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Cowles Vs. Mercer County

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Court : US Supreme Court

Decided On : 1868

Appeal No. : 74 U.S. 118

Appellant : Cowles

Respondent : Mercer County

Judgement :

Cowles v. Mercer County - 74 U.S. 118 (1868)
U.S. Supreme Court Cowles v. Mercer County, 74 U.S. 7 Wall. 118 118 (1868)

Cowles v. Mercer County

74 U.S. (7 Wall.) 118

ERROR TO THE CIRCUIT COURT FOR

THE NORTHERN DISTRICT OF ILLINOIS

SYLLABUS

1. A municipal corporation created by one state within its own limits may be sued in the courts of the United States by the citizens of another state.

2. The statutes of a state limiting the jurisdiction of suits against counties to circuit courts held within such counties can have no application to courts of the national government.

A statute of Illinois enacts by one section that,

"Each county established in the state shall be a body politic and corporate, by the name and style of 'The County of _____,' and by that name may sue and be sued, plead and be impleaded, defend and be defended against, in any court of record, either in law or equity, or other place where justice shall be administered,"

and by another that

"All actions, local or transitory, against any county may be commenced and prosecuted to final judgment and execution *in the circuit court of the county against which the action is brought.* [Footnote 1]"

And the Supreme Court of Illinois has decided that a county can neither sue or be sued at common law, independent of legislative provisions, and have construed the

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foregoing sections of the statute to exclude the right to sue any county elsewhere than in the Circuit Court of the county sued. [Footnote 2]

In this condition of the state law, Cowles, a citizen of New York, brought suit in the Circuit Court of the United States for the Northern District of Illinois, against the Supervisors of Mercer County, Illinois (a board authorized to contract for the county), upon certain bonds issued by them on behalf of the county. The defendant, relying on the statute and the interpretation of it by the highest court of the state, moved to dismiss the case for want of jurisdiction. The motion was overruled, and various other defenses, already frequently settled in this Court as untenable, having been also disallowed, judgment was given for the plaintiff below. The case was now brought here on error by the county.

THE CHIEF JUSTICE delivered the opinion of the Court.

The record presents but one question which has not been heretofore fully considered and repeatedly adjudicated. That question is whether the board of supervisors of Mercer County can be sued in the circuit court of the United States by citizens of other states than Illinois. It presents but little difficulty.

The board of supervisors is a corporation created by acts of the Legislature of Illinois.

It has never been doubted that a corporation, all the members of which reside in the state creating it, is liable to suit upon its contracts by the citizens of other states; but it was for many years much controverted whether an allegation in a declaration that a corporation defendant was incorporated by a state other than that of the plaintiff, and established within its limits, was a sufficient averment of jurisdiction. And in all the cases, prior to 1844, it was held necessary to aver the requisite citizenship of the corporations. Then the whole question underwent a thorough reexamination in the case of the *Louisville, Cincinnati, and Charleston Railroad Company v. Letson,* [Footnote 3] and it was held that a corporation created by the laws of a state, and having its place of business within that state, must, for the purposes of suit, be regarded as a citizen within the meaning of the Constitution giving jurisdiction founded upon citizenship. This decision has been since reaffirmed, and must now be taken as the settled construction of the Constitution.

In the case before us the corporators are all citizens of

Illinois, and the corporation is liable to suit within the narrowest construction of the Constitution.

But it was argued that counties in Illinois, by the law of their organization, were exempted from suit elsewhere than in the circuit courts of the county. And this seems to be the construction given to the statutes concerning counties by the Supreme Court of Illinois. But that court has never decided that a county in Illinois is exempted from liability to suit in national courts. It is unnecessary, therefore, to consider what would be the effect of such a decision. It is enough for this case that we find the board of supervisors to be a corporation authorized to contract for the county. The power to contract with citizens of other states implies liability to suit by citizens of other states, and no statute limitation of suability can defeat a jurisdiction given by the Constitution. We cannot doubt the constitutional right of the defendant in error to bring suit in the circuit court of the United States upon the obligations of the County of Mercer against the plaintiff in error. And we find no error in the judgment of that court. It must therefore be

Affirmed.

[Footnote 1]

Revised Laws, 1845, 1, 18.

[Footnote 2]

Schuyler Co. v. Mercer Co., 4 Gilman 20; *Rock Island Co. v. Steele,* 31 Ill. 544; *Randolph Co. v. Ralls,* 18 *id.* 30.

[Footnote 3]

43 U. S. 2 How. 497.

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