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81ST CONGRESS
1ST SESSION

S. 2318

IN THE SENATE OF THE UNITED STATES

JULY 22 (legislative day, JUNE 2), 1949

Mr. ROBERTSON (for himself and Mr. MAYBANK) introduced the following bill;
which was read twice and referred to the Committee on Banking and
Currency

A BILL

To provide for control and regulation of bank holding companies,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Bank Holding Company
4 Act of 1949".

5 SEC. 2. DEFINITIONS.—(a) "Bank holding company"
6 means (1) any company which directly or indirectly owns,
7 controls, or holds with power to vote 15 per centum or more
8 of the voting shares of each of two or more banks or of a
9 company which is a bank holding company by virtue of this
10 section, or any company which is a bank and which directly
11 or indirectly owns, controls, or holds with power to vote 15

1 per centum or more of the voting shares of one or more
2 other banks, or any company which directly or indirectly
3 owns, controls, or holds with power to vote 15 per centum
4 or more of the voting shares of one bank provided such bank
5 operates four or more branches, unless the Board as here-
6 inafter provided by order declares such company not to
7 be a bank holding company; (2) any company which the
8 Board determines, after notice and opportunity for hearing,
9 directly or indirectly, exercises (either alone or pursuant to
10 an arrangement or understanding with one or more other
11 persons) such a controlling influence over the management
12 or policies of two or more banks or of only one bank if
13 such bank operates four or more branches as to make it
14 necessary or appropriate in the public interest or for the
15 protection of investors or depositors that such company be
16 subject to the obligations, duties, and liabilities imposed in
17 this Act upon bank holding companies; and (3) any com-
18 pany which is a bank and which the Board determines,
19 after notice and opportunity for hearing, directly or indi-
20 rectly, exercises (either alone or pursuant to an arrangement
21 or understanding with one or more other persons) such a
22 controlling influence over the management or policies of
23 one or more other banks as to make it necessary or appro-
24 priate in the public interest or for the protection of investors
25 or depositors that such company be subject to the obligations,

1 duties, and liabilities imposed in this Act upon bank holding
2 companies.

3 The Board, upon application, shall by order declare that
4 a company is not a bank holding company under clause (1)
5 above if the Board finds that the applicant does not, either
6 alone or pursuant to an arrangement or understanding with
7 one or more other persons, exercise such a controlling influ-
8 ence over the management or policies of the stated number
9 of banks as to make it necessary or appropriate in the public
10 interest or for the protection of investors or depositors that
11 such company be subject to the obligations, duties, and lia-
12 bilities imposed in this Act upon bank holding companies.

13 (b) "Bank" means any national bank, or any State
14 bank, banking association, savings bank, or trust company,
15 but shall not include any organization which does not receive
16 deposits nor conducts a trust business within the United
17 States. "State member bank" means any State bank which
18 is a member of the Federal Reserve System. "District bank"
19 means any State bank organized or operating under the Code
20 of Law for the District of Columbia.

21 (c) "Company" means any bank, corporation, partner-
22 ship, joint-stock company, business trust, voting trust, asso-
23 ciation, or any similar organized group of persons, whether
24 incorporated or not, or any receiver, trustee, or other liquidat-
25 ing agent of any of the foregoing in his capacity as such;

1 excluding, however, any such company which is owned by
2 the United States.

3 (d) "Board" means the Board of Governors of the
4 Federal Reserve System.

5 (e) "Subsidiary". with respect to a specified bank
6 holding company, means (1) any company 15 per centum
7 or more of whose outstanding voting shares (excluding
8 shares owned by the United States or by any company
9 wholly owned by the United States) is owned or controlled
10 by such bank holding company, unless the Board as here-
11 inafter provided by order declares such company not to
12 be a subsidiary of such bank holding company; or (2)
13 any company the management and policies of which the
14 Board determines, after notice and opportunity for hearing,
15 are subject to a controlling influence by the specified bank
16 holding company.

17 The Board, upon application, shall by order declare that
18 a company is not a subsidiary company of a specified
19 bank holding company under clause (1) above if the
20 Board finds that the management or policies of the ap-
21 plicant are not subject to a controlling influence, directly
22 or indirectly, by such bank holding company (either alone
23 or pursuant to an arrangement or understanding with one
24 or more other persons).

25 (f) For the purposes of this section there shall be

1 excluded from consideration all voting shares of banks
2 acquired or held by mutual savings banks; also, there shall
3 be excluded from consideration all voting shares of banks
4 or other companies acquired or held by a bank in a
5 fiduciary capacity; except where such voting shares are
6 acquired or held for the benefit of all or a majority of
7 the persons beneficially interested in such bank or except
8 where the Board, after notice and opportunity for hear-
9 ing, finds that such acquisition or holding is resulting in
10 the violation or evasion of any of the purposes or provi-
11 sions of this Act.

