

KeyCite Yellow Flag - Negative Treatment  
Distinguished by Village of Oak Lawn v. Faber, Ill.App. 1 Dist.,  
December 21, 2007

18 L.R.A. 447

Supreme Court of Illinois.

MILLIKIN

v.

EDGAR COUNTY.<sup>1</sup>

<sup>1</sup> Reported by Louis Boisot, Jr., Esq., of the Chicago bar.

Nov. 2, 1892.

Appeal from appellate court, third district.

*Assumpsit* by Andrew Millikin against the county of Edgar. Defendant obtained judgment on demurrer, which was affirmed by the appellate court. Plaintiff appeals. Affirmed.

West Headnotes (1)

[1] **Counties**

↪ Appointment of agents or employees

S.H.A. ch. 107, § 29, does not empower supervisors who are themselves elected annually to contract to employ a person as keeper of the poorhouse for three years.

28 Cases that cite this headnote

**Attorneys and Law Firms**

\*529 \*\*493 *J. E. Dyas, G. A. Van Dyke, and H. S. Tanner*, for appellant.

*James A. Eads and Henry Van Sellar*, for appellee.

**Opinion**

\*530 GRAIG, J.

This was an action of *assumpsit* brought by Andrew Millikin against the county of Edgar to recover damages for the breach of an alleged contract entered into by and between the parties. It is averred in the declaration that on the 11th day of April, 1889, the board of supervisors of the county appointed the plaintiff steward or keeper of Edgar county poorhouse for the term of three years from the 1st day of May, 1889, and agreed to pay him as compensation \$1,700 per annum, payable in quarterly installments on the 1st days of March, \*531 June, September, and December; that the plaintiff gave bond with security for the performance of his duties, which was approved by the board; that he entered upon the discharge of his duties under the appointment, and continued in the discharge thereof, faithfully performing all duties imposed upon him, until the 6th day of March, 1890, when the board of supervisors discharged the plaintiff, and ordered him to vacate the poor farm, and then and there dispossessed him, and refused longer to permit plaintiff to perform the duties of said appointment, by means whereof he was injured, and has sustained damages, etc. The defendant interposed a general demurrer to the declaration, which the court sustained, and, the plaintiff electing to abide by his declaration,

judgment was entered against him for costs, which was affirmed in the appellate court.

The only question presented by the appeal is whether the board of supervisors had the power to enter into the contract with the plaintiff described in the declaration for the term of three years. Counties are political divisions of the state created for governmental purposes. They possess such powers as have been conferred by the constitution and legislative department of the state. **Their powers are of a public nature conferred merely for public purposes, and they should be exercised in such a manner as will best promote the interest and advance the welfare of the people.** In chapter 34, Rev. St., will be found many of the principal powers conferred upon counties. Section 22 provides that each county shall be a body politic and corporate, and may sue and be sued; section 23 provides that the powers shall be exercised by a county board; and section 24 confers authority to purchase and hold real and personal property necessary for the use of the county, to make contracts, and do all other acts in relation to the property and concerns of the county, necessary to the exercise of its corporate powers; section 26 makes it the duty of the county board to erect and keep in repair almshouses, **\*532** jails, and other necessary county buildings; while section 25 confers power on the board to cause to be annually levied and collected taxes for county purposes. Section 14, c. 107, provides that every county (except those in which the poor are supplied by the towns) shall receive and support the poor resident in the county. Section 28 also provides that the county board shall have power to acquire a suitable tract of land upon which to erect and maintain a county poorhouse; to appoint a keeper of the poorhouse, and all necessary agents for

the management and control of the poorhouse and farm, and prescribe their compensation and duties. The power and duty of the county board to make proper provision for the care, custody, and support of the poor of the county is so plainly conferred and so clearly enjoined by the provisions of the statute cited that neither can, with any show of plausibility, be questioned or denied. But while the power of the county board to employ a suitable person to keep and manage the poorhouse may be conceded, can that power be exercised, as was attempted to be done, by entering into a contract like the one described in plaintiff's declaration, running for a period of three years? Reliance is placed on the last part of section **\*\*494** 28 of chapter 107 of the Statutes, set out above, as authority for the making of the contract by the board. That clause of the statute does not in terms impose a limit as to the time for which the keeper of the poorhouse may be appointed by the board, but, **in placing a construction upon it, it must be construed in view of and in connection with other provisions of the statute relating to the powers of the board. At the time the contract was attempted to be made the members of the board of supervisors were elected annually; each member held his office for the term of one year, and no longer.** The board was clothed with authority to levy taxes to raise funds to support paupers, but this power was required to be exercised annually. **In view of these provisions of the statute it would be an unreasonable \*533 construction of the statute relied upon to hold that the legislature intended to clothe the board with authority to enter into a contract with the keeper of a poorhouse to run for the term of three years. It the board had the power to enter into a binding contract of this character for three years, no reason is**

perceived why it might not make a contract for five or even ten years, and, if this could be done, the hands of succeeding boards would be tied,—their powers taken from them. If this important power—the supervision of a poor farm and the care of the unfortunate—may be so far delegated as was attempted in this case, the county might be deprived in a great measure of one of the most important affairs intrusted to its care and supervision. The statute should not receive a construction which might lead to such disastrous results, unless the language employed would admit of no other reasonable interpretation. While the identical question presented by this record has not heretofore been before this court, similar questions arose in Stevenson v. School Directors, 87 Ill. 255, and Davis v. School Directors, 92 Ill. 294; and

in those cases we held that school directors were powerless to enter into contracts with teachers extending substantially beyond the current year. What was said in those cases would seem to be applicable here. City of East St. Louis v. East St. Louis, etc., Co., 98 Ill. 415, although not clearly in point, involves a question somewhat similar. In conclusion, we are satisfied the county board exceeded its power in making the contract relied upon by appellant, and we fully concur with the judgment of the county court and appellate court in holding it invalid. The judgment of the appellate court will be affirmed.

#### All Citations

18 L.R.A. 447, 142 Ill. 528, 32 N.E. 493