

Seybert Vs. City of Pittsburgh

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Court : US Supreme Court

Decided On : 1863

Appeal No. : 68 U.S. 272

Appellant : Seybert

Respondent : City of Pittsburgh

Judgement :

Seybert v. City of Pittsburgh - 68 U.S. 272 (1863)

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Seybert v. City of Pittsburgh

68 U.S. (1 Wall.) 272

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SYLLABUS

An authority given by act of legislature to a city corporation to subscribe for stock in a railway company "as fully as any individual," authorizes also the issue by the city of its negotiable *bonds* in payment of the stock. The opinion of the supreme

court of a state taking this view of an act of assembly passed by that state approved.

The Legislature of Pennsylvania incorporated a railway company, by act of assembly, one section of which enacted that any incorporated CITY should have authority to *subscribe*

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to the stock "as fully as any individual," but the act did not give such cities any power to issue *bonds* in payment of their subscriptions. However, the City of Pittsburgh, in Pennsylvania, having subscribed for several shares of the stock, did *issue its negotiable bonds* in payment of the subscription. Some of these bonds having got into the ownership of the plaintiff, Seybert, and not being paid when due, he sued the city in the Circuit Court of the United States for the Western District of Pennsylvania, upon them; a case being stated for judgment. A person named Reinboth, who also owned some of the bonds, had about the same time sued the city in one of the state courts of Pennsylvania, and the question as to the right of the city to issue the bonds was pending in the Supreme Court of that state when the present case, of Seybert, came on for argument in the circuit court below. To expedite a decision, which the parties desired to have, in this, the Supreme Court of the United States, the circuit court entered a judgment *pro forma* in favor of the city; so deciding, for the sake of form, that it, the city, could not, under the powers given, issue its bonds for payment of the stock subscribed for. Between the time, however, of this judgment in the court below, and the time when the case was called for argument here, Reinboth's case had been decided in the supreme court of the state. * That court said as follows:

"The power given to the corporation to subscribe was a power to create a debt, and consequently to give an evidence of the debt. The authority given was to subscribe as fully as an individual, and as an individual (by agreement with the company) could have given his bond, the city corporation had the same power. That grants of powers to corporations are strictly construed in favor of the public, but it would be a perversion of the rule to permit a corporation to use it to defraud

its creditors, or protect itself against its own assumed obligations. If they legally owe a debt, it follows that they can give a bond for it. "

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MR. JUSTICE GRIER delivered, in a few words, the opinion of the Court.

He stated the case, quoted the language of the Pennsylvania decision as just given, and announced that "as this Court fully concur in the construction of the act made by the highest tribunal of the State of Pennsylvania, it was unnecessary to make further remark." That the judgment of the circuit court was therefore to be reversed, and judgment entered for the plaintiff on the special verdict.

Judgment accordingly.

* *Commonwealth ex Rel. Reinboth v. Councils of Pittsburgh*, 41 Pa.St. 278.

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