12 SEC. 3. REGISTRATION, REPORTS, AND EXAMINA-
13 TIONS.—(a) Within ninety days after the effective date of
14 this Act, or within ninety days after becoming a bank holding
15 company, whichever is later, every bank holding company
16 shall register with the Board on forms prescribed by the
17 Board, which shall include, with such other information as
18 the Board may require, statements showing (1) its financial
19 condition at the end of its fiscal year last preceding the date
20 of registration, including therein the amount of its accumu-
21 lated net income at such time; (2) name and address of
22 each of the bank holding company's subsidiary banks and
23 address of each branch of each such bank; (3) name and
24 address of each other bank of which the bank holding com-
25 pany or its subsidiaries own shares; (4) number of shares

1 of each class of stock of each bank owned by the bank holding
2 company or its subsidiaries; (5) information concerning the
3 manner in which such shares are owned; (6) name, address,
4 and nature of business of each of the bank holding company's
5 subsidiaries, other than banks, and the manner in which the
6 relationship arises; and (7) such information as the Board
7 may deem necessary or appropriate.

8 The Board may, in its discretion, extend the time within
9 which a bank holding company shall register and file the
10 requisite statement.

11 (b) Each bank holding company shall furnish to
12 the Board from time to time such reports as may be required
13 by the Board and in such form and detail as the Board
14 may prescribe. Such reports shall contain such informa-
15 tion concerning the bank holding company and its sub-
16 sidiaries as the Board shall deem necessary to disclose
17 fully the relations among such companies, the effect of
18 such relations upon the affairs of the subsidiary banks,
19 and whether the provisions of this Act have been complied
20 with.

21 (c) Each bank holding company and each sub-
22 sidiary thereof shall be subject to such examinations by
23 examiners selected or approved by the Board as shall be
24 necessary to disclose fully the relations between such bank
25 holding company and its subsidiaries, the effect of such

1 relations upon the affairs of the subsidiary banks, and
2 whether the provisions of this Act or of the Board's orders,
3 rules, or regulations have been complied with; and the ex-
4 aminer making such an examination shall have power to
5 administer oaths and to examine any of the officers, di-
6 rectors, employees, and agents of such bank holding com-
7 pany or subsidiary under oath. The expenses of any such
8 examination may, in the discretion of the Board, be
9 assessed against the bank holding company and, when so
10 assessed, shall be paid by such bank holding company.
11 To the extent that the information contained therein is
12 adequate for the purposes of this section the Board is
13 authorized to use the reports of examination made by the
14 Comptroller of the Currency, the Federal Deposit Insur-
15 ance Corporation, or the appropriate State bank super-
16 visory authority.

17 SEC. 4. INTERESTS IN NONBANKING ORGANIZATIONS.—

18 (a) Except at otherwise provided in this Act, it shall
19 be unlawful for any bank holding company, after two years
20 after the effective date hereof, to own any shares or other
21 securities or obligations of any company other than a
22 bank or to engage in any business other than that of
23 banking or managing or controlling subsidiary banks. The
24 Board is authorized, upon application by a bank holding
25 company, to extend this period from time to time as to

1 such company for not more than one year at a time if, in its
2 judgment, such an extension would not be detrimental to the
3 public interest. However, nothing herein provided shall
4 be construed to authorize the Board to extend any such
5 period beyond a date five years after the enactment hereof.

6 (b) The prohibitions in this section shall not apply
7 to shares or other securities or obligations owned or ac-
8 quired by a bank holding company in any company engaged
9 solely in holding and operating property in which the bank
10 premises are located, or engaged solely in conducting a
11 safe-deposit business, or engaged solely in the business of
12 furnishing managerial, auditing, supervisory, purchasing,
13 and other similar services to such bank holding company
14 and its subsidiaries, or solely in the business of liquidating
15 assets acquired from such bank holding company and its
16 subsidiaries, or in any other company all the activities of
17 which the Board has determined are so closely related to
18 the business of managing, operating, or controlling banks
19 as to be a proper incident thereto.

20 (c) Nor shall the prohibitions in this section apply to
21 shares or securities or obligations acquired by a bank holding
22 company from any of its subsidiaries which have been
23 requested to dispose of such voting shares, securities, or
24 obligations by any Federal or State authority having statu-
25 tory power to examine such subsidiaries or which have been

1 acquired from such subsidiaries with the prior approval of
2 the Board; but such bank holding company shall dispose
3 of such shares, securities, or obligations within a reasonable
4 time. If, while such bank holding company owns or controls
5 such shares, securities, or obligations, the Board, after notice
6 and opportunity for hearing, determines that the ownership
7 or control of such shares, securities, or obligations is resulting
8 in the violation or evasion of any of the purposes or pro-
9 visions of this Act, it may by order require such bank
10 holding company to dispose of all or any part thereof forth-
11 with.

