

1648.

INSTITUTIONS MENTIONED IN SECTION 18 G. C. MAY NOT ACCEPT
A GIFT AND PROMISE TO DONOR THEREOF AN ANNUITY.

SYLLABUS:

Under the terms of Section 18 of the General Code, the institution therein mentioned may not accept a gift and promise to the donor thereof an annuity. Whatever rights are reserved by the donor must arise out of the subject of the gift itself.

COLUMBUS, OHIO, July 31, 1924.

DR. W. O. THOMPSON, *President, Ohio State University, Columbus, Ohio.*

Dear Sir:—

I acknowledge receipt of your letter of recent date, in which you inquire whether the University may accept a gift of real estate or other property and in return therefor promise the donor an annuity.

The 85th General Assembly by House Bill 349, amended Section 18 of the General Code to read as follows:

“The state, a county, a township or cemetery association, the commissioners or trustees thereof, a municipal corporation, the council, a board or other officers thereof, a benevolent, educational, penal or reformatory institution, wholly or in part under the control of the state, the board of directors, trustees or other officers thereof, may receive by gift, devise or bequest, moneys, lands or other properties, for their benefit or the benefit of any of those under their charge, and hold and apply the same according to the terms and conditions of the gift, devise or bequest. Such gifts or devises of real estate may be in fee simple or of any lesser estate, and may be subject to any reasonable reservation. This section shall not affect the statutory provisions as to devises or bequests for such purposes.”

The answer to your question depends upon the definition of the word “reservation.”

Bouvier defines “reservation” as follows:

“The creation in behalf of the grantor of a new right issuing out of the thing granted, something which did not exist as an independent right before the grant.”

It is evident, therefore, that any reservation to be made in behalf of the donor must be a reservation of something arising from the property which is the subject of the gift.

Bouvier defines “annuity” as follows:

“A yearly sum stipulated to be paid to another in fee or for life or years and chargeable only on the person of the grantor.”

It is therefore evident that the University cannot enter into any contract for an annuity, for this would not be a reservation out of the thing granted.

If the prospective donor desires to devise lands or other property to the Uni-

versity with a provision that a certain part of the income therefrom, or of the use thereof, or some right therein, shall be reserved to him, the University would be authorized to accept such gift, provided the reservations are reasonable. Whether a proposed reservation is reasonable, would depend entirely upon the nature and extent of the reservation. Whatever the donor receives by way of reservation he must receive from the property itself and not from the University.

Respectfully,
C. C. CRABBE,
Attorney General.

1649.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND CURRAN BROTHERS, OF XENIA, OHIO, FOR CONSTRUCTION AND COMPLETION OF SCHOOL HOUSE WITH GYMNASIUM AND SWIMMING POOL, OHIO SOLDIERS' AND SAILORS' ORPHANS' HOME, XENIA, OHIO, AT COST OF \$85,040.00.—SURETY BOND EXECUTED BY THE FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

COLUMBUS, OHIO, July 31, 1924.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

Dear Sir:—

You have submitted for my approval a contract between the State of Ohio, acting by the Department of Highways and Public Works, and Curran Brothers, of Xenia, Ohio. This contract covers the construction and completion of School House with Gymnasium and Swimming Pool, Ohio Soldiers' and Sailors' Orphans' Home, Xenia, Ohio, and calls for an expenditure of \$85,040.00.

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. There has further been submitted a contract bond upon which the Fidelity and Deposit Company of Maryland appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
C. C. CRABBE,
Attorney General.