

UNITED STATES OF AMERICA  
BEFORE THE  
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

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In the Matter of: :  
TRANSAMERICA CORPORATION :  
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PROPOSED FINDINGS AND CONCLUSIONS  
SUBMITTED TO HEARING OFFICER  
EVANS ON BEHALF OF  
RESPONDENT,

TRANSAMERICA CORPORATION

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Pursuant to Section 8(b) of the Administrative Procedure Act [5 U.S.C. § 1007(b)] and the Rules of Procedure of the Board of Governors of the Federal Reserve System issued pursuant to that Act, Respondent respectfully requests the Hearing Officer to find each and every one of the facts and conclusions set forth herein.

I.

TRANSAMERICA'S ORGANIZATION AND INVESTMENTS

1. Transamerica Corporation (hereafter called Transamerica) is a corporation organized in October, 1928, and existing under the laws of the State of Delaware, with an office and principal place of business at 4 Columbus Avenue, San Francisco, California. No bank is located in its premises and no banking business is transacted there.

[Bd. Ex. 3; Tr. 1768] \*/

2. As of December 31, 1950, Transamerica had 9,859,350 shares outstanding. It had approximately 140,000 shareholders, no one of whom owned as much as 1% of the outstanding stock, which is listed and traded actively on the New York, San Francisco and Los Angeles stock exchanges.

[Bd. Ex. 3W, R. Ex. 387-389; Tr. 4226]

3. Transamerica is engaged in the business of buying and holding for investment stock in various corporations including banks, insurance companies, and industrial enterprises of various kinds. In some cases it owns a majority of the voting stock of a corporation and in others it owns only a minority interest.

[Bd. Ex. 3; Tr. 4204-05]

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\*/ Throughout these Proposed Findings and Conclusions, Board Exhibits are referred to as Bd. Ex.; Respondent's Exhibits are referred to as R. Ex.; and the Transcript of the Record is referred to as Tr.

4. Transamerica has bought and owned stock in companies doing business in various parts of the United States and has not limited its activities to any area of the United States or to the purchase of stocks of corporations engaged in any particular type of business.

[Bd. Ex. 3]

5. Transamerica has acquired stock interests in banks and other types of corporations, and after holding such stock interests for a time, disposed of them. Since its organization in 1928, Transamerica has held and disposed of stock interests in at least fifty or sixty mercantile and industrial companies.

[Bd. Ex. 3]

6. Transamerica is not an operating company. It has only twenty-three officers and employees. Their sole duties are to determine its investment policy and to administer on behalf of its stockholders such investments as are decided upon.

[Tr. 4204, 4207-10]

7. No officer or employee of Transamerica is engaged in the management or operation of any of the enterprises in which Transamerica owns stock.

[Tr. 4207-10, 4227-29]

8. Transamerica's interest, activity and responsibility respecting each of the corporations in which it

holds investments are solely and entirely those of a stockholder.

[Bd. Ex. 3; Tr. 4229-30]

9. Transamerica collects no management fee from any bank or corporation in which it owns stock, its sole income from such banks and corporations being in the form of dividends.

[Tr. 4229]

10. Transamerica is not engaged in the "commercial banking" business or in any of the business in which the corporations in which it holds investments are engaged.

[Bd. Ex. 3; Tr. 4204]

11. Each of the corporations in which Transamerica holds investments has its own officers and directors who have sole responsibility for determining its policies and managing its affairs.

[Tr. 228, 4227-28]

12. As of December 31, 1950, Transamerica owned majority stock interests in 47 domestic banks and in 12 active insurance, industrial and commercial corporations. As of that time it also owned minority stock interests in other banks, insurance and industrial corporations.

[Bd. Ex. 3W]

13. In addition to its holdings of bank stock, Transamerica held stock on December 31, 1950, in

corporations engaged in various businesses including the following: acquiring, managing and selling real estate; home financing; underwriting and selling life, health, accident, fire, automobile and marine insurance; catching, buying, processing and selling fish and seafood; manufacturing and selling hydraulic controls, line supports for aircraft, agricultural implements, Diesel engines, non-ferrous and aluminum castings and forgings, malleable iron and steel castings, oil-well equipment and machinery, and other products.

[Bd. Ex. 3W]

14. As of January 31, 1951, 48% of the funds invested by Transamerica in stock was invested in the stock of banks. Of such funds 22% was invested in shares of majority-owned banks. On this date, Transamerica had total assets valued at \$146,000,000.

[R. Ex. 398]

15. Transamerica's largest income-producing investment is the Occidental Life Insurance Company, a life insurance company conducting a nation-wide business. Transamerica owns 100% of the outstanding stock of this company.

[Bd. Ex. 3W]

16. As of December 31, 1950, Transamerica and subsidiaries held majority stock interests of the following

amounts in these and no other banks located in the United States:

(a) California

- (1) Central Bank, Oakland (99.65%)
- (2) First Trust and Savings Bank of Pasadena (98.06%)
- (3) First National Bank in Santa Ana (98.50%)
- (4) First National Trust and Savings Bank of Santa Barbara (95.85%)
- (5) American Commercial & Savings Bank, Moorpark (90.00%)
- (6) Bank of Beaumont (94.00%)
- (7) Bank of Newman (97.18%)
- (8) Bank of Pinole (92.72%)
- (9) Bank of Tehachapi (92.50%)
- (10) Central Bank of Calaveras (92.50%)
- (11) Farmers and Merchants Bank of Watts (97.50%)
- (12) First National Bank in Corcoran (90.00%)
- (13) First National Bank in Delano (95.33%)
- (14) First National Bank in Turlock (89.87%)
- (15) First National Bank of Bellflower (95.00%)
- (16) First National Bank of Crows Landing (89.60%)
- (17) First National Bank of Fairfield (90.00%)
- (18) First National Bank of Garden Grove (90.00%)
- (19) First National Bank of Los Altos (87.20%)
- (20) First National Bank of Mountain View (75.63%)
- (21) First National Bank of Oakdale (93.00%)
- (22) First National Bank of San Jacinto (87.60%)
- (23) First National Bank of Weed (90.00%)
- (24) First Savings Bank of San Jacinto (87.60%)
- (25) Stanislaus County Bank (97.08%)
- (26) Temple City National Bank of Temple City (95.00%)

(b) Oregon

- (1) First National Bank of Portland (68.60%)
- (2) First National Bank of Eugene (97.80%)
- (3) Bank of Sweet Home (97.50%)
- (4) Benton County State Bank (97.33%)
- (5) Carlton State & Savings Bank (90.00%)
- (6) Clatsop County Bank (97.00%)
- (7) Coolidge and McClaine (98.13%)
- (8) First National Bank of Cottage Grove (90.00%)
- (9) First National Bank of Forest Grove (90.00%)
- (10) First National Bank of Lebanon (97.33%)
- (11) First National Bank of Prineville (90.00%)



- (12) Monroe State Bank (91.67%)
- (13) Moreland-Sellwood Bank (97.00%)
- (14) Scio State Bank (95.00%)
- (15) State Bank of Malheur County (94.60%)
- (16) Yamhill State Bank (90.00%)

(c) Nevada

- (1) First National Bank of Nevada (99.17%)
- (2) Bank of Nevada (70.00%)
- (3) Farmers' Bank of Carson Valley, Inc. (88.00%)

(d) Arizona

- (1) First National Bank of Arizona (80.23%)

(e) Washington

- (1) National Bank of Washington (62.33%)

[Bd. Ex. 3W]

17. In addition to the stock it owns in the banks listed in Finding No. 16, Transamerica now owns minority interests in the stock of various banks. The most substantial minority investments at the present time are:

- (a) Citizens National Trust and Savings Bank of Los Angeles (23.5%)
- (b) Bank of America National Trust and Savings Association (7.66%)
- (c) National City Bank of New York (7.2%)

[Bd. Ex. 3W]

18. During the period from December 31, 1931, through December 31, 1949, Transamerica's investments in the stocks of banks located in California, Oregon, Washington, Arizona and Nevada banks have declined from approximately

\$118,000,000 to approximately \$61,000,000 through reduction in the amount of bank stocks owned by it.

