

Gelpcke Vs. City of Dubuque

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Court : US Supreme Court

Decided On : 1863

Appeal No. : 68 U.S. 220

Appellant : Gelpcke

Respondent : City of Dubuque

Judgement :

Gelpcke v. City of Dubuque - 68 U.S. 220 (1863)

U.S. Supreme Court Gelpcke v. City of Dubuque, 68 U.S. 1 Wall. 220 220 (1863)

Gelpcke v. City of Dubuque

68 U.S. (1 Wall.) 220

ERROR TO THE DISTRICT COURT OF THE

UNITED STATES FOR THE DISTRICT OF IOWA

SYLLABUS

A statute which enacts that whenever any railroad company

"shall have received or may hereafter receive the bonds of any city or county upon subscriptions of stock by such city or county, such bonds *may bear an interest* "

at a rate specified, and " *may be sold* by the company," in a way mentioned -- *implies* that a city (whose charter gave it power to borrow money for public purposes), had power to subscribe to the stock and to issue its bonds in payment, and makes the subscription and bonds as valid as if authorized by the statute directly.

This suit differed from 80 -- the principal one -- only in the fact that the bonds of the city, which in this case bore date 1st September, 1855, were issued prior to the passage of the act of 28th January, 1857, *specially authorizing* the city to subscribe to the railroads for which the bonds in No. 80 had been subsequently given. The bonds rested in this case (No. 81), therefore, on the charter of the city (approved February 24, 1847), authorizing it "to borrow money for *public purposes*, " and on an act passed 25th January, 1855, before the bonds were issued, one section of

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which enacted that whenever

"any company shall have received, or may hereafter receive, the bonds of any city or county upon subscription of stock by such city or county, such bonds may bear an interest at a rate not exceeding ten percent, and may be sold by the company at such discount as may be deemed expedient,"

and which enacted also (3), that "the provisions of this act shall apply to any railroad bonds which have been heretofore issued, as well as to those which may hereafter be issued."

MR. JUSTICE SWAYNE, after stating the difference between the case and No. 80, and quoting this act, thus delivered the opinion of the Court:

"In this act it is clearly implied that cities have authority to subscribe for railroad stock, and to issue their bonds in payment of it. What is implied in a statute is as

much a part of it as what is expressed. ([United States v. Babbitt](#), 1 Black 61.)
Considering the subject in the light of these acts, we entertain no doubt that the city possessed the power to issue these bonds."

Judgment reversed and case remanded.

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