

KITCHENS *v.* CITY OF PARAGOULD.

4-4275

Opinion delivered February 17, 1936.

MUNICIPAL CORPORATIONS—CONSTRUCTION OF LIGHT PLANT.—Under constitutional amendment No. 13, authorizing cities of the first and second class to issue bonds for construction of light plants, such cities are authorized to pledge the net revenue derived from the operation of light plants to payment of the bonded indebtedness issued in construction of the plant.

Appeal from Greene Chancery Court; *J. F. Gaultney*, Chancellor; affirmed.

Suit by B. M. Kitchens against the city of Paragould and others. Decree dismissed the complaint, and plaintiff appeals.

*W. W. Bandy* and *Jeff Bratton*, for appellees.

HUMPHREYS, J. The pleadings in this case present the sole issue of whether a city of the first or second class in this State may lawfully and irrevocably pledge the net revenues derived from the operation of a municipal light plant owned by it to better secure the payment of the bonded indebtedness created for the purpose of purchasing the necessary machinery and equipment with which to construct a municipal light plant and distributing system therefor.

The facts are that, pursuant to an ordinance duly passed by the city council of Paragould, the qualified voters of said city authorized a bond issue of \$100,000 to procure money with which to build and construct an electric light plant in and for said city and to provide a distributing system therefor, and that the city of Paragould is now ready to accept a loan of \$100,000 from the

P. W. A., and the grant of \$90,000 with which to purchase the necessary machinery and equipment to build a municipal light plant and distributing system by pledging the net income therefrom after paying the expense of operation and maintenance to secure the payment of said bond issue.

The chancery court ruled that such authority and power existed in the city of Paragould and its officials, and, from the decree dismissing appellant's complaint seeking to enjoin them from pledging the net income to be derived from said plant for such purpose, an appeal has been duly prosecuted to this court.

There is no inhibition in our Constitution as originally adopted, or any amendment thereto against cities of the first and second class irrevocably pledging net revenues to be derived from the operation of municipally owned light plants to pay an indebtedness incurred or to be incurred for the construction of light plants and distributing systems. The power and authority to construct such plants is clearly conferred on cities of the first and second class by amendment No. 13 to the Constitution, and to procure the money with which to construct them by an issue of interest-bearing bonds by and with the consent of a majority of the qualified electors of said municipalities.

The sense of the qualified voters of Paragould was tested by vote on January 31, 1933, and a majority of the legal voters in said city voted for a bond issue of \$100,000 to procure the money to build and construct a light plant, and to provide a distributing system for same.

Certainly, under this broad grant of power, such cities have the power and authority to pledge the future net income from the operation of a light plant and distributing system to the payment of the bonded indebtedness issued in the construction of the plant.

The decree of the chancery court is, therefore, affirmed.