[R. Ex. 363]

19. Transamerica's purchases of bank stocks have been solely for investment. They have been consistent with and in furtherance of its investment policy and have been entered into solely as desirable investments for its stockholders.

[Bd. Ex. 3; Tr. 4241, 4245]

20. Transamerica's bank investment policy has, among other things, favored investments in branch banks or institutions that complement branch banks in which Transamerica already has invested, thereby enhancing the value of prior investments.

[Bd. Ex. 3; Tr. 4244-48,  
10658-61]

21. This policy has been based upon the experience and judgment of its officers and directors that branch banks are desirable and profitable bank investments.

[Bd. Ex. 3; Tr. 10658, 10660]

22. Transamerica has rejected numerous opportunities to make bank investments because the banks under consideration did not lend themselves properly to the enhancement in value of the branch banks in which it held

investments and were not attractively priced for additional investments

[Tr. 10659-60, 10828-40]

23. Transamerica has no plans for the purchase of any additional bank stock at present. It has no "goal" or "objective" with respect to future acquisitions and would consider purchasing stock of a bank offered to it only if it were a good buy and fitted into its investment program.

[Tr. 4254]

24. Transamerica's investments in banks have been profitable.

[Bd. Ex. 3; Tr. 4248-49]

25. Transamerica is not a bank, banking association or trust company, and is not authorized to engage in the banking business.

[Bd. Ex. 3; Tr. 87]

II.

THE ORGANIZATION OF THE BANK OF AMERICA AND  
TRANSAMERICA'S RELATIONS WITH THE BANK

26. In 1904, Mr. A. P. Giannini organized the Bank of Italy to conduct a banking business in the State of California. In 1919 this bank was one of the first state banks to join the Federal Reserve System. In 1927, it was one of the first state banks to be converted into a national banking association under the provisions of the McFadden Act which authorized national banks to maintain their existing branches and those of predecessor banks. Its name was at that time changed to Bank of Italy National Trust and Savings Association. In 1930, Bank of Italy N.T. & S.A. and Bank of America of California were consolidated, the resulting bank continuing under Bank of Italy N.T. & S.A.'s national charter and the name of Bank of America National Trust and Savings Association. Mr. A. P. Giannini, except for a short period of retirement, was a senior officer of Bank of Italy, Bank of Italy N.T. & S.A. and Bank of America N.T. & S.A., from 1904 until his death on June 3, 1949, serving without compensation after he returned from retirement in 1932. He formulated the policies which guided the development and growth of Bank of Italy and its successors (hereafter referred to as Bank of America).

[R. Ex. 71, 72, 255, 392;  
Tr. 195-98, 10455-57, 11747-48]

27. Bank of America is a national banking association situated in California and operating under the National Bank Act and under the supervision of the Comptroller of the Currency. Its principal executive offices are at 300 Montgomery Street, San Francisco, California, and it has 526 branches within the State of California. The Bank also operates branches in Siam, London, Manila, Tokyo, Kobe and Yokahama, and has representatives with offices in New York, Paris, Milan and Zurich.

[R. Ex. 255]

28. As of December 31, 1950, Bank of America had over 4,300,000 separate deposit accounts. Total capital funds of the Bank at that time were approximately \$400,000,000, exclusive of a reserve of \$47,000,000 for possible future loan losses.

[R. Ex. 255]

29. Bank of America had deposit liabilities as follows, as of December 31, 1948:

To Individuals, Partnerships and Corporations	
Demand	\$2,313,000,000
Time	2,293,000,000
To Governments - Federal, State and Local	648,000,000
To Other Banks	162,000,000
To Others (Certified and Cashiers Checks, etc.)	<u>153,000,000</u>
Total Deposit Liabilities	<u><u>\$5,569,000,000</u></u>

[R. Ex. 266]

30. Transamerica was organized in 1928 by stockholders of Bank of Italy N.T. & S.A. for the purpose of removing the outstanding shares of that Bank, which had then been in existence for 24 years, from stock exchange listing in order to eliminate direct speculation which had caused wide fluctuations in the price of its shares and injured the reputation of the Bank. Thus, in 1928, upon the organization of Transamerica, the holders of 99.65% of the stock of Bank of Italy N.T. & S.A. exchanged their stock for stock of Transamerica. Mr. A. P. Giannini served as Chairman of the Board of Directors of Transamerica and without any compensation from 1932 when he returned from retirement until his death on June 3, 1949.

[Bd. Ex. 3, R. Ex. 390, 392;  
Tr. 223-25, 10586-88, 11747-48]

31. On July 30, 1937, Transamerica distributed to its shareholders about 58% of the Bank of America stock which it held. This distribution was made, among other reasons, because the market for bank stock had become stable and the reason for the shelter which Transamerica had provided for Bank of America stock no longer existed. In addition, Transamerica desired to reduce the extent to which its assets were concentrated in a single investment, and was concerned over the financial burdens which might be imposed

upon it in the future should Bank of America desire to increase its capital. Transamerica was also concerned over the long delay of four years experienced in obtaining a voting permit for the stock of Bank of America, First National Bank of Portland and First National Bank of Nevada. Bank of America at the same time felt that its affiliation with a holding company through stock ownership made it responsible to at least three governmental authorities, the Comptroller of the Currency and, through Transamerica, the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System (hereafter referred to as the Board) and that it should be responsible only to the Comptroller. Thus, the stock distribution was thought to be advantageous to both Transamerica and Bank of America.

[R. Ex. 351; Tr. 10597-98,  
10601-05]

32. Since the July 30, 1937, distribution, Transamerica has continued to reduce its holdings of Bank of America's stock through sales in the market, or exchanges. Its holdings of the outstanding voting stock at year-end dates by two-year periods were as follows:

1938	41.17
1940	36.53
1942	25.05
1944	23.84
1946	22.32
1948	22.88

[Bd. Ex. 21, 225; Tr. 10637-  
39]

33. In October, 1949, Transamerica sold to the general public through an underwriting syndicate of about 200 brokers and dealers doing business throughout the United States approximately half of its remaining Bank of America stock, thereby reducing its holdings to about 11%

[R. Ex. 359; Tr. 10638-39]

34. On January 31, 1951, Transamerica issued a dividend consisting of shares of Bank of America stock, reducing its present holdings to 1,838,850 shares which constitute but 7.66% of the Bank of America stock outstanding.

[R. Ex. 393]

35. There is no substantial degree of identity between the shareholders of Transamerica and the shareholders of Bank of America either as to shareholders or as to amounts held.

[Tr. 4516-17, 10622]

36. Bank of America has 24,000,000 shares of stock outstanding. Its securities are traded in the over-the-counter securities market and have been heavily traded since 1937. Shares have been sold in large amounts through brokers and dealers throughout the country. As of August 31, 1950, the Bank had 180,575 shareholders.

[R. Ex. 337A, 366-368; Tr. 11845-48, 11885-87, 11890-93]



37. During the period from January 1, 1937, to October 31, 1950, a total of 14,856,687 shares of Transamerica's stock were traded on the New York, San Francisco and Los Angeles stock exchanges, as follows:

New York Stock Exchange	-	6,067,700 shares
San Francisco Stock Exchange	-	6,207,878 shares
Los Angeles Stock Exchange	-	2,581,109 shares

[R. Ex. 387-389]

38. Transamerica has exercised no influence on Bank of America through the proxy machinery of the Bank. The Proxy Committee of the Bank is selected by its Board of Directors. Transamerica has never participated, directly or indirectly, in the selection of the Proxy Committee.

[Tr. 10639-41]

39. Bank of America has 25 directors, all of whom participate actively in directing the affairs of Bank of America. Of this number, 8 have been selected from the management of the Bank and the remaining 17 have been chosen as persons of stature and judgment in the various businesses in which they are engaged.

