

2209.

TRUSTEES OF KENT STATE COLLEGE—WHEN AUTHORIZED TO RECEIVE DONATION OF LAND—SPECIFIC DONATION DENIED.

SYLLABUS:

*The trustees of Kent State College are without authority to receive a donation of unproductive lands in the state of Michigan unless such lands hold prospects of immediately becoming productive or of serving some useful purpose of the said school.*

COLUMBUS, OHIO, August 5, 1930.

MR. J. O. ENGLEMAN, *President, Kent State College, Kent, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads as follows:

“A friend of the college this day appeared before the members of the board of trustees in regular monthly session, and proposed to give to the college a farm of 160 acres located in north central Michigan. The proposed donor claims no credit for generosity in offering to give us the farm. He frankly wishes to avoid paying taxes upon the land which is unproductive. The farm might, however, prove to have some value to the college in later years.

Members of the board here wish your opinion as to whether or not such a gift of land in another state could be accepted by this college, or by the board on behalf of the college; and second, assuming that such a gift is legally possible, whether this board could, out of state appropriations, pay taxes that it might be necessary to pay on the land in question.”

In the act of the General Assembly (101 O. L. 320), providing for the establishment of a normal school in northeastern Ohio, which school later became Kent State College, it was provided that a commission be appointed with power and authority to select a suitable location, lands, or lands and buildings and secure options upon the same as said commission might find it necessary for the establishment of said normal school.

As soon as said commission had selected the site for said school and the General Assembly had appropriated sufficient money for the purchase of said site and the erection of suitable buildings, it was provided that the governor should appoint, with the advice and consent of the senate, a board of trustees for the proposed school. It was further provided in Section 4 of said act as follows:

“And said board of trustees shall do any and all things necessary for the proper maintenance and successful and continuous operation of said normal schools and may receive donations of lands and moneys for the purpose of said normal schools.”

The authority so given to receive donations of lands and money for the purpose of the school vests in the trustees of said school a broad discretion with respect to receiving such donations and is not in any respect limited by the specific terms of the act. The authority extended to the trustees by the statute in question, to receive donations of lands, is sufficient to permit the trustees to receive such donations even though the lands may be in another state and, no doubt, if, upon the receipt of such donations,

it is necessary, in order to hold said lands, to pay taxes on the same the trustees would be authorized to pay those taxes from the general appropriations made by the General Assembly to the college, the same as they would be authorized to make any other expenditure from said appropriation for the purpose of preserving and protecting the donated property.

While the authority extended to the trustees by the statute in question is broad and limited only by an abuse of discretion in accepting such donations, it does not extend authority to trustees, in my opinion, to accept property for speculative purposes. To accept a donation of property which is of no practical benefit whatever to the college would clearly be beyond the authority of the trustees and especially so if the donation carried with it an obligation to expend money for its preservation. Clearly, if property were unproductive and had no immediate prospects of becoming productive but on the other hand entailed some expense for its preservation, it could not be accepted by authority of the aforesaid statute.

While you state in your communication that although this property is now unproductive it may prove to have some value to the college in later years, I am of the opinion that unless there is some prospect of its immediate productivity, or unless it is now of some practical value to the college or will in the immediate future serve some useful purpose of the college, it would be an abuse of discretion on the part of the trustees to accept it.

It is possible, of course, that land of that kind may now be unproductive and may have been so far some time because of the lack of proper care or cultivation and that it may be made productive immediately by proper cultivation. In that case it would not be said that it was entirely unproductive but held possibilities of serving some immediate good by way of helping the college. To simply say, however, that it is unproductive and may possibly prove of some value to the college in later years does not take it out of the field of pure speculation and under such circumstances the trustees are without authority to receive it.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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2210.

MUNICIPALITY—PROCEEDS OF GAS AND MOTOR VEHICLE LICENSE TAXES APPLICABLE FOR TRAFFIC SIGNS AND PAINT FOR MARKING PARKING SPACES AND TRAFFIC LINES.

*SYLLABUS:*

*A municipality may legally expend its portion of the gasoline and motor vehicle license taxes for the purpose of purchasing and installing traffic signs and to pay the cost of paint used in marking spaces and traffic division lines.*

COLUMBUS, OHIO, August 6, 1930.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Acknowledgment is made of your recent communication which reads:

“May a municipality’s portion of the Motor Vehicle License and Gasoline