12 (d) Nor shall the prohibitions of this section apply to
13 shares or other securities or obligations which are held or
14 acquired by a bank, which is a bank holding company, in a
15 fiduciary capacity or which are otherwise lawfully owned
16 by such bank or any of its wholly owned subsidiaries on the
17 effective date of this Act; nor as to any bank holding com-
18 pany shall the prohibitions in this section apply to invest-
19 ment securities of the kinds and amounts eligible for
20 investment by national banks under the provisions of section
21 5136 of the Revised Statutes. If, while such bank or bank
22 holding company owns or controls such shares, securities,
23 or other obligations, the Board, after notice and opportunity
24 for hearing, determines that the ownership or control of

1 such shares, securities, or obligations is resulting in the
2 violation or evasion of any of the purposes or provisions of
3 this Act, it may by order require such bank or bank holding
4 company to dispose of all or any part thereof forthwith.

5 (e) Nor shall the prohibitions of this section apply to
6 the ownership by a bank holding company of shares or
7 other securities or obligations of any company which do not
8 include more than 5 per centum of the outstanding voting
9 securities of such company, and do not have a value greater
10 than 5 per centum of the value of the total assets of the
11 bank holding company, as determined under regulations pre-
12 scribed by the Board; nor shall they apply to the owner-
13 ship by a bank holding company, in excess of such
14 limitations, of shares or other securities or obligations of an
15 investment company which is not engaged in any business
16 other than investing in securities if the bank holding com-
17 pany and all such investment companies (in which the bank
18 holding company has investments in excess of such limita-
19 tions) do not together own shares or other securities or
20 obligations of any one other company which are in excess
21 of the foregoing limitations. If, while such bank holding
22 company owns or controls such shares, securities, or obliga-
23 tions, the Board, after notice and opportunity for hearing,
24 determines that the ownership or control of such shares,
25 securities, or obligations is resulting in the violation or

1 evasion of any of the purposes or provisions of this Act,
2 it may by order require such bank holding company to
3 dispose of all or any part thereof forthwith.

4 SEC. 5. ACQUISITIONS OF BANK SHARES OR BANK
5 ASSETS.—(a) No plan, undertaking, or agreement by or
6 on behalf of any company which would result in that com-
7 pany becoming a bank holding company, as defined in
8 section 2 (a) (1) of this Act, and no plan, undertaking,
9 or agreement by or on behalf of any bank holding company
10 to acquire either directly or indirectly any voting shares
11 of a bank, shall be consummated, effectuated, or completed
12 except with the prior approval of the Board: *Provided, how-*
13 *ever,* That nothing herein contained shall be construed to
14 apply to the acquisition by a bank holding company of any
15 additional voting shares of a bank in any case where such
16 bank holding company, prior to such acquisition, owned a
17 majority of the voting shares thereof.

18 (b) No plan, undertaking, or agreement by or on
19 behalf of any bank holding company or any of its non-
20 banking subsidiaries to acquire all or substantially all of
21 the assets of any bank shall be consummated, effectuated,
22 or completed except with the prior approval of the Board.

23 (c) No plan, undertaking, or agreement by or on
24 behalf of a banking subsidiary of a bank holding company
25 to acquire all or substantially all of the assets of any bank

1 shall be consummated, effectuated, or completed except
2 with the prior approval of (1) the Comptroller of the
3 Currency if the acquiring bank is a national bank or district
4 bank; or (2) the Board if the acquiring bank is a State
5 member bank, or (3) the Federal Deposit Insurance Cor-
6 poration in the case of any other acquiring bank. Nor shall
7 any State member bank (not including a district bank)
8 which is a subsidiary of a bank holding company, establish
9 any branch within the limits of the city, town, or village in
10 which the head office of such bank is located except with
11 the prior approval of the Board.

12 (d) In determining whether to approve any acquisition
13 subject to paragraphs (a), (b), or (c) of this section con-
14 sideration shall be given to the financial history and con-
15 dition of the applicant and the banks concerned; their
16 prospects; the character of their management, the con-
17 venience, needs, and welfare of the communities and the
18 area concerned; and whether or not the effect of such
19 acquisition may be to expand the size and extent of a bank
20 holding company system beyond limits consistent with ade-
21 quate and sound banking and the public interest. The
22 factors stated in this section shall likewise be considered by
23 the Board, the Comptroller of the Currency, or the Federal
24 Deposit Insurance Corporation in determining whether to
25 approve an application of any bank, which is a part of a

1 bank holding company system, to establish a branch or
2 branches of such bank.