[R. Ex. 255; Tr. 10690-98,  
12858-59]

40. There was no change in the Board of Directors of Bank of America in 1928 when Transamerica was organized and received the Bank's stock. Of the Bank of America's

present Board of 25 directors, 5 were elected prior to 1928, 6 between 1928 and 1937, and 14 since 1937.

[Bd. Ex. 26, 291; Tr. 3794-95, 10642-43, 12858-59]

41. Transamerica has never suggested the name of any director of Bank of America, nor have its views been sought in the election of directors.

[Tr. 10698-99]

42. Transamerica and Bank of America have but a single common director, Mr. L. M. Giannini, President of Bank of America, who was a member of the Board of the Bank long prior to the organization of Transamerica and who is not in any sense a representative of Transamerica on the Board of Bank of America. Mr. L. M. Giannini does not control Transamerica directly or indirectly, and his sole connection with Transamerica is as a director. In this capacity he occasionally attends directors' meetings and infrequently gives advice when requested. He plays no part in the active management of Transamerica.

[Tr. 4254-57, 10579-83, 10652-57, 10687]

43. The total stockholdings of Mr. L. M. Giannini, his wife, his children, his sister, his father's estate and of all trusts of which he is a beneficiary and of all other stockholdings over which he has voting control,

amount to less than 2/10ths of 1% of Bank of America's voting stock and 3/10ths of 1% of Transamerica's voting stock.

[Tr. 10657-58]

44. The policies and operations of Bank of America have always been determined and executed by its officers and directors wholly independently of Transamerica.

[Tr. 5577-78, 5736-39, 9872-73,  
10616-17]

45. Transamerica has never participated in the direction of any of Bank of America's affairs or determination of Bank of America's policies, other than to vote its stock at the annual stockholders' meetings.

[Tr. 4232-33, 10616-17, 10655-56]

46. Transamerica has never, through its stockholdings or otherwise, sought to participate in the operation of Bank of America or to impose policies upon Bank of America or its officers or directors or to interfere in the conduct of the Bank's business.

[Tr. 4232-33, 5577-78, 5736-39,  
9872-73, 10616-17, 10655-56]

47. None of the officers or directors of the Bank of America has ever received directions or suggestions from Transamerica or its officers or directors as to the operation or management of the Bank's business.

[Tr. 5577-78, 5736-39, 6419, 8789-  
90, 9834-38, 9872-73, 9969-71,  
10118-20, 10415-16]

48. Bank of America makes no reports whatsoever to Transamerica, except those which are made to all shareholders.

[Tr. 4233]

49. Bank of America establishes its own interest rates, lending, investment, and other operating policies without consultation with Transamerica and wholly independently of the rates and policies adopted by any Transamerica majority-owned bank.

[Tr. 5577-78, 5736-39, 8774-75,  
9772-24, 9764-65, 9872-73,  
10126-27, 10140-41, 10632]

50. The growth of Bank of America and in particular its establishment of branches has at all times been carried out without direction from or consultation with Transamerica and without consideration of the effect of such growth or branches upon banks in which Transamerica has a majority stock interest.

[Tr. 4531, 10616]

51. The relations of Bank of America with banks in which Transamerica owns a majority stock interest do not differ in any way from the Bank's relations with other banks in which Transamerica has no interest whatsoever.

[Tr. 3116-18, 3252-54,  
10628-31, 10647-48]

52. Transamerica has never made any effort to direct or suggest that Bank of America refrain from competing with other banks in which Transamerica has an investment.

[Tr. 4232-33, 5577-78, 5736-39,  
9872-73, 10616-17, 10655-56]

53. All business dealings between Bank of America and Transamerica and between Bank of America and Transamerica's majority-owned banks and companies, have, since 1937, been brought about solely by business considerations and have been negotiated as to terms and conditions on an arms-length basis. All business dealings which were originated before 1937 and continued after 1937 were reexamined and, in the few instances where it was necessary, were renegotiated as to terms and conditions on an arms-length basis.

[R. Ex. 385; Tr. 10619-31,  
10636-37, 12791-93]

54. Transamerica does not directly or indirectly, by voting stock or otherwise, control or exercise a controlling influence upon Bank of America.

55. Transamerica has not attempted, directly or indirectly, by voting stock or otherwise, to control or exercise a controlling influence upon Bank of America.

56. Transamerica has neither the power to control Bank of America nor the power to exercise a controlling influence upon Bank of America.

57. Transamerica has never used the stock owned by it in Bank of America or in any other bank in an attempt to bring about any lessening of competition between any such bank and Bank of America, to restrain commerce, or to create a monopoly of any line of commerce.

III

THE GROWTH AND DEVELOPMENT  
OF THE BANK OF AMERICA

58. Starting with a single de novo banking office, \$150,000 of capital and no deposit liabilities in 1904, Bank of America (then Bank of Italy) has steadily grown. By 1950, it operated 526 branches in over 300 California communities, had won the patronage of over 4,000,000 depositors, had made, in that year, about 2,470,000 loans, and had more than 180,000 stockholders.

[ R. Ex. 76G, 255]

59. Since 1904, the controlling and dominant purpose of Mr. A. P. Giannini and those associated with him in the management of Bank of America has been to create and develop a branch bank in California, equipped to provide on the most efficient basis possible maximum service for borrowers, depositors and others dealing with the bank, with particular emphasis upon the needs and problems of the small borrower and small depositor. The successful achievement of these purposes has been the principal reason for the size and growth of Bank of America.

[ R. Ex. 255, 274-277; Tr. 197-98,  
5534-36, 6328, 9772, 9820,  
10538, 10551-52]

60. Bank of America has pioneered the development of branch banking in the United States.

[Tr. 10474-75]

61. As early as 1919, Bank of Italy agreed to become a member of the Federal Reserve System, but only after it had set forth to the Federal Reserve officials its plan to develop a branch bank, in accordance with which it intended to establish branches in the premises of banks whose assets might be acquired whenever a desirable opportunity presented itself, and had received explicit assurances that branch banking was approved and that its plan of growth would be appraised solely on the basis of its financial soundness.

[R. Ex. 13-15]

62. Bank of America's objective in establishing branches has been and is to develop a statewide branch bank that is able to render a constructive service to customers of the Bank, to the State of California and to the nation, and that will operate profitably in the interest of the stockholders and of the general economy.

[Tr. 10,538]

63. Bank of America's management foresaw, and experience has proved, the ability through branch banking of:



- (a) Offering a greater variety of services to more persons, through
  - (1) Ability to serve small communities which could not support a unit bank (30% of Bank of America's branches are in one-bank towns which carry only 10% of the Bank's deposit liabilities),
  - (2) Ability to make large loans to corporate and municipal borrowers because of the larger lending limit conferred by greater resources,
  - (3) Ability to render a greater variety of services than a unit bank.
- (b) Attaining efficiency of operation, through
  - (1) Specialization of personnel,
  - (2) Ability to pay better-trained personnel,
  - (3) Ability to employ experts,
  - (4) Smaller overhead proportionate to size of operations.
- (c) Attaining greater safety of deposits, through
  - (1) Ability to diversify loans,
  - (2) Flexibility in investments.
- (d) Offering general benefits for the public, through

- (1) Greater mobility of funds, through ability to use surplus deposits of some branches in other branches where loans are needed,
- (2) Independence of western business and industry of Wall Street banks, through ability of a western bank, interested in western development, to finance large business and industrial developments.

[ R. Ex. 112, 150, 255; Tr. 85,  
197-200, 824-25, 828, 2578,  
2765-67, 5692-96, 5724-30,  
6027, 6216-29, 6235, 6237,  
6246, 6295-97, 8396, 9226-  
52, 9582-91, 9847-49, 10463-  
68, 10518-21, 10561-64 ]

64. A branch bank can provide better service and achieve greater mobility of funds and diversification of risk as the area in which it is represented is broadened and the number and convenient distribution of the locations at which the public has direct personal access to its facilities are increased; and it was to attain these objectives that Bank of America sought, under federal and state law and regulation, to establish a state-wide branch bank.

