Mar.	1	Per Diem Services $6.00	$6.00
"	2	" " " 6.00	6.00
"	3	" " " 6.00	6.00
"	4	" " " 6.00	6.00
"	5	" " " 6.00	6.00
"	6	" " " 6.00	6.00
"	7	" " " 6.00	6.00
"	8	" " " 6.00	6.00
"	9	" " " 6.00	6.00
"	10	" " " 6.00	6.00
"	11	" " " 6.00	6.00
"	12	" " " 6.00	6.00
"	13	" " " 6.00	6.00
"	14	" " " 6.00	6.00
"	15	" " " 6.00	6.00
			—$90.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Charge the amount of this bill to Law Enforcement.

Examined and Approved for Payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
Frederick Hubert."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Frederick Hubert

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Frederick Hubert.

Frederick Hubert, direct.

Subscribed and sworn before me
this 1st day of April, A. D. 1925.

John P. Walsh,
Notary Public."

(Exhibit R. 3 for Relator Frederick Hubert.)

"Date Apr. 1st, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS.

To Frederick Hubert, Dr.

Date of Delivery or Service 1925		By Order of Prosecutor			Voucher No.
Mar. 1	Auto	$7.00	ex.	1.20	$8.20
" 2	"	7.00			7.00
" 3	"	7.00			7.00
" 4	"	6.00	meal	1.00	7.00
" 5	"	7.00	"	.90	7.90
" 6	"	6.00	"	1.00	7.00
" 7	"	5.00	"	1.10	6.10
" 8	"	6.00			6.00
" 9	"	7.00	meals	1.20	8.20
" 10	"	7.00			7.00
" 11	"	6.00	"	1.10	7.10
" 12	"	7.00			7.00
" 13	"	6.00	"	1.10	7.10
" 14	"	7.00			7.00
" 15	"	6.00			6.00
" 16	"	6.00			6.00
" 17	"	7.00			7.00
" 18	"	6.00			6.00
" 19	"	5.00	meal	1.10	6.10
" 20	"	6.00			6.00
" 21	"	8.00			8.00
" 22	"	7.00			7.00
" 23	"	6.00			6.00
" 24	"	5.00	meal	.50	5.50
" 25	"	6.00			6.00
" 26	"	6.00			6.00
" 27	"	7.00			7.00
" 28	"	6.00			6.00
" 29	"	7.00			7.00
" 30	"	6.00	meal	.75	6.75
" 31	"	6.00	"	1.00	7.00
					$208.95

Frederick Hubert, direct.

Charge the amount of this bill to Law Enforcement.

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true is all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
Frederick Hubert.
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Frederick Hubert

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Frederick Hubert.

Subscribed and sworn before me
this 1st day of April, A. D. 1925.

John P. Walsh,
Notary Public."

(Exhibit R. 4 for Relator Frederick Hubert.)

"The claimant only desires to receive payment of $83.33 for the half-monthly service from March 16th, 1925, to March 31st, 1925, inclusive, upon the yearly basis of $2,000.00 per year, but upon the suggestion of the Morris County Board of Freeholders this bill for $96.00 for service rendered to the Morris County Prosecutor's Office in the administration of Justice, is submitted upon a per diem basis, and if paid upon such basis, is to be considered in full settlement of all pay due for the time specified, under the yearly basis or under any other basis, but is not to be considered as a waiver of the contention that the appointment upon a yearly basis by the Prosecutor is valid until revoked by him.

(Signed) Frederick Hubert."

"Date Apr. 1st, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS

To Frederick Hubert, Dr.

Date of Delivery or Service 1925				By Order of Prosecutor	Voucher No.
Mar.	16	Per	Diem	Services $6.00	$6.00
"	17	"	"	" 6.00	6.00
"	18	"	"	" 6.00	6.00
"	19	"	"	" 6.00	6.00
"	20	"	"	" 6.00	6.00
"	21	"	"	" 6.00	6.00
"	22	"	"	" 6.00	6.00
"	23	"	"	" 6.00	6.00
"	24	"	"	" 6.00	6.00
"	25	"	"	" 6.00	6.00
"	26	"	"	" 6.00	6.00
"	27	"	"	" 6.00	6.00
"	28	"	"	" 6.00	6.00
"	29	"	"	" 6.00	6.00
"	30	"	"	" 6.00	6.00
"	31	"	"	" 6.00	6.00
					$96.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

Charge the amount of this bill to Law Enforcement.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
Frederick Hubert.
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Frederick Hubert

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Frederick Hubert.

Subscribed and sworn before me this
1st day of April, A. D. 1925.

John P. Walsh,
Notary Public."

(Exhibit R. 5 for Relator Frederick Hubert.)

"The claimant only desires to receive payment of $83.33 for the half-monthly service from April 1st, 1925 to Apr. 15th, 1925, inclusive, upon the yearly basis of $2,000.00 per year, but upon the suggestion of the Morris County Board of Freeholders this bill for $90.00 for service rendered to the Morris County Prosecutor's Office in the administration of Justice, is submitted upon a per diem basis, and if paid upon such basis, is to be considered in full settlement of all pay due for the time specified, under the yearly basis or under any other basis, but is not to be considered as a waiver of the contention that the appointment upon a yearly basis by the Prosecutor is valid until revoked by him.

(Signed) Frederick Hubert."

"Date May 1st, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS

To Frederick Hubert Dr.

Date of Delivery or Service 1925				By Order of		Voucher No.
Apr.	1	Per	Diem	Services	$6.00	$6.00
"	2	"	"	"	6.00	6.00
"	3	"	"	"	6.00	6.00
"	4	"	"	"	6.00	6.00
"	5	"	"	"	6.00	6.00
"	6	"	"	"	6.00	6.00
"	7	"	"	"	6.00	6.00
"	8	"	"	"	6.00	6.00
"	9	"	"	"	6.00	6.00
"	10	"	"	"	6.00	6.00
"	11	"	"	"	6.00	6.00
"	12	"	"	"	6.00	6.00
"	13	"	"	"	6.00	6.00
"	14	"	"	"	6.00	6.00
"	15	"	"	"	6.00	6.00
						$90.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

Charge the amount of this bill to Law Enforcement.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and approved for Payment by Committee.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Frederick Hubert,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Frederick Hubert

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Frederick Hubert.

Subscribed and sworn before me this
4th day of May, A. D. 1925.

John P. Walsh,
Notary Public."

(Exhibit R. 6 for Relator Frederick Hubert.)

"The claimant only desires to receive payment of $83.33 for the half-monthly service from April 16th, 1925 to Apr. 30th, 1925, inclusive, upon the yearly basis of $2,000.00 per year, but upon the suggestion of the Morris County Board of Freeholders this bill for $90.00 for service rendered to the Morris County Prosecutor's Office in the administration of Justice, is submitted upon a per diem basis, and if paid upon such basis, is to be considered in full settlement of all pay due for the time specified, under the yearly basis or under any other basis, but is not to be considered as a waiver of the contention that the appointment upon a yearly basis by the Prosecutor is valid until revoked by him.

(Signed) Frederick Hubert."

"Date May 1st, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS.

To Frederick Hubert Dr.

Date of Delivery or Service 1925				By Order of Prosecutor	Voucher No.
Apr.	16	Per	Diem	Services $6.00	$6.00
"	17	"	"	" 6.00	6.00
"	18	"	"	" 6.00	6.00
"	19	"	"	" 6.00	6.00
"	20	"	"	" 6.00	6.00
"	21	"	"	" 6.00	6.00
"	22	"	"	" 6.00	6.00
"	23	"	"	" 6.00	6.00
"	24	"	"	" 6.00	6.00
"	25	"	"	" 6.00	6.00
"	26	"	"	" 6.00	6.00
"	27	"	"	" 6.00	6.00
"	28	"	"	" 6.00	6.00
"	29	"	"	" 6.00	6.00
"	30	"	"	" 6.00	6.00
					$90.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Charge the amount of this bill to Law Enforcement.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Frederick Hubert,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Frederick Hubert

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Frederick Hubert.

Subscribed and sworn before me this 4th day of May, A. D. 1925.

John P. Walsh,
Notary Public."

Frederick Hubert, direct.

(Exhibit R. 7 for Relator Frederick Hubert.)

"Date May 1st, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Frederick Hubert, Dr.

Date of Delivery or Service 1925			By Order of Prosecutor	Voucher No
Apr.	1	Auto $6.00		$6.00
"	2	" 5.00		5.00
"	3	" 6.00		6.00
"	4	" 7.00		7.00
"	5	" 8.00		8.00
"	6	" 7.00		7.00
"	7	" 6.00		6.00
"	8	" 8.00		8.00
"	9	" 6.00		6.00
"	10	" 6.00		6.00
"	11	" 5.00		5.00
"	12	" 6.00		6.00
"	13	" 5.00		5.00
"	14	" 6.00		6.00
"	15	" 6.00		6.00
"	16	" 7.00		7.00
"	17	" 6.00		6.00
"	18	" 5.00		5.00
"	19	" 6.00		6.00
"	20	" 7.00		7.00
"	21	" 6.00		6.00
"	22	" 6.00		6.00
"	23	" 7.00		7.00
"	24	" 6.00		6.00
"	25	" 5.00		5.00
"	26	" 6.00		6.00
"	27	" 5.00		5.00
"	28	" 6.00		6.00
"	29	" 6.00		6.00
"	30	" 5.00		5.00
				$182.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Charge the amount of this bill to Law Enforcement.

Examined and Approved for Payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Frederick Hubert,
Sign here before presenting bill."

Frederick Hubert, direct.

New Jersey State Library

"AFFIDAVIT.

State of New Jersey, }
County of Morris. } ss. Frederick Hubert

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Frederick Hubert.

Subscribed and sworn before me this
4th day of May, A. D. 1925.

John P. Walsh,
Notary Public."

(Exhibit R. 8 for Relator Frederick Hubert.)

"Date June 1, 1925.

P. O. Address Rockaway, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS.

To Frederick Hubert, Dr.

Date of Delivery or Service			By Order of		Voucher No.
May	1	$6.00	One Day	Service	$6.00
"	2	6.00	"	"	6.00
"	3	6.00	"	"	6.00
"	4	6.00	"	"	6.00
"	5	6.00	"	"	6.00
"	6	6.00	"	"	6.00
"	7	6.00	"	"	6.00
"	8	6.00	"	"	6.00
"	9	6.00	"	"	6.00
"	10	6.00	"	"	6.00
"	11	6.00	"	"	6.00
"	12	6.00	"	"	6.00
"	13	6.00	"	"	6.00
"	14	6.00	"	"	6.00
"	15	6.00	"	"	6.00
"	16	6.00	"	"	6.00
					$96.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby

Charge the amount of this bill to Law Enforcement.

claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

_____

Judge, &c.

Examined and Approved for Payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Frederick Hubert,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Frederick Hubert being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated

therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Frederick Hubert.

Subscribed and sworn before me this 28th day of May, A. D. 1925.

John P. Walsh,
Notary Public."

(Exhibit R. 9 for Relator Frederick Hubert.)

"Date June 1, 1925.

P. O. Address Rockaway N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Frederick Hubert Dr.

Date of Delivery or Service		By Order of	Voucher No.
May	1	Auto $6.00	$6.00
"	2	" 5.00	5.00
"	3	" 6.00	6.00
"	4	" 5.00	5.00
"	5	" 6.00	6.00
"	6	" 6.00	6.00
"	7	" 5.00	5.00
"	8	" 5.00	5.00
"	9	" 3.00	3.00
"	10	" 5.00	5.00
"	11	" 6.00	6.00
"	12	" 5.00	5.00
"	13	" 6.00	6.00
"	14	" 6.00	6.00
"	15	" 5.00	5.00
"	16	" 4.00	4.00
			$84.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas of Morris County.

Charge the amount of this bill to Law Enforcement.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Frederick Hubert,
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Frederick Hubert

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Frederick Hubert.

Subscribed and sworn before me this
28th day of May, A. D. 1925.

John P. Walsh,
Notary Public."

The Witness: These bills were made out by Miss Repp from the daily reports which we turned in.

Q The bills were made out by the young lady in the prosecutor's office? A Yes.

Q From the daily report sheets filed by you? A Yes.

Q And that was the general custom, was it, in making out all of the bills of the men who worked for the prosecutor? A Yes. The next morning when we went in, we always had to turn in the day-before's work.

Q Together with the expenses? A Yes.

Q These bills to which you have just referred represent the services actually rendered by you as well as the expense in connection therewith during the periods mentioned? A Yes, sir.

Q In connection with the criminal business of the county? A And along with automobile hire.

Q And the amounts therein charged are reasonable, are they? A Yes, sir.

Q And had previously been approved as to the reasonableness by the Judge of the Court of Common Pleas? A Yes.

Q Although you were a county detective appointed by the prosecutor and approved by the judge in the first instance? A Yes.

Q These bills were all approved by the prosecutor, were they? A Yes, sir.

Q They were submitted to the Judge of the Court of Quarter Sessions for his approval, were they? A Yes.

Q He did not approve them, did he? A He did not.

Q Did he give you any reason why he didn't approve them? A I didn't take the bills myself to him.

Q They were taken by someone in the prosecutor's office? A Yes.

Q Did you ever have any talk with the Judge of the Quarter Sessions Court as to why he did not approve the bills? A No, I didn't.

Q Your information was what was conveyed to you by other men of the prosecutor's office? A Yes.

Q So far as you know, there was never any objection to the reasonableness of the bills, was there? A No, sir.

Q It was purely a technical reason because of Mr. Jayne's appearing in the county? A Yes.

Q These bills have never been approved by the judge, and although you have rendered the service, you have never been paid? A I have never been paid; the amount is still due and owing.

Q And the services were all rendered during Mr. Bolitho's regime as prosecutor? A Yes, sir.

THOMAS J. O'REARDON, called on his own behalf, being duly sworn according to law, on his oath says:

Direct examination by Mr. Romine.

Q Mr. O'Reardon, are you one of the men seeking for mandamus to have the Judge of the Court of Quarter Sessions of the County of Morris approve your bills for payment? A I am.

Q And you live where? A 58 Elm street, Morristown, New Jersey.

Q Do you recall the time when Mr. Bolitho was appointed Prosecutor of the Pleas of the County of Morris? A I do, sir.

Q Do you know about when it was? A I don't remember; I wasn't here steady.

Q When did you begin to render any service under Mr. Bolitho, former prosecutor? A I think it was around March 17, 1924—I am not quite sure of the date.

Q That would be last year? A Yes.

Q And were you employed steadily or at intervals? A I was employed steadily from March to December, and December, I think around the third, Mr. Bolitho let me off, because there wasn't work.

Q There wasn't very much to do then? A No, then I think on February first or January first he put me back to work again.

Q That is this year? A Yes.

Q You continued then until Mr. Bolitho's resignation? A Yes, I did.

Q When you first began to do work in connection with the prosecutor's office, what particular character of work did you have to do? A I was sent out by Mr. Bolitho to investigate the sale of liquor where there was reports of liquor being sold.

Q That is, violations of the liquor laws? A Yes. And I was sent out there to find out what was doing, and was they selling liquor and could I buy.

Q And did you investigate any other cases where there were violations of the criminal law? A I did on one case, in an adultery case, above Denville, I think the name was Mrs. Foster Clark.

Q You had various cases in which you were sent out to do this work? A Yes, sir.

Q And did other men help you at times? A Yes, I had a young fellow operated with me, named Hegarty; he operated with me; for the first nine months we worked together; he drove the car and I went in to secure the evidence, and sometimes he would go in with me.

Q In some of those instances the prosecutor would get complaints from people in various parts of the county? A Yes.

Q And then you would be sent out to investigate those complaints and see whether there was any foundation for it? A That is the idea.

Q You were to be paid how much for your services? A Six dollars a day and expenses, and I got orders from the prosecutor to keep down the expense as much as possible.

Q Those expenses included meals and other necessary expenses in connection with your line of work? A Yes, what I had to buy and my carfare.

Q These bills that you submitted for your services, say, from the time you began to work, in March, 1924, until December, they were at the rate of six dollars per day for services? A Yes.

Q And included items of expense? A Yes.

Q They were approved by Mr. Bolitho, were they? A They were.

Q And further approved by the Judge of the Quarter Sessions? A Yes.

Q And were they paid by the County of Morris? A Yes.

Q No question was raised about the payment of those bills? A No, I never had any question about my bill.

Q You began work again in January? A Yes.

Q From January until, we will say, March, did you submit bills? A I did.

Q And they were paid? A I was paid the February bill. I will correct that; it was February I went to work; there were two months of heavy snow I was out.

Q You went to work in February and were paid for that month. You have some bills for which you have not been paid? A Yes.

Q Which months are they? A March, April and part of May.

Q And that is down to the time that Mr. Bolitho resigned? A Yes.

Q During those three months were you out pursuing investigations as to criminal violations and liquor violations? A I was; I was in many raids and secured a number of evidence which I turned in to the office during that time.

Q Were there considerable of those cases coming to the attention of the prosecutor constantly? A Yes.

Q I have before me a bill which purports to be made out by you, dated April 1, 1925, for services from March 2, 1925, to March 31, 1925, for services and some expenses, a total of $191.90, and I ask you to look at that bill and tell us whether it was made out by you and signed by you and sworn to by you, for services for that month? A It was signed by me; the girl in the office of Mr. Bolitho made out the bills after I turned in the daily report.

Q So that this bill was made out in the prosecutor's office from daily reports that you submitted for the services rendered each day? A Yes, sir.

Q At the various places in the county? A Yes, sir.

Q This bill after being made out by you was submitted to Mr. Bolitho and aproved by him, was it? A Yes.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 1 for relator T. J. O'Reardon.)

"Date Apr. 1st, 1925.

P. O. Address 58 Elm St., Morristown, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS

To Thomas J. O'Reardon Dr.

Date of Delivery or Service 1925				By Order of Prosecutor			Voucher No.
Mar.	2	One	Day's Services	$6.00	ex.	$ .42	$ 6.42
"	3	"	"	6.00	"	1.42	7.42
"	4	"	"	6.00	"	1.42	7.42
"	5	"	"	6.00	"	1.42	7.42
"	6	"	"	6.00	"	1.25	7.25
"	7	"	"	6.00	"	1.06	7.06
"	9	"	"	6.00	"	1.82	7.82
"	10	"	"	6.00	"	1.35	7.35
"	11	"	"	6.00	"	.75	6.75
"	12	"	"	6.00			6.00
"	13	"	"	6.00	ex.	4.00	10.00
"	14	"	"	6.00	"	.42	6.42
"	15	"	"	6.00	"	6.64	12.64
"	16	"	"	6.00	"	.42	6.42
"	17	"	"	6.00			6.00
"	18	"	"	6.00			6.00
"	19	"	"	6.00			6.00
"	20	"	"	6.00	ex.	.42	6.42
"	21	"	"	6.00	"	.21	6.21
"	23	"	"	6.00			6.00
"	24	"	"	6.00			6.00
"	25	"	"	6.00			6.00
"	26	"	"	6.00	ex.	4.26	10.26
"	27	"	"	6.00	"	1.56	7.56
"	28	"	"	6.00	"	1.06	7.06
"	30	"	"	6.00			6.00
"	31	"	"	6.00			6.00
							$191.90

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

Charge the amount of this bill to Law Enforcement.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
of Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
Thomas J. O'Reardon.
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Thomas J. O'Reardon

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Thomas J. O'Reardon.

Subscribed and sworn before me
this 1st day of April A. D. 1925.

John P. Walsh,
Notary Public."

Q I show you another bill, dated May 1st, 1925, and ask you if that is your bill for services for the month of April? A Yes.

Q And that was sworn to before John P. Walsh, notary public? A Yes.

Q And that represents services rendered during that month by you in connection with the prosecutor's office? A Yes.

Q As well as expenses? A Yes.

Q The amount is $187.06? A Yes.

Mr. Romine: I offer that bill in evidence.

(Marked Exhibit R. 2 for relator T. J. O'Reardon.)

"Date May 1st, 1925.

P. O. Address Morristown, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS

To Thomas J. O'Reardon Dr.

Date of Delivery or Service 1925				By Order of Prosecutor			Voucher No.
Apr.	1	One	Day's	Services	$6.00		$ 6.00
"	2	"	"	"	6.00		6.00
"	3	"	"	"	6.00		6.00
"	4	"	"	"	6.00	ex. $ .31	6.31
"	6	"	"	"	6.00		6.00
"	7	"	"	"	6.00		6.00
"	8	"	"	"	6.00	.21	6.21
"	9	"	"	"	6.00		6.00
"	10	"	"	"	6.00	ex. .22	6.22
"	11	"	"	"	6.00		6.00
"	12	"	"	"	6.00		6.00
"	14	"	"	"	6.00	ex. 1.00	7.00
"	15	"	"	"	6.00	" .80	6.80
"	16	"	"	"	6.00	" 1.00	7.00
"	17	"	"	"	6.00	" 1.50	7.50
"	18	"	"	"	6.00	" 11.00	17.00
"	19	"	"	"	6.00		6.00
"	20	"	"	"	6.00		6.00
"	21	"	"	"	6.00		6.00
"	22	"	"	"	6.00		6.00
"	23	"	"	"	6.00	ex. .50	6.50
"	24	"	"	"	6.00		6.00
"	25	"	"	"	6.00	ex. .42	6.42
"	26	"	"	"	6.00	" .42	6.42
"	27	"	"	"	6.00	" .42	6.42
"	28	"	"	"	6.00	" .42	6.42
"	29	"	"	"	6.00	" .42	6.42
"	30	"	"	"	6.00	" .42	6.42
							$187.06

Charge the amount of this bill to Law Enforcement.

