

STATE OF ALABAMA.

EX REL

A. P. PRUITT,  
Petitioner

Vs.

J. M. FRANKLIN, as Treasurer  
of Baldwin County, Alabama.

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)  
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)  
)

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

Comes J. M. Franklin, Treasurer of Baldwin County, Alabama by  
his attorney, W. C. Beebe and answering the petition in said cause says:

FIRST:

He admits the allegations of paragraphs First, Second, Third,  
and Fourth.

SECOND:

He says that he has refused to pay the said claim because he is  
informed and believes and upon information and beliefs says that the act  
of the Legislature of Alabama, namely Local Acts 1931, page 83, et seq  
under which the said A. P. Pruitt was appointed as Deputy Sheriff and  
under which he served and under which he bases his claim presenting to  
this respondent is null and void and of no effect in that;

THIRD

- (a) The same was not passed in accordance with Section 45 of the  
Constitution of Alabama.
- (b) The said act does not conform to the Constitution of Alabama,  
namely Section 45.
- (c) The said act embraces two distinct subject matter and both  
the caption and in the body thereof and, hence, is unconstitutional.
- (d) That the said act in both its caption and the body thereof  
contains two subject matters, namely the transfer of monies from the  
Solicitor's Fund to the Fine and Forfeiture Fund and the authorization of  
the employment of a Deputy Sheriff payable out of such funds.

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FOURTH:

And this respondent further answering said petition says that the said act is unconstitutional and void and that there is no other provision in the law under which he could legally pay the said claim; that his refusal to pay the same was lawful; that his payment of same would be illegal and a diversion of public funds to illegal purposes.

*W. C. Beebe*  
\_\_\_\_\_  
Attorney for J. M. Franklin as  
Treasurer of Baldwin County, Alabama

904

**RECORDED**

Filed Feb 12 1943  
O. S. D. C.  
Clut

STATE OF ALABAMA, EX REL. )

A. P. PRUITT, )  
Petitioner, )

Vs. )

J. M. FRANKLIN, AS )  
Treasurer of Baldwin )  
County, Alabama. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

February 1, 1943.

This day in open Court came the parties with their attorneys and this cause coming on to be heard and issue having been joined by the Petitioner and Respondent and the parties announcing ready for trial, and the court after hearing the evidence, renders Judgment finding the issue in favor of Petitioner and ordering a pre-emptory Writ of Mandamus issued in favor of Petitioner and against Respondent for the sum of One Hundred Fifty Dollars (\$150.00), and taxes Respondent as County Treasurer with all costs.

IT IS THEREFORE ORDERED AND ADJUDGED by the Court that the Clerk of this Court forthwith issue a pre-emptory Writ of Mandamus directed to the Respondent commanding him to forthwith ~~pay~~ Petitioner out of the Fine and Forfeiture Fund of Baldwin County, Alabama, the sum of One Hundred Fifty Dollars (\$150.00) for his salary as Deputy Sheriff of Baldwin County, Alabama, for the month of January, 1943. And it is further ordered and adjudged by the Court that the Petitioner do have and recover of the Respondent as County Treasurer all costs in this cause created for the recovery of which let execution issue, and thereupon in open court on this day at the time of the rendition of this Judgment the Respondent waived issuance of the pre-emptory Writ of Mandamus.

*A. W. Hare*  
\_\_\_\_\_  
Judge.

STATE OF ALABAMA. EX REL

A. P. PRUITT,  
Petitioner

Vs.

J. M. FRANKLIN, as Treasurer  
of Baldwin County, Alabama.

) IN THE CIRCUIT COURT OF  
)  
) BALDWIN COUNTY, ALABAMA.  
)  
) AT LAW.

TO THE HONORABLE F. W. HARE, JUDGE OF SAID COURT:

Comes your Petitioner, A. P. Pruitt, and shows unto your Honor the following facts as a basis for the relief hereinafter prayed.

FIRST:

That he is a resident citizen of Baldwin County, Alabama, and is over the age of twenty-one years; that J. M. Franklin is a resident citizen of Baldwin County, Alabama, and is the County Treasurer of said County.

SECOND:

That Petitioner was appointed by W. R. Stuart, Sheriff of Baldwin County, Alabama, as a Deputy Sheriff on the first day of January, 1943 at a salary of One Hundred Fifty Dollars (\$150.00) per month, to be paid him by the Treasurer of Baldwin County, Alabama, out of the Fine and Forfeiture fund of Baldwin County, Alabama. Your Petitioner further shows that he has served as such Deputy Sheriff of Baldwin County, Alabama, for the entire month of January, 1943.

THIRD:

Your Petitioner further shows that there is now a surplus in the Fine and Forfeiture Fund of Baldwin County, Alabama, after the payment of all other claims and demands chargeable against such fund, sufficient to pay your Petitioner's said claim or demand.

FOURTH:

Your Petitioner further shows that he has presented his claim for said salary which is to be paid out of the Fine and Forfeiture Fund of Baldwin County, Alabama, as conditioned by an Act of the Legislature, which was adopted May 28, 1931, and which

(page two)

appears in the Local Act of Alabama of 1931 at page 83, to J. M. Franklin as County Treasurer of Baldwin County, Alabama, said claim or demand being in writing and for the sum of One Hundred Fifty Dollars (\$150.00) for payment of his services as such Deputy Sheriff, out of said fund, and that the said J. M. Franklin has failed and refused to pay his said demand or his salary claim.

WHEREFORE, the premises considered, your Petitioner prays that an Order issue out of this Honorable Court commanding the said J. M. Franklin as County Treasurer to be and appear before this Honorable Court and to then and there show cause why the said money as aforesaid should not be paid to him out of the Fine and Forfeiture Fund of said County in accordance with the aforesaid Act of Legislature, and for such Orders as to the Court shall seem proper in the premises.

  
Petitioner.

STATE OF ALABAMA,  
BALDWIN COUNTY.

Before me, the undersigned authority, personally appeared A. P. Pruitt who is known to me and who being by me first duly sworn upon oath deposes and says:

That he is the Petitioner in the above Petition and that the facts contained therein are true.



Sworn to and subscribed before  
me, this 1st day of February, 1943.

  
Notary Public, Baldwin County,  
Alabama.

904

**RECORDED**

Filed Jan 12 1943  
Federal Court