[ R. Ex. 76; Tr. 9847, 10472-73 ]

65. Bank of America followed logical business methods in the establishment of branches throughout the State.

Starting first in San Francisco, shortly thereafter in San Jose, then in Los Angeles, and subsequently at other major communities located throughout the State, it established principal branches and from those central locations branched out into neighboring community centers with a view to operating branches at any point in the State where the volume of banking business -- existing or potential -- was considered sufficient to justify the operation of a branch. In determining localities where branches should be located when an opportunity was presented, Bank of America depended largely upon the advice of its officers and directors most familiar with the area to be served and made careful surveys before establishing new branches.

[ R. Ex. 75, 76; Tr. 5697-5701,  
10485-92]

66. Prior to the establishment of a branch and in reviewing the progress and status of existing branches, the management of Bank of America collected data from public records and public officials of each community under consideration, inspected and surveyed the community and its buildings, residences, businesses and economy. After obtaining that information, the management considered the following factors, among others:

- (1) The potential business available for all types of financial institutions including

banks, insurance companies, government depositories and lending agencies, savings and loan associations and small loan companies;

- (2) The amount of existing and potential competition from the organizations listed in sub-paragraph (1);
- (3) The economy and business of the local area, its age and prospects for growth and development;
- (4) The local physical characteristics such as climate, soil, natural resources, topography and transportation facilities.
- (5) The local population, its make-up, sources of income and background.

[Tr. 4763, 4765-71]

67. The development of branches by the Bank of America system in and around Sacramento, California, illustrates the typical policies and procedures followed by the Bank in providing banking services to a growing community. Starting with one branch in the center of the community, Bank of America increased the number of branches as the population and industrial requirements of the community grew, in order to provide banking services in close proximity to each new community center, and diversified

its business and services to meet the requirements of the area. After solicitation by business and community interests in Sacramento, the California Superintendent of Banks was prevailed upon to make an exception to the de novo rule and grant Bank of America permission to establish its first branch, a de novo, in the business section of the city. With the growth of Sacramento and the development of agriculture in the Sacramental River Valley, the city grew and Bank of America then established additional branches by acquiring the assets of certain banks. After the depletion of banking facilities in the city by failures in the 1930's and the rapid recovery and development during World War II, additional banking offices were needed. In the postwar period, Bank of America's management surveyed the entire area in the manner stated in Finding No. 66 and determined that three new branches were needed in satellite and neighborhood-business districts. It also determined that much of the business concentrated in and overloading its existing branches could be dispersed by establishing offices where the people lived and shopped. Therefore, Bank of America, after obtaining approval, established three additional de novo branches.

[ R. Ex. 187; Tr. 5427-67 ]

68. The branch offices maintained by Bank of America vary in size and physical characteristics depending

upon the needs of each particular community and area served. Except in major industrial communities, Bank of America has not as a business matter seen fit to conduct its business from monumental banking buildings of the traditional type, and in many cases has rented ordinary store space and conducted banking from the premises without needless and undue investments in fixed assets.

[ Tr. 10567-69]

69. The State of California was particularly suitable for the establishment of a state-wide branch bank because of its geographic characteristics, its wealth and diversity of resources, its growing and widely diversified industrial and agricultural activity, the fluctuations which take place in the economic well-being of various areas of the State, and the desirability of establishing for that State a banking institution of sufficient skills and resources so that it would not be dependent upon eastern financial institutions.

[ R. Ex. 398; Tr. 6219, 6225,  
6297, 9847, 10520]

70. The State of California is about 800 miles long and has an average width of about 250 miles, containing about 158,000 square miles. Its average temperatures vary from freezing to tropical. Large areas are mountainous, others are desert. Other vast areas are devoted to highly

commercialized agriculture, producing a range of crops from semi-tropical fruits to truck garden vegetables. Other extractive and basic food production includes oil, minerals, beef, dairy products, fish and lumber. All of this production has developed rapidly during the life span of Bank of America and in every area of the State.

[ R. Ex. 398]

71. The influx of population caused by the development of the extractive industries has resulted in part in the development of widely diversified manufacturing industries such as steel mills, aluminum production, airplane manufacture, shipbuilding, clothing and furniture manufacturing, heavy equipment manufacturing of all kinds, household equipment manufacture and local assembly plants of products manufactured in the eastern states. This manufacturing development has been state-wide and has been increasing.

[ R. Ex. 398]

72. During the period of the growth of Bank of America the population and economic activity of California have been expanding at a rapid rate and the Bank's growth has been directly responsive to such expansion, which has been of the following magnitude:

	<u>1929</u>	<u>1948</u>	<u>Rate of Growth</u>
Population (thousands)	5,677	10,354	82%
Income Payment to Individuals (millions)	\$5,217	\$17,099	170
Retail Sales (millions)	\$3,143	\$11,697	272
Manufacturing Employment (thousands of workers)	263.0	489.2	86
Manufacturing Wage Payments (millions)	\$ 374.1	\$ 1,409	277
New Construction (millions)	\$ 667.3*	\$2,492.1	273

\* / As of 1939

[ R. Ex. 293]

73. The growth, success, and present size of Bank of America are attributable in major part to the public response to its better service and aggressive development and merchandising of new financial services and techniques and only in small part to its acquisition of the assets of other banking institutions.

[ Tr. 5717-18, 10551-52, 10559-61]

74. The increase in the deposit liabilities and loans of Bank of America has resulted in large part from additional and improved bank services, which were brought to the attention of the public by advertising. These services were of the following character: During 1950 over one and one-half million installment credit and consumer finance loans were made to individuals and business



enterprises -- a class of loan which was not made on an extensive basis by any "commercial bank" prior to about 1936. During the postwar period, Bank of America made over \$600,000,000 of loans under a government-sponsored veterans' assistance program, a type of business which was not sought by other "commercial banks" and lending institutions. The savings deposits of Bank of America have been maintained at a high level by the development of various savings programs and savings clubs, including school savings. The most recent savings program is one wherein a depositor can combine the advantages of a planned savings program with term life insurance. Bank of America has made a substantial part of all of the loans in California in aid of residential construction, and in the development of such loans has emphasized repayment by installments. It has formulated procedures to facilitate making and handling loans to small businesses, and supplementing that service has made available to small businesses advice and economic data collected and analyzed by the Bank's experts. It has established branches at numerous locations convenient to where people live, work and shop. It has developed a full scale foreign banking department, including the issuance of travelers cheques, a service not usually offered by banks, and a full line of trust services available in the smallest branches. It has built up goodwill through prompt, courteous

and efficient service in all phases of the banking business, thereby obtaining satisfied customers.

R. Ex. 255, 273; Tr. 3334, 3430,  
5463, 5481-82, 5495-5502, 5513-  
15, 5520-26, 5535-36, 5566, 5574  
5576, 5707-09, 5711-12, 5718-19,  
8511, 9701-03, 9772, 10551-58,  
10560]

75. The extent to which the growth and present size of Bank of America are attributable to service rendered the small borrower and small depositor is seen from the following figures:

- (a) About 50% of Bank of America's deposit accounts have balances of \$100 or less.
- (b) In a recent year, over 57% of the loans made were of amounts of \$500 or less.
- (c) In 1950, the average of all demand deposit balances of individuals, partnerships, and corporations was \$1,567; for savings deposit accounts the average was \$811.