3 (e) Before determining whether to approve any acqui-
4 sition or application pursuant to this section, the Comp-
5 troller of the Currency, the Federal Deposit Insurance Cor-
6 poration, or the Board, as the case may be, shall notify the
7 bank supervisory authority in the State in which the ac-
8 quiring or applying bank is located and shall afford such
9 State banking authority a period of thirty days within which
10 to submit a written statement of his views and recommenda-
11 tions as to whether such acquisition or application should
12 be approved. Such statement and recommendation shall be
13 taken into consideration by the Comptroller of the Currency,
14 the Federal Deposit Insurance Corporation, or the Board,
15 as the case may be, in determining whether to approve any
16 acquisition or application pursuant to this section, and such
17 statement and recommendation shall be made a part of the
18 record upon which such acquisition or application is approved
19 or rejected.

20 SEC. 6. BORROWING BY BANK HOLDING COMPANY OR
21 ITS SUBSIDIARIES.—(a) No bank shall invest any of its
22 funds in the capital stock of (1) a bank holding company
23 of which it is a subsidiary, or (2) a subsidiary of such bank
24 holding company.

25 (b) No bank shall accept the capital stock of (1) a

1 bank holding company of which it is a subsidiary, or (2)
2 a subsidiary of such bank holding company as collateral
3 security for advances made to any person, partnership, asso-
4 ciation, or corporation: *Provided, however,* That any bank
5 may, with the prior approval of the Board, accept such
6 capital stock as a security for debts previously contracted.

7 (c) No bank shall (1) make any loan or any extension
8 of credit to, or purchase securities under repurchase agree-
9 ment from, (a) a bank holding company of which it is a
10 subsidiary, or (b) a subsidiary of such bank holding com-
11 pany; or (2) invest any of its funds in the bonds, debentures,
12 or other such obligations of any such bank holding company
13 or subsidiary; or (3) accept the bonds, debentures, or other
14 such obligations of any such bank holding company or sub-
15 sidiary as collateral security for loans or advances made to
16 any person, partnership, association, or corporation, if, in
17 the case of all such bank holding companies and subsidiaries,
18 the aggregate amount of such loans, extensions of credit,
19 repurchase agreements, investments, and advances against
20 such collateral security will exceed 20 per centum of the
21 capital stock and surplus of such bank. Non-interest-bearing
22 deposits to the credit of a bank shall not be deemed to be a
23 loan or advance to the bank of deposit, nor shall the giving
24 of immediate credit to a bank upon uncollected items received
25 in the ordinary course of business be deemed to be a loan or

1 advance to the depositing bank. Within the foregoing limita-
2 tions, each loan or extension of credit of any kind or character
3 to such bank holding company or subsidiary shall be secured
4 by collateral in the form of stocks, bonds, debentures, or other
5 such obligations having a market value at the time of making
6 the loan or extension of credit of at least 20 per centum more
7 than the amount of the loan or extension of credit, or of at
8 least 10 per centum more than the amount of the loan or
9 extension of credit if it is secured by obligations of any State
10 or of any political subdivision or agency thereof: *Provided*,
11 That no margin of collateral shall be required when such
12 loan or extension of credit is secured by obligations of the
13 United States Government, the Federal intermediate credit
14 banks, the Federal land banks, the Federal home-loan banks,
15 or the Home Owners' Loan Corporation, or by such notes,
16 drafts, bills of exchange, or bankers' acceptances as are
17 eligible for rediscount or for purchase by Federal Reserve
18 banks.

19 (d) The provisions of this section shall not apply to
20 (1) any company of the types described in section 4 (b)
21 of this Act, or (2) any company whose subsidiary status
22 has arisen out of a bona fide debt to the bank contracted
23 prior to the date of the creation of such status, or (3) any
24 company whose subsidiary status exists by reason of the
25 ownership or control of voting shares thereof by the bank

1 as executor, administrator, trustee, receiver, agent, or de-
2 pository, or in any other fiduciary capacity, except where
3 such shares are held for the benefit of all or a majority
4 of the stockholders of such bank.

5 SEC. 7. SERVICE FEES OR BENEFITS.—The Board is
6 authorized, if in its opinion such action is necessary or
7 appropriate for the protection of depositors or investors
8 and after appropriate notice and opportunity for hearing, to
9 determine the reasonableness of any service, management, or
10 similar charge or fee or benefit obtained by a bank holding
11 company or any of its subsidiaries from a subsidiary bank
12 of such bank holding company, and to order that all or
13 any part of such charges or fees or benefits which it finds
14 to be unreasonable shall be discontinued. It shall be un-
15 lawful for such bank holding company or any of its sub-
16 sidiaries thereafter to assess or obtain any such charge or
17 fee or benefit in contravention of the Board's order.