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
for Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for Payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
John P. Walsh.
Sign here before presenting bill."

"AFFIDAVIT.

State of New Jersey, County of Morris. } ss. Thomas J. O'Reardon being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Thomas J. O'Reardon.

Subscribed and sworn before me
this 2nd day of May A. D. 1925.

John P. Walsh,
Notary Public."

Q I show you another bill, dated May 16th, 1925, and ask you if that is for the services you rendered for the month of May? A It is; I made this out myself in the office a couple of days before.

Q This represents services from May 1st to May 16th, at six dollars a day, togeter with some expenses? A Yes.

Q A total of $91.47. That bill was approved by Mr. Bolitho? A Yes.

Q But was not approved by Judge Wilson? A No.

Q Did you ever have any talk with Judge Wilson as to why he did not approve the bills? A I did not; we were down with the bills to his office and he said leave them there and he would take care of them.

Q Did he decline to approve them? A Yes.

Q You understood from the men in the prosecutor's office the reason why he didn't approve them; that is, they told you? A I did hear that.

Q But you had no personal talk with him? A No, sir.

Q Did you ever understand that there was any objection to your bills because they were unreasonable? A There was never an objection to my bill.

Q These bills have not been approved by Judge Wilson, and they are still due you for services? A Yes.

Mr. Romine: I offer this bill in evidence.

(Marked Exhibit R. 3 for relator T. J. O'Reardon.)

"Date May 16th, 1925.

P. O. Address Morristown, N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS.

To Dr.

Date of Delivery or Service				By Order of			Voucher No.
May	1	One	Day's	Service	$6.00 ex.	$ .42	$ 6.42
"	2	"	"	"	6.00 "	.42	6.42
"	3	"	"	"	6.00 "	.21	6.21
"	4	"	"	"	6.00 "	.42	6.42
"	5	"	"	"	6.00		6.00
"	6	"	"	"	6.00		6.00
"	7	"	"	"	6.00		6.00
"	8	"	"	"	6.00		6.00
"	9	"	"	"	6.00		6.00
"	11	"	"	"	6.00		6.00
"	12	"	"	"	6.00		6.00
"	13	"	"	"	6.00		6.00
"	14	"	"	"	6.00		6.00
"	15	"	"	"	6.00		6.00
"	16	"	"	"	6.00		6.00

$91.47

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
for Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County this bill is certified and approved by me.

_____

Judge, &c.

Examined and Approved for Payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
Thomas J. O'Reardon.
Sign here before presenting bill."

Thomas J. O'Reardon, direct.

"AFFIDAVIT.

State of New Jersey, } ss. John P. Walsh
County of Morris. }

being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Thomas J. O'Reardon.

Subscribed and sworn before me this fifteenth day of October A. D. 1925.

Eney Gruselli,
(SEAL) Notary Public of New Jersey."

Q Was there any objection made to your rendering any service for the prosecutor during the two months and a half that you have submitted these bills? A No, sir.

Q Did Mr. Jayne notify you, or anybody on his behalf, that he had charge of the criminal business of the county, and that you were not to render any service? A No, sir, I never heard it from anybody.

James H. Bolitho, direct.

JAMES H. BOLITHO, sworn on behalf of relators.

Direct examination by Mr. Romine.

Q You were appointed Prosecutor of the Pleas of the County of Morris when? A The commission was dated April 1, 1923; I was appointed about a week or ten days before then.

Q And after receiving your commission, dated April 1, 1923, were you sworn into office? A I think I was sworn in a day before the commission came through.

Q You were sworn in by whom? A The county clerk, before Judge Wilson, in open court.

Q And you began your duties immediately thereafter? A I began my duties on the first day of April, 1923.

Q Did you have anything to do with the appointing of Mr. Hubert, the county detective? A Yes, I appointed him county detective.

Q Under the statute? A Under the statute.

Q And was that appointment in writing? A Yes, sir; approved by Judge Wilson and recorded in the county clerk's office.

Q Was Mr. Hubert sworn into office? A He was.

Q Did you appoint anyone else as a county detective? A At the same time that I appointed Mr. Hubert, or a day or so after, I appointed James C. Bellingham.

Q After you assumed your duties as prosecutor, what have you to say as to whether there were many complaints made to you concerning violations of the liquor law? A There were a great many complaints. During the first year we collected in fines nearly $46,000, and we han-

dled during the time that I was prosecutor 1,800 cases, and I think that it is safe to say, two-thirds of them were liquor violations.

Q Therefore the business of the prosecutor's office consisted a whole lot in making investigations as to these alleged violations? A Yes, sir.

Q Were you able with the two county detectives that the law allowed you to properly handle the situation? A Well, the law allowed me six county detectives besides a chief; at that time Mr. Brennan was chief, when I went into office, and he used a great many men in order to enforce the law, over and above those whom we had appointed regular county detectives. The reason that was done was because we didn't know how long we would need the services of any of those men. In the enforcement of the liquor law, a man's usefulness did not last very long, because of the fact he would become known in the different communities where investigations were being carried on, and we had to shift our men accordingly.

Q Under what statute did you employ the various men from time to time to assist in the criminal business of the county? A Under—I am not sure of the number of the section, but I think Section 95 of the Criminal Procedure Act.

Q That act gives the prosecutor the right to employ people to assist you in the criminal business of the county, doesn't it? A Yes, sir, in the enforcing of the criminal law.

Q These various men that you have employed from time to time, after taking office, what was the allowance to be made to them per diem? A The two men whom we appointed first were given the allowance required by statute—I think $2,000 per year, and the Board of Freeholders

paid the first bills rendered at that rate, and then the question was raised by Mr. Rathbun, county counsel, regarding paying them on the regular salary basis, and the Board of Freeholders requested that we submit the bill on a per diem basis of six dollars per day and expenses, which we did. After that we put a rider on the bill, stating that we did not—the rider referred to Bellingham and Hubert and Miss Repp, stating that we did not acknowledge that the men were not entitled to salary, according to statute, but at the request of the Board of Freeholders, we were submitting the bill on the per diem basis, but requiring but one payment, either at the statutory rate or on the per diem basis, whichever the freeholders thought fit to pay.

Q And that is the reason Mr. Hubert's bills were submitted in that way? A Yes, sir.

Q Were these bills, in the first inception, so far as Hubert and Bellingham and these special men that you had to employ, after being approved by you and approved by the Judge of the Court of the Quarter Sessions, paid by the county? A They were all paid, with the exception of one or two bills of Hubert, sometime in the fall, I think, of 1923, and at that time a question was raised with regard to one or two charges in Hubert's bill, as to whether or not he was working on those days. A mandamus was had for Hubert, and after taking the testimony the freeholders paid the bill without further question, but all other bills were paid without any question.

Q Down to what time? A Well, so far as the freeholders were concerned, down to the time when I went out of office, except these bills that are now in question.

Q Do you remember the time when Mr. Jayne was delegated to come into Morris County and pursue investigations? A I remember the time when Mr. Jayne said he had been appointed to prosecute the criminal business of the County of Morris.

Q Do you refer now to the first order appointing him? A No, there was never a first order appointing him.

Q He did come first and have some investigations, did he not? A I understood that he was investigating there sometime in April or May, 1924.

Q And do you have knowledge of an order having been made officially, appointing him? A I have knowledge of a purported order having been made on, I think the 19th of February, 1925, in which an attempt was made to appoint him to prosecute the criminal business of Morris County.

Q And did you see that order anywhere? A I never saw the original order, but I obtained a copy of it after our cases came on.

Q And you obtained that from whom? A From the County Clerk.

Q After this purported order in February, 1925, did you continue as prosecutor? A I did.

Q Until what time? A Until the 19th of May, 1925.

Q And then what happened? A Then I resigned.

Q From February until May, 1925, you had active charge of the criminal business of the county? A Yes.

Q Did anyone serve any papers on you or give you notice in anywise that you were not to

continue the criminal business of the county? A No, sir.

Q Did Mr. Jayne inform you that you were not to proceed as usual in handling cases that came to your attention? A On the 20th of February, 1925, Mr. Jayne, while I was in Judge Wilson's chambers, appeared on the scene and said that he had been appointed by the attorney-general to prosecute the criminal business of the county, but he said that he did not think that his appointment was intended to supersede me as prosecutor, and that it was perfectly agreeable to him for me to conduct the affairs of the prosecutor's office as I had done in the past.

Q So that after that talk with Mr. Jayne you continued to handle cases that came to your attention? A Yes, but I might add to that, that I would have done it anyway, because my view of Mr. Jayne's appointment is that he was not legally authorized to function.

Q I want to submit to you a number of bills; do you remember a man named Thomas J. O'Reardon? A Yes.

Q He rendered service under this general provision of the statute that you have referred to, of investigating criminal business for the county? A Yes.

Q It was necessary to have him? A Yes, sir, absolutely. Mr. O'Reardon did a great deal of investigating in violations of the liquor law, by making buys and learning where they were violating the law, and he was a very good man on that.

Q His bills, which I show you here, three in number, for the months of March, April and May, marked Exhibits R. 1, R. 2 and R. 3 for relator T. J. O'Reardon, are approved by you? A Yes, sir.

Q And at the time you approved those, you were the acting Prosecutor of the County of Morris? A I was Prosecutor of the County of Morris.

Q When you approved these bills did you have access to any records in your office which would help you in determining the correctness of the bills and the reasonableness of the amount? A The system in our office was that each man each morning was to file a report of the previous day's work, showing what he had done and where he had been, and his expenses, and these bills were made up by Miss Repp from these daily reports and submitted to me with the daily reports, which I checked off and approved the bills accordingly.

Q The services charged in these bills for these men per day was six dollars? A Yes.

Q That was the amount allowed to them? A That was the amount allowed on the per diem basis.

Q And was that considered by you and Judge Wilson as a fair allowance per diem? A Yes, that was, and I might say further, it was my impression that it was the amount fixed by statute, as I recollect, where a salary was not allowed. The statute provided that certain men who had rendered service theretofore, either as a county detective or constable, could be rated on the appointment at a higher rate of salary than new men who were put on, and the lowest rate of wages payable under the statute, as I recall, was $1,800 per year. I think there is a provision in the statute to the effect that it could not exceed, for the lowest man, six dollars per day. I will say further, that the men who were employed in similar work by the sheriff were paid six dollars per day by the freeholders.

Q This amount of six dollars per day had been incorporated in previous bills, which had been approved, not only by you, but recommend for payment by Judge Wilson? A In all previous bills.

Q So that when you checked up these bills of Mr. O'Reardon with your daily time sheets, you were satisfied that he actually rendered service on the criminal business of your office on the days as stated in the bills? A He did.

Q And you approved them? A I did.

Q Referring to the bills of Mr. Hubert, marked Exhibits R. 2 to R. 9 for relator Frederick J. Hubert, they were approved by you as well, were they not? A Yes.

Q These bills of Mr. Hubert's, you will notice, R. 2, R. 4, R. 5, R. 6 and R. 8, are for services, at six dollars per day, and the other bills here of Mr. Hubert's are for expenses? A Yes.

Q And they were approved by you? A They were all approved by me.

Q And did you have access to the daily report sheets of Mr. Hubert at the time that you approved these bills? A I did, yes, sir.

Q And you found them to be correct, and that he had actually rendered the service on particular cases during that time? A He did.

Q Referring to the bills of Max Reidler for the months of March, April and part of May, marked Exhibits R. 1, R. 2 and R. 3 for relator Max Reidler, were they approved by you? A Yes.

Q And did you have access to the daily report sheets of Mr. Reidler in your office to determine the correctness of the bills at the time you approved them? A I did.

Q And you approved them because you found the charges correct and the amounts reasonable? A Yes.

Q Also, I show you the bills of John P. Walsh, for the months of March, April and part of May, and ask you if you approved those bills? A I did.

Q And did you at that time have access to the daily report sheets of Mr. Walsh, so that you could determine the correctness of the bills and the reasonableness of the amounts? A I did.

Q And after checking them up, you approved them as reasonable and correct? A I did.

Q I show you the bills of Edward L. Clark for the months of March, April and May, and ask you if you approved those bills? A I did.

Q And did you have access to the daily report sheets at the time that you approved these bills? A Yes, sir, I did.

Q And you found them to be correct and recommended them for payment? A I did.

Q Also, the bills of Daniel Allen, for the months of March, April and May, you approved those, did you? A Yes.

Q You found them to be correct from the daily report sheets? A I did.

Q And therefore approved them as reasonable? A I did.

Q Also, the bills of David Conkling for the months of March, April and part of May, and you approved those? A Yes, sir.

Q And found them to be correct from the time sheets? A Yes.

Q And reasonable in every respect? A Yes.

Q And therefore recommended them for payment? A Yes.

Q I see that these bills have not been approved by Judge Wilson. Do you know why he did not approve these particular bills? A I only know what Judge Wilson said to me in the conference which we had, I think the Friday after the twentieth of February; Judge Wilson in that conference asked me if I knew that Mr. Jayne had received an appointment to conduct the criminal business of the County of Morris, and I told him what I knew about it, and he said that he had had a discussion that morning with Justice Parker and Mr. Jayne, in which, because of the nature of Mr. Jayne's appointment, he (Judge Wilson) said to Justice Parker and Mr. Jayne that he did not think that he should sit to hear any further criminal business in the county, or that the present prosecutor should present any further criminal cases to him in court, because of this appointment, and Judge Wilson also said at that time that Justice Parker had said that Mr. Jayne's appointment was not intended to supersede the present prosecutor, but that it was made for the purpose of continuing and terminating the investigation which had been going on in the county, but Judge Wilson said that because of the language of the appointment, he took the other view of the matter, and Judge Wilson then told me that he did not feel that he should approve any further bills of our office.

Q Because of that order? A Because of that order.

Q There was no objection made by Judge Wilson as to the reasonableness of any of those bills, was there? A No, Judge Wilson was satisfied, so far as he intimated to me, that the work was done, and that the bills should have

been approved as all other bills had been submitted by these men for similar services, but I thought from the attitude Judge Wilson took, that he believed that his authority in the county had been interfered with, and he was somewhat peeved at the situation.

Q Did you after these bills were submitted from your office to Judge Wilson for approval, or any one of the series of bills, have any further talk with Judge Wilson as to his reason for not approving them? A I had no further talk with him about it, but I wrote him a letter shortly after I resigned, telling him that the men had rendered the services and were actually in need of the money, in order to support and maintain themselves and their families, and requested that he approve their bills, but I never received a reply to that letter.

Q Then from what you gathered, after the bills were submitted to Judge Wilson and not approved by him, his reason for not doing so was mainly because of this order appointing Jayne? A That was the impression that I got from the conversation I had with him.

Q It was necessary, was it, for you to continue to take charge of the ordinary complaints that came to your office during the months of March, April and part of May? A Under the section of the statute referred to and my oath of office, I was required to see that the criminal laws of the county were enforced.

Q What I mean to say is, that there were complaints coming to your office continually during those months, which required these men to go out and make investigations and cause arrests, is that right? A There were complaints coming to the office; there were telephone calls

received at my home at all hours of the night, and there were the usual batch of complaints coming in from the magistrates. There was no difference during that period from any other period while I was in office. In the May Term, just prior to my resignation, probably two weeks before then, Mr. Jayne requested us to do something, which had never been done before by our office, and which required the services of most of those men, namely, he requested that we personally serve the subpoenaes.

Q For his Grand Jury? A For the witnesses to come before the May Term of the Grand Jury. I don't mean the Elisor Grand Jury, but I mean the May Term of the Grand Jury. Before that time we had sent our men out when we were preparing to present cases to the Grand Jury, to interview the complaining witness and the other witnesses, for the purpose of learning whether it was necessary to bring all these witnesses before the Grand Jury, and when the subpoenaes were issued for the Grand Jury, they were delivered to the sheriff, who attended to the service of the same, but under this request of Mr. Jayne, we made the service, and our men made the service.

Q Some of the men who have submitted bills here? A Yes; all of the men, probably, with the exception of Mr. O'Reardon, who was doing this investigating work, and I remember in particular, that he worked for some time on some cases in Boonton, where we had received complaints that persons conducting grocery stores were selling intoxicating liquors, under the guise of medical preparations, and Mr. O'Reardon put in a great deal of time on that. I might add to that, that some complaints that came in during

that period were taken up by me with Mr. Jayne, because he had used some of the parties against whom these complaints were made, before the Elisor Grand Jury, and I called his attention to the fact that we had received complaints by mail and by telephone against some of those men whom he had under subpoena before the Elisor Grand Jury, and asked him whether he desired us to proceed against them while the Elisor Grand Jury was in session, and his reply was that he desired us to proceed as we always had proceeded against anyone against whom complaints were made.

Q Did you attend the May Term of the Grand Jury? A I did not.

Q Did you resign before that time? A I am not sure what date the May Term commenced, that is, as to dates, but about the fifth of May before the term commenced. Of course, before I had resigned, I took up the matter of the preparation of the cases which were to be submitted before the Grand Jury, with Mr. Jayne, and he thought that he should attend before that Grand Jury, instead of me, as prosecutor, although I did not agree with him on that, for legal reasons, and in fact told him that I thought that any indictment found by that Grand Jury if he attended, would be vitiated because of his attendance; at any rate, he insisted on attending. I was under indictment at the time and did not seriously insist upon going before the Grand Jury, but we prepared all the necessary—all the evidence, and submitted it to Mr. Jayne to present before the Grand Jury.

Q This evidence that you had for the May Term of the Grand Jury was such as had been collected during the preceding months from the

October Term? A No, from the January Term.

Q And these men who have submitted bills here, which have not been approved, I presume they did a lot of work on these various cases which you had ready to submit to the May Term? A They did all the work, all the investigating work that was necessary. When the magistrate would send in his papers, he would never send in with the papers, as a rule, with one exception that I know of, any statements or evidence as to what the witnesses would testify to, but a mere list of the witnesses. It then became necessary, unless we wanted to increase the expense by subpoenaing witnesses whom we wouldn't need, for us to investigate what the witnesses would testify to, before they were brought in to the Grand Jury, and also there were a great many cases in which the practice in our office was to send special session blanks out by the men who were investigating, for instance, desertion cases and non-support cases and liquor cases, and these men would go and interview the defendants and ascertain whether they wanted to sign for trial in Special Session, or leave their case go before the Grand Jury, and that was done for the purpose of saving expense to the county.

Q So that the cases submitted to the May Term of the Grand Jury by Mr. Jayne were cases which had actually been prepared and worked up by the men who now seek to have their bills paid? A That is absolutely true.

Mr. Romine: I offer in evidence certified copy of the request of Justice Parker and the appointment of Wilfred H. Jayne, Jr., by the Attorney-General, dated May 19, 1924.

(Marked Exhibit A. for Relators.)

"To Edward L. Katzenbach, Attorney-General of the State of New Jersey

You are hereby requested to attend personally or by such assistant or assistants as you may designate, in the County of Morris and State of New Jersey, for the purpose of prosecuting the criminal business of the State therein, including the investigating of alleged crimes and misdemeanors, attending before the criminal courts and grand juries of said county, preparing indictments and the trial of indictments for crimes and misdemeanors.

Dated May 19, 1924.

Charles W. Parker,
Justice of the Supreme Court.

To Wilfred H. Jayne, Jr., Esq.:

Pursuant to the request of Mr. Justice Parker above appearing, I do hereby designate you as my Assistant to perform and carry out the duties mentioned and set forth in said request, in the County of Morris. Dated May 19, 1924.

Edward L. Katzenbach,
Attorney General."

Endorsed:

"5298

RECEIVED
MORRIS COUNTY
Clerk's Office
May 21 10:25 A. M. 1924
MORRISTOWN, N. J.
E. BERTRAM MOTT
Co. Clerk"

"Filed May 21-1924
E. Bertram Mott
Clerk"

"State of New Jersey, }
County of Morris. } ss.

I, E. BERTRAM MOTT, Clerk of the County of Morris and also Clerk of the Court of Quarter Sessions Do HEREBY CERTIFY that the foregoing is a true, full and correct copy of the request and designation of Wilfred H. Jayne, Jr., as Assistant Attorney General of the State of New Jersey, as fully and entirely as the same remains on file in my office.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of said Court and County, at Morristown, this seventeenth day of October A. D. Nineteen hundred and twenty-five.

(SEAL)
1.10

E. Bertram Mott,
Clerk.
by Edwin W. Orr,
Deputy Clerk."

Mr. Romine: I also offer the further request to Justice Parker, in February, 1925, and the appointment of Wilfred H. Jayne, Jr., at that time by the Attorney General.

(Marked Exhibit B for relators.)