[R. Ex. 148, 149, 255]

76. The state-wide branch banking system presently operated by Bank of America had by 1928 secured representation in 51 counties, and by 1936 representation in 56 of the 58 counties in California. In the remaining two counties, up to the present time, there are no banking offices of Bank of America or any other bank. A summary

of the counties entered during various periods and total counties containing branches at various times over the period, 1904-1936, is as follows:

	<u>No. Counties Entered</u>	<u>No. Counties Represented</u>
1904-1910	2	2
1911-1915	2	4
1916-1920	11	15
1921-1925	22	37
1926-1928	14	51
1929-1930	1	52
1931-1936	4	56

Similarly, the development of the Bank of America system through entry into the various separate communities in California shows:

	<u>No. Communities Entered</u>	<u>Total No. Communities Entered</u>
1904-1910	2	2
1911-1915	2	4
1916-1920	15	19
1921-1925	78	97
1926-1928	130	227
1929-1930	13	240
1931-1936	54	294
1937-1940	12	306
1941-1948	16	322

[ R. Ex. 75, 76 ]

77. The establishment of branches by Bank of America has been directly related to the distribution of the State's population, and the number of banking offices located in and deposit liabilities attributable to each of the State's major metropolitan areas directly reflect (as of 1947) the relative size and importance of each area in the State's economy:

	<u>Percent of California Population</u>	<u>Percent of Bank of America Deposit Liabilities</u>	<u>Percent of Bank of America Branches</u>
Los Angeles Metro- politan Area	40.1%	35.8%	31.9%
San Francisco Metropolitan Area	21.6	27.9	23.8
San Diego Metro- politan Area	5.6	3.5	4.1
Fresno Metro- politan Area	2.7	3.8	2.8
San Jose Metro- politan Area	2.7	3.0	2.6
Sacramento Metro- politan Area	2.5	3.0	2.0
Bakersfield Metro- politan Area	2.1	1.9	1.4
Stockton Metro- politan Area	2.0	2.2	1.4
Combined Eight Metropolitan Areas	79.4	81.1	69.9
All Other Areas	20.6	18.9	30.1

[ R. Ex. 123, p. 4 ]

78. Once the Bank of America system has obtained adequate facilities through which to offer its services in a community or section, it has not sought further offices in such communities in the absence of population shifts, neighborhood changes, growth of business beyond capacity of existing facilities, or other changes of conditions, and in many communities its share of the banking facilities has either remained constant or declined.

[R. Ex. 75, 82, 249; Tr. 5427-67,  
10462]

79. In 49 communities, the percentage of banking offices of the Bank of America system has declined between some prior year and the present time, and in these communities are located 31% of Bank of America's branches, carrying 45% of its deposit liabilities and 48% of its loans.

[R. Ex. 247]

80. In 93 additional communities, the Bank of America system's percentage of all banking offices in operation has either failed to rise or has risen no more than 1%, and in these communities are located 35% of Bank of America's branches carrying 36% of its deposit liabilities and 39% of its loans.

[R. Ex. 248]

81. In two-thirds of the communities where the percentage of banking offices of the Bank of America system has declined, remained stationary or risen no more than 1%, its previous high percentage was attained by 1937.

[ R. Ex. 249]

82. The extension of its branch banking system in California has been accomplished by Bank of America in part by the establishment of branches at new locations and in part through the acquisition of the assets of existing banks and establishment of branches at their locations -- in each case with the specific approval of the Comptroller of the Currency. None of the Bank's growth has been accomplished by the acquisition of the stock of other banks.

[ R. Ex. 75]

83. Bank of America has never expanded, either by establishment of an office or by acquisition of a bank's assets, with the purpose of preventing a potential competitor from expanding, or merely to increase the Bank's size.

[ Tr. 10462, 10538-39]

84. The acquisition of assets and assumption of liabilities of an existing bank and establishment of a branch in its premises does not guarantee that the deposit liabilities and loans thus obtained will be retained, and it has no bearing whatsoever on the ability of the branch to increase its deposit and loan business after it has been established since a substantial turnover of deposits and loans is customary in the banking business. For example, in the period from 1933 through 1948, approximately one-third of the deposit accounts of Bank of America (including accounts of Bank of America, State Bank) were closed every year and a comparable number of new accounts were opened, thus indicating a 100% turnover in depositors about every three years.

[R. Ex. 183; Tr. 10560-61]

85. From December 31, 1928 to December 31, 1948, the total deposit liabilities of the Bank of America system grew from approximately \$1,068,000,000 to approximately \$5,640,000,000, and during this same period only \$177,000,000 of deposit liabilities were assumed from other institutions, an amount equal to 3.87% of the total increase. In the next two years (1949 and 1950) Bank of America's deposit liabilities grew by an additional \$551,000,000, and this increase did not include any deposit liabilities assumed from any other bank.

[R. Ex. 255; Tr. 4880-81, 7756]

86. The great majority of Bank of America's acquisitions were made necessary by an administrative policy of the California Superintendent of Banks known as the de novo rule, which operated as follows.

a. From the time that state-wide branch banking in California was authorized in 1909 until at least 1927, it was the general policy of the successive Superintendents of Banks not to permit the establishment of branches outside of the city where a bank maintained its head office except by the purchase of the assets of, or merger with, an existing bank. This policy made it impossible for Bank of America to establish branches in communities outside of San Francisco except by acquisition of assets or merger with existing banks. The Bank challenged the legality of this administrative policy but the Superintendent's application of the policy was upheld by the Supreme Court of California in 1926 in the case of Bank of Italy v. Johnson, 200 Cal. 1.

b. After the passage of the McFadden Act in 1927, permitting national banks to engage in branch banking, Bank of Italy became Bank of Italy N.T. & S.A. under a national charter. Under the McFadden Act, de novo branches could not be obtained outside the head office city until 1933 when the Banking Act was amended.

[R. Ex. 219; Tr. 10478-81]



87. Another factor that resulted in many acquisitions was that during the 1920's and 1930's, the period of the great majority of acquisitions, there were an unusually large number of bank failures and a great many more near failures. Many banks had been unwisely organized or improvidently managed and eventually stronger banks were asked to take them over and salvage them as best they could. Such requests were made either by the supervisory authorities or the owners, or in some cases the communities concerned, and were made not only to Bank of America and the larger Transamerica majority-owned banks, but to other strong banks as well. Between 1921 and 1949, due largely to the conditions described above, the number of banks throughout the country declined from more than 30,000 to about 14,000 notwithstanding the tremendous increase in the population and expansion of the economy.

[R. Ex. 75, 90, 94, 98, 99,  
102, 208; Tr. 821-24,  
827-28, 4770-71, 5760-61,  
6625-28, 9588, 10497,  
10547; U. S. Census]

88. A further factor affording opportunities for acquisitions has been the large number of banks in this country traditionally owned by family groups. As the family line runs out, or in response to the demands

of estate taxes, entire banks, rather than partial interests, are normally put up for sale. In such circumstances, other banks, and in particular branch banks, have taken advantage of the opportunity to obtain a going property rather than establish a new office where the bank in question has been sound and will complement its system.

[Tr. 199-200, 10827-28]

89. Since the time when the establishment of de novo branches of national banks in California on a state-wide basis was first authorized by the Banking Act of 1933, the Bank of America system has increasingly utilized the de novo method of establishing new branches, and during 1933 through 1948, has established 38 branches after acquisition and 89 de novo.

[R. Ex. 75]

90. In those areas of the country where the purchase of existing banks was forced upon developing branch banks by the de novo rule, the result was the elimination of the weaker banks and the transfer of their businesses to stronger institutions, with a marked improvement in the stability of the banking structure. For example, the number of bank failures in the United States from 1921 to 1948 constituted about 40% of the total number of banks existing in 1921, whereas in California, a

pioneer State in branch banking, the number of failures was only 19%.

[ R. Ex. 90; Tr. 821-22, 9588]

91. In the United States as a whole, even though the de novo rule has not been applicable in all states, branch banks have established after acquisition, rather than de novo, about 40% of all their branches, and 57% of all their branches located in counties not contiguous to the head office county.

