that those are matters to be regulated by the legislature and are presently under the control of the Board of Trustees.

It is my opinion that while the Trustees of Purdue University are not, in its strictest sense, a municipality, it is the governing body having absolute power under our present statutes in the management, operation and administration of the property of said University and, therefore, may be said to be the governing body having jurisdiction in the area of the subject housing project.

OFFICIAL OPINION NO. 69

November 24, 1948.

Mr. Joseph McCord, Director,
Department of Financial Institutions,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion on the following question:

"May a banking institution chartered under the laws of the State of Indiana invest in the common stock of an affiliate corporation to the extent of its legal investment or loan limit?"

It is a well recognized principle of statutory construction that all the language used in the statute will be deemed to have been intentionally used to effect the meaning of the Act, and a further rule requires effect to be given to the whole statute and every part thereof.

Koercher v. Ind. Associated Telephone Corp. (1937), 211 Ind. 447, 7 N. E. (2) 282;
Bienz v. State (1934), 206 Ind. 482, 190 N. E. 170;
Indiana Creosoting Co. v. McNutt (1936), 210 Ind. 656, 5 N. E. (2) 310.
Section 18-502 of Burns', 1947 Pocket Supplement, same being the Acts of 1933, Chapter 40, Section 90, page 176; 1937, Chapter 33, Section 10, page 173, provides in part as follows:

“(a) Every corporation shall have the capacity to act which is possessed by natural persons, but shall have the authority to perform such acts only as are necessary, convenient or expedient to accomplish the purposes for which it is formed and such as are not repugnant to law.

“(b) Subject to any limitations or restrictions imposed by law or by the articles of incorporation, each corporation shall have the following general rights, powers, privileges:

"* * *

“(4) To acquire, own, hold, use, lease, mortgage, pledge, sell, convey or otherwise dispose of property, real and personal, tangible and intangible, in the manner and to the extent hereinafter provided;”

The Financial Institutions Act, Section 18-1104 of Burns' 1947 Pocket Supplement, further provides in part:

"* * * Except as in this act otherwise provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by any bank or trust company of any share of stock of any corporation, * * * ."

The Act in question herein, Section 18-1808 Burns', 1947 Pocket Supplement, provides:

“Except as hereinafter otherwise provided, no bank or trust company shall (1) make any loan or extension of credit to, or purchase securities under any repurchase agreement from, any of its affiliates; or (2) invest any of its funds in the capital stock, bonds, debentures, or other such obligations of any such affiliate; or (3) accept the capital stock, bonds, debentures, or other obligations of any such affiliate as collateral security for advances made to any person, firm or corporation, if, in the case of any such affiliate, the aggregate amount of the loans, extensions of credit, repurchase agreements, investments, and advances
against such collateral security, will exceed ten (10) per cent of the sound capital of such bank or trust company, or if, in the case of all such affiliates, the aggregate amount of the loans, extensions of credit, repurchase agreements, investments, and advances against such collateral security, will exceed twenty (20) per cent of the sound capital of such bank or trust company. The provisions of this section and of section 234 (Section 18-1809) of this Act shall not apply to any affiliate (1) engaged in holding the bank or trust company premises of the member bank or trust company with which it is affiliated, or (2) engaged solely in the business of an agricultural credit corporation, live stock loan company or joint stock land bank; or (3) engaged solely in conducting a safe deposit business; or (4) where the affiliate relationship has risen out of a bona fide debt contracted prior to the date of the creation of such relationship; but as to any such affiliate, all banks and trust companies shall continue to be subject to other provisions of this Act applicable to loans and investments by such banks or trust companies.”

Having in mind the statutory rule of construction quoted herein, it can be readily seen that Section 18-502, supra, confers the general rights, powers and privileges upon a bank, and that the language used in the quoted Section 18-1104 herein, to-wit: “Except as in this Act otherwise provided or otherwise permitted by law” indicates or denotes a legislative intent to confer certain additional, specific powers upon banks and that this additional, specific power, or powers, is found in Section 18-1808, supra. It is this section that solves the problem presented. Here is an express limitation of authority.

Parenthetically, I am of the opinion that the clause “if, in the case of any such affiliate,” etc., refers to and modifies all of numbers 1, 2 and 3. Otherwise, the word “investment” in that clause is without meaning or reference.

Perhaps the language of the statute is not in a strict sense a positive authority but, nevertheless, it is an authority. Section 18-502, supra, confers the general power to acquire the stock, subject, however, to the 10 per cent sound capital limitation imposed by Section 18-1808, supra. The existence of
the limitation provided in Section 18-1808, *supra*, presupposes the power to purchase the stock. In other words, the negative prohibition carries with it the affirmative power. The Act states:

"No bank * * * shall * * * invest any of its funds in the capital stock * * * of any * * * affiliate if * * * the aggregate amount of the loans, * * * investments, * * * will exceed ten (10) per cent of the sound capital of such bank * * *."

The logical corollary of this rule becomes: A bank may invest any of its funds in the capital stock of any affiliate if the aggregate amount of the loans, investments, etc., will not exceed ten per cent of the sound capital of such bank.

That this Act recognizes the propriety of purchasing this stock is further borne out by the language of Section 232 (a) of the Act (Section 18-1807, Burns' 1947 Pocket Supplement), which defines an affiliate as any corporation in which a bank or trust company directly or indirectly owns a controlling interest of the voting shares. In granting this power to invest in the stock of an affiliate, the Legislature no doubt had in mind the fact that the Department of Financial Institutions possesses certain powers of examination and visitation over an affiliate corporation.

It is my conclusion, therefore, that a banking institution chartered under the laws of the State of Indiana may invest in the common stock of the affiliate corporation so long as such investment, together with any extensions of credit or investment in other securities or obligations of the affiliate company, do not exceed ten per cent of the sound capital of the bank.