"To Edward L. Katzenbach, Esq.,
Attorney General of the State of New Jersey:

You are hereby requested and authorized to attend personally, or by such assistant or assistants as you may desire, in the County of Morris and State of New Jersey, for the purpose of prosecuting the criminal business of the State therein, including the investigation of alleged crimes and misdemeanors, attending before the criminal courts and grand juries of said county, preparing indictments and the trial of indictments for crimes and misdemeanors in said County.

Dated February 19, 1925.

Charles W. Parker,
Justice of the Supreme Court,
presiding in the County of Morris.

To Wilfred H. Jayne, Jr.:

Pursuant to the request of Mr. Justice Parker above appearing, I do hereby designate you as my Assistant to perform and carry out the duties mentioned and set forth in said request, in the County of Morris.

Dated February 19, 1925.

Edward L. Katzenbach,
Attorney General."

Endorsed:

"1646
RECEIVED
MORRIS COUNTY
Clerk's Office
Feb 21 10:27 A. M. 1925
MORRISTOWN, N. J.
E. BERTRAM MOTT,
Co. Clerk."

"Request of Mr. Justice Parker and Designation of Wilfred H. Jayne, Jr. To prosecute—&c.
Filed Feby. 21-1925
E. Bertram Mott,
Clerk."

"State of New Jersey, }
County of Morris. } ss.

I, E. BERTRAM MOTT, Clerk of the County of Morris and also Clerk of the Court of Quarter Sessions, Do HEREBY CERTIFY that the foregoing is a true, full and correct copy of the request and designation of Wilfred H. Jayne, Jr. as Assistant Attorney General of the State of New Jersey, as fully and entirely as the same remains on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court and County, at Morristown, this Seventeenth day of October A. D. Nineteen hundred and twenty-five.

(SEAL)
1.10

E. Bertram Mott
Clerk
by Edwin W. Orr
Deputy Clerk."

Continuation of testimony before Nicholas W. Bindseil, Supreme Court Commissioner, at his office, Prudential Building, Newark, New Jersey, on Monday, October 19, 1925, at four o'clock P. M., in the presence of Elmer W. Romine, Esq., representing the relators.

ARTHUR J. McDONNELL, duly sworn for relators, for

Direct examination by Mr. Romine.

Q Mr. McDonnell, you are one of the parties in this proceeding? A I am.

Q Seeking to have a mandamus to compel the Judge of the Court of Quarter Sessions of the County of Morris to approve your bill? A I am.

Q Where do you live, Mr. McDonnell? A Madison, New Jersey.

Q You have lived in Morris County how long? A Fifteen years.

Q Were you employed by James H. Bolitho, former Prosecutor of the County of Morris, to assist in the criminal business of Morris County? A I was.

Q Do you recall when you were first employed by him? A April, 1924, I think. I am not positive of that date. I think it was about a year.

Q Was any amount fixed for your services per day? A Six dollars per day.

Q What were you employed to do by James H. Bolitho, former Prosecutor of Morris County? A Investigate all crime and arrest all criminals —serve warrants.

Q And make investigations? A And make investigations.

Q Was there any understanding as to your being paid for expenses? A Oh, yes.

Q What was that arrangement? A Any expense entailed by virtue of duty—only on automobiles, three dollars per day.

Q Did you have a car of your own? A Yes, sir.

Q And did you use that car in your work? A I did.

Q Was your work done regularly or at intervals? A Regularly.

Q Did you submit bills for your services? A I did.

Q Were those bills previously submitted to and approved by the prosecutor? A They were.

Q Were they paid by the County of Morris? A They were—that is, previously to these last three bills.

Q Coming down to the particular case in question, did you render services for the prosecutor in connection with the criminal business of the county in March, 1925? A I did.

Q And also in the month of April? A I did.

Q And also the month of May, 1925? A I did.

Q I show you what purports to be a bill dated April 1, 1925, for services from March 1st to March 31st, 1925, including expenses of car, and other expenses, totaling $241.40, and ask you if that is the bill that you sent for your services that month? A It is.

Q And was that bill, after you made it out, signed by you and sworn to and submitted to the prosecutor? A It was.

Q It was sworn to before John P. Walsh on April 1st? A April 1st.

Q 1925? A Yes.

Q The bill represented services from March 1 to March 31, 1925, at six dollars a day, and car, three dollars a day. What were those services, and in connection with what character of work? A Investigating all characters of work—all kinds of crime. I don't know, in that month, whether I had to bring prisoners back or not. There was one of the months there that I went away to bring prisoners back. I don't know which month it is; but it is investigation of crime and liquor and arresting, and serving warrants.

Q In connection with the prosecutor's office of the County of Morris? A It is.

Q You actually rendered your services on each of the days as mentioned in this bill? A I did.

Q After this bill was approved by James H. Bolitho, as prosecutor, was the bill submitted to Judge Wilson for his approval? A It was.

Q Did Judge Wilson approve the bill? A He did not.

Q Did you ever see Judge Wilson in connection with the payment of this bill and ask him to approve your bill? A Yes, sir.

Q Do you remember what Judge Wilson said to you at that time? A It wasn't this time—it was after the three months had been submitted, and we hadn't gotten our money, and we went to see him, and he said that it was—it was a question between he and Mr. Jayne, and we went to Mr. Jayne, and he said it was up to Judge Wilson, and I don't believe he knew exactly what the sense of the whole thing was, but it seems to be put off from one to the other.

Q Did Judge Wilson refuse to approve your bill? A Yes, he refused to approve them all.

Mr. Romine: I offer in evidence the bill dated April 1, 1925, for $241.40, approved by James H. Bolitho, former Prosecutor of Morris County, sworn to by Arthur J. McDonnell on April 1, 1925, before John P. Walsh, notary public of New Jersey.

(Marked Exhibit R. 1 for relator Arthur J. McDonnell.)

"Date Apr. 1st, 1925.

P. O. Address, Madison, N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Arthur J. McDonnell, Dr.

Date of Delivery or Service	By Order of Prosecutor	Voucher No.	
1925			
Mar. 1,	One Day's Services $6.00, car $3.00,	-	$ 9.00
" 2,	" " " 6.00, " 3.00,		9.00
" 3,	" " " 6.00, " 3.00,		9.00
" 4,	" " " 6.00, " 3.00, ex.	$1.50	10.50
" 5,	" " " 6.00, " 3.00, "	1.50	10.50
" 6,	" " " 6.00, " 3,00, "	.85	9.85
" 7,	" " " 6.00, " 3.00,		9.00
" 9,	" " " 6.00, " 3.00,		9.00
" 10,	" " " 6.00, " 3.00, ex.	.85	9.85
" 11,	" " " 6.00, " 3.00,		9.00
" 12,	" " " 6.00, " 3.00, ex.	.90	9.90
" 13,	" " " 6.00, " 3.00, "	.85	9.85
" 14,	" " " 6.00, " 3.00,		9.00
" 16,	" " " 6.00, " 3.00,		9.00
" 17,	" " " 6.00, " 3.00, "	1.10	10.10
" 18,	" " " 6.00, " 3.00, "	.90	9.90
" 19,	" " " 6.00, " 3.00,		9.00
" 20,	" " " 6.00, " 3.00,		9.00
" 21,	" " " 6.00, " 3.00, "	1.10	10.10
" 23,	" " " 6.00, " 3.00,		9.00
" 24,	" " " 6.00, " 3.00,		9.00
" 25,	" " " 6.00		6.00
" 26,	" " " 6.00		6.00
" 27,	" " " 6.00		6.00
" 28,	" " " 6.00		6.00
" 29,	" " " 6.00		6.00
" 30,	" " " 6.00		6.00
" 31,	" " " 6.00 ex. 85c		6.85
			$241.40

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects, and the amount thereby claimed is due and owing the claimant.

Charge the amount of this bill to Law Enforcement.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
for Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County, this bill is certified to and approved by me.

Judge, &c.

Examined and Approved for payment by Committee.

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
Arthur J. McDonnell."

"AFFIDAVIT.

State of New Jersey, } ss.
County of Morris. }

Arthur J. McDonnell, being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

Arthur J. McDonnell.

Subscribed and sworn before me this 1st day of April, A. D. 1925.

(Signed) John P. Walsh,
Notary Public."

Q I show you what purports to be a bill dated May 1, 1925, for services from April 1, 1925, to April 30, 1925, not including expenses, totaling $150, approved by James H. Bolitho, the then prosecutor, and signed and sworn to by you before John P. Walsh, notary public, on May 1st, and I ask you if that is the bill that you

sent in for the services you rendered in the month of April, 1925? A It is.

Q And was that bill, after you made it out, signed by you and sworn to and submitted to the prosecutor for his approval? A It was.

Q And was it approved by James H. Bolitho, former Prosecutor of the County of Morris? A It was.

Q This bill represents services from April 1 to April 30, 1925, does it? A Yes.

Q At six dollars a day for your services? A Yes, sir, it does.

Q And that bill is for services in connection with liquor and other criminal investigation in the County of Morris? A It is.

Q In connection with the prosecutor's office of the County of Morris? A It is.

Q You actually rendered those services on each of the days mentioned in this bill? A I did.

Q After the bill was approved by James H. Bolitho, former Prosecutor of the County of Morris, was it submitted to Judge Wilson for his approval? A It was.

Q Did he approve the bill? A No.

Mr. Romine: I offer in evidence bill dated May 1, 1925, totaling $150, approved by James H. Bolitho, former Prosecutor of the County of Morris and sworn to by Arthur J. McDonnell before John P. Walsh, notary public, on May 1, 1925.

(Marked Exhibit R. 2 for relator Arthur J. McDonnell.)

"Date May 1st, 1925.

P. O. Address Madison N. J.

THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS.

To Arthur J. McDonnell, Dr.

Date of Delivery or Service 1925	By Order of Prosecutor	Voucher No.
Apr. 1,	One Day's Services $6.00	$ 6.00
" 2,	" " " 6.00	6.00
" 3,	" " " 6.00	6.00
" 4,	" " " 6.00	6.00
" 6,	" " " 6.00	6.00
" 7,	" " " 6.00	6.00
" 8,	" " " 6.00	6.00
" 9,	" " " 6.00	6.00
" 11,	" " " 6.00	6.00
" 13,	" " " 6.00	6.00
" 14,	" " " 6.00	6.00
" 15,	" " " 6.00	6.00
" 16,	" " " 6.00	6.00
" 17,	" " " 6.00	6.00
" 18,	" " " 6.00	6.00
" 20,	" " " 6.00	6.00
" 21,	" " " 6.00	6.00
" 22,	" " " 6.00	6.00
" 23,	" " " 6.00	6.00
" 24,	" " " 6.00	6.00
" 25,	" " " 6.00	6.00
" 27,	" " " 6.00	6.00
" 28,	" " " 6.00	6.00
" 29,	" " " 6.00	6.00
" 30,	" " " 6.00	6.00
		$150.00

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all re-

spects and the amount thereby claimed is due and owing the claimant.

Charge the amount of this bill to Law Enforcement.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas
for Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County, this bill is certified to and approved by me.

_____

Judge, &c.

Examined and Approved for payment by Committee.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.
(Signed)
Arthur J. McDonnell."

_____

Chairman.

"AFFIDAVIT.

State of New Jersey, }
County of Morris. } ss.

Arthur J. McDonnell, being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Arthur J. McDonnell.

Subscribed and sworn before me
this 1st day of May, A. D. 1925.

(Signed) John P. Walsh,
Notary Public."

Q I now show you bill dated June 1, 1925, for services and expenses from May 2, 1925, to May 18, 1925, including expense of car, the bill totaling $99, approved by James H. Bolitho, former Prosecutor of the County of Morris, and sworn to before John P. Walsh, by you, on May 28, 1925. Is that your bill for services for that month? A It is.

Q Was that bill, after you made it out, signed by you and sworn to before John P. Walsh, as Notary Public, and submitted to the prosecutor for his approval? A It was.

Q And was it approved by James H. Bolitho, former Prosecutor of the County of Morris? A It was.

Q And was for services at how much per day? A Six dollars per day.

Q And how much per day for your car? A Three dollars.

Q And was it in connection with liquor and other criminal law investigation? A Most of that was in connection with serving subpoenaes for Mr. Jayne, on orders from the chief of staff, Mr. Bellingham.

Q How much of that bill represents work done for Mr. Jayne while he was in Morris County? A There is only about three days in that whole bill that was outside of Mr. Jayne's work.

Q This bill is for services actually rendered on each of the days mentioned in the bill? A It is.

Q After this bill was approved by James H. Bolitho, Prosecutor of the County of Morris, was the bill submitted to Judge Wilson for his approval? A It was.

Q Did he approve the bill? A No.

Q Why not? A For the same reason I have stated for the first bill.

Mr. Romine: I offer in evidence bill dated June 1, 1925, for services and expenses from May 2, 1925, to May 18, 1925, including expense of car, totaling $99 approved by James H. Bolitho, former Prosecutor of the County of Morris, and sworn to by Arthur J. McDonnell, before John P. Walsh, Notary Public, on May 28, 1925.

(Marked Exhibit R. 3 for relator Arthur J. McDonnell.)

"Date June 1, 1925.

P. O. Address Madison N. J.

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF MORRIS

To Arthur J. McDonnell, Dr.

Date of Delivery or Service 1925	By Order of Prosecutor	Voucher No.
May 2,	One Day's Service $6.00, Car $3.00	$ 9.00
" 3,	" " " 6.00, " 3.00	9.00
" 4,	" " " 6.00	6.00
" 5,	" " " 6.00, " 3.00	9.00
" 6,	" " " 6.00	6.00
" 7,	" " " 6.00	6.00
" 8,	" " " 6.00	6.00
" 9,	" " " 6.00	6.00
" 11,	" " " 6.00	6.00
" 12,	" " " 6.00, " 3.00	9.00
" 13,	" " " 6.00, " 3.00	9.00
" 15,	" " " 6.00	6.00
" 16,	" " " 6.00	6.00
" 18,	" " " 6.00	6.00
		$99.00

Charge the amount of this bill to Law Enforcement.

I hereby certify that this bill is for necessary expenses incurred in the performance of the duties of my office as Prosecutor, that the items charged hereon are correct, that the services specified have in fact been performed, and the same is just and true in all respects and the amount thereby claimed is due and owing the claimant.

(Signed)
James H. Bolitho,
Prosecutor of the Pleas for Morris County.

Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County, this bill is certified to and approved by me.

_____

Judge, &c.

Examined and Approved for payment by Committee.

_____

Chairman.

Affidavit on back of this bill must be executed or bill will be returned.

Received payment in full settlement of above account.

(Signed)
Arthur J. McDonnell."

"AFFIDAVIT.

County of Morris.
State of New Jersey, } ss.

Arthur J. McDonnell, being duly sworn, deposes and says that the items charged in this bill are correct, that the service specified and the articles enumerated therein have in fact been performed and furnished, and the same is just and true in all respects, and the amount thereby claimed is justly and honestly due and owing the claimant from the County of Morris.

(Signed) Arthur J. McDonnell.

Subscribed and sworn before me this
28th day of May, A. D. 1925.
(Signed) John P. Walsh,
Notary Public."

STATE OF NEW JERSEY, } ss.
COUNTY OF ESSEX. }

I HEREBY CERTIFY that the foregoing depositions were taken before me as Supreme Court Commissioner, pursuant to notice, at the office of Mr. Elmer W. Romine, 6 Washington street, Morristown, New Jersey, on Thursday, October 15, 1925, and at my office, Prudential Building, Newark, New Jersey, on Monday, October 19, 1925, in the presence of Mr. Elmer W. Romine, attorney for relators; that it was stipulated and agreed by and between Mr. Romine, attorney for relators, and the defendant, C. Franklin Wilson, that the depositions of the witnesses should be taken stenographically by me and afterwards reduced to typewriting, the signatures of the witnesses to their said depositions being waived; and I further certify that the foregoing is a true and correct transcript of the depositions given by the witnesses before me.

NICHOLAS W. BINDSEIL,
Supreme Court Commissioner of New Jersey.

Opinion of Supreme Court.

On Application for Writ of Mandamus

NEW JERSEY SUPREME COURT

No. 295, October Term, 1925

THE STATE, *ex rel.* THOMAS J. O'REARDON,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris,
Respondent.

THE STATE, *ex rel.* DAVID CONKLING,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris,
Respondent.

THE STATE, *ex rel.* MAX REIDLER,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris,
Respondent.

THE STATE, *ex rel.* JOHN P. WALSH,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris,
Respondent.

THE STATE, *ex rel.* FREDERICK HUBERT,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris,
Respondent.

THE STATE, *ex rel.* DANIEL ALLEN,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris,
Respondent.

THE STATE, *ex rel.* ARTHUR J. McDONNELL,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris,
Respondent.

THE STATE, *ex rel.* EDWARD L. CLARK,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris,
Respondent.

Opinion of Supreme Court

Submitted November 1, 1925; decided March 1, 1926.

On rule to show cause why a mandamus should not issue.

Before Justices Trenchard, Katzenbach and Lloyd.

For the relators, Elmer W. Romine.

Per Curiam:

In these eight cases the several relators hold a rule requiring C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to show cause why a peremptory or alternative writ of mandamus should not be issued enjoining him to certify and approve for payment the several bills of the several relators, employees of the prosecutor's office of the County of Morris, for the months of April, May and a portion of June, 1925, which bills were endorsed and approved by James H. Bolitho, Prosecutor of the Pleas for Morris County.

Each rule ordered that both parties have leave to take depositions on notice.

Each relator took depositions, which are printed in the record. The respondent took no depositions, nor was any evidence taken in his behalf, and he has filed no brief.

The depositions establish that the bills of the several relators were certified by Mr. Bolitho in the form prescribed by Section 95 of the Criminal Procedure Act (C. S., p. 1850) to be for necessary

expenses incurred in the performance of the duties of his office as prosecutor that the items charged are correct, that the services have been performed; that the same is just and true; that the amount claimed is due and owing claimant, and the contention is that the judge should be directed to approve the same.

It seems further to be clearly established by the depositions that the judge either refused to approve, or failed upon request to approve, all of such bills, and the question at once arises as to the reason for his action. Searching the record, we find no definite answer to that question. With respect to most of the cases the nearest approach to a definite reason is the testimony of Mr. Bolitho that "Judge Wilson was satisfied, *so far as he intimated to me,* that the work was done, and that the bills should have been approved as all other bills had been submitted by these men for similar services, *but I thought from the attitude* of Judge Wilson that he believed that his authority in the county had been interfered with."

With respect to one of the cases we have in addition to the above the deposition of the relator that "the *principal reason* was because Mr. Jayne had been appointed to come into the county, and claimed that he had charge of the criminal business."

With respect to one other case we have the deposition of the relator to the same effect as that last given.

In this state of the record and in the absence of anything to show definitely whether the judge failed to approve the bills because he was not satisfied as to the reasonableness of the means employed and the necessity of the expenses incurred, or because he doubted his own authority or the prosecutor's authority by reason of the request made by Justice Parker, and the designation of Mr. Jayne by the Attorney-General to prosecute the criminal business of the State in the county, is not clear.

Whereas here on an application for mandamus no well-defined issue is raised, in order that such issue may be raised, an alternative writ, to which a return may be made, will be allowed.

An alternative writ of mandamus is allowed accordingly.

Rule Allowing Alternative Writ.

NEW JERSEY SUPREME COURT

THE STATE, *ex rel.* DANIEL ALLEN, *et als.*, Relators, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	On Application for Mandamus.

Application having been made to the Court for a writ of mandamus in the above-stated case, to compel the defendant to approve for payment the various bills of relator as a special officer of Morris County, and the Court after having allowed a rule to show cause and having considered the arguments in favor of relator.

It is hereby ORDERED that an alternative writ of mandamus issue in the above-stated case commanding the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to approve the various bills of relator for payment as a special officer or show cause why the same should not be approved.

On motion of

ELMER W. ROMINE,
Attorney for Relators.

Alternative Writ of Mandamus.