[ R. Ex. 331]

92. Bank of America's acquisitions of the assets of banks have all been effected to take advantage of opportunities which, as they were presented, fitted into its plans for the development of a well rounded state-wide branch bank. They have occurred in a variety of circumstances and have been based upon many business reasons including the following:

- (a) to acquire institutions in failing or frozen condition, sometimes at the request of the supervisory authorities and on other occasions at the request of owners anxious to sell;
- (b) to obtain adequate representative premises not otherwise available;

- (c) to round out the Bank's full line of services by adding a particular type of business that had not been fully developed locally by the Bank's branches;
- (d) to obtain the services of unusually competent bank executives who were then left in charge of the operations of the newly established branch;
- (e) to solve serious management problems in a selling institution relating either to the continued supervision of the business or the liquidation of problem loans.

[Tr. 3097, 10482, 10492-511,  
10681-82]

93. Since about 1936, by which time the Bank of America had established branches in substantially every section of California, its growth through acquisition of assets and assumption of deposit liabilities of other institutions has sharply declined and has been insignificant in its total growth.

[ R. Ex. 75]

94. From December 31, 1936 to December 31, 1950, the total deposit liabilities of the Bank of America system grew from approximately \$1,324,000,000 to approximately \$6,192,000,000, and during this same period only

\$27,000,000 of deposit liabilities were assumed from other institutions, an amount equal to 6/10ths of 1% of the total increase.

[Bd. Ex. 8, 11, R. Ex. 255]

95. On numerous occasions, large and small banks have been offered for sale, considered by the management of Bank of America as available, and rejected because they did not fit into the plans for the development of Bank of America as a state-wide branch bank.

[R. Ex. 332; Tr. 11640-43]

96. In the past 25 or 30 years at least 17 banks with approximately 160 to 170 banking offices and deposit liabilities at the time of offer of about \$700,000,000 to \$800,000,000 in the aggregate, were offered for sale at various times, considered by the management of Bank of America as available, and rejected because they did not fit into the plans for the development of Bank of America as a state-wide branch bank. The banks so considered included:

	<u>Approximate Date Of Availability</u>
Wells Fargo Bank and Union Trust Company, San Francisco	1920-1925
Pacific National Bank, San Francisco	1927-1932
Security Trust & Savings Bank of San Diego	1932, 1935, 1938, 1945
California Bank, Los Angeles	1936

American Trust Co., San Francisco	1933-1935
San Diego Trust and Savings Bank	1933-1938
First National Trust & Savings Bank, San Diego	1934-1943
Bank of Eureka	1935
Hibernia Bank, San Francisco	1935
Union Bank & Trust Co., Los Angeles	1936
Farmers and Merchants Bank, Long Beach	1942-1943, 1946
Citizens National Trust & Savings Bank, of Riverside	1944-1948
First National Bank, Glendale	1944, 1948
Union National Bank, Pasadena	1945
Farmers and Merchants Bank, Oakdale	1946
Pasadena First National Bank	1947-1948
Oakland Bank of Commerce	1948

[ R. Ex. 332, 364, 365, 381, 382;  
Tr. 10481-82, 10536, 10783-97,  
10799-808, 10813-17, 10821,  
10825-28, 10832-36, 10841-  
42, 10844-48, 11640-43,  
11656-58, 11695-714, 11769-  
76, 11780-86, 11824-31,  
11835-36, 11840-43, 11864-  
70, 12415-22, 12469-71]

97. It has been a part of the policy in the development of the Bank of America system to maintain flexibility in the location of its branches to meet changing economic conditions and this has sometimes required the discontinuance of banking offices.

[ Tr. 10561-67]

98. In the almost half-century of development of Bank of America system, it has been necessary to discontinue a limited number of banking offices established or acquired by it. Discontinuances have taken place since 1928 under the following circumstances:

(a) In a total of some 27 instances, a bank has been acquired and its business simultaneously merged with that of an existing branch. In 15 of those instances, the office of the bank acquired was discontinued and in the other 12 instances the office of the existing branch was discontinued. These discontinuances were brought about by the inability of the particular community to support as many banking offices as had previously been in existence and in most cases the bank had been offered by its owners because the needs of the community could be best served by merging it into the Bank of America system. In many situations the banks acquired and discontinued were in failing or frozen condition and the acquisition was necessary to protect their depositors. In most of these instances the characteristics of the community were such that under the criteria applied by bank supervisory authorities the community was a one-bank town. Examples of discontinuances under the above circumstances are:

Bank of Corning (one-bank town)

First Central National Bank,  
Calexico (one-bank town)

Bank of Suisun, N. A. (one-bank town)  
Ferndale Bank (one-bank town)  
First National Bank of Orland (one-bank town)  
First National Bank of Sonora and Tuolumne  
County Bank (one-bank town) (failing condition)  
Farmers and Merchants Bank of Gardena (one-bank  
town)  
Winters National Bank (one-bank town)  
Fortuna State Bank (one-bank town)  
Bank of Lassen County, Susanville (one-bank  
town) (failing condition)  
First National Bank of Vacaville and Vacaville  
Savings Bank (one-bank town) (failing condi-  
tion)  
First National Bank of Paso Robles (one-bank  
town)  
First National Trust and Savings Bank  
Fullerton (failing condition)

[R. Ex. 301, 302; Tr. 10483-84,  
10497-506, 10512-15]

(b) On some occasions when banking offices were acquired in the logical development of the Bank of America state-wide branch banking system, it was necessary for it at the same time to accept other offices which were being sold with those it desired to acquire. In such instances, some degree of overlapping with existing facilities resulted. In such circumstances, every effort was made to keep all of the acquired offices in operation, and they were discontinued only when their operation proved uneconomical. Principal



examples of discontinuances brought about under these circumstances were in connection with the acquisition of Merchants National Trust and Savings Bank of Los Angeles and United Security Bank and Trust Company of San Francisco.

[ R. Ex. 301, 302; Tr. 10569-72]

(c) The remainder of the banking offices which it was found necessary to discontinue were not discontinued until a substantial period had elapsed after their acquisition or establishment, and were in every case brought about by normal economic considerations, such as a decline in population, or in economic activity within the particular community, which made it uneconomical to continue the banking office in operation. The criteria applied in determining whether an office should be continued in operation were the same irrespective of whether the office had been acquired from a pre-existing bank or had been established originally de novo.

[ R. Ex. 301, 302; Tr. 10561-67]

99. In the course of its development as a state-wide branch bank, Bank of America has never discontinued a bank or branch with the purpose of suppressing competition or preventing a competitor from operating in any section or community.

[ Tr. 10562, 10564-66]

100. Bank of America never has been, and is not now, seeking to acquire all banks in California or any given number of them or any given percentage of total deposit liabilities. It believes there are communities in which it should establish branches in the future in order to round out its facilities, and when and if opportunities become available it hopes to do so with the permission of the Comptroller of the Currency. Whether such establishments would be by acquisition or de novo would depend on conditions in the community, particularly the community's anticipated rate of growth and other factors required to be considered by the Comptroller of the Currency.

[Tr. 10536, 10538-39, 11490-92]

101. The present size of the Bank of America is not such that it can no longer effect economies through the operation of additional branches because branch banking is unique in that the establishment of each new branch brings both benefits and economies not only to the new community or section served, but to all other communities served by the Bank.

[Tr. 11490-98]

102. Illustrations of opportunities to acquire banks which fit into Bank of America's plan of development are seen in its contracts to acquire the assets and assume the deposit liabilities of 22 banks in California with 27

banking offices, majority-owned by Transamerica. The Comptroller of the Currency has approved the establishment of branches at these offices by Bank of America, but at the instance of the Board, the Bank has been prevented from operating them pending disposition of this proceeding.

