

ROBINSON *v.* THE INCORPORATED TOWN OF DEVALLS BLUFF.  
4-5433 122 S. W. 2d 552

Opinion delivered December 19, 1938.

1. CONSTITUTIONAL LAW.—Act No. 231 of 1937, p. 827, providing for the construction by cities and towns on navigable rivers of barge terminals, etc., and for issuing bonds to be paid wholly from the revenue derived therefrom is a valid exercise of legislative power, and an injunction to prevent the enforcement of an ordinance passed by appellee in pursuance thereof was properly denied.
2. MUNICIPAL CORPORATIONS.—Municipal corporations are not in their operations limited by act 231 of 1937 authorizing the construction of barge terminals to the corporate limits of such towns or cities.
3. STATUTES—CONSTRUCTION—CLERICAL ERRORS.—The word “inseparable” in § 14 of act 231 of 1937, *held* to be a clerical error, since the context shows that the word “separable” was meant.

Appeal from Prairie Chancery Court; *Frank H. Dodge*, Chancellor; affirmed.

*Charles B. Thweatt*, for appellant.

*Melbourne M. Martin*, for appellee.

McHANEY, J. Appellant, a citizen and taxpayer of the town of DeValls Bluff, Arkansas, brought this action against said town, its mayor, recorder, and aldermen to enjoin them from carrying into effect an ordinance passed and approved by the town council and mayor on December 5, 1938, which proposes to establish barge terminals in said town and to issue revenue bonds in the sum of \$411,000 for such purpose. To secure the payment of said bonds, the physical property is to be mortgaged and the revenues to be derived from the operation of the barge terminals are also pledged. No tax of any kind on the property of the citizens of said town is to be levied or collected for such purpose.



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of 1933, and held that bonds issued under authority of the ordinance and legislative act could not become obligations of the town. See, also, *Jernigan v. Harris*, 187 Ark. 705, 62 S. W. 2d 5; *Snodgrass v. Pocahontas*, 189 Ark. 819, 75 S. W. 2d 223. It is also contended under grounds 1, 2, 3, 4, and 5 that, under the Constitution, the Legislature is without power to confer authority on municipalities to undertake the project here proposed. But we held to the contrary in *Lambert v. Wharf Imp. Dist. No. 1 of Helena*, 174 Ark. 478, 295 S. W. 730, where we said: "It will be seen that it is expressly provided in the act that no indebtedness, no obligation, no liability or interest thereon, which may be created under the provisions of this act, shall be paid from assessments or taxation on the real property. The act, therefore, is not void because of any tax or assessment on real property, and we know of no acceptable provision that would prohibit the Legislature from passing the act in question. It has been repeatedly held by this court that the Constitution is not a grant of powers, and that the Legislature may do anything not prohibited by the Constitution. This court has also many times held that all doubts as to the constitutionality of a statute must be resolved in favor of the statute." A like provision as to the payment of the bonds from the revenue of the proposed improvement is to be found in § 6 of said act 231. But for said act, appellant would be correct that said town could not engage in the proposed business. We know of no constitutional provision denying such power to the Legislature and appellant cites none.

The other contentions made are likewise without merit. One is that § 1 of the act limits the operations to the corporate limits of the town. We do not so understand said section. His contention about the use of the word "time" in § 3 is captious, and as to that of the word "inseparable" as used in § 14, it is clear from the context that it is a typographical error and that the word "separable" was intended.

Affirmed.