The State of New Jersey to C. Franklin Wilson, Judge of the Court of
(L. S.) Quarter Sessions of the County of Morris, GREETING:

WHEREAS, the Legislature of the State of New Jersey passed an act entitled, "An Act relating to Courts having criminal cases" (Revision of 1898), which act was approved June 14th, 1898, and is known as Chapter 237 of the Laws of 1898;

AND WHEREAS, under Section 158, Chapter 237, P. L. 1898, the Prosecutor of the Pleas in the several counties were empowered and authorized to appoint suitable persons as county detectives to act as special officers for the detection, arrest, indictment and conviction of offenders against the law;

AND WHEREAS, on April 2d, 1923, the Prosecutor of the Pleas in and for the County of Morris, by an instrument in writing did appoint Frederick Hubert, a county detective in and for the County of Morris at a salary of $2,000.00 per year, which appointment was approved in writing by C. Franklin Wilson, Judge of the Court of Common Pleas of the County of Morris;

AND WHEREAS, said Frederick Hubert qualified as a county detective and entered upon his duties as such under the direction of the Prosecutor of the Pleas of Morris County;

AND WHEREAS, by arrangement between the said Frederick Hubert and the Board of Chosen Freeholders of the County of Morris the bills for services of Frederick Hubert were submitted on

a per diem basis and after being approved by the Prosecutor of the Pleas, further approved by C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris;

AND WHEREAS, the said Frederick Hubert rendered services as a special officer and county detective of the County of Morris during the month of March, 1925, from March 1st, 1925, to March 15th, 1925, at a charge of $6.00 per day, being $90.00, and rendered services from March 16th, 1925, to March 31st, 1925, at $6.00 per day, being a total amount of $96.00, together with necessary expenses for the month amounting to $208.95, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, the said Frederick Hubert rendered services as a special officer and county detective of the County of Morris during the month of April, from April 1st, 1925, to April 15th, 1925, being a total amount of $90.00, and from April 16th to April 30th, being a total amount of $90.00, at a charge of $6.00 per day, together with necessary expenses for the month of $182.00, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, the said Frederick Hubert rendered services as a special officer and county detective of the County of Morris during the month of May, from May 1st, 1925, to May 16th, 1925, at a charge of $6.00 per day, being a total of $96.00, together with necessary expenses of $84.00, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, Frederick Hubert did make out his bills to the Board of Chosen Freeholders of the County of Morris, rendered the prosecutor's office of the County of Morris as a county detective for the months of March, April and May, 1925, which bills after being signed by and sworn to by Frederick Hubert were approved for payment by the Prosecutor of the Pleas of Morris County;

AND WHEREAS, the said Frederick Hubert presented his bills as aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for further approval, but the said judge had declined to accept or approve the said bills for payment, although said service was in fact rendered, the amounts reasonable and the expense charged in the bills incurred;

AND WHEREAS, the said Frederick Hubert cannot receive payment for his services and the expenses incurred by the Board of Chosen Freeholders of the County of Morris without the approval of the bills by the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris;

AND WHEREAS, no reason appears why the said bills should not be approved according to law and be paid;

NOW, THEREFORE, we being willing that due and speedy justice should be done in this behalf, command and strictly enjoin you, that immediately after the receipt of this writ you do approve the bills of Frederick Hubert made out to the Board of Chosen Freeholders of the County

of Morris and already approved by James H. Bolitho, Prosecutor of the Pleas of the County of Morris, amounting to $90.00 from March 1st, 1925, to March 15th, 1925; the sum of $208.95 for expenses during the month of March, 1925; the sum of $96.00 for services from March 16th, 1925, to March 31st, 1925; the sum of $90.00 for services from April 1st, 1925, to April 15th, 1925; the sum of $90.00 for services from April 16th, 1925, to April 30th, 1925; the sum of $182.00 for expenses during the month of April, 1925; the sum of $96.00 for services from May 1st to May 16th, 1925, and expenses for this portion of May amounting to $84.00, and or in the event of your failure so to do, you show cause before this Court at the State House, in Trenton, on the first Tuesday of May, A. D. 1926, why the said bills aforesaid should not be approved for final payment, lest in your default complaint should come to us repeated; and how you shall execute this our command, certify to our Justices of our Supreme Court of Judicature at Trenton, as aforesaid, together with this writ, and this in nowise omit at your peril.

WITNESS, WILLIAM S. GUMMERE, Chief Justice of our Supreme Court at Trenton, this seventh day of March at Trenton in the year of our Lord one thousand nine hundred and twenty-six.

EDWARD J. KELLEHER,
Clerk.

ELMER W. ROMINE,
Attorney.

A true copy.
EDWARD J. KELLEHER,
Clerk.

Alternative Writ of Mandamus.

New Jersey, ss:

The State of New Jersey to C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, GREETING:

WHEREAS, the Legislature of the State of New Jersey passed an act entitled, "An Act relating to Courts having criminal jurisdiction and regulating proceedings in criminal cases" (Revision of 1898), which act was approved June 14th, 1898, and is known as Chapter 237 of the Laws of 1898;

AND WHEREAS, Section 95 of said act reads as follows:

> "It shall be the duty of the Prosecutor of the Pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer of the Judge of the Court of Quarter Sessions for any county, shall be paid by the Board of Chosen Freeholders thereof (P. L. 1898, p. 901)."

AND WHEREAS, during the term of James H. Bolitho as Prosecutor of the Pleas in and for the County of Morris, namely, in the months of March and April, 1925, in the exercising of reasonable and lawful diligence for the detection of crime, he did employ one David Conkling as a special officer to assist in detecting and arrest-

ing offenders against the law, thereby incurring an expense for services in this regard;

And Whereas, the said David Conkling rendered services during the month of March, 1925, from March 4th, 1925, to March 16th, 1925, inclusive, at a charge of $6.00 per day, together with necessary expenses amounting to $108.00, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, the said David Conkling rendered services during the month of April, 1925, from April 4th, 1925, to April 25th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $72.00, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, David Conkling did make out his bills to the Board of Chosen Freeholders of the County of Morris rendered the prosecutor's office of the County of Morris for the months of March and April, 1925, which bills after being signed and sworn to by David Conkling were approved for payment by the Prosecutor of the Pleas of Morris County;

And Whereas, the said David Conkling presented his bills as aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for further approval, but the said Judge has declined to accept or approve the said bills for payment, although said service was in fact rendered, the amounts reasonable and the expense charged in the bills incurred;

And Whereas, the said David Conkling cannot receive payment for his services and the expenses incurred by the Board of Chosen Freeholders of the County of Morris without the approval of the bills by the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris;

And Whereas, no reason appears why the said bills should not be approved according to law and be paid;

Now, Therefore, we being willing that due and speedy justice should be done in this behalf, command and strictly enjoin you, that immediately after the receipt of this writ, you do approve the bills of David Conkling made out to the Board of Chosen Freeholders of the County of Morris and already approved by James H. Bolitho, Prosecutor of the Pleas of the County of Morris, for the month of March, 1925, amounting to $108.00, and for the month of April, 1925, amounting to $72.00, and in the event of your failure so to do, you show cause before this Court at the State House, in Trenton, on the first Tuesday of May, A. D. 1926, why the said bills aforesaid should not be approved for final payment, lest in your default complaint should come to us repeated; and how you shall execute this our command, certify to our Justices of our Supreme Court of Judicature at Trenton, as aforesaid, together with this writ, and this in nowise omit at your peril.

WITNESS, WILLIAM S. GUMMERE, Chief Justice of our Supreme Court at Trenton, this seventh day of March at Trenton in the year of our Lord one thousand nine hundred and twenty-six.

EDWARD J. KELLEHER,
Clerk.

ELMER W. ROMINE,
Attorney.

A true copy.
EDWARD J. KELLEHER,
Clerk.

Alternative Writ of Mandamus.

The State of New Jersey to C. Franklin Wilson, Judge of the Court of Quarter
(L. S.) Sessions of the County of Morris,
GREETING:

WHEREAS, the Legislature of the State of New Jersey passed an act entitled, "An Act relating to Courts having criminal cases" (Revision of 1898), which act was approved June 14th, 1898, and is known as Chapter 237 of the Laws of 1898.

AND WHEREAS, Section 95 of said act reads as follows:

> "It shall be the duty of the Prosecutor of the Pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer of the Judge of the Court of Quarter Sessions for any county, shall be paid by the Board of Chosen Freeholders thereof (P. L. 1898, p. 901)."

AND WHEREAS, during the term of James H. Bolitho as Prosecutor of the Pleas in and for the County of Morris, namely, in the months of March, April and May, 1925, in the exercising of reasonable and lawful diligence for the detection of crime, he did employ one Daniel Allen as a special officer to assist in detecting and arresting offenders against the law, thereby incurring an expense for services in this regard;

AND WHEREAS, the said Daniel Allen rendered services during the month of March, 1925, from March 1st, 1925, to March 31st, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $301.90, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, the said Daniel Allen rendered services during the month of April, from April 1st, 1925, to April 30th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $274.70, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, the said Daniel Allen rendered services during the month of May from May 1st, 1925, to May 18th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $150.00, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, Daniel Allen did make out his bills to the Board of Chosen Freeholders of the County of Morris rendered the prosecutor's office of the County of Morris for the months of March, April and May, 1925, which bills after being signed by and sworn to by Daniel Allen were approved for payment by the Prosecutor of the Pleas of Morris County;

And Whereas, the said Daniel Allen presented his bills as aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for further approval, but the said Judge has declined to accept or approve the said bills for payment, although said service was in fact rendered, the amounts reasonable and the expense charged in the bills incurred;

And Whereas, the said Daniel Allen cannot receive payment for his services and the expenses incurred from the Board of Chosen Freeholders of the County of Morris without the approval of the bills by the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris;

And Whereas, no reason appears why the said bills should not be approved according to law and be paid;

Now, Therefore, we being willing that due and speedy justice should be done in this behalf, command and strictly enjoin you, that immediately after the receipt of this writ, you do approve the bills of Daniel Allen made out to the Board of Chosen Freeholders of the County of Morris and already approved by James H. Bolitho, Prosecutor of the Pleas of the County of Morris, for the month of March, 1925, amounting to $301.90 for the month of April, 1925; amounting to $274.70, and for the month of May, 1925, amounting to $150.00, and or in the event of your failure so to do, you show cause before this Court at the State House, in Trenton, on the first Tuesday of May, A. D. 1926, why the said bills aforesaid should not be approved for final payment, lest in your default complaint should come to us repeated; and how you shall execute this our command, certify to our Justices of our Supreme Court of Judicature at Trenton, as aforesaid, together with this writ, and this in nowise omit at your peril.

Witness, William S. Gummere, Chief Justice of our Supreme Court at Trenton, this seventh day of March at Trenton in the year of our Lord one thousand nine hundred and twenty-six.

EDWARD J. KELLEHER,
Clerk.

Elmer W. Romine,
Attorney.

A true copy.
Edward J. Kelleher,
Clerk

Alternative Writ of Mandamus.

The State of New Jersey to C. Franklin Wilson, Judge of the Court of Quarter
(L. S.) Sessions of the County of Morris,
GREETING:

WHEREAS, the Legislature of the State of New Jersey passed an act entitled, "An Act relating to Courts having criminal cases" (Revision of 1898), which act was approved June 14th, 1898, and is known as Chapter 237 of the Laws of 1898.

AND WHEREAS, Section 95 of said act reads as follows:

> "It shall be the duty of the Prosecutor of the Pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer of the Judge of the Court of Quarter Sessions for any county, shall be paid by the Board of Chosen Freeholders thereof (P. L. 1898, p. 901)."

AND WHEREAS, during the term of James H. Bolitho as Prosecutor of the Pleas in and for the County of Morris, namely, in the months of March, April and May, 1925, in the exercising of reasonable and lawful diligence for the detection of crime, he did employ one John P. Walsh as a special officer to assist in detecting and arresting offenders against the law, thereby incurring any expenses for services in this regard;

AND WHEREAS, the said John P. Walsh rendered services during the month of March, 1925, from March 1st, 1925, to March 31st, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $175.15, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, the said John P. Walsh rendered services during the month of April, from April 1st, 1925, to April 30th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $159.90, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, the said John P. Walsh rendered services during the month of May, from May 1st, 1925, to May 18th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $88.31, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, John P. Walsh did make out his bills to the Board of Chosen Freeholders of the County of Morris rendered the prosecutor's office of the County of Morris for the months of March, April and May, 1925, which bills after being signed by and sworn to by Daniel Allen were approved for payment by the Prosecutor of the Pleas of Morris County;

AND WHEREAS, the said John P. Walsh presented his bills as aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for

"It shall be the duty of the Prosecutor of the Pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer of the Judge of the Court of Quarter Sessions for any county, shall be paid by the Board of Chosen Freeholders thereof (P. L. 1898, p. 901)."

And Whereas, during the term of James H. Bolitho, as Prosecutor of the Pleas in and for the County of Morris, namely, in the months of March, April and May, 1925, in the exercising of reasonable and lawful diligence for the detection of crime, he did employ one Edward L. Clark as a special officer to assist in detecting and arresting offenders against the law, thereby incurring an expense for services in this regard;

And Whereas, the said Edward L. Clark rendered services during the month of March, 1925, from March 4th, 1925, to March 31st, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $147.05, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, the said Edward L. Clark rendered services during the month of April, from April 1st, 1925, to April 30th, 1925, at a charge of $6.00 per day, together with necessary expenses, which was considered reasonable by the

Prosecutor of the Pleas of the County of Morris;

And Whereas, the said Edward L. Clark rendered services during the month of May, from May 1st, 1925, to May 18th, 1925, at a charge of $6.00 per day, together with necessary expenses, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, Edward L. Clark did make out his bills to the Board of Chosen Freeholders of the County of Morris rendered the prosecutor's office of the County of Morris for the months of March, April and May, 1925, which bills after being signed by and sworn to by Edward L. Clark were approved for payment by the Prosecutor of the Pleas of Morris County;

And Whereas, the said Edward L. Clark presented his bills as aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for further approval, but the said Judge has declined to accept or approve the said bills for payment, although said service was in fact rendered, the amounts reasonable and the expense charged in the bills incurred;

And Whereas, the said Edward L. Clark cannot receive payment for his services and the expenses incurred by the Board of Chosen Freeholders of the County of Morris without the approval of the bills by the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris;

Alternative Writ of Mandamus

And Whereas, no reason appears why the said bills should not be approved according to law and be paid;

Now, Therefore, we being willing that due and speedy justice should be done in this behalf, command and strictly enjoin you, that immediately after the receipt of this writ, you do approve the bills of Edward L. Clark made out to the Board of Chosen Freeholders of the County of Morris and already approved by James H. Bolitho, Prosecutor of the Pleas of the County of Morris, for the month of March, 1925, amounting to $147.35; for the month of April, 1925, amounting to $171.80, and for the month of May, 1925, amounting to $84.50, and or in the event of your failure so to do, you show cause before this Court at the State House, in Trenton, on the first Tuesday of May, A. D. 1926, why the said bills aforesaid should not be approved for final payment, lest in your default complaint should come to us repeated; and how you shall execute this our command, certify to our Justices of our Supreme Court of Judicature at Trenton, as aforesaid, together with this writ, and this in nowise omit at your peril.

Witness, William S. Gummere, Chief Justice of our Supreme Court at Trenton, this seventh day of March at Trenton in the year of our Lord one thousand nine hundred and twenty-six.

EDWARD J. KELLEHER,
Clerk.

Elmer W. Romine,
Attorney.

A true copy.
Edward J. Kelleher,
Clerk.

Alternative Writ of Mandamus.

The State of New Jersey to C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, Greeting:
(L. S.)

Whereas, the Legislature of the State of New Jersey passed an act entitled, "An Act relating to Courts having criminal cases" (Revision of 1898), which act was approved June 14th, 1898, and is known as Chapter 237 of the Laws of 1898.

And Whereas, Section 95 of said act reads as follows:

> "It shall be the duty of the Prosecutor of the Pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer of the Judge of the Court of Quarter Sessions for any county, shall be paid by the Board of Chosen Freeholders thereof (P. L. 1898, p. 901)."

And Whereas, during the term of James H. Bolitho, as Prosecutor of the Pleas in and for the County of Morris, namely, in the months of March, April and May, 1925, in the exercising of reasonable and lawful diligence for the detection of crime, he did employ one Arthur J. McDonnell as a special officer to assist in detecting and arresting offenders against the law, thereby incurring an expense for services in this regard;

And Whereas, the said Arthur J. McDonnell rendered services during the month of March, 1925, from March 1st, 1925, to March 31st, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $241.40, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, the said Arthur J. McDonnell rendered services during the month of April, from April 1st, 1925, to April 30th, 1925, at a charge at $6.00 per day, together with necessary expenses amounting to $150.00, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, the said Arthur J. McDonnell rendered services during the month of May, from May 2nd, 1925, to May 18th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $99.00, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, Arthur J. McDonnell did make out his bills to the Board of Chosen Freeholders of the County of Morris rendered the prosecutor's office of the County of Morris for the months of March, April and May, 1925, which bills after being signed by and sworn to by Arthur J. McDonnell were approved for payment by the Prosecutor of the Pleas of Morris County;

And Whereas, the said Arthur J. McDonnell presented his bills as aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions,

for further approval, but the said Judge has declined to accept or approve the said bills for payment, although said service was in fact rendered, the amounts reasonable and the expense charged in the bills incurred;

And Whereas, the said Arthur J. McDonnell cannot receive payment for his services and the expenses incurred by the Board of Chosen Freeholders of the County of Morris without the approval of the bills by the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris.

And Whereas, no reason appears why the said bills should not be approved according to law and be paid;

Now, Therefore, we being willing that due and speedy justice should be done in this behalf, command and strictly enjoin you, that immediately after the receipt of this writ, you do approve the bills of Arthur J. McDonnell made out to the Board of Chosen Freeholders of the County of Morris and already approved by James H. Bolitho, Prosecutor of the Pleas of the County of Morris, for the month of March, 1925, amounting to $241.40; for the month of April, 1925, amounting to $150.00, and for the month of May, 1925, amounting to $99.00, and or in the event of your failure so to do, you show cause before this Court at the State House, in Trenton, on the first Tuesday of May, A. D. 1926, why the said bills aforesaid should not be approved for final payment, lest in your default complaint should come to us repeated; and how you shall execute

this our command, certify to our Justices of our Supreme Court of Judicature at Trenton, as aforesaid, together with this writ, and this in nowise omit at your peril.

WITNESS, WILLIAM S. GUMMERE, Chief Justice of our Supreme Court at Trenton, this seventh day of March at Trenton in the year of our Lord one thousand nine hundred and twenty-six.

EDWARD J. KELLEHER,
Clerk.

ELMER W. ROMINE,
Attorney.

A true copy.
EDWARD J. KELLEHER,
Clerk.

Alternative Writ of Mandamus.

The State of New Jersey to C. Franklin Wilson, Judge of the Court of Quarter
(L. S.) Sessions of the County of Morris,
GREETING:

WHEREAS, the Legislature of the State of New Jersey passed an act entitled, "An Act relating to Courts having criminal cases" (Revision of 1898), which act was approved June 14th, 1898, and is known as Chapter 237 of the Laws of 1898.

AND WHEREAS, Section 95 of said act reads as follows:

"It shall be the duty of the Prosecutor of the Pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer of the Judge of the Court of Quarter Sessions for any county, shall be paid by the Board of Chosen Freeholders thereof (P. L. 1898, p. 901)."

AND WHEREAS, during the term of James H. Bolitho, as Prosecutor of the Pleas in and for the County of Morris, namely, in the months of March, April and May, 1925, in the exercising of reasonable and lawful diligence for the detection of crime, he did employ one Thomas J. O'Reardon, special officer, to assist in detecting and arresting offenders against the law, thereby incurring an expense for services in this regard;

AND WHEREAS, the said Thomas J. O'Reardon rendered services during the month of March, 1925, from March 2nd, 1925, to March 31st, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $191.90, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, the said Thomas J. O'Reardon rendered services during the month of April, from April 1st, 1925, to April 30th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $187.06, which was consid-

ered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, the said Thomas J. O'Reardon rendered services during the month of May, from May 1st, 1925, to May 16th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $91.47, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

And Whereas, Thomas J. O'Reardon did make out his bills to the Board of Chosen Freeholders of the County of Morris for the months of March, April and May, 1925, which bills after being signed by and sworn to by Thomas J. O'Reardon were approved for payment by the Prosecutor of the Pleas of Morris County;

And Whereas, the said Thomas J. O'Reardon presented his bills as aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for further approval, but the said Judge has declined to accept or approve the said bills for payment, although said service was in fact rendered, the amounts reasonable and the expense charged in the bills incurred;

And Whereas, the said Thomas J. O'Reardon cannot receive payment for his services and the expenses incurred by the Board of Chosen Freeholders of the County of Morris without the approval of the bills by the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris;

And Whereas, no reason appears why the said bills should not be approved according to law and be paid;

Now, Therefore, we being willing that due and speedy justice should be done in this behalf, command and strictly enjoin you, that immediately after the receipt of this writ, you do approve the bills of Thomas J. O'Reardon made out to the Board of Chosen Freeholders of the County of Morris and already approved by James H. Bolitho, Prosecutor of the Pleas of the County of Morris, for the month of March, 1925, amounting to $191.90; for the month of April, 1925, amounting to $187.06, and for the month of May, 1925, amounting to $91.47, and or in the event of your failure so to do, you show cause before this Court at the State House, in Trenton, on the first Tuesday of May, A. D. 1926, why the said bills aforesaid should not be approved for final payment, lest in your default complaint should come to us repeated; and how you shall execute this our command, certify to our Justices of our Supreme Court of Judicature at Trenton, as aforesaid, together with this writ, and this in nowise omit at your peril.

Witness, William S. Gummere, Chief Justice of our Supreme Court at Trenton, this first day of April at Trenton in the year of our Lord one thousand nine hundred and twenty-six.

EDWARD J. KELLEHER,
Clerk.

Elmer W. Romine,
Attorney.

A true copy.
Edward J. Kelleher,
Clerk.

Alternative Writ of Mandamus.

The State of New Jersey to C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, GREETING:

(L. S.)

WHEREAS, the Legislature of the State of New Jersey passed an act entitled, "An Act relating to Courts having criminal cases" (Revision of 1898), which act was approved June 14th, 1898, and is known as Chapter 237 of the Laws of 1898.