[Bd. Ex. 353, R. Ex. 321, 329;  
Tr. 10507-08]

103. These contemplated acquisitions are in furtherance of Bank of America's policy of obtaining adequate state-wide representation and all of the banks it proposes to acquire complement the present Bank of America branches in some important respect:

- (a) Eighteen will give Bank of America its first representation in various communities in the State:

American Commercial & Savings Bank, Moorpark  
Bank of Beaumont  
Bank of Newman  
Bank of Pinole  
Bank of Tehachapi  
Central Bank of Calaveras  
Farmers and Merchants Bank of Watts  
First National Bank in Corcoran  
First National Bank in Delano  
First National Bank of Bellflower  
First National Bank of Crows Landing  
First National Bank of Fairfield  
First National Bank of Garden Grove  
First National Bank of Los Altos  
(First National Bank of San Jacinto)  
(First Savings Bank of San Jacinto)  
First National Bank of Weed  
Temple City National Bank of Temple City.

[R. Ex. 303]

- (b) These banks will meet Bank of America's requirement for more appropriate and needed additional premises in communities in which it is already represented but with inferior or inadequate premises:

First Trust and Savings Bank of Pasadena  
First National Bank in Santa Ana  
First National Bank in Turlock

[Tr. 10506-08, 10510-11, 10681-83]

- (c) These banks will bring to Bank of America specialized types of business such as trust or commercial accounts which Bank of America needs to round out its line of services in competition with other banks in these communities:

First Trust and Savings Bank of Pasadena  
First National Bank in Santa Ana  
First National Trust and Savings Bank of Santa Barbara

[Tr. 10506-10, 10681-83]

104. Even if the deposit liabilities of these banks were added to the others assumed by the Bank of America system, the maximum attributable to assumption from other banks in the 22-year period, 1928-1950, would constitute only about 6% of the total amount of Bank of America's deposit liabilities on December 31, 1950; and the maximum deposit increase attributable to assumption from

other banks during 1937 through 1950 would represent only about 4% of the total deposit increase during that period.

[Bd. Ex. 8, R. Ex. 255, 398;  
Tr. 4880-81, 7756]

105. Bank of America has no intention of acquiring or seeking to acquire the assets of any California bank in which Transamerica owns stock other than those listed in Finding No. 103.

[Bd. Ex. 286, R. Ex. 321;  
Tr. 11490-92]

IV

THE ORIGIN OF TRANSAMERICA'S INVESTMENT IN  
MAJORITY-OWNED BANKS AND THE DEVELOPMENT OF SUCH BANKS

Oregon

106. In 1930, Transamerica purchased slightly more than 50% of the outstanding voting stock of First National Bank of Portland, Oregon. Its holdings at the present time are 68.6% of the outstanding voting stock.

[Bd. Ex. 3]

107. First National Bank of Portland, Oregon, is a national banking association with its head office at Portland, Oregon. The Bank is independently managed and operated, conducts its business and formulates its policies independently, and does not operate under the direction, control or guidance of Transamerica.

[Bd. Ex. 3; Tr. 6567-68,  
6585-88, 6696-6701]

108. Branch banking was specifically authorized in Oregon by legislation in 1933, and since that date First National Bank of Portland has sought energetically to establish a state-wide branch bank equipped to provide maximum service for persons dealing with the Bank, and to achieve this objective has from time to time established new branches throughout the State both after the acquisition of existing banking offices and by the establishment of branches de novo.

[R. Ex. 77, 227; Tr. 6640-41, 6658]

109. The branch banking legislation was adopted in part as a result of the failure of unit banks in Oregon in the period from 1928 to 1933. There were 243 banks in operation at the end of 1928 and only 156 in operation at the beginning of 1933.

[R. Ex. 240, 246]

110. In establishing a state-wide branch bank, First National Bank of Portland has sought first to provide sufficient coverage for the City of Portland and then to secure adequate branch facilities in communities throughout the State, with particular emphasis upon establishing branches at county seats. The Bank as of December 31, 1949, had 44 branches, all of which were located in separate communities, except for the Portland branches.

[Bd. Ex. 3V, R. Ex. 77; Tr. 6851]

111. During the period of the growth of First National Bank of Portland the population and economic activity of Oregon have been expanding at a rapid rate and the Bank's growth has been directly responsive to such expansion, which has been of the following magnitude:

	<u>1929</u>	<u>1948</u>	<u>Rate of Growth</u>
Population (thousands)	941	1,636	74%
Income Payments to Individuals (millions)	\$603	\$2,134	254
Retail Sales (millions)	\$443	\$1,506	240
Manufacturing Employment (thousands of workers)	85.1*	114	34

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\* / As of 1939

[R. Ex. 293]

112. As of December 31, 1947, there were branches of First National Bank of Portland, or another bank majority-owned by Transamerica in 27 out of Oregon's 36 counties, these counties containing 90% of the population of Oregon.

[R. Ex. 130]

113. As of September 20, 1949, First National Bank of Portland had 11 (approximately 25%) of its banking offices in Multnomah County which includes the City of Portland. That county contains 35% of Oregon's population.

[R. Ex. 243; Tr. 7004]

114. The establishment of branches serving the City of Portland has been in direct response to the growth of that city and the surrounding area in recent years.

[R. Ex. 147; U.S. Census]



115. In the 26 counties in Oregon (other than Multnomah) in which the First National Bank of Portland has a branch or there is another bank majority-owned by Transamerica, an additional office has been obtained in only 13 counties after the initial entry.

[R. Ex. 243]

116. The growth of First National Bank of Portland has been primarily the result of public response to its superior efficiency and service as a state-wide branch bank and not of acquisitions, and has reflected the growth of the communities served and the increasing industrial activity in the State of Oregon.

[Tr. 6677-80, 6685]

117. Under the legislation authorizing branch banking in Oregon, and the national banking laws (R.S. Sec. 5155) making state law applicable to permissible location of national bank branches, no branch could or can be established in a community of less than 50,000 population having an existing banking office, except after the acquisition of an existing banking office. There has been and is no community in Oregon having 50,000 or more population other than the City of Portland.

[R. Ex. 227; U. S. Census]

118. Of the 44 branches operated by First National Bank of Portland as of December 31, 1949, 11 were established de novo, 2 after organization of new banks, and 31 by the purchase of the assets and the assumption of deposit liabilities of other banks. All of these branches, whether established de novo, or after acquisition, were approved by the Comptroller of the Currency upon consideration of the factors set forth in Finding No. 243.

[R. Ex. 77, 232]

119. Transamerica has assisted First National Bank of Portland, at the latter's request, in acquiring banks which were needed for the logical development of its state-wide branch bank because Transamerica considered the sound development of such state-wide facilities would enhance its investment in First National Bank of Portland.

[Bd. Ex. 3; Tr. 4244-47,  
6633-35, 6639-42, 6658]

120. Transamerica has not purchased the stock of any bank located in Oregon since the acquisition of stock of First National Bank of Portland in 1930, except at the request of that Bank and with a view to consenting to the sale to that Bank of the assets of the banks whose stock Transamerica acquired. Nine branches of First National Bank of Portland were established at locations of banks,

whose assets were purchased and deposit liabilities assumed by First National Bank of Portland after the stock had been acquired by Transamerica. In addition, since 1937, Transamerica has acquired a majority stock interest in 15 banks at the request of First National Bank of Portland, which has filed applications with the Comptroller to establish branches in the premises of each of these banks, but such applications have not yet been acted upon by the Comptroller. All but one of the 15 banks are located in communities of less than 50,000 population in which First National Bank of Portland desires to establish a branch, and under Oregon law, may do so only through the acquisition of an existing banking office. It was possible for Transamerica to purchase these 15 banks because the owners desired to retire or withdraw from the banking business, the banks were operating unsatisfactorily on a restricted basis, or because the banks were unprofitable to their former owners.

[Bd. Ex. 287, 288, R. Ex. 232;  
Tr. 4244-47, 6633-35, 6639-58]

121. All of the banks in Oregon in which Transamerica holds a majority stock interest are operated as affiliates of First National Bank of Portland and are expected to become branches of that Bank as soon as the approval of the supervisory authorities is received.

[Bd. Ex. 287, 288; Tr. 6640, 6932-40]

122. Of the 31 banking offices acquired by First National Bank of Portland by purchase of assets, six, the Montavilla Savings Bank (Portland), Bank of Woodburn, First National Bank of Salem, First Inland National Bank (Pendleton), Shute Savings Bank (Hillsboro), and American National Bank (Portland), were in failing condition at the time of purchase.

