

4205.

BOARD OF TRUSTEES—MUNICIPAL UNIVERSITY—UNAUTHORIZED
TO LOAN FUNDS OF UNIVERSITY AND ACCEPT COLLATERAL
NOTES.

SYLLABUS:

The board of trustees of a municipally owned university is not authorized to loan the funds under its control to individuals accepting collateral notes therefor.

COLUMBUS, OHIO, March 30, 1932.

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

GENTLEMEN:—I acknowledge receipt of your communication which reads as follows:

“Section 7919 of the General Code, as amended in 113 O. L., 282, reads as follows:

‘Such board may invest and hold any part of the funds belonging to or set apart for the use of such university, college or institution or to any department thereof, as it from time to time deems proper in bonds of the United States, or the State of Ohio, or of any municipal corporation of this state, or any county, or school district herein, or in bonds of any other state or territory of the United States or of any municipal corporation, county or school district therein or in real estate or securities approved by it, * * *

In view of the provisions of this section, may the board of trustees of a municipally owned university in making investments, loan the funds under their control to individuals, accepting collateral notes for such loans?

We would be pleased to have you render us your written opinion on this question at your convenience.”

The word “securities” in its broadest sense would include promissory notes. “In its ordinary acceptation the word ‘securities’ includes bonds, certificates of stock or of deposit, notes, bills of exchange and other evidences of indebtedness or of property, and not mere choses of action (25 Am. & Eng. Encyc. of Law 180; 35 Cyc. 1283, n. 59).” *Boston Railroad Holding Company vs. Commonwealth*, 215 Mass. 493. It will be noted, however, that section 7919, General Code, enumerates certain kinds of securities, and then follows it with the general term “securities.” Under the rule of construction, known as “*eiusdem generis*,” where general words follow the enumeration of particular classes of persons or things, the general words will be construed as applicable only to persons or things of the same general nature or class as those enumerated. 36 Cyc. 1119. As stated by this authority, “The rule is based on the obvious reason that if the legislature had intended the general words to be used in their unrestricted sense they would have made no mention of the particular classes.”

In *Nichols vs. State*, 127 Ind. 406, it is said:

“The rule is, that where words of a particular description in a statute are followed by general words that are not so specific and limited, unless

there be a clear manifestation of a contrary purpose, the general words are to be construed as applicable to persons or things or cases of like kind to those designated by the particular words."

See also Lewis' Sutherland Statutory Construction, Vol II, Section 422.

Applying this rule of construction to the section in question, the word "securities" as used therein, means securities of the same general nature as those enumerated, and does not include loans to individuals of the kind referred to above.

I am of the opinion, therefore, that the board of trustees of a municipally owned university is not authorized to loan the funds under its control to individuals accepting collateral notes therefor.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4206.

LIEN—WATER RENT—NO PRIORITY OVER A PREVIOUSLY RECORDED MORTGAGE—OPINION NO. 2100, 1930, DISCUSSED AND FOLLOWED.

SYLLABUS:

Opinion of the Attorney General appearing in Vol. II for 1930, page 1127, holding that a lien for water rents arising after the recording of a bona fide mortgage may not take precedence over said mortgage upon distribution of the proceeds from a sale of the premises to satisfy such mortgage, is adhered to.

COLUMBUS, OHIO, March 30, 1932.

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

GENTLEMEN:—I am in receipt of your communication which reads as follows:

"At the request of Mr. W. L. Dickey, City Solicitor, Portsmouth, O., we are asking for your reconsideration of the following question:

Do water rentals, certified to the county auditor for collection, take priority over other liens already a matter of record?

We are quoting from the Solicitor's letter as follows:

'In the Attorney General's Opinion, Vol. 2, page 1202-4 of 1928, the Attorney General holds that there is no priority given water rents.

In the case of *McDowell vs. Barberton* reported in the 38th Federal Reports, 2nd edition, page 786, the Federal Court holds that—"water rents are a special tax and do take priority."

We are having some controversy brought about by foreclosures on property where water rents are delinquent in this city. Our attention has been called to the former decision of the Attorney General and we in turn have cited the former decision given above which we think is a thorough discussion of the question. This case, I believe, was decided since the opinion referred to was made.