Baldwin County
vs.
Henry H. Cooper and United States Fidelity and Guaranty Co.
} Circuit Court of Baldwin County, Alabama. Spring Term, 1909.

Now come the defendants in the above entitled cause and separately and severally move the court to set aside the verdict heretofore rendered in the said cause, and grant unto them and each of them a new trial in said cause, and for grounds of said motion say:-

1. The verdict of the jury is contrary to law.

2. The verdict of the jury is contrary to the evidence introduced on the trial of said cause.

3. The verdict of the jury is contrary to law and evidence.

4. The verdict of the jury is contrary to the instructions to the jury by the court.

5. The verdict of the jury is contrary to the written charges given to the jury by the court at the request of the defendants.

6. The verdict of the jury is contrary to the instructions of law contained in the following written charge given to the jury by the court at the request of the defendants: "The court instructs the jury that if they believe from the evidence in this case that the plaintiff is entitled to recover, the plaintiff cannot recover any of the school taxes collected for the county of Baldwin from October 1st, 1907, to April 25th, 1908."

7. The verdict of the jury is contrary to the instructions of law contained in the following written charge given to the jury by the court at the request of the defendants:- "The court instructs the jury that under the Act of the Legislature of Alabama, entitled, an Act "To provide for the better support of the Public Schools of Baldwin County, and for levying a special tax within the constitutional limits to sustain them," etc, approved February 28th 1901, it is made the duty of the Tax Collector of Baldwin County to pay over to the County Superintendent of Education all school moneys collected by him and on hand for public schools, and the plaintiff cannot recover in this suit any school moneys collected by said defendant Cooper from October 1st, 1907, to April 25th, 1908."

8. The court erred in overruling the defendants'

demurrers to count "A" added by amendment to amended complaint.

9. The court erred in overruling defendants' demurrers to count "B" added by amendment to amended complaint.

10. The court erred in sustaining the plaintiff's demurrer to pleas numbered 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 7g, 8h and 9i, separately and severally, as filed in answer to counts "A" and "B" separately and severally.

11. The court erred in sustaining the plaintiff's demurrer to plea No. 2, as filed in answer to counts "A" and "B" separately and severally.

12. The court erred in sustaining the plaintiff's demurrer to plea No. 3, as filed in answer to counts "A" and "B" separately and severally.

13. The court erred in sustaining the plaintiff's demurrer to plea No. 4, as filed in answer to counts "A" and "B" separately and severally.

14. The court erred in sustaining the plaintiff's demurrer to plea No. 7, as filed in answer to counts "A" and "B" separately and severally.

15. The court erred in sustaining the plaintiff's demurrer to plea No. 8, as filed in answer to counts "A" and "B" separately and severally.

16. The court erred in sustaining plaintiff's demurrer to plea No. 9, as filed in answer to counts "A" and "B" separately and severally.

17. The court erred in sustaining plaintiff's demurrer to plea No. 11, as filed in answer to counts "A" and "B" separately and severally.

18. The court erred in sustaining the plaintiff's demurrer to plea No. 12, as filed in answer to counts "A" and "B" separately and severally.

19. The court erred in sustaining the plaintiff's demurrer to plea No. 13, as filed in answer to counts "A" and "B" separately and severally.

20. The court erred in sustaining the plaintiff's demurrer to plea No. 7g, as filed in answer to counts "A" and "B" separately and severally.

21. The court erred in sustaining the plaintiff's demurrer to plea 8h, as filed in answer to counts "A" and "B" separately and severally.

22. The court erred in sustaining the plaintiff's demurrer to plea 9i, as filed in answer to counts

"A" and "B," separately and severally.

23. The court erred in refusing to give to the jury, at the written request of the defendants, the following written charge: "The court charges the jury that the undisputed evidence in this case shows that of the money alleged to have been collected by the said Henry H Cooper, as tax collector, the sum of $3301.85 was payable, if payable at all, to the County Superintendent of Education of Baldwin County, and plaintiff is not entitled to recover same in this action."

24. The court erred in refusing to give to the jury, at the written request of the defendants, the following written charge:- "The court instructs the jury that under the undisputed evidence in this case that of the sum of money which it is alleged the said Cooper failed to pay over to any officer authorized by law to receive it, there was $3301.85 payable to the County Superintendent of Education of Baldwin County, and that if they should believe that the plaintiff is entitled to recover, they should deduct from the amount they are reasonably satisfied from the evidence the said defendant Cooper failed to pay over to any officer, said sum of $3301.85, if they should find that he failed to pay over any money, as alleged in the complaint.

25. The court erred in overruling the defendants' objection to the admission in evidence of a book purporting to be the cash book alleged to have been kept in the office of Henry H Cooper, Tax Collector.

26. The court erred in overruling the defendants' objection to the introduction in evidence of the book designated as the abstract book furnished the tax collector by the Probate Judge.

27. The court erred in overruling the defendants' objection to the introduction in evidence of the book purporting to be the book of assessments for the year 1907.

28. The court erred in overruling the defendants' motion to exclude from the evidence the book alleged to be the cash book kept in the office of the said Henry H. Cooper, Tax Collector.

29. The court erred in overruling the defendants' motion to exclude from the evidence the book designated as the abstract book furnished the tax collector by the Probate Judge.

30. The court erred in overruling the defendants' motion to exclude from the evidence the book

purporting to be the book of assessments for the year 1907.

31. The court erred in sustaining the plaintiff's objection to the introduction in evidence of pages to of the minutes of the Commissioners' Court of Baldwin County for the July Term, 1907.

32. The court erred in overruling the defendants' objection to the introduction in evidence to pages to of the minutes of the Commissioners' Court of Baldwin County, containing the proceedings of the June Term, 1907, of said Court of County Commissioners.

This, the 29th day of March, 1909.

Chares Coleman,
Leslie Hall,
Attys for Defendants

To
Mess. Oscar Hall,
Erwin & McAleer
Attys for Plaintiff.

Motion refused Apr 2nd 09
Saml B. Browne
Judge

Baldwin County
vs
Henry H Cooper &
The United States Fidelity & Guaranty Company

Circuit Court of Baldwin County, Alabama

Comes the plaintiff and in responce to the motion made by defendants for a new trial, hereby ask leave of the Court to remit so much of the verdict in its favor as is for the school fund received by Henry H Cooper as tax Collector viz $3373.76.

R. T. Ervin
Oscar Hall
Attorneys for Plaintiff.

Filed April 1st 1909
M. J. Hall, Clerk.

Motion Granted Apr 1st 09
Saml B. Browne
Judge