AND WHEREAS, Section 95 of said act reads as follows:

> "It shall be the duty of the Prosecutor of the Pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer of the Judge of the Court of Quarter Sessions for any county, shall be paid by the Board of Chosen Freeholders thereof (P. L. 1898, p. 901)."

AND WHEREAS, during the term of James H. Bolitho, as Prosecutor of the Pleas in and for the County of Morris, namely, in the months of March, April and May, 1925, in the exercising of reasonable and lawful diligence for the detection of crime, he did employ one Max Reidler as a special officer to assist in detecting and arresting offenders against the law, thereby incurring an expense for services in this regard;

AND WHEREAS, the said Max Reidler rendered services during the month of March, 1925, from March 1st, 1925, to March 31st, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $322.94, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, the said Max Reidler rendered services during the month of April, from April 1st, 1925, to April 30th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $335.70, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, the said Max Reidler rendered services during the month of May, from May 1st, 1925, to May 19th, 1925, at a charge of $6.00 per day, together with necessary expenses amounting to $189.19, which was considered reasonable by the Prosecutor of the Pleas of the County of Morris;

AND WHEREAS, Max Reidler did make out his bills to the Board of Chosen Freeholders of the County of Morris rendered the prosecutor's office of the County of Morris for the months of March, April and May, 1925, which bills after being signed by and sworn to by Max Reidler were approved for payment by the Prosecutor of the Pleas of Morris County;

AND WHEREAS, the said Max Reidler presented his bills as aforesaid to C. Franklin Wilson, Judge of the Court of Quarter Sessions, for further

New Jersey State Library

approval, but the said Judge has declined to accept or approve the said bills for payment, although said service was in fact rendered, the amounts reasonable and the expense charged in the bills incurred;

And Whereas, the said Max Reidler cannot receive payment for his services and the expenses incurred by the Board of Chosen Freeholders of the County of Morris without the approval of the bills by the said C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris;

And Whereas, no reason appears why the said bills should not be approved according to law and be paid;

Now, Therefore, we being willing that due and speedy justice should be done in this behalf, command and strictly enjoin you, that immediately after the receipt of this writ, you do approve the bills of Max Reidler made out to the Board of Chosen Freeholders of the County of Morris and already approved by James H. Bolitho, Prosecutor of the Pleas of the County of Morris, for the month of March, 1925, amounting to $322.94; for the month of April, 1925, amounting to $335.70, and for the month of May, 1925, amounting to $189.19, and or in the event of your failure so to do, you show cause before this Court at the State House, in Trenton, on the first Tuesday of May, A. D. 1926, why the said bills aforesaid should not be approved for final payment, lest in your default complaint

should come to us repeated; and how you shall execute this our command, certify to our Justices of our Supreme Court of Judicature at Trenton, as aforesaid, together with this writ, and this in nowise omit at your peril.

Witness, William S. Gummere, Chief Justice of our Supreme Court at Trenton, this seventh day of March at Trenton in the year of our Lord one thousand nine hundred and twenty-six.

EDWARD J. KELLEHER,
Clerk.

Elmer W. Romine,
Attorney.

A true copy.
Edward J. Kelleher,
Clerk.

Return to Alternative Writ of Mandamus.

NEW JERSEY SUPREME COURT

THE STATE, *ex rel.* THOMAS J. O'REARDON,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* DAVID CONKLING,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* MAX REIDLER,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* JOHN P. WALSH,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* FREDERICK HUBERT,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* DANIEL ALLEN,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* ARTHUR J. McDONNELL,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

On Petition for Mandamus. Return to Alternative Writ of Mandamus.

Return to Alternative Writ of Mandamus

NEW JERSEY SUPREME COURT

THE STATE, *ex rel.* EDWARD L. CLARK,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

On Petition for Mandamus. Return to Alternative Writ of Mandamus.

To the Honorable the Justices of the Supreme Court of New Jersey:

I, C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, to whom the said writ is directed, do hereby make return thereto to your Honors, and assert and certify that all the statement set forth in said writ are not true, and more particularly,

1. That it is true that I, the said C. Franklin Wilson, am Judge of the Court of Quarter Sessions of the County of Morris;

2. That it is true that Chapter 237 of the Laws of 1898 was approved June 14, 1898, and that Section 95 of said act reads as set forth in the alternative writ of mandamus to which this is a return;

3. That James H. Bolitho was duly appointed and qualified as Prosecutor of the Pleas in and for the County of Morris, and this defendant

does not know whether or not said James H. Bolitho employed the relators as special officers for the months of March, April and May, 1925, and thereby incurred expenses for services in that regard;

4. That this defendant does not know whether or not said relators rendered services during the months of March, April and May, 1925, or whether or not said services were considered reasonable by said James H. Bolitho, Prosecutor of the Pleas of the County of Morris;

5. That it is true the relators made out bills to the Board of Chosen Freeholders of the County of Morris for the month of March, 1925, which bills were approved for payment by the Prosecutor of the Pleas of Morris County, and it is true that this defendant does not know whether or not relators made out bills to the Board of Chosen Freeholders of the County of Morris for services rendered the prosecutor's office of the County of Morris for the months of April and May, 1925, and this defendant has no knowledge with respect to such bills;

6. That it is true that relators presented such bills for the month of March, 1925, to this defendant for approval, but this defendant has no knowledge as to whether or not such service was in fact rendered for the month of March, 1925, and the amounts thereof were reasonable and the expenses charged in said bill were actually incurred;

7. That it is true that no bills of relators for the months of April and May, 1925, to the Board of Chosen Freeholders of the County of Morris, rendered the prosecutor's office of the County of Morris for the months of April and May, 1925, and approved for payment by the Prosecutor of the Pleas of Morris County, have been presented to the defendant, and this defendant has no knowledge as to whether or not relators rendered any service or incurred any expense for said months or made out and presented any bills for the same;

8. That it is true that bills of relators for the month of March, 1925, duly made out and sworn to by relators to the Board of Chosen Freeholders of the County of Morris, rendered the prosecutor's office of the County of Morris, and approved for payment by the Prosecutor of the Pleas for Morris County, were presented to this defendant for approval on or about April 1, 1925, and that said bills were not examined by this defendant for approval because of the following, namely:

(a) At lunch on Tuesday, March 31, 1925, in a casual conversation with Elias Bertram Mott, County Clerk of Morris County, said Elias Bertram Mott informed defendant that he had a letter on file in his office from the Attorney-General of the State of New Jersey designating one Wilfred H. Jayne, Jr., as his assistant for the purpose of prosecuting the criminal business of the State in the County of Morris;

(b) Such information appeared to this defendant to be notice that the Attorney-General of New Jersey had taken over the prosecuting of all criminal business in the County of Morris, and that this defendant should govern himself accordingly, and this was the first notice or knowledge this defendant had received of such designation and appointment, whereupon and after receiving the bills of relators for the month of March, 1925, this defendant went to the Court House of the County of Morris, in the Town of Morristown, on the afternoon of April 2, 1925, to see said Wilfred H. Jayne, Jr., and asked him about the letter above mentioned, and then and there saw said Wilfred H. Jayne, Jr., and told him what this defendant had heard from said Elias Bertram Mott, and said Wilfred H. Jayne, Jr., told this defendant he knew nothing about a letter from said Attorney-General, but that there was on file with said Elias Bertram Mott, County Clerk aforesaid, an order made by said Attorney-General of the State of New Jersey designating him the said Wilfred H. Jayne, Jr., as special prosecutor to prosecute the criminal business in the County of Morris, and that he was going to and was then attending an elisor drawn grand jury in the County of Morris, and he further told this defendant that said order was made in the month of February, 1925, and that he would be glad to take up with this defendant the bills of relators for the month of March, 1925, on the following Monday morning, and go over the same and advise this defendant whether or not he would approve the same for payment;

(c) Upon leaving said Wilfred H. Jayne, Jr., this defendant went to the office of said Elias Bertram Mott, County Clerk of the County of Morris, and asked to see the letter from the Attorney General to which he had referred in his conversation with this defendant on the previous Tuesday and he produced and exhibited to this defendant a letter, request, and order, of which the following are true copies, namely,

"EDWARD L. KATZENBATCH
(Seal) Attorney General.
Trenton, N. J., Feb. 19, 1925.

E. Bertram Mott, Esq.,
Clerk of Morris County,
Morristown, N. J.

Dear Sir:

Enclosed herewith you will find request of Mr. Justice Parker and designation of Wilfred H. Jayne, Jr., in accordance therewith. You will kindly file this in your office, and abide by it in connection with such work as shall be undertaken in your County in accordance with said request and designation.

Very truly yours,

EDWARD L. KATZENBACH,
Attorney General."

ELK/S"

"To Edward L. Katzenbach, Esq.,
Attorney General of the State of New Jersey:

You are hereby requested and authorized to attend personally, or by such assistant or assistants as you may desire, in the County of Morris and State of New Jersey, for the purpose of prosecuting the criminal business of the State therein, including the investigation of alleged crimes and misdemeanors, attending before the criminal courts and grand juries of said county, preparing indictments and the trial of indictments for crimes and misdemeanors in said County.

Dated February 19, 1925.

CHARLES W. PARKER,
Justice of the Supreme Court, presiding in the County of Morris."

"To Wilfred H. Jayne, Jr.:

Pursuant to the request of Mr. Justice Parker above appearing, I do hereby designate you as my Assistant to perform and carry out the duties mentioned and set forth in said request, in the County of Morris.

Dated February 19, 1925.

EDWARD L. KATZENBACH,
Attorney General."

(d) On the morning of April 6, 1925, about nine thirty o'clock this defendant went to the Court House in Morristown aforesaid and had a conference with said Wilfred H. Jayne, Jr., with reference to the bills of relators for the month of March, 1925, and during said conference said Wilfred H. Jayne, Jr., stated to this defendant that he had superseded James H. Bolitho, Prosecutor of the Pleas in and for the County of Morris, and was himself solely in charge of all criminal business of said County, and had been since February 19, 1925, and that, in his opinion, said James H. Bolitho, Prosecutor as aforesaid, had no authority to hire any persons or to incur any expenses as such prosecutor during the month of March, 1925, and it is true that on April 6, 1925, this defendant called in said James H. Bolitho and informed him thereof, and suggested to him that, under the circumstances, perhaps he should refrain from further employing relators; and

(e) In view of such statement to this defendant by said Wilfred H. Jayne, Jr., Assistant Attorney General of the State of New Jersey, and who was then and there appearing before an elisor drawn grand jury, and because this defendant had no intention of subjecting himself to the liability of an indictment by such elisor drawn grand jury and which liability seemed to be threatened from the statement to this defendant by the said Wilfred H. Jayne, Jr., this defendant did not consider the bills of relators for the month of March, 1925, and has never considered the same for approval.

9. That it is true this defendant did not, after said conference with said Wilfred H. Jayne, Jr., and said James H. Bolitho, on the morning of April 6, 1925, call relators and inform them of what this defendant had just learned, and of this defendant's declining to approve their said bills for the month of March, 1925, and of this defendant's suggestion to said James H. Bolitho that, under the circumstances, perhaps he should refrain from further employing relators, for two reasons, namely:

(1) Because said James H. Bolitho was the duly appointed and qualified Prosecutor of the Pleas of the County of Morris, and relators had been selected and employed by him, and this defendant considered that he had no power to control him in the discharge of the duties of his office; and

(2) Because this defendant believed that when he brought the matter to the attention and knowledge of said Prosecutor of the Pleas, as fully as this defendant was then informed of the same, he would see and realize the situation, and so inform the relators, and he and they would be governed accordingly.

10. That it is true that no proof has been submitted to this defendant at any time as to the services claimed to have been rendered by the relators or expenses incurred by them or as to the reasonableness thereof or necessity therefor, to enable this defendant to form an opinion thereon, other than the certificate of the said James H. Bolitho attached to the bills for March, 1925, and the affidavits of the relators annexed thereto.

11. That it is true this defendant has no knowledge, information or belief as to whether or not relators have performed services for the County of Morris and incurred expenses in so doing for the months of March, April and May, 1925, and no bills of relators except for the month of March, 1925, have ever been submitted to this defendant for approval, and this defendant humbly prays that said writs may be dismissed and that he be relieved from obeying the commands therein given.

C. FRANKLIN WILSON,
Judge, &c., Defendant.

Stipulation.

NEW JERSEY SUPREME COURT

THE STATE, *ex rel.* EDWARD L. CLARK, *et als.*, Relators, vs. C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, Defendant.	On Petition for Mandamus. Stipulation.

IT IS HEREBY STIPULATED AND AGREED that the defendant may file his return to the writ in each

of the above-entitled actions, as of time, provided the same is filed on or before May 8, 1926.

It is Further Stipulated and Agreed that relators may use the depositions heretofore taken in the above-entitled actions, provided, however, that the relators will appear before a Supreme Court Commissioner at any time, on notice, for cross-examination on their said depositions.

It is Further Stipulated and Agreed that the return and answer of the defendant in the action of the State, *ex rel.* Edward L. Clark, Relator, v. C. Franklin Wilson, Judge, &c., defendant, may and shall be considered as his return to each of the writs in the above-entitled actions, and treated and considered as the return of said defendant as fully and with like force and effect as if separate returns to each of said writs had been made, signed and filed.

It is Further Stipulated and Agreed that the above-entitled actions be consolidated and treated as one action at law.

ELMER W. ROMINE,
Attorney for Relators.
C. FRANKLIN WILSON,
Attorney *pro se.*

Stipulation.

NEW JERSEY SUPREME COURT

The State, *ex rel.* Edward L. Clark, Relator, vs. C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris, and State of New Jersey, Defendant.	On Petition for Mandamus. Return to Alternative Writs. Stipulation.

It is stipulated and agreed that the above cases be added to the list at the present term and that argument be submitted on brief.

ELMER W. ROMINE,
Attorney for Relators.
C. FRANKLIN WILSON,
Attorney *pro se.*

Stipulation.

It is stipulated by and between the respective parties hereto that the answer of C. Franklin Wilson, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey, shall constitute the depositions of C. Franklin Wilson and be considered the same as if the matters and things therein stated in the answer were taken before a Supreme Court Commissioner.

And it is further stipulated and agreed that although the said C. Franklin Wilson has no recollection of any of the bills of the claimants being presented to him for approval, other than the bills for the month of March, 1925, if said bills had been presented for such approval they would not have been approved for the reasons set forth in the answer to the alternative writ; that it is admitted that one or two of the relators did inquire, after James H. Bolitho ceased to be Prosecutor for the County of Morris, concerning the approval of their bills, and they were informed that the bills could not be approved for the reasons substantially as set forth in the answer of C. Franklin Wilson.

And it is further stipulated and agreed that the matters and things admitted in this stipulation shall be considered as part of the testimony in the case, the same as if depositions had been taken before a Supreme Court Commissioner.

C. FRANKLIN WILSON,
Attorney *pro se.*
ELMER W. ROMINE,
Attorney for Relators.

Opinion of Supreme Court.

NEW JERSEY SUPREME COURT

STATE, *ex rel.* THOMAS J. O'REARDON,

vs.

C. FRANKLIN WILSON, Judge, &c.

On Return to Alternative Mandamus.

Argued before Gummere, Chief Justice, and Justices Trenchard and Minturn.

For the relator, Elmer W. Romine,

For the respondent, Charles A. Rathbun.

PER CURIAM

The relator, O'Reardon, was employed by Mr. Bolitho, who then held the office of Prosecutor of the Pleas of Morris County, to perform certain duties connected with the investigation of alleged violations of the criminal law occurring in that county. These duties were performed by him during the months of March, April and May, 1925, and he presented bills to Mr. Bolitho for payment for such services and for expenses incurred in their rendition. Mr. Bolitho approved the bills, and they were then submitted to Judge Wilson, of the Court of Quarter Sessions, the present respondent, for his approval, pursuant to the requirement of Section 95 of our Criminal Procedure Act. (Comp. Stat., p. 1850.)

The latter refused either to approve or disapprove these bills, and the relator then applied to this court for a mandamus to compel Judge Wilson to certify the bills for payment. An alternative writ was thereupon allowed, and Judge Wilson in his return thereto has set up, among other matters, that the employment of the relator by Bolitho during the period in which the alleged services were rendered was without legal warrant, and bases this assertion upon the following facts: Mr. Justice Parker, of the Supreme Court, presiding in the several courts of Morris County, on February 19, 1925, submitted a request in writing to the Attorney General of the State to attend personally, or by such assistant as he might select, in the County of Morris, "*for the purpose of prosecuting the criminal business of the state therein,* including the investigation of alleged crimes and misdemeanors, attending before the criminal courts and grand juries of said county, preparing indictments for crimes and misdemeanors in such county, and trying the same."

Pursuant to this request, the Attorney General designated Mr. Wilfred H. Jayne, Jr., as his assistant, "to perform and carry out the duties mentioned and set forth in said request, in the County of Morris." This designation was made on the 19th of February, 1925, and, under the authority conferred by it, Mr. Jayne went to Morris County on the next day and took charge of the criminal business of that county. Notwithstanding this designation of Mr. Jayne and his action thereunder, Mr. Bolitho assumed to continue to

act as Prosecutor of the Pleas to some extent, and apparently without objection on Mr. Jayne's part.

In our opinion, the determination of the matter before us depends upon whether or not the legal effect of the action of the Attorney General was to suspend Mr. Bolitho for the time being from the further performance of the duties attached to the office of Prosecutor of the Pleas of Morris County. For, if that was its effect, Mr. Bolitho could not, by refusing so to regard it and assuming to perform to some extent the duties connected with the office, impose upon the county any liability to pay expenses incurred by him in the unauthorized performance of those duties.

It seems clear from a reading of the provisions of the designation by the Attorney General of Mr. Jayne as his assistant, coupled with the terms of Mr. Justice Parker's request, that the effect of that designation was to suspend Mr. Bolitho from taking any part in the prosecution of the criminal business of the county during the period of Mr. Jayne's service there as assistant to the Attorney General. This being so, the vital question underlying the determination of the case is whether this power of suspension resided in the Attorney General.

The constitution of 1844 recognizes the existence of the office of Prosecutor of the Pleas, and provides for the filling of that office and the term thereof. It does not, however, specify any of the duties or powers of the incumbent. Shortly after the adoption of the constitution, and in April, 1846, the legislature passed an act providing that

there should be appointed for each county some fit person, who should be an attorney and counsellor-at-law, and whose duty it should be to prosecute the pleas of the state in such county in the absence of the Attorney General, and to do and perform such acts and things in behalf of the State in and about such prosecutions as the Attorney General might or ought to do if personally present. (Nixon's Digest, p. 49.) In 1854 (P. L., p. 131) the powers and duties of Prosecutors of the Pleas were enlarged by legislative enactment. This statute provides that after its passage.

> "The criminal business of the state shall be prosecuted exclusively by the Prosecutors of the Pleas, except in counties where for the time being there may be no Prosecutor or where the Prosecutor desires the aid of the Attorney General."

No change was made in the law in this regard until 1911, when the legislature made it the duty of the Attorney General, whenever a Justice of the Supreme Court should so request,

> "to attend personally, or by his assistant, in any county of the state, *for prosecuting the criminal business of the state therein,* including the investigation of alleged crimes and misdemeanors, the attendance before the criminal courts and grand juries of the county, the preparation of indictments and the trial of indictments for crimes and misdemeanors" (P. L. 1911, p. 325).

This statute was amended in January, 1922 (P. L., p. 11), so as to authorize the Attorney General to designate such assistant as he might see fit to act for him in the performance of the duties above recited. It is apparent from a reading of these statutory provisions that, in superseding Mr. Bolitho in the performance of the duties and the exercising of the powers of the office of Prosecutor of the Pleas of Morris County, the Attorney General was quite within the scope of the authority conferred upon him by the legislature; and our consideration of the matter has led us to the conclusion that the constitution, by necessary implication, has left the determination of the question of the scope of the powers and the duties attached to the office of Prosecutor of the Pleas entirely to the legislative body, together with the right to determine whether, under unusual conditions, those powers and duties shall temporarily be exercised and performed by the Attorney General, either personally or by his designated assistant, instead of by the holder of the office.

It follows, as the result of the views which we have expressed, that the action of the Attorney General in superseding Mr. Bolitho was taken under legislative sanction; that during the period of his suspension Mr. Bolitho was without authority to act in the performance of the duties or the exercise of the powers of his office, either personally or through assistants designated by him; and that, therefore, the application for a peremptory writ must be denied.

It may be well to add that, even if we had reached a different conclusion as to the authority of Mr. Bolitho to employ the relator during the period covered by the latter's service, we should not have felt justified in issuing a peremptory mandamus directing the respondent to approve the bills for the relator's alleged services and expenses. The purpose of Section 95 of the Criminal Procedure Act, above referred to, is to protect the county against unwarranted expenditures made by the Prosecutor of the Pleas by requiring the judge of the Court of Quarter Sessions to ascertain and determine whether a given claim, when presented to him for his approval, is a just and valid one. In the present case, as has already been pointed out, the respondent refused to consider the relator's claim upon the single ground that the Prosecutor of the Pleas had no power to incur the obligation represented by it. In this situation, the limit of the power of the Supreme Court would be to direct the respondent to take up the consideration of the relator's claim and determine whether it was fair and just; and, if he so found, then to approve it for payment.