18 SEC. 8. RESERVE FUND.—After the effective date of
19 this Act, every corporate bank holding company shall use
20 all its net earnings over and above 6 per centum per annum
21 of the book value of its own shares to accumulate a fund,
22 and every noncorporate bank holding company shall accumu-
23 late a fund in accordance with the terms prescribed by the
24 Board, in an amount equal to at least 12 per centum of the
25 aggregate par value of all bank shares owned by it. Such

1 fund shall consist of readily marketable assets, other than
2 bank stocks, and shall be identified in an appropriate manner
3 and kept free and clear of any lien, pledge, or hypothecation
4 of any kind or nature. Such assets may be used by the
5 bank holding company to replace capital of its subsidiary
6 banks and to eliminate losses and depreciation from the
7 assets of such banks, and, with the prior approval of the
8 Board, to increase the capital or surplus of its subsidiary
9 banks, but, except as permitted by the Board, shall not be
10 used by the bank holding company for any other purpose,
11 and any deficiency in such assets resulting from such use
12 shall be replaced in the same manner as above provided.

13 SEC. 9. REGULATIONS.—The Board shall have the au-
14 thority to make and issue such rules, regulations, and orders,
15 not inconsistent with the provisions of this Act, as may be
16 necessary to enable it to administer and carry out the pur-
17 poses of this Act and prevent evasions thereof and it shall
18 likewise have authority to amend, modify, or rescind any
19 such rules, regulations, or orders so made or issued. All
20 powers and functions of the Board prescribed by this Act,
21 other than the issuance, amendment, modification, or rescis-
22 sion of rules, regulations, and orders and the determination
23 of matters of general policy, may be performed through such
24 members of the Board or such officers and employees thereof

1 or such Federal Reserve banks or officers or employees
2 thereof as the Board may deem advisable in order to
3 facilitate the administration of this Act.

4 SEC. 10. HEARINGS, INVESTIGATIONS, AND COURT
5 REVIEW OF ORDERS.—(a) In addition to the hearings au-
6 thorized in this Act, the Board also shall have authority to
7 make such investigations as may be necessary to determine
8 whether any proceeding under this Act should be instituted
9 against a particular person or persons, or with respect to a
10 particular transaction or transactions; and the Board shall
11 keep appropriate records of all hearings and investigations.

12 (b) For the purpose of any hearing or investigation
13 under this Act, any member of the Board, or any officer
14 thereof designated by it, is empowered to administer oaths
15 and affirmations, subpoena witnesses, compel their attendance,
16 take evidence, and require the production of any books,
17 records, or other papers which are relevant or material to
18 the inquiry. Such attendance of witnesses and the produc-
19 tion of any such papers may be required from any place in
20 any State or in any Territory or other place subject to the
21 jurisdiction of the United States at any designated place
22 where such a hearing is being held or investigation is being
23 made.

24 (c) In case of refusal to obey a subpoena issued to, or
25 contumacy by, any person, the Board may invoke the aid

1 of any court of the United States within the jurisdiction of
2 which such hearing or investigation is carried on, or where
3 such person resides or carries on business, in requiring the
4 attendance and testimony of witnesses and the production of
5 books, records, or other papers. And such court may issue
6 an order requiring such person to appear before the Board
7 or member or officer designated by the Board, there to
8 produce records, if so ordered, or to give testimony touching
9 the matter under investigation or in question; and any failure
10 to obey such order of the court may be punished by such
11 court as a contempt thereof. All process in any such case
12 may be served in the judicial district whereof such person
13 is an inhabitant or wherever he may be found. No person
14 shall be excused from attending and testifying or from produc-
15 ing books, records, or other papers in obedience to a subpoena
16 issued under the authority of this Act on the ground that the
17 testimony or evidence, documentary or otherwise, required
18 of him may tend to incriminate him or subject him to penalty
19 or forfeiture; but no individual shall be prosecuted or subject
20 to any penalty or forfeiture for or on account of any transac-
21 tion, matter, or thing concerning which he is compelled to
22 testify or produce evidence, documentary or otherwise, after
23 having claimed his privilege against self-incrimination, except
24 that such individual so testifying shall not be exempt from
25 prosecution and punishment for perjury committed in so

1 testifying. Any person who without just cause shall fail or
2 refuse to attend and testify or to answer any lawful inquiry
3 or to produce books, records, or other papers in obedience
4 to the subpoena of the Board, if in his or its power so to do,
5 shall be guilty of a misdemeanor and upon conviction shall
6 be subject to a fine of not more than \$1,000 or to imprison-
7 ment for a term of not more than one year, or both.

8 (d) Any person or party aggrieved by any final action
9 of the Board under this Act may obtain a review of such
10 order in the circuit court of appeals of the United States
11 within any circuit wherein such person resides or has his
12 principal place of business, or in the United States Court of
13 Appeals for the District of Columbia, by filing in such court,
14 within sixty days after the entry of such order, a written
15 petition praying that the order of the Board be modified or
16 set aside in whole or in part. A copy of such petition shall
17 be forthwith served upon any member of the Board or upon
18 the Board's secretary at its offices in the city of Washington,
19 and thereupon the Board shall certify and file in the court
20 a transcript of the record upon which the order complained
21 of was entered. Upon the filing of such transcript such
22 court shall have exclusive jurisdiction to affirm, modify, or
23 set aside such order in whole or in part. No objection to
24 the order of the Board shall be considered by the court unless
25 such objection shall have been urged before the Board or

1 unless there were reasonable grounds for failure so to do.
2 The finding of the Board as to the facts, if supported by
3 substantial evidence, shall be conclusive. If application is
4 made to the court for leave to adduce additional evidence,
5 and it is shown to the satisfaction of the court that such
6 additional evidence is material and that there were reason-
7 able grounds for failure to adduce such evidence in the pro-
8 ceeding before the Board, the court may order such addi-
9 tional evidence to be taken before the Board and to be
10 adduced upon the hearing in such manner and upon such
11 terms and conditions as to the court may seem proper. The
12 Board may modify its findings as to the facts by reason of
13 the additional evidence so taken, and it shall file with the
14 court such modified or new findings, which, if supported
15 by substantial evidence, shall be conclusive, and its recom-
16 mendation, if any, for the modification or setting aside of
17 the original order. The judgment and decree of the court
18 affirming, modifying, or setting aside, in whole or in part,
19 any such order of the Board shall be final, subject to review
20 by the Supreme Court of the United States upon certiorari
21 or certification as provided in section 1254 of title 28,
22 United States Code. The commencement of proceedings
23 to review an order of the Board issued under this Act shall
24 not operate as a stay of the Board's order unless the court
25 otherwise orders.

1 SEC. 11. PENALTIES.—(a) If, after notice and oppor-
2 tunity for hearing, the Board finds that a bank holding com-
3 pany has willfully violated any of the provisions of this
4 Act, or of any rules, regulations, or orders of the Board
5 issued pursuant thereto, or has knowingly permitted or as-
6 sented to or participated in any such violation by any
7 subsidiary, the Board may issue an order, effective for such
8 period as may be fixed by the order and containing any one
9 or more of the following prohibitions: (i) That such bank
10 holding company shall not pay any salary or other remuneration
11 to any officer or director of the company found by the
12 Board to have willfully participated in such violation or
13 violations and who was made a party to such hearing by
14 the Board; (ii) that no subsidiary bank of such bank
15 holding company shall pay dividends on shares owned by
16 such bank holding company or pay or become liable to pay
17 to such bank holding company or any of its subsidiaries
18 any service, management, or similar charges or fees, or
19 render any specified benefit; and (iii) that such bank
20 holding company shall not directly or indirectly vote the
21 shares owned by it or otherwise participate in the manage-
22 ment or control of any subsidiary bank.

23 (b) Any person who willfully violates any provision of
24 this Act or any rule, regulation, or order issued by the Board
25 pursuant thereto shall upon conviction be fined not more

1 than \$10,000 or imprisoned not more than two years, or
2 both. Every officer, director, agent, and employee of a bank
3 holding company shall be subject to the same penalties
4 for false entries in any book, report, or statement of such
5 bank holding company as are applicable to officers, directors,
6 agents, and employees of member banks for false entries
7 in any books, reports, or statements of member banks under
8 section 1005 of title 18, United States Code.

9 SEC. 12. TECHNICAL AMENDMENTS.—(a) The last
10 sentence of the sixteenth paragraph of section 4 of the
11 Federal Reserve Act, as amended, is amended by striking
12 out all of the language therein which follows the colon and
13 by inserting in lieu thereof the following: “*Provided, That*
14 whenever any member banks within the same Federal
15 Reserve district are subsidiaries of the same bank holding
16 company within the meaning of the Bank Holding Company
17 Act of 1949, participation in any such nomination or elec-
18 tion by such member banks, including such bank holding
19 company if it is also a member bank, shall be confined to
20 one of such banks, which may be designated for the purpose
21 by such bank holding company.”

22 (b) (1) The eighteenth paragraph of section 9 of
23 the Federal Reserve Act is amended by striking out the
24 last sentence of such paragraph.

1 (2) The twenty-first paragraph of section 9 of the
2 Federal Reserve Act is repealed.

3 (c) Subsection (c) of section 2 of the Banking Act
4 of 1933, as amended, is repealed.