Peremptory writ refused.

Order for Judgment.

THE STATE, *ex rel.*, THOMAS J. O'REARDON,
Relator,

vs.

C. FRANKLIN WILSON, Judge &c.,
Defendant.

The Court having considered the evidence and the arguments of counsel thereon, and having reached the conclusion that the relator is not entitled to a peremptory writ of mandamus;

It is ordered that the application for a peremptory writ of mandamus be and the same is hereby denied with costs.

Entered December 18, 1926.

On motion of

CHARLES A. RATHBUN,
Attorney of Defendant.

NOTE:- In each of the other seven cases, stipulated to be argued with the above the order denying peremptory writ of mandamus is the same as that above and therefore is not printed here in full in each of the other cases.

Notice of Appeal.

NEW JERSEY SUPREME COURT

THE STATE, *ex rel.*, THOMAS J. O'REARDON,
Relator-Appellant,

vs.

C. FRANKLIN WILSON, Judge &c.,
Defendant-Appellee.

To C. Franklin Wilson, Defendant-Appellee:

TAKE NOTICE that the above named Relator-Appellant appeals to the Court of Errors and Appeals from the order or judgment of the Supreme Court refusing a peremptory writ of mandamus to Relator for the reason that the Supreme Court erred in refusing to allow such peremptory writ.

Dated December 24th, 1926.

ELMER W. ROMINE,
Attorney for Relator-Appellant.

Note. Similar Notices of Appeal were taken and filed in the seven other cases and as they all read alike and it being stipulated that all the cases are to be argued together each of the other notices are not here repeated.

Stipulation in all the Cases.

It is stipulated by and between the parties hereto that the above stated cases on appeal from the Supreme Court be argued together in the Court of Errors and Appeals and that a decision in one shall control in each of the other cases.

Dated, Jan. 5, 1927.

ELMER W. ROMINE,
Attorney for Relators-Appellant.
CHARLES A. RATHBUN,
Attorney for Defendant-Appellee.

New Jersey
Court of Errors and Appeals

THE STATE, *ex rel.* Thomas J. O'Reardon,

Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,

Defendant.

THE STATE, *ex rel.* David Conklin,

Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,

Defendant.

THE STATE, *ex rel.* Max Reidler,

Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,

Defendant.

On Return to Alternative Writ of Mandamus.

THE STATE, *ex rel.* John P. Walsh,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* Frederick Hubert,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* Daniel Allen,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel.* Arthur J. McDonnell,
Relator,
vs.
C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

BRIEF OF RELATORS.

Preliminary Statement.

Certain employees and detectives of former Prosecutor Bolitho's office (162) in Morris County, having had their bills approved by him (165-166) were denied the right of approval by C. Franklin Wilson, Judge of the Court of Quarter Sessions, on the principal ground that he questioned the right of Prosecutor Bolitho to act during the appointment of Wilfred H. Jayne (169) Special Prosecutor, whereupon application was made for a writ of mandamus to the Supreme Court (pp. 2 to 50) pursuant to which no answer or reply was made by the respondent Judge, and the Supreme Court considering the matter *ex parte,* thereupon allowed an alternative writ (p. 196). It was then that Judge Wilson made his return setting out a number of reasons (227) principal of which was the same as prompted him in refusing to consider or approve the bills in the first instance (pp. 233-238).

The matter was argued in the Supreme Court on the return to the alternative writ and decided at the November Term, 1926 (p. 239), adverse to Relators, the Supreme Court holding that by virtue of the language of the appointment of Mr. Jayne, the rights of Mr. Bolitho ceased as Prosecutor and therefore there was no power or authority in him to act or employ these men (p. 243, l. 30).

The decision of the Supreme Court raises the constitutionality of the Act of 1911 as amended in 1922, page 11, as well the extent of Mr. Jayne's authority.

By agreement the above cases are to be argued together, as they involve the same facts (p. 247).

A decision in one controls all.

Statement of Facts.

The criminal business of Morris County by reason of frequent infractions of the prohibition enforcement act, as well as other numerous criminal violations, required the employment of an additional force, aside from the regular county detectives, by the Prosecutor of the County of Morris (pp. 161-162-163).

Mr. Bolitho was appointed Prosecutor for Morris County in the latter part of March, 1923 (p. 161), and was sworn into office on or about April 1st, 1923, for a five-year term. Violations of the liquor law were numerous. Constant complaints were being received by letter and telephone (pp. 170-171) necessitating investigations, arrests and examination of witnesses. Liquor had to be confiscated in considerable quantities and great numbers of complaints were made through recorders and justices of the peace, requiring investigations by the Prosecutor's Office (p. 171, ll. 10-20).

Under Section 95 of the Criminal Procedure Act. Vol. 2, Comp. Stat., page 1850, it was the duty of the Prosecutor of the Pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws, and all necessary expenses incurred to be certified by the Prosecutor and approved by the Judge of the Court of Quarter Sessions.

It was therefore legal and proper for the Prosecutor of the Pleas for Morris County, under the duty imposed upon him by statute, to employ men to assist in this work when necessary.

During his limited administration there were some 1800 cases handled through his office (p. 162, l. 1). The first year over $46,000 was collected in fines for infractions of the criminal law (p. 161, l. 40).

At the beginning of his term Mr. Bolitho appointed but two county detectives, although he was entitled by law to six (p. 162, ll. 20-30). He did not appoint more for the reason that he did not want any more expense than was necessary and hired such help as the exigency of the occasion required as time went on.

It appears that there was some personal prievance against Mr. Bolitho and his conduct of the Prosecutor's Office, and at the instance of one or more of the citizens of the County of Morris, Justice Charles W. Parker, on May 19th, 1924,

pursuant to P. L. 1922, page 1, made a request of the Attorney General to attend personally or by such assistant or assistants as he may designate in the County of Morris for the purpose of prosecuting the criminal business of the State therein, including the investigation of alleged crimes and misdemeanors attending before the criminal courts and Grand Juries (Exhibit A).

This order did not restrict or limit the Prosecutor from acting or attending to the ordinary duties of his office.

The language of the statute as used in the appointment is as follows:

> "You are hereby requested to attend personally or by such assistant or assistants as you may designate, in the County of Morris and State of New Jersey, for the purpose of prosecuting the criminal business of the State therein, including the investigating of alleged crimes and misdemeanors, attending before the criminal courts and grand juries of said county, preparing indictments and the trial of indictments for crimes and misdemeanors."

Mr. Jayne was in fact delegated to perform special duty, namely, investigating conditions. He did not attend before Grand Juries or try cases or usurp the powers and duties of Prosecutor Bolitho.

Notwithstanding Mr. Jayne's appointment, Prosecutor Bolitho proceeded as usual, attended Grand Juries, appeared before the Court of Quarter Sessions and Special Sessions, and prosecuted the general criminal business of the county

without any objection. During all of this time, bills of relators were approved and paid.

In the month of February, 1925, Mr. Justice Parker issued a new request for the Attorney General or one of his assistants, to attend the criminal business of the County of Morris, the order being in the same language as that of the year before (p. 176).

It was after the Attorney General had again appointed Wilfred H. Jayne, Jr., to act for him, that Judge Wilson declined to consider or approve the bills of relators as a question had been raised whether Prosecutor Bolitho had the right to act in view of the appointment of Mr. Jayne, and hence these proceedings.

Much testimony was taken in support of relators application.

For the purposes of this brief outline it appears that notwithstanding the second order appointing Mr. Jayne there was an apparent agreement that Prosecutor Bolitho was to continue the ordinary criminal business of the county while Mr. Jayne pursued his activities with a special Grand Jury called by Elisors.

The Relators who had been in the service of Prosecutor Bolitho's office before and who had been paid for their services after their bills were approved by Judge Wilson, while the first order of appointment was in existence, continued to render services, making arrests, confiscating liquor on raids, interviewing witnesses, serving subpoenas, and preparing cases, having in connection with such work, expenses of travel for the months of March, April, and part of May,

1925, up to the time of Bolitho's resignation from office on May 18th, 1925.

Following Bolitho's resignation, Albert H. Holland was appointed Prosecutor and it appears from the record that he took up for trial the very cases that had been prepared by relators upon which indictments had been secured by Bolitho, as the result of arrests by relators and upon disposal of these cases they were either fined or sentenced. The County of Morris realizing in money payment of the fines, all as a result of work and expense incurred by these relators for which they have not been paid, because of the situation about to be discussed.

Law on Appeal from Supreme Court.

In *Trinkle* v. *Donnelly,* 98 L. page 298, the Court of Errors and Appeals held:

> "Where an issue is made upon a record of alternative writ, return thereto &c., followed by a judgment, error will lie."
>
> The practice being by appeal.

The decision also held that appeal lies where constitutional question is involved.

Argument.

The Supreme Court apparently had some difficulty as to what course to take as evidenced by the following extract from the *per curiam* opinion (p. 241):

> "In our opinion, the determination of the matter before us depends upon

whether or not the legal effect of the action of the Attorney General was to suspend Mr. Bolitho for the time being from the further performance of the duties attached to the Office of the Prosecutor of the Pleas of Morris County. For, if that was its effect, Mr. Bolitho could not, by refusing so to regard it and assuming to perform to some extent the duties connected with the office, impose upon the County any liability to pay expenses incurred by him in the unauthorized performance of those duties.

"It seems clear from a reading of the provisions of the designation by the Attorney General of Mr. Jayne as his assistant, coupled with the terms of Mr. Justice Parker's request, that the effect of that designation was to suspend Mr. Bolitho from taking any part in the prosecution of the criminal business of the County during the period of Mr. Jayne's service there as assistant to the Attorney General. This being so, the vital question underlying the determination of the case is whether this power of suspension resided in the Attorney General."

After referring to that portion of the act relating to "Attorney Generals" in which reference is made to Prosecutors of the Pleas the language of the Laws of 1911, page 325, as amended in 1922, page 11, was discussed whereupon the Supreme Court said (p. 243):

> "It follows as the result of the view which we have expressed, that the action

of the Attorney General in superseding Mr. Bolitho was taken under legislative sanction; that during the period of his suspension Mr. Bolitho was without authority to act in the performance of the duties of the exercise of the powers of this office, either personally or through assistants designated by him, and that, therefore, the application for a preemptory writ must be denied."

In disposing of the application the Supreme Court, from the expression in its opinion, evidently confused the independent rights of the respective officials.

Legal Authority of Prosecutor to Act.

A Prosecutor of the Pleas of any county not only operates by virtue of statutory authority, but derives his existence by virtue of the constitution (par. 4, Sec. 2 of Article VII).

It must be remembered that the statute which defines the powers and duties of a Prosecutor are contained in a separate act known as "An Act Respecting Prosecutors of the Pleas of the State" (Rev. 1877 Comp. Stat. Vol. 1, page 153). Likewise the Attorney General is a constitutional officer (par. 4, Sec. 11 of Article VII). His duties are defined in another and separate act referred to as "An Act to define the duties and fix the salary of the Attorney General" (Rev. 1877, Comp. Stat. Vol. 1, page 152).

The act respecting Prosecutors places the appointed Prosecutor in charge of the criminal

business of the county. By said act of the Legislature he has all the powers and duties of the Attorney General.

This power and authority has never been taken away by any amendment or supplement to the "Act respecting Prosecutors."

Rights of Attorney General Restricted and Limited.

In the same revision of 1877 (Comp. Stat., Vol. 1, page 152) the Legislature, realizing that Prosecutors, under the act relating to Prosecutors, were put in charge of the criminal business of a county provided in the act respecting Attorney General, in paragraph three, "*That after the passage of the act, the criminal business of the State shall be prosecuted exclusively by the Prosecutor of the Pleas.*" This limited and restricted the rights and duties of an Attorney General under the act which prescribed his duties.

The only right under the Rev. of 1877 which an "Attorney General" had in any county was upon request of a Justice of the Supreme Court or Board of Chosen Freeholders of any County, to "Attend in any County of the State for the trial of homicide cases or other high crimes."

The right of an assistant to the Attorney General was not recognized at this time.

Privilege Extended to Assistants of Attorney General.

This situation prevailed until 1911 when undoubtedly the business of the Attorney General was of such magnitude that it was deemed advisable to extend the right of appearance in counties to one of his duly appointed assistants.

Thereafter by Act 1922, page 11, such right was extended not only to duly appointed assistants, but to such outside persons as the Attorney General might designate.

Assistants of the Attorney General were mere statutory officers.

Can it be said that they superceded a constitutional officer who stood originally on the same equality as the Attorney General and who, by the Prosecutor's Act, was given the right to attend to all criminal business of the county to the exclusion of the Attorney General?

Although the Act of 1911 as amended or enlarged by laws 1922, page 11, provide that the Attorney General or his assistant or assistants when requested shall attend in any county for prosecuting the criminal business therein, it must be considered that when the Attorney General delegates an assistant that he is sending a mere statutory agent who could not override a constitutional officer; and again, if the rights of the Attorney General, prior to the Revision of 1877, were equal with that of a Prosecutor, *the mere supplement to the Attorney General Act, without amending or changing the Prosecutor's Act, could not give the Attorney General or his assistant any greater powers than existed before.*

While the Legislature has the apparent power of fixing and prescribing the duties of the respective officials, if they seek to do so by separate acts applying specially to such officer *an amendment or enlargement of one would not and could not bind the other.* (See *Oakland* v. *Board of Conservation, &c.,* 98 L. 99 at p. 102.)

There is no intimation in any of the later acts (those of 1911 and 1922) which can be said to place the handling of the criminal business exclusively in the Attorney General and to the exclusion of the Prosecutor. These acts merely allow the Attorney General or his assistant to attend for the prosecuting of the criminal business. It's a general permission but may be for a single, specific assignment of duty. Whether it be all or part or in conjunction with the Prosecutor is not indicated. He was allowed to attend the sessions of a Grand Jury, such was also the privilege of the Prosecutor and a duly appointed Clerk, and it was but an additional privilege extended to the Attorney General or his assistants.

It is not inconsistent for the Attorney General to handle some special matters in which the General Prosecutor did not engage. This would not be inconsistent with the right of the Prosecutor to handle also the general run of criminal business.

For instance, the Prosecutor today in a given county, may handle a murder case while his assistant, a creature of statute, may attend to and have charge of the general criminal business of the county.

If it were the intention in this case to displace the Prosecutor by calling in the Attorney General, such act would be illegal and unconstitutional for several reasons. The Prosecutor is a constitutional officer having by virtue of his appointment certain fixed duties; he could only be removed by impeachment. Under the act respecting Prosecutors, he could not be removed while in the continuance of his duties. (*Police Commissioners, Jersey City* v. *Pritchard,* 36 Law, p. 101.)

In the case of *Schalk* v. *Wrightson,* reported in 58 Law, page 50 at page 55, the Supreme Court said (quoting Mr. Justice Allen),

> "The Constitution cannot be evaded by the change in the name of an office, nor can an office be divided and the duty assigned to two or more officers under different names, and the appointment to the officers made in any manner except as authorized by the Constitution, and Courts will scrutinize acts of the Legislature and see that the Constitution is not evaded and its intent frustrated by a mere colorable change in the description and title of the duty of an officer."

The significance of this statement in the opinion is important. The Legislature could not, by a mere colorable change, put the Attorney General in complete charge while the Prosecutor held office. One must be superior over the other; one must be an assistant to the other. While the work of the office might be divided, it would seem to indicate that the Prosecutor being in charge

of an office, could not be removed by any subterfuge act of the Legislature.

It was cited in *Elliot on Municipal Corporations,* second edition, page 199, in the foot note, *that the office of a constitutional officer was regarded as a hereditament.*

The Attorney General and the Prosecutor of the Pleas, as well a Justice of the Supreme Court, are all constitutional officers appointed by the Governor and confirmed by the Senate.

It is well settled that in order to effect their removal it must occur by either resignation, death, or impeachment. Any act of the Legislature that attempts to give power to any one of these constitutional officers to request another to act for such other officer could not go so far as to mean that the officer for whom such other person was to act could not continue to perform his duty because if this were so, it would be an invasion of constitutional rights, and be an indirect way of attempting to force a constitutional officer out of office.

Bolitho was present and acting Prosecutor. If the Legislature had any right to enlarge the duties of the "Attorney General," they must be subordinate to those of the Prosecutor at least not inconsistent therewith.

Act Respecting Prosecutors Not Limited or Restricted.

In order to subordinate the duties of a Prosecutor there would have to be some restriction upon his duties by an act amendatory or supplemental to the act respecting Prosecutors and not to some other act respecting the duties of some other officer.

While it is true the language of the statute is broad, yet it is indefinite as to what shall be the course under given circumstances such as where a Prosecutor is already in office. Certainly there is no amendment to or change of the "Act respecting Prosecutors."

It was held in *Wilson* v. *Smith,* 79 Atl. p. 272, that a latter and separate act which does not express in its title a legislative intent to fix the method of selecting officers and there being a prior and different act or statute which prescribes such method of selection, the latter act which fails to so express the object in its title cannot affect or take precedence over the other and is not operative but unconstitutional.

The supplements to the "Attorney Generals Act" not expressing in its title the intent to limit or restrict the powers and duties of a Prosecutor of the Pleas under such circumstances, would have no effect to restrain such Prosecutor and would be unconstitutional insofar as it attempted to affect his duties.

See also in this connection:

Hardy v. Orange, 61 L. 620 (decisions by the Court of Errors and Appeals).

Kreight v. Bod. of Freeholders, 62 L. 178.

Patterson v. Close, 82 L. 160 (Supreme Court decision).

Patterson v. Close, 84 L. 319 (decision by Court of Errors and Appeals).

Relation Between Attorney General and Prosecuting Attorney.

In 6 C. J. 806 (foot note 20) the following statement is found:

> "Prosecuting attorneys are generally described as deputies or assistants of Attorney General, but they are not dependent upon him for their powers in all cases, nor in all respects subject to his control. In the exercise of his common law powers, the Attorney General may, no doubt, advise the prosecuting attorney, as he does other officers, since he is regarded as the chief law officer of the State. *As the Constitution and laws of the State make the two offices separate and distinct and vest in the prosecuting attorney certain powers and impose upon him certain duties, it seems clear that the Attorney General cannot strip him of the powers expressly given nor increase the burdens laid upon him.* The sense in which the local officer is subordinate to the general one seems to be that they are engaged in the same branch or department of the public business. *This makes the relation theoretical, rather than practical. The business, once pertaining*

actually as well as theoretically to the office of Attorney General, has been divided between the two offices for purposes of convenience.

"We might say the office of Prosecuting Attorney has been carved out of that of Attorney General and made an independent office, having exclusive control to some extent of business of the State arising within the County."

State v. Ehrlick, 65 W. Va. 700, 702, 64 S. E. 935, 23 L. R. H. N. S. 69.

As to Intention by Appointment of Attorney General.

The opinion of the Supreme Court seems also to suggest the thought that it was possibly a matter of intention.

There are many angles to the situation. It is apparent and manifest that neither the Attorney General nor Mr. Jayne ever intended to usurp the power and authority of Mr. Bolitho as Prosecutor in the handling of the general criminal business of the County, a right clearly delegated to the Prosecutor by statute.

Operating under the first order in May, 1924 (p. 174), Mr. Jayne did scout duty he and his operators merely investigated. Morris County Criminal Courts continued as before with Mr. Bolitho as Prosecutor in full charge. There never was a demand that Bolitho cease or turn over the duties or business of his office to Mr. Jayne.

The Supreme Court found as expressed in its opinion, page 40, that

> *"Mr. Bolitho assumed to continue to act as Prosecutor of the Pleas to some extent, and apparently without objection on Mr. Jayne's part."*

Intent having been determined by Mr. Jayne's acts, it was apparent that a new order would have to be made to give Mr. Jayne further rights. Such was the claim of Mr. Jayne to Judge Wilson (p. 164, l. 25).

If, operating under the new order, Mr. Jayne had demanded to be put in possession of the office of Prosecutor Bolitho and to have charge of all the criminal business, it would have indicated how far it was intended by the Attorney General, Mr. Jayne was to act under the order. Mr. Jayne agreed and permitted Prosecutor Bolitho to continue with the ordinary criminal business of the County (pp. 165-169).

Not only do we have intent by acts, words or direction as to the limitation of Mr. Jayne's intended activities to special matters only, but there was in fact a delegation to Mr. Bolitho to continue as before, indicating again that the Attorney General intended to deal with a special matter only.

If Mr. Jayne had demanded the right to handle all the criminal business, then it might be argued Mr. Jayne's appointment may have superceded Bolitho, but Mr. Jayne did not make such demand upon the Prosecutor or evidence of his intention in any way.

Mr. Jayne took no part in the general criminal business of the County after his second appointment. He merely attended before a specially constituted Grand Jury and formulated an indictment.

Mr. Bolitho appeared before the regular Grand Jury.

Intention Not Governed by Language of Appointment.

By reason of the language of the statute, the wording of Mr. Jayne's appointment could not have been legal if it limited his appearance only to a special Grand Jury. The language of the statute had to be followed and the extent of his work and duties determined by what branch or part of the criminal business he assumed.