5 (d) Section 5144 of the Revised Statutes, as amended,
6 is amended to read as follows:

7 “SEC. 5144. In all elections of directors, each share-
8 holder shall have the right to vote the number of shares
9 owned by him for as many persons as there are directors
10 to be elected, or to cumulate such shares and give one candi-
11 date as many votes as the number of directors multiplied by
12 the number of his shares shall equal, or to distribute them
13 on the same principle among as many candidates as he shall
14 think fit; and in deciding all other questions at meetings of
15 shareholders, each shareholder shall be entitled to one vote
16 on each share of stock held by him; except that (1) this
17 shall not be construed as limiting the voting rights of holders
18 of preferred stock under the terms and provisions of articles
19 of association, or amendments thereto, adopted pursuant to
20 the provisions of section 302 (a) of the Emergency Banking
21 and Bank Conservation Act, approved March 9, 1933, as
22 amended; (2) in the election of directors, shares of its own
23 stock held by a national bank as sole trustee, whether regis-
24 tered in its own name as such trustee or in the name of its
25 nominee, shall not be voted by the registered owner unless

1 under the terms of the trust the manner in which such shares
2 shall be voted may be determined by a donor or beneficiary
3 of the trust and unless such donor or beneficiary actually
4 directs how such shares shall be voted; and (3) shares of
5 its own stock held by a national bank and one or more per-
6 sons as trustees may be voted by such other person or
7 persons, as trustees, in the same manner as if he or they were
8 the sole trustee. Shareholders may vote by proxies duly
9 authorized in writing; but no officer, clerk, teller, or book-
10 keeper of such bank shall act as proxy; and no shareholder
11 whose liability is past due and unpaid shall be allowed to
12 vote. Whenever shares of stock cannot be voted by reason
13 of being held by the bank as sole trustee, such shares shall
14 be excluded in determining whether matters voted upon
15 by the shareholders were adopted by the requisite percentage
16 of shares.”

17 (e) The second paragraph of section 5211 of the Re-
18 vised Statutes is amended by striking out the second sen-
19 tence of such paragraph.

20 (f) (1) Subsection (d) of section 26 of the Internal
21 Revenue Code, as amended, is amended to read as follows:

22 “(d) BANK HOLDING COMPANIES.—In the case of a
23 bank holding company (as defined in the Bank Holding
24 Company Act of 1949), the amount of the earnings or
25 profits which the Board of Governors of the Federal Reserve

1 System certifies to the Commissioner has been devoted by
 2 such company during the taxable year to the acquisition
 3 of readily marketable assets in compliance with section 8
 4 of the Bank Holding Company Act of 1949. The aggregate
 5 of the credits allowable under this subsection for all taxable
 6 years shall not exceed the amount required to be devoted
 7 under such section 8 to such purposes, and the amount
 8 of the credit for any taxable year shall not exceed the
 9 adjusted net income for such year.”

10 (2) Subdivision (3) of subsection (b) of section 27
 11 of the Internal Revenue Code, as amended, is amended to
 12 read as follows:

13 “(3) The bank holding company credit provided in
 14 section 26 (d).”

15 (3) Section 112 (b) of the Internal Revenue Code
 16 is amended by inserting at the end thereof the following:

17 “(11) DISTRIBUTIONS AND EXCHANGES PURSU-
 18 ANT TO BANK HOLDING COMPANY ACT OF 1949.—

19 “(A) Distributions.—In the case of a distribu-
 20 tion of property not permitted to be owned by a
 21 bank holding company under the provisions of sec-
 22 tion 4 of the Bank Holding Company Act of 1949,
 23 held by a bank holding company on the date of
 24 enactment of such Act or thereafter legally acquired
 25 pursuant to such Act, made pursuant to an order

1 of the Board of Governors of the Federal Reserve
2 System authorizing, approving or directing such
3 distribution as effectuating the policy of the Bank
4 Holding Company Act of 1949, to a shareholder in
5 such bank holding company as defined in such Act,
6 without the surrender by such shareholder of stock
7 or securities in such company, no gain to the dis-
8 tributee shall be recognized.

9 “(B) Exchanges.—No gain or loss shall be
10 recognized if a bank holding company, pursuant to
11 an order of the Board of Governors of the Federal
12 Reserve System authorizing, approving or directing
13 such exchange as effectuating the policy of the Bank
14 Holding Company Act of 1949, transfers property
15 not permitted to be owned by a bank holding com-
16 pany under the provisions of section 4 of such Act,
17 to a corporation organized to receive such property
18 solely in exchange for all of the stock of such
19 transferee corporation and such stock is distributed
20 forthwith in a distribution subject to the provisions
21 of subparagraph (A).

22 “(C) Application of Subparagraphs (A) and
23 (B).—The provisions of subparagraphs (A) and
24 (B) of this paragraph shall not apply unless the
25 Board of Governors of the Federal Reserve System

1 shall certify that such distribution or exchange was
2 of property not permitted to be owned under the
3 provisions of section 4 of the Bank Holding Com-
4 pany Act of 1949 and was necessary or appropriate
5 to effectuate the provisions of such Act. In such
6 certification, the Board of Governors of the Federal
7 Reserve System shall specify and itemize the stock,
8 securities or other property so distributed or
9 exchanged.”

10 (4) Section 113 (a) of the Internal Revenue Code is
11 amended by inserting at the end thereof the following:

12 “(23) PROPERTY ACQUIRED IN DISTRIBUTION
13 PURSUANT TO BANK HOLDING COMPANY ACT OF
14 1949.—

15 “(a) If property other than stock or securities is
16 acquired in a distribution subject to the provisions of
17 section 112 (b) (11), then the basis of such property
18 shall be the same as it would be in the hands of the
19 company distributing such property; and an amount
20 equal to the adjusted basis which such property had in
21 the hands of such distributing company at the time of
22 such distribution shall be applied against and reduce the
23 adjusted basis of the stock in respect of which the dis-
24 tribution was made, and if in excess of such basis, such

1 excess shall be taxable in the same manner as a gain
2 from the sale or exchange of property.

3 “(b) If stock or securities is acquired in a dis-
4 tribution subject to the provisions of section 112 (b)
5 (11), then the basis in the case of the stock in respect
6 of which the distribution was made shall be apportioned,
7 under regulations prescribed by the Commissioner with
8 the approval of the Secretary, between such stock and
9 the stock or securities acquired in such distribution.

10 “(c) Where stock or securities and property other
11 than stock or securities are acquired in a distribution
12 subject to the provisions of section 112 (b) (11),
13 subparagraph (a) of this paragraph shall be applied
14 before subparagraph (b).

15 “(d) If stock is acquired by a bank holding com-
16 pany in an exchange subject to the provisions of section
17 112 (b) (11) (B), then the basis of such stock shall be
18 the same as in the case of the property exchanged; and
19 when, in a distribution subject to the provisions of
20 section 112 (b) (11) (A), such stock is acquired by
21 a distributee of such company, then the basis shall
22 be determined as though the stock were property other
23 than stock or securities.

24 “(e) If property is acquired by a corporation in a
25 transfer from a bank holding company subject to the

1 provisions of section 112 (b) (11) (B), then the
2 basis of such property shall be the same as it would
3 be in the hands of such bank holding company.”

4 (g) (1) Paragraph 4 of subsection (c) of section 3
5 of the Investment Company Act of 1940 is amended to
6 read as follows:

7 “(4) Any bank holding company which is registered
8 with the Board of Governors of the Federal Reserve System
9 pursuant to the Bank Holding Company Act of 1949, or
10 any banking subsidiary or any other subsidiary thereof which
11 is exempt from section 4 by reason of the provisions of sub-
12 section (b) thereof as defined in said Act.”

13 (2) Paragraph (11) of subsection (a) of section 202
14 of the Investment Advisers Act of 1940 is amended by
15 changing the words “or any holding company affiliate, as
16 defined in the Banking Act of 1933” to read “or any bank
17 holding company, as defined in the Bank Holding Company
18 Act of 1949, or any banking subsidiary or any other sub-
19 sidiary thereof which is exempt from section 4 by reason of
20 the provisions of subsection (b) thereof as defined in said
21 Act”.

22 (h) Subsection (b) of section 2 of the Banking Act
23 of 1933, as amended, is amended by adding the following
24 paragraphs:

1 “(4) which owns or controls, directly or indirectly,
2 either a majority of the shares of capital stock of a mem-
3 ber bank or more than 50 per centum of the number
4 of shares voted for the election of directors of any one
5 bank at the preceding election, or controls in any manner
6 the election of a majority of the directors of any one
7 bank; or

8 “(5) for the benefit of whose shareholders or mem-
9 bers all or substantially all of the capital stock of a mem-
10 ber bank is held by trustees.”

11 SEC. 13. RESERVATION OF RIGHTS TO STATES.—The
12 enactment by Congress of the Bank Holding Company Act
13 of 1949 shall not be construed as preventing any State, to
14 an extent not inconsistent with this Act, from exercising the
15 same power and jurisdiction which it now has with respect
16 to banks, bank holding companies and subsidiaries thereof.

17 SEC. 14. SEPARABILITY OF PROVISIONS.—If any pro-
18 vision of this Act, or the application of such provision to any
19 person or circumstance, shall be held invalid, the remainder
20 of the Act, and the application of such provision to persons
21 or circumstances other than those to which it is held invalid,
22 shall not be affected thereby.

81st CONGRESS
1st Session

S. 2318

A BILL

To provide for control and regulation of bank
holding companies, and for other purposes.

By Mr. ROBERTSON and Mr. MAYBANK

JULY 22 (legislative day, JUNE 2), 1949

Read twice and referred to the Committee on
Banking and Currency