It not infrequently happens that the Attorney General is called into a County to assist in a special matter. The order in every instance follows the language of the statute as in this case, but the limitation of the duty assumed is evidenced by the things done or undertaken, the circumstances or intention existing at the time the order was made.

For illustration, when Attorney General McCran was called into Morris County in the year 1921 under a request similar to that under discussion, on the Jancarek murder case, the regular Prosecutor of the County attended before the Grand Jury and the indictment was signed by him. The record shows that they both appeared at the trial. The general run of the criminal business was handled by Prosecutor Mills. Later

when J. Henry Harrison was delegated by Attorney General McCran to represent him when the charge for murder was pressed against Kluxan, the indictment in that case, now of record, bears the signatures of John M. Mills, the regular Prosecutor of the County, as well as J. Henry Harrison who nominated himself as Special Prosecutor. All the other papers in the case bear the endorsement or signature of both the Prosecutor and J. Henry Harrison, Special Attorney General.

In the instance just cited the General Prosecutor was not superceded or prevented from acting. The procedure being under the same supplement to the Attorney General Act.

Take for instance the recent Hall-Mills murder case, the files show that the same form of order was used as in this instance, with the exception that there was added this statement:

> "And you are authorized if you so desire to act in conjunction with the Prosecutor of the Pleas of said County."

Indicating quite clearly that in the mind of the Court the Prosecutor was the superior officer in charge of all the criminal business and that the privilege might be extended to such assistant to associate with the regular Prosecutor.

If it be said that the amendment of 1911 and 1922 to the Attorney General Act affects the duties of a Prosecutor in the act respecting Prosecutors, then it may be said to be a matter of intention and Mr. Jayne's sole duty being the special matter under consideration, and having agreed with Prosecutor Bolitho not to assume his

duties or perogatives it seems quite clear that Prosecutor Bolitho was free to act so far as the ordinary business of the office was concerned. Services were rendered and the County benefited.

Further considering the question, can it be said that relators should render their services, spend their money for expenses, prepare and work up cases from which the County of Morris received a substantial return for fines, and not be paid? I think not, especially when Mr. Jayne knew of such services being rendered and made no objection. Mr. Jayne could not approve the bills because the service was under the direction of Prosecutor Bolitho and his certification was equivalent to that of one made by Mr. Jayne.

The only purpose of this proceeding is to establish the authority and right of these men to be paid for this service and in so doing the barrier in the mind of Judge Wilson is removed and he can then deal with the bills.

I doubt very much if it can be sustained that Mr. Jayne's appointment superceded the regular Prosecutor of Morris County. If that were so, then when Mr. Bolitho resigned no one could have been appointed in his place. If Mr. Jayne had charge of all the criminal business of the County, Mr. Holland's appointment would be a nullity and his acts would all become illegal. He would be an *ultra vires* officer. Fines imposed would be illegal and indictments set aside as the appointment of Mr. Jayne has never been invoked. I don't think the Legislature ever intended such a situation.

Chancellor Walker said, *In re Merrill,* 88 Eq. at page 273:

> "It is an established rule in the exposition of statutes that the intention of the Legislature is to be derived from a view of the whole and every part of the statute, taken and compared together. The real intention, when ascertained, will prevail over the literal sense of terms. When words are not explicit, the intention is to be collected from the context and the occasion and necessity of the law and from the mischief felt, and the remedy in view; and the intention is to be taken or presumed according to what is consonant to reason and good direction."

Citing *Morris Canal* v. *Central Railroad Co.,* 16 Eq. 419, further quoting from the decision *In re Merrill,* page 273:

> "In *State* v. *Clark,* 29 L. 96, it was said at page 99, 'The language of the Act, if construed literally, evidently leads to an absurd result.
>
> " 'If a literal construction of the words of a statute be absurd, the Act must be so construed as to avoid the absurdity. *The Court must restrain the words.*
>
> " 'The object designed to be reached by the act must limit and control the literal import of the terms and phrases employed.' "

See also:

State v. Scott, 86 L. p. 133, and
Moore v. Johnson, 85 L. 40.

In order to justify the acts of Mr. Holland, the present Prosecutor, it must be held that Mr. Jayne's appointment can go no further than to be considered for the special purpose pursued by him or in the alternative to hold that he had the right to delegate and permit the regular Prosecutor to handle certain matters. It's only a matter of intention by acts done and the circumstances.

Unless this is done, the whole matter presents a farce and is absurd.

Right of Prosecutor to Act Delegated by Mr. Jayne.

If it be held that the Act of 1911 and the Supplement of 1922 are not unconstitutional or inoperative so far as they affect the act relating to Prosecutors, and though the "Act respecting Prosecutors" is not amended, that the appointment of Mr. Jayne is legal and it be further held that Mr. Jayne, by virtue of his appointment, was not acting jointly with the Prosecutor but was a superior in authority over the Prosecutor, then it is urged that Mr. Jayne could and did not only impliedly but expressly delegate Mr. Bolitho to continue to act in charge of the ordinary and general criminal business of the County while he, Mr. Jayne, pursued his special duties and thereby Prosecutor Bolitho would be classed as an assistant to Special Prosecutor Jayne and entitled to recommend and approve the bills.

The testimony in support of this delegation of authority, and undenied and not contradicted, is as follows (p. 165):

Testimony of Former Prosecutor Bolitho.

"Q. Did Mr. Jayne inform you that you were not to proceed as usual in handling cases that came to your attention? A. On the 20th of February, 1925, Mr. Jayne, while I was in Judge Wilson's chambers, appeared on the scene and said that he had been appointed by the Attorney General to prosecute the criminal business of the County, but he said that he did not think that his appointment was intended to supercede me as Prosecutor, *and that it was perfectly agreeable to him for me to conduct the affairs of the Prosecutor's Office as I had done in the past.*"

Also, page 169:

"Q. I see that these bills have not been approved by Judge Wilson. Do you know why he did not approve these particular bills? A. I only know what Judge Wilson said to me in the conference which we had, I think the Friday after the 20th of February. Judge Wilson, in that conference, asked me if I knew that Mr. Jayne had received an appointment to conduct the criminal business of the County of Morris and I told him what I knew about it, and he said that he had had a discussion that morning with Justice Parker and Mr. Jayne in which, because of the nature of Mr. Jayne's appointment, he (Judge Wilson) said to Justice Parker and Mr. Jayne that he did not think that he should sit to hear any further criminal business in the County, or that the present Prosecu-

tor should present any further criminal cases to him in Court, because of this appointment, and Judge Wilson also said at that time that Justice Parker had said that Mr. Jayne's appointment was not intended to supercede the present Prosecutor, but that it was made for the purpose of continuing and terminating the investigation which had been going on in the County, but Judge Wilson said that because of the language of the appointment, he took the other view of the matter, and Judge Wilson then told me that he did not feel that he should approve any further bills of our office."

There being such an express understanding between Mr. Jayne and Prosecutor Bolitho he was clothed with additional authority to act and the bills could not now be questioned.

Rights and Duties of a Prosecutor.

Section 95, *Criminal Procedure,* Volume 2, Comp. Stat., page 1850, reads as follows:

> "It shall be the duty of the Prosecutor of the Pleas for each County *to use all reasonable and lawful diligence for the detection, arrest, indictment* and conviction of *offenders against the laws;* and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer or the Judge of the Court of Quarter Sessions for any County, shall be paid by the Board of Chosen Freeholders thereof" (P. L. 1898, p. 901).

Construing this act in the case of *Lindabury* v. *Freeholders of Ocean,* 18 Vr. p. 17, at page 424, the Court said:

> "The plain intent of the statute was to confer upon the Prosecutor authority to provide reasonable means to aid him in the performance of his official duties with a guaranty that the necessary expenses incurred should be paid."

See also:

> State, *ex rel.* Irving v. Applegate, 49 L. 376.

Whatever may be the restriction of a Prosecutor by reason of the appointment of an Attorney General or his assistant, to appear in a County, it cannot very well be held that the supplement of 1911 as amended in 1922 affording such right to an Attorney General or his assistant could, by any far-reaching construction, limit, restrict, or repeal the provisions of the Crimes Act of 1898, above quoted. At least, the Legislature intended that no matter what happened, a duly-appointed Prosecutor (not an Attorney General) was to be delegated and charged with the duty of continuing to handle the general criminal business of a County.

In *Elliott on Municipal Corporations* (Second Edition), p. 197, par. 194, it is stated that

> "An office was regarded as a burden which the appointee was bound in the interest of the community and the Government to bear."

Again, under the Act of Legislature Laws, 1922, page 625, "Known as the Prohibition Enforcement Act," the Prosecutor of the Pleas is the public official charged with the duty of making investigations, complaints and arrests.

There is no delegation of authority or right extended to the Attorney General so to do.

This likewise is a separate act, distinct from the "Act respecting Attorney Generals," and, of course, under the theory of the decisions heretofore cited, could not be affected by any supplement to the Attorney General Act as such objects or intention to supercede the rights of a Prosecutor under this act was not expressed in the title to the supplement of the Attorney General Act in 1911 and 1922.

Much of the work done by the Prosecutor during the period of the charge for services in relator's bills was under the Prohibition Enforcement Act. Here again the Prosecutor would be within his rights and could not be restricted or molested by any entrance of the Attorney General or his assistant in the County for a specific or general purpose.

In the foot note of *Corpus Juris,* page 810, No. 58, Subdivision A, this statement is found:

> "The Legislature could not give the Attorney General control of cases in which the Court provided that the District Attorney should represent the State, citing *State* v. *Moore,* 57 Tex. p. 307."

Such would also be true where a separate statute delegates or requires the Prosecutor to take charge of certain cases to the exclusion of the Attorney General.

The Prosecutor of Morris County had assumed a duty. He was bound to use all reasonable diligence in detecting crime. He could have appointed four other men as county detectives at a salary of $2,000 each per year. He chose, however, to use reasonable means, namely, the employment of men when occasion arose, the amount to be paid for this service had been fixed at $6 per day, together with necessary expenses, use of car, travelling and meals. Previous bills on this same basis, after having been approved by the Prosecutor had been recommended for payment by the Judge and paid by the Board of Freeholders.

Not only the Prosecutor of the Pleas, but the men themselves, had a right to assume and believe their bills would be paid in the ordinary course (*Lindabury* v. *Freeholders of Ocean,* 18 Vroom, p. 424).

Under the present status of affairs, the Freeholders cannot recognize the bills, they cannot be paid under the statute until further recommended and approved for payment by Judge Wilson.

Judge Wilson did not at any time dispute the reasonableness and fairness of the bills (p. 69, ll. 1-2; p. 107, l. 40; p. 166, l. 25; p. 169, l. 38). In the answer to the alternative writ (pp. 226-233) Judge Wilson sets out that certain bills for May were presented for payment but not approved for the reasons assigned. The testimony shows all bills were submitted (pp. 55, 58, 65, 68, 72, 79, 83, 86, 93, 97, 100, 107, 111, 115, 146, 149, 157). It being admitted in the signed stipulation, however, that whether the bills were in fact submitted or not, they would not have been ap-

proved for the reasons now given (p. 237). The question of the legal right to have the bills approved is therefore fully before the Court.

A similar situation arose in the case of *State, Hoxsey, prso.* v. *City of Paterson,* 11 Vroom, page 186, at pages 188 and 189, where the city authorities attempted to take matters out of the hands of the duly appointed city counsel, and there the Court said:

> "Power to employ associate counsel does not involve right on part of city authorities under guise of such employment, to withdraw and take out of counsel any particular case."

The service of these various men were rendered in and about the criminal business of the County. Daily time sheets were submitted on file in the Prosecutor's Office, showing the case or cases in connection with which services were rendered. Before James H. Bolitho, then Prosecutor, approved the bills, he personally checked the items, found them correct and approved the expense as necessary (pp. 166-167).

The evidence discloses that some of the work done by these men in May was the preparing of cases for the Grand Jury which was later attended by Mr. Jayne as Special Prosecutor after the resignation of Mr. Bolitho.

It will be noted that the approval and recommendation of the Judge is based solely on the approval by the Prosecutor in the first instance. (See certificate used, p. 152.) The reasonableness of the bills have already been certified by the Prosecutor, and not questioned by the Judge.

While the Judge sets up that he knows nothing about the bills he approved like bills before.

(See Bills, pp. 59, 67, 70, 74, 81, 84, 88, 95, 98, 101, 109, 113, 116, 125, 127, 130, 133, 136, 139, 142, 144, 152, 155, 158.) From all that appears in the case, Judge Wilson is willing to sign the certificate for payment if there is no legal reason to prevent his so doing by the appointment of Mr. Jayne.

No effort was made to prevent the Prosecutor from attending to the ordinary criminal business of the County under the first request and order and none under the second (pp. 164, 140).

Mr. Jayne did not notify the men being employed by the Prosecutor to discontinue their services. The County has benefited in fines by the work and investigation of these men. Mr. Jayne only conducted special investigation into the conduct of the Prosecutor's and Sheriff's offices. He did not attend to ordinary complaints; they were left to Mr. Bolitho and his men, who now seek payment.

If the Prosecutor by virtue of his office was duty bound to protect the citizens of the County of Morris by using every reasonable means to detect crime and arrest offenders against the law, then he was entitled to employ the men in question and his so doing was a guarantee to them that their bills would be paid.

It is therefore respectfully submitted that Prosecutor Bolitho was within his rights and performing his duty in continuing these men. Some of the work they did was to investigate and prepare cases presented to the May Grand Jury by

Mr. Jayne. They also served subpoenaes for witnesses to appear before this very Grand Jury (p. 181).

Even if Judge Wilson did not hold Court, someone had to take charge of complaints and investigations in connection with the general criminal business of the County. Mr. Jayne did not attend to this branch of the work, but Prosecutor Bolitho did.

The service was rendered by Relators whether done under direction of Mr. Jayne or Prosecutor can make no difference so long as the service was rendered and the expense incurred. The County benefited by their services. Prosecutor Bolitho was the only public official who knew of the services. He was the only one who could approve the bills. He either acted independently by virtue of his office as to this branch of service or authority to take charge of this part of the criminal business was delegated to him.

His act was therefore Mr. Jayne's act and relators should be paid.

It is therefore respectfully urged that this Court reverse the findings of the Supreme Court to the end, it be held Prosecutor Bolitho had the right to employ Relators and that a peremptory writ of mandamus be allowed requiring Judge Wilson to take and consider the bills for payment upon the certificate of the Prosecutor.

ELMER W. ROMINE,
Attorney and Counsel for Relators.

New Jersey Court of Errors and Appeals

THE STATE, *ex rel*, THOMAS J. O'REARDON,
Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel*, DAVID CONKLIN,
Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel*, MAX REIDLER,
Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

On Return to Alternative Writ of Mandamus.

THE STATE, *ex rel*, JOHN P. WALSH,
Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel*, FREDERICK HUBERT,
Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel* DANIEL ALLEN,
Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel*, ARTHUR J. MCCONNELL,
Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

THE STATE, *ex rel*, EDWARD L. CLARK,
Relator,

vs.

C. FRANKLIN WILSON, Judge of the Court of Quarter Sessions of the County of Morris and State of New Jersey,
Defendant.

BRIEF OF DEFENDANT.

Statement.

These several proceedings were instituted by the respective relators for the purpose of compelling Honorable C. Franklin Wilson, Judge of the Morris County Court of Common Pleas, to certify and approve certain bills of the relators for services alleged to have been rendered in the months of March, April and May, 1925 under the alleged direction and request of the then Prosecutor of the

Pleas, James H. Bolitho, and also including therein a claim for the use of car, all of which bills had been certified by Bolitho.

Upon the return of rules to show cause why a writ of mandamus should not issue, the Supreme Court allowed an alternative writ of mandamus in each case directing Judge Wilson to approve the various bills or show cause why the same should not be approved,—the alternative writ bearing date March 7, 1927. To the several alternative writs Judge Wilson made his return, found in the printed case at pages 227 to 235 inclusive.

This appeal is from the judgment of the Supreme Court denying the applications for peremptory writs of mandamus.

Bolitho assumed the office of Prosecutor on April 1, 1923. His conduct of the office became so reprehensible, and there being so many charges of wrongdoing on his part, as well as on the part of some of those working under him, that, at the written request of nearly every Mayor in the County, Mr. Justice Parker, under date of February 19, 1925, requested and authorized the Attorney General to attend personally "or by such assistant or assistants as you may desire, in the County of Morris and State of New Jersey, for the purpose of prosecuting the criminal business of the State therein, including the investigation of alleged crimes and misdemeanors, attending before the criminal courts and grand juries of said county, preparing indictments and the trial of indictments for crimes and misdemeanors in said County", and thereupon the Attorney-General, pursuant to the said request, appointed Wilfred H. Jayne, Jr., Esq., as his assistant "to perform and carry out the duties mentioned and set forth in said request, in the County of Morris", and forwarded both the

request and authorization, or a copy thereof, to the Clerk of the County of Morris for filing in the office of said Clerk, and directing him to "abide by it in connection with such work as shall be undertaken in your County in accordance with said request and designation." Upon the said appointment Mr. Jayne carried on his investigations personally and by the use of divers employees and detectives, which culminated in upwards of forty indictments against the Prosecutor, James H. Bolitho, and also indictments against Reidler, Hubert and McDonnell, three of the relators. The indictment against Hubert was disposed of upon his plea of non vult, the one against McDonnell has never been tried, while the one against Reidler, as well as one against Bolitho, containing numerous counts, were tried and each of the said defendants, Reidler and Bolitho, were convicted, and their cases are pending in this Court at this time. The remaining indictments against Bolitho have not been tried nor have they been disposed of.

The proceedings against Bolitho were not instituted because of personal grievance, as alleged in the brief of the relators, but because of his wrongdoing and because of the current belief that others were being corrupted and, in fact, one member of the bar came under the bane of his influence and has been disbarred after indictment and plea. There are statements in the brief of the relators dilating upon the appointment of detectives, the reasons for not appointing the six detectives authorized by statute, the form of certificate of approval by the prosecutor and the volume of business, etc., which seem to have no bearing upon the question as to whether these relators are entitled to a peremptory writ of mandamus, and therefore will not be discussed in this brief, except

to state the the mere fact that, although only six detectives were authorized by statute, yet Mr. Bolitho had not only the eight relators in his employ from time to time (and some very steadily), but also about a dozen others. Nor do we think that the form of approval or disapproval of bills of these relators, or any other parties, enter into the question at issue because the circumstances are different, or at least may have been different, and there is nothing in the records in this case which shows whether on former occasions the defendant; before approving the bills, was made acquainted with the services rendered and became satisfied as to the correctness thereof.

Apparently between the first designation by the Attorney-General referred to in the brief of the relators made in 1924 and the designation made in February 1925, there had been a suspension of activities on the part of Mr. Jayne else the new request of Justice Parker and the designation would not have been necessary. The record in the case is silent upon the subject but the conclusion mentioned seems to be irresistible. Bolitho finally resigned on May 18, 1925.

In the several returns by the defendant to the respective alternative writs, paragraphs 3, 4, 5, 6, 7, 10 and 11 aver that the defendant has no knowledge as to whether the services set forth in the bills of the relators had been rendered or the expenses incurred, nor whether the same were reasonable; and moreover in paragraph 10 the averment is that no proof has ever been submitted to the defendant as to the services claimed to have been rendered by the relators or expenses incurred by them, or as to the reasonableness thereof, or the necessity therefor, other than the certificate of Bolitho attached to the bills for March 1925 and the

affidavits of the relators annexed thereto; and by paragraph 11 it is avered that no bills, other than the ones for the month of March, had ever been presented to the defendant for approval.

These several paragraphs are particularly mentioned to show that the defendant had sufficient reason for the non-approval of the bills of the relators.

The printed case shows that much irrelevant and illegal testimony was produced and a great majority of the questions on important phases of the case were most flagrantly leading. However, this does not vitally concern the issues now involved before the Court, viz., whether the Supreme Court was justified in refusing to grant a peremptory writ of mandamus to compel the defendant to certify to the bills of the relators, in view of the explicit statements of the defendant in the returns to the alternative writs.

The constitutional and statute laws applicable.

Article VII, Section 2, Paragraph 4 of the Constitution of 1844 provides:

> "The Attorney General, Prosecutors of the Pleas, Clerk of the Supreme Court, Clerk of the Court of Chancery, and Secretary of State shall be nominatd by the Governor and appointed by him with the advice and consent of the Senate. They shall hold their offices for five years."

This is also found in the same article, section and paragraph of the amended Constitution of 1875. Neither the duties of the Attorney General nor of the Prosecutor of the Pleas are mentioned in the Constitution.

4 Griffith's Law Register, page 1153, speaking

of the Attorney General's office, in foot-note 1, says:

> "He is entitled to certain fees on convictions; heretofore, and as was the case at the adoption of the Constitution, the Attorney General appointed his deputies at pleasure, to prosecute in those courts where he did not personally attend. At the late session of the Legislature (1822) that body deprived him of this power and right, vesting the appointment of a prosecutor of Criminal Pleas, in the Justices of the Peace of each County respectively; the appointment to continue five years."

In the act of April 16, 1846, 2nd Edition Nixon's Digest, page 45, Section 1 (1 C. S. 153, Sec. 5) it is provided:

> "There shall be appointed for each County some fit person, who shall be an attorney and counselor-at-law, whose duty is shall be to prosecute the pleas of the State in said County, *in the absence of the Attorney General;* and further, to do and perform such acts and things in behalf of the State, in and about such transactions, as the Attorney General might or ought to do if personally present."

Section 3 of the act (1 C. S. 153, Sec. 7) provided:

> "That the said Prosecutors shall, severally, during the continuance of their appointments, be vested with the same powers, subject to the same penalties and entitled to the same fees for services, *in the absence of the Attorney General,* within their respective counties, as the Attorney General is or shall by law be vested with or subject or entitled to."

Section 4 of the act (1 C. S. 153, Sec. 8) provided:

> "That in case of the absence of the attorney-general and of the Prosecutor as aforesaid, at any term of the Court of Oyer and Terminer and general jail delivery, or General Quarter Sessions of the Peace, in any County, it shall be lawful for such Court to appoint some fit person to prosecute the Pleas of the State during said term; who on taking the oath or affirmation above prescribed, shall be vested, during the said term with the powers of a Prosecutor of the Pleas, and be entitled to the same fees and subject to the same penalties."

By the act of February 24, 1854, 2nd Edition Nixon's Digest, page 45 (1 C. S. 152, Sec. 1) the duties of the Attorney General are prescribed which include the attendance "in any County of the State, for the trial of homicide cases, or other high crimes, on the written request of a Justice of the Supreme Court"; and Section 3 provides that "after the passage of this act, the criminal business of the State shall be prosecuted exclusively by the Prosecutors of the Pleas, except in counties where, for the time being, there may be no prosecutor, or where the Prosecutor desires the aid of the Attorney General." This Section 3 is a part of an act entitled "An act to define the duties and fix the salary of the Attorney General," whereas the act of 1846 relating to the duties of the Prosecutors of the Pleas was entitled "An act respecting Prosecutors of the Pleas of the State."

The foregoing remained practically unchanged down to 1911 when the supplement to the act entitled "An act to define the duties and fix the salary of the Attorney General" was passed (P. L. 1911, page 325; C. S. 1st Supp. page 31 which was amended by the act of 1922, page 11 found in Cum.

Sup., page 106). As amended by the act of 1922 the statute reads:

> "In addition to his other duties, it shall be the duty of the Attorney General, whenever a Justice of the Supreme Court shall so request, to attend personally, or by such assistant or assistants as he shall designate, in any County of the State, *for prosecuting the criminal business of the State therein, including the investigation of alleged crimes and misdemeanors,* the attendance before the criminal Courts and Grand Juries of the County, the preparation of indictments and the trial of indictments for crimes and misdemeanors, and upon the like request to represent the State, in proceedings on error in criminal cases in the Supreme Court and Court of Errors and Appeals."

Since the earlier statutes there are statutes which provide for the payment of salaries instead of fees to the Prosecutors of the Pleas.

Section 95 of the Criminal Procedure Act (2 C. S. 1850) provides:

> "It shall be the duty of the Prosecutor of the Pleas for each County to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a Judge of the Court of Oyer and Terminer or the Judge of the Court of Quarter Sessions for any County, shall be paid by the Board of Chosen Freeholders thereof."

The Constitution of 1776, paragraph 12 provided for the appointment of the Attorney General for five years but did not prescribe his duties.

Points upon which the Defendant relies.

I.

The appointment of Mr. Jaynes suspended for the time being the right of Mr. Bolitho as Prosecutor in the prosecution of the criminal business within the County including the investigation of alleged crimes and misdemeanors, attending before the criminal courts and grand juries of said county, preparing indictments and the trial of indictments for crimes and misdemeanors.

II.

The relators never submitted to the defendant any bills for services rendered or expenses incurred for the months of April and May, 1925, and as to the bills for the month of March they never submitted any proofs to the defendant of the services rendered or expenses incurred other than the certificate of Mr. Bolitho as Prosecutor and the affidavit of the relator accompanying the bill. Consequently, they have no right to prosecute these writs.

ARGUMENT.

I.

The Supreme Court was right in holding that the appointment of Mr. Jayne operated as a suspension of the activities of Mr. Bolitho as Prosecutor and thus therefore Mr. Bolitho had no right to employ the relators.

Counsel for the relators relies upon Section 3 of the act relating to the Attorney General and assistants, found in 1 Compiled Statutes, page 152, wherein it is expressly provided that, after the passage of the act, the criminal business of the State should be prosecuted exclusively by the Prosecutor of the Pleas, except in certain cases there mentioned. This law was changed by the statute of 1911, page 325, as amended by the Laws of 1922, page 11, found in 1 Cumulative Supplement of Compiled Statutes, page 106, paragraph 15, wherein the duty is imposed upon the Attorney General, whenever the Justice of the Supreme Court shall so request, to attend personally or by such assistant or assistants as he should designate for the prosecution of criminal business of the State therein, including the investigation of all crimes and misdemeanors, the attendance before the Court and Grand Juries, the preparation of indictments and the trying of indictments for crimes and misdemeanors, &c.

This statute does not limit the Attorney General or his assistant to the prosecution of specified classes of criminal business, but is general and includes all of the criminal business of the State in the County. It certainly does not intend that both the Attorney General and the Prosecutor of the Pleas

shall be in attendance before the Grand Jury at one and the same time; nor does it intend that there shall be a possibility of conflict upon the trial of indictments as to who shall try the indictments. If the contention of the relators is correct, Prosecutor Bolitho could have insisted upon attending before the Grand Jury to present or oppose the very cases that Mr. Jayne was there to present; and, after indictments were found, he could have insisted upon trying such indictments in an altogether different manner than Mr. Jayne would have tried them, and there would have been endless confusion. By the same process of reasoning, he could have insisted upon a nolle pros being entered by the Court as to the indictments against himself, subject, of course, to the right of the Court to refuse to grant his motion. But the absurdity of the thing and the possible danger of a County Judge and Prosecutor combining to set at naught the activities of the Attorney General, or the duly appointed assistant, points very clearly to the fallaciousness of the argument of the relators.

The constitutional provision, Article 7, Sec. 2, paragraph 4, merely provides for the appointment of Prosecutors of the Pleas for the term of five years without defining their duties. Because of this, it would seem perfectly constitutional for the Legislature to authorize the performance of the duties of the Prosecutor, at least temporarily, by any one other than the Prosecutor. This does not mean that the Prosecutor could be legislated out of office nor that he could be deprived of the emoluments of his office; and there is nothing in the law which I have cited which deprives the Prosecutor of any of the emoluments of his office. Prosecutor Bolitho's salary went on just as theretofore until he resigned.

The case of the State, ex rel. Clawson v. Thompson, 20 N. J. Law, 689, at pages 690 and 691, sets forth data relating to the office of Prosecutor and Attorney General. In this it is set forth that the Attorney General, at the time the decision was rendered, was the "law officer of the State, with power to prosecute the criminal pleas in every county." It also sets forth that prior to 1812, the practice was for the Attorney General to prosecute the pleas in counties, where he did not attend in person, by deputies of his own appointment, who held their respective offices during his pleasure. In fact, in the early history of the State, Prosecutors were recognized as assistant attorney generals. In 1822 the appointment of Prosecutors was vested in Justices of the Peace of the County and the following year it was vested in the Legislative Council and General Assembly in joint meeting. At the time of the decision (1846) the Court held that the prosecution of the criminal pleas in the several counties was to be conducted by and in the name of the Attorney General when he was personally present and not by the Prosecutor, notwithstanding the fact that the Prosecutors were no longer appointed by the Attorney General. The Court further said:

> "The office of Prosecutor then is a subordinate office to that of Attorney General; and its exercise to a certain extent under his control."

Of course, the act of 1877, 1 Compiled Statutes, 152, Sec. 3, cited in the brief of the relators, perhaps changed all of this and placed the responsibility for the prosecution of the criminal pleas upon the Prosecutor of each County; and this is still the law except in the case provided for in the Laws of 1922 hereinabove cited. If the office of Prose-

cutor of the Pleas was subordinate to that of the Attorney General down to 1877, with the right of the Attorney General to conduct the criminal work of the County when personally present, then it would seem that the statute of 1911 as amended by the Laws of 1922, both above cited, brought about a condition similar to that which existed in 1846 and down to 1877, viz: that when, at the request of the Justice of the Supreme Court, the Attorney General, or an assistant appointed by him, took charge of the criminal affairs of the County, the duties in connection with the criminal work of the County temporarily vested in the Attorney General or his specially designated assistant. At any rate, the Prosecutor became subordinated to the Attorney General, or his specially designated assistant, even though the Prosecutor was not completely superseded for the time being. There is nothing in the constitution of the State which forbids this and it is in the interests of the proper administration of justice that this should be so. If it is so, then Mr. Bolitho should have suspended his activities. If this were otherwise, then this anomalous situation might arise and, perhaps did arise, viz: the Attorney General, pursuant to the provisions of the statute, appointed Mr. Jayne to take charge of the investigation of the criminal affairs in the County and, primarily, to investigate the numerous charges which had been made against the administration of the office of Prosecutor of the Pleas. The Prosecutor could have then employed numerous detectives to watch the operations of Mr. Jayne and his assistants and thus try to protect himself and others connected with his office and thwart the very purposes of the appointment of Mr. Jayne. Such a condition would be intolerable. The appointment of Mr. Jayne, and his work in the County, was common knowledge, and

if the relators saw fit to spend their time in doing work at the behest of Prosecutor Bolitho, they did it at their own risk and are not entitled to the aid of this Court.

But the relators contend that the act authorizing the appointment by the Attorney General of an assistant to conduct the criminal business of a County is invalid because it is a supplement to the Attorney General's act and not to the Prosecutor's act. I have pointed out the fallacy of this position in another part of my brief and merely desire to emphasize that the Prosecutor's act only authorizes the Prosecutor to carry on the work in the absence of the Attorney General, and the exclusive jurisdiction clause in favor of the Prosecutor is only found in the Attorney General's Act.

It might also be pointed out that the Prosecutor's Act requires the incumbent to be an attorney and counselor-at-law. It says nothing about his being removed in case of disbarment, but I apprehend that if a Prosecutor should be disbarred while holding the office, the Court, in appropriate proceedings, would declare the office of Prosecutor vacant, inasmuch as the incumbent would then be no longer an attorney and counselor-at-law.

II.

The relators have no right to institute these proceedings prior to their using every reasonable effort to satisfy the defendant as to the correctness and justness of their claim.

It is interesting to note that in the case of Reidler his bill for the month of May included services and expenses for May 18th and May 19th and which appear to have the approval of Bolitho as Prosecutor, but, as a matter of fact the state of the

case shows that Bolitho resigned on May 18th, 1925. Other of the relator's bills included May 18, 1925, the date that Bolitho resigned.

Section 95 of the Criminal Procedure Act, 1 Compiled Statutes, 1850, imposes upon the Prosecutor the duty to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the law, but does not provide for any certification by the Prosecutor. The balance of this section provides that "all necessary expenses incurred" by the Prosecutor when "certified to and approved under his hand by the Judge of the Court" * * * "shall be payable by the Board of Chosen Freeholders thereof." This places the responsibility of approval or disapproval upon the Judge as stated by Mr. Justice Parker in the decision of the Supreme Court in Irving v. Applegate, 49 N. J. Law, 376 at page 379. In speaking of this law, he said:

> "Which legalizes such expenses, at the same time prescribed the method by which the expenses thus legalized should be audited and determined. The law of 1874 is imperative in its terms. The presiding judge must pass upon and, if allowed, audit the bill of expenses. His approval and certificate, regularly made, are conclusive. Neither the Board of Chosen Freeholders nor the County auditor can call the bill in question, either as to its legality or amount. This Court cannot question the amount of such a bill, duly certified, by the Judge. The Board of Chosen Freeholders are, by the law, required to pay the bill as determined by the presiding Judge. When approved and certified, it has the forces of a judgment against the County, which the Board of Chosen Freeholders are legally bound to pay. Like a judgment against the County it is not the proper subject of audit either by the Board or the County auditor."

To the same effect is the case of Lindabury v. The Freeholders of Ocean County, 47 N. J. Law, page 417. In other words, it is not the Prosecutor's certificate which determines the validity of the bill or establishes it as a legal claim against the County, but it is the certificate and approval of the Judge. It is his responsibility, not that of the Prosecutor, and the Judge would not be bound by the certificate of the Prosecutor either as to the necessity of the services or the reasonableness of the charges. Presumably it is the custom throughout the State for the Judge to require a certificate of the Prosecutor as to whether the services have been rendered, because of the fact that it would be quite impossible for the Judge in every case to go into every detail and personally check up as to every day spent and as to work done by one in the employ of the Prosecutor. Where a Prosecutor is honest, careful, conscientious and efficient, the Judge can place a great reliance upon such certification, and probably he usually does do so; but where, as in the case of Prosecutor Bolitho, the honesty of his administration has been publicly called in question; and where, after a long investigation by an assistant designated by the Attorney General, indictments were found against Prosecutor Bolitho, certainly not as much reliance could be placed upon the certifications by the Prosecutor as theretofore. The Prosecutor had nothing to do whatsoever under the statute with the question of the reasonableness of the charges and the return by the defendant to the alternative writs distinctly shows that the defendant, as Judge of the County of Morris, had not been put into possession of the necessary evidence to enable him to audit and approve the bills of the relators.

Moreover, the fact that the form of certificate which may have been theretofore signed by the

County Judge, viz: "Because of the foregoing certificate of the Prosecutor of the Pleas for Morris County, this bill is certified to and approved by me" is no warrant for the argument that, because the defendant had theretofore relied upon the certificate of the Prosecutor, he should have been content to have continued to rely upon that certificate and to have signed the customary certificate. Certainly this Court would not, by a peremptory writ of mandamus, compel the defendant to sign any such certificate. In fact, it is not because of what the Prosecutor has learned and been satisfied with, but it is what the Judge has learned and been satisfied with that must control his judicial act.

In the recent case of Scott v. Mathis decided by the Supreme Court March 17, 1927 found in New Jersey Miscellaneous Reports (No. 14), page 379 at page 381 the Court said:

> "Mandamus will issue to compel performance of ministerial duties so plain in point of law and so clear as to facts that no element of discretion remains, but as to acts and duties depending upon a decision as to facts or questions of law, the writ will not go. Further, the writ will not issue to dictate in advance how the discretion shall be exercised or the matters of fact decided, nor will it be allowed to disturb or override determinations already reached. Mooney v. Edwards, 51 N. J. L. 479; Newark v. Lewis, 82 Id. 279."

III.

Consideration of Cases Cited in Brief of Relators.

In the argument of counsel for the relators in respect to the restrictions upon the rights of the Attorney General and the effect of the act of 1922,

it is suggested that the supplement of 1922 is unconstitutional because it seeks to supersede the constitutional officer, viz., the Prosecutor of the Pleas, and that the supplement to the Attorney General act could not give to the Attorney General the power to go into a County and attend to the criminal business of the County "without amending or changing the Prosecutor's act". As a matter of fact, the relators have fallen into an error in thinking that the Prosecutor's act is the one which provides that the criminal business of the County shall be carried on exclusively by the Prosecutor of the Pleas for the reason that as shown by the statutes quoted above, this provision is only found in Section 3 of the act of 1854 relating to the duties and salaries of Attorney-Generals.

The relators in their brief under this same subdivision, cite Oakland vs. Board of Conservation, 98 Law, 99, at page 102, in support of the proposition that although the "legislature has the apparent power of fixing and prescribing the duties of the respective officials", yet "if they seek to do so by separate acts applying specially to such officer an amendment or enlargement of one would not and could not bind the other."

I have read and re-read the decision cited and particularly page 102 and find nothing therein in support of the proposition. That decision points out the statute relating to Water Boards of the State and the Board of Conservation and Development; and it was found by the Court in that case that there was nothing inconsistant in the acts in reference to the question then under review, and it was decided it would be unnecessary to consider the question of constitutionality.

The case of Police Commissioners of Jersey City vs. Pritchard, 36 Law, 101 is cited as authority in support of the contention that the Prosecutor be-

ing a constitutional officer, could not be removed except by impeachment and therefore that the attempt to displace the Prosecutor was unconstitutional; but that case is not an authority for the proposition. There, Police Commissioners had been convicted of crime and, without any statutory authority, the Governor appointed other Commissioners in their place. The Court pointed out that the statute had fixed a penalty for the crime, and there being no legislative authority, that the removal of the Commissioners and the appointment of others by the Governor was invalid. At page 105, near the bottom, the Court said:

> "It is possible that the Legislature, upon attention being called to the subject, might pass an act with such an aspect, but all that the Court can say is, that no such law is now in existence. The punishment of the crime of conspiracy is definitely fixed by the Constitution and by the statute; no addition can be made to this measure except with the legislative sanction."

Under this same heading Schalk vs. Wrightson is cited and a quotation taken from page 55, which quotation is found in the brief for the relators.

The quotation from the New York case is not applicable to the case at bar. The case of Schalk vs. Wrightson held that the Court of Common Pleas could not be abolished, or, if it could be, then the Judges appointed had to be those appointed in the manner prescribed by the Constitution. It was also held that there could be no evasion of the constitutional provision by either adding or subtracting from the duties of an office or by combining the office with another and thereby acquire the right to appoint an officer in a manner other than prescribed by the Constitution.

In the case at bar both the Attorney General and the Prosecutor were appointed in accordance with the provisions of the Constitution. That instrument did not prescribe the duties of either officer and left it to the Legislature to say what the duties of each should be.

The relators in their brief admit that the work of the office of Prosecutor might be divided but says he could not be removed by any "subterfuge act of the Legislature". There was no removal of the Prosecutor attempted, and he received the emoluments of the office for the entire period he continued as Prosecutor.

Counsel cites the cases of Hardy vs. Orange, 61 Law, 620; Kreigh vs. Board of Freeholders, 62 Law, 178 and Patterson vs. Close, 82 Law, 160 and 84 Law, 319 in support of his argument that, inasmuch as the supplements to the Attorney General's act did not express in their title the intent to limit or restrict the powers and duties of a Prosecutor of the Pleas, rendered them unconstitutional in so far as they attempted to affect the duties of the Prosecutor.

It might be well to re-state in passing that the provision in regard to the criminal business of the State being prosecuted exclusively by the Prosecutors of the Pleas is only found in the Attorney General's act and not in the Prosecutor's act and, consequently, if the supplements are unconstitutional, then the exclusive jurisdiction provision is unconstitutional and we have to fall back to the first section of the Prosecutor's act which entitles him to carry on the criminal business of the County "in the absence of the Attorney-General". However, Hardy vs. Orange held that the Veterans' act could be waived by the beneficiaries named and it was also held that the act of March 31, 1897 in so

far as it attempted to regulate the removal of veterans within the municipalities was unconstitutional because the title did not indicate that the act related to removal of veterans except those in the public service of the State. Unquestionably this was sound law and the rule has been repeatedly upheld by the Courts.

Kreigh vs. Board of Freeholders is upon the same subject as the Hardy case and to the same effect.

Patterson vs. Close held that the attempt to remove a Clerk of the Board of Freeholders was invalid because his term had not expired notwithstanding an act to reduce the number of the members of the Board, because the title of the act did not indicate any intent to affect officers of the Board. At page 162 the Court said:

> "Legislation by one statute looking toward a single general object, although it contains and enacts various and multiform matters, is not prohibited by this constitutional provision if these matters are properly related to each other and tend to effectuate the general object". * * * "In order to make the legislation valid the title must be broad enough to express the general object sought to be accomplished; for, under the constitutional provision referred to, the title is not only an indication of the legislative intent, but is also a restriction upon the enacting part of the law."

This case was affirmed by 84 Law, 319.

The case of Re Merrill, 88 Eq., 273 is another case cited in the brief of the relators, which was a case involving the question of contempt of Court, and where it was said that the intent of a legislature is to be sought and to control when the same can be ascertained, and that the intention is to be

collected from the context and the occasion and necessity of the law and from the mischief felt and the remedy in view.

In this State it had been found on occasions that Prosecutors of the Pleas were derelict in the performance of their duties; the mischief was felt, the necessity for the law to reach the situation was apparent and to meet the necessity the Legislature called into play its unquestionable right to reserve unto the Attorney General, under the specified circumstances, the power which he had theretofore exercised in the prosecution of the criminal business of a county. The intent of the Legislature is perfectly clear. There was no intention on the part of the Legislature to remove a Prosecutor of the Pleas who had failed to perform his duties either by evasion or subterfuge. The Prosecutor failed to perform his duties but it was not deemed necessary to adopt the drastic measure of impeachment because it was undoubtedly deemed that temporary suspension of his activities and a temporary appointment of the Attorney General or his assistant would be sufficient to bring about a change for the better and remedy the unfortunate conditions in a county and effect a better respect for law and the administration of justice.

FINALLY.

I respectfully submit that the judgment of the Supreme Court should be affirmed.

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Attorney of Defendant and of Counsel.