[R. Ex. 232; Tr. 6588-91, 6625-28]

123. In six other instances, First National Bank of Portland acquired assets and assumed liabilities of an existing bank and did not open a branch in the office of the bank so acquired, but transferred these assets and liabilities to already existing branches. In each case where this occurred, the bank whose assets were acquired was failing or in poor financial condition, and in five cases the section could not, because of changing economic conditions, support two banking offices.

[R. Ex. 232; Tr. 6564-65,  
6629-31, 6635-39]

#### Nevada

124. The acquisition by Transamerica in February, 1934, of the stock of First National Bank in Reno, the name of which has since been changed to First National Bank of Nevada, was motivated by sorely distressed economic conditions in Nevada at the time. A chain of banks known as the

Wingfield Group had been closed because of their financial condition. Various efforts were made to reorganize and reopen them. A legislative investigation was conducted on the entire banking structure in Nevada. The entire Nevada business community was prostrate from the almost total absence of banking facilities. In October, 1933, the Governor of Nevada wrote to Transamerica, stating that the reorganization of the Wingfield Group was a failure and requesting that Transamerica assist in reestablishing banking services in Nevada, either by supplying additional capital to the Wingfield Group or in some other way. Transamerica preferred not to acquire the stock of the Wingfield Group because of its very poor financial condition and reputation. Upon further requests by public officials and others, and with the understanding that legislation enabling state-wide branch banking would be enacted, Transamerica finally agreed to acquire stock in First National Bank in Reno, which was independent of the Wingfield Group of banks, and made capital contributions to First National Bank in Reno which enabled that Bank to establish de novo branches in substantially all of the locations where the Wingfield Group had formerly operated.

[R. Ex. 81, 194-204, 206; Tr.  
5587-5614]

125. Mr. Carl Wente became President of First National Bank of Nevada shortly after Transamerica acquired its majority interest in the Bank. Under his leadership, the Bank's policies were devoted to the restoration of the people's confidence in banks and banking, in order to bring money out of hiding. These new policies stimulated economic activity, particularly on farms and cattle ranges. Live-stock and agricultural loans were made by the Bank for the first time, an aggressive advertising policy was instituted, installment credit was greatly expanded, and interest rates were reduced and made more flexible. The net result was an increase in the Bank's deposit liabilities from \$7,000,000 to \$28,000,000 between February, 1934 and the end of 1937, about the time Mr. Wente left the Bank. Not only did the Bank prosper but it played a substantial role in the improvement of Nevada's economy during this period.

[Tr. 5782-95]

126. Nevada is the most sparsely populated State in the nation. The branches of First National Bank of Nevada, therefore, are few and widely scattered. In 1934 and 1935, First National Bank of Nevada established six de novo branches; by the end of 1937, it had established four more offices, three of them in the premises of banks whose assets were acquired.

[R. Ex. 81, 206; U.S. Census]

127. First National Bank of Nevada has grown from the one banking office it had in February, 1934, when Transamerica acquired a majority interest in its stock, to a total of 12 banking offices as of June, 1948. In accordance with the policy of the Bank to make available adequate banking services to the people of the State consistent with the ability of particular communities and counties to support a banking office, these 12 banking offices of the Bank are located in 9 of the State's 17 counties. These nine counties contain about 75% of the State's population.

[R. Ex. 81, 129, 208, Bd. Ex.  
8, 9, 10]

128. During the period of the growth of First National Bank of Nevada the population and economic activity of Nevada have been expanding and such growth as the Bank has enjoyed has been directly responsive to such expansion, which has been of the following magnitude:

	<u>1929</u>	<u>1948</u>	<u>Rate of Growth</u>
Population (thousands)	90	164	82%
Income Payments to Individuals (millions)	\$74	\$275	272
Retail Sales (millions)	\$48.8	\$171	250
Manufacturing Employment (thousands of workers)	1.6*	3.4	125

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\* / As of 1939

[R. Ex. 293]

129. Each of the banking offices of First National Bank of Nevada is located in a separate community, except for two banking offices in the city of Reno, which has 20% of the State's population.

[R. Ex. 81; U.S. Census]

130. Of the 11 branches operated by First National Bank of Nevada as of 1948, 7 were established de novo and only 4 through acquisition. One of these 4, Mason Valley Bank, Yerington, was in failing condition when acquired and with respect to each of the other 3 (First National Bank, Elko, Farmers and Merchants National Bank of Eureka, First State Bank, Las Vegas) the owner desired to sell and requested First National Bank of Nevada to consider its acquisition.

[Bd. Ex. 8, 9, R. Ex. 81;  
Tr. 5758-60, 5774-76]

131. Many of the branches established by First National Bank of Nevada, both through acquisition and de novo, were at the request of the residents of the community concerned. For example, First National Bank of Nevada, on hearing that the residents of Fallon, Nevada, desired a bank in their community, first gave them full opportunity to establish a local bank, and established a branch in the community only after it was told that the residents had been unable to raise enough capital to set up a local bank.

[R. Ex. 208; Tr. 5771-74]



132. Acquisitions have played an insignificant role in the growth of First National Bank of Nevada. During 1934 through 1949 its total deposit liabilities grew from under \$7,000,000 to about \$114,000,000, and during the same period only about \$6,500,000 of deposit liabilities were assumed from other institutions, an amount equal to 6% of the total increase.

[Bd. Ex. 3, 10, R. Ex. 83]

133. In 1941, Transamerica provided the capital for the organization of Bank of Nevada. Its head office was established in Las Vegas and a branch was established in Boulder City. A majority of the stock of Bank of Nevada has been owned by Transamerica since its organization.

[Bd. Ex. 3, 8, 9]

134. At the request of First National Bank of Nevada, Transamerica purchased a majority stock interest in Farmers' Bank of Carson Valley, Minden, Nevada, with a view to consenting to a sale of that bank's assets to First National Bank of Nevada, which desired to establish a branch at its location in Minden. This bank was offered to Transamerica by its owners, who had determined to retire from the banking business.

[Bd. Ex. 3, 8; Tr. 5620,  
5758-59, 5950-56]

Washington

135. Transamerica first acquired a stock interest in National Bank of Tacoma, Washington, during the year 1936. Its name was later changed to National Bank of Washington. Transamerica now owns a majority stock interest in that Bank.

[Bd. Ex. 3]

136. National Bank of Washington is engaged in operating a branch bank on a sound basis which the management of the Bank considers most appropriate to meet the needs of the public served by the Bank.

[Bd. Ex. 3]

137. During the period of the growth of National Bank of Washington, the population and economic activity of Washington have been expanding at a rapid rate, and the Bank's growth has been directly responsive to such expansion, which has been of the following magnitude:

	<u>1929</u>	<u>1948</u>	<u>Rate of Growth</u>
Population (thousands)	1,555	2,487	60%
Income Payments to Individuals (millions)	\$1,104	\$3,578	224
Retail Sales (millions)	\$ 745.9	\$2,480	232
Manufacturing Employment (thousands of workers)	126.0*	173.8	38

\*/ As of 1939

[R. Ex. 293]

138. National Bank of Washington had only one branch in 1936, but by 1939 it had grown to a total of 10 banking offices located in five of the State's 39 counties, these five counties containing approximately half of the State's population. It has not established any additional branches since 1939, and has never had an important place in banking in the State.

[Bd. Ex. 11, R. Ex. 78,131]

139. Each of the 10 banking offices of National Bank of Washington is located in a separate community.

[R. Ex. 78]

140. Acquisitions have played an insignificant role in the growth of National Bank of Washington. During 1936 through 1949 its total deposit liabilities grew from approximately \$14,500,000 to \$98,000,000, and during the same period only \$5,700,000 of deposit liabilities were assumed from other institutions, an amount equal to 7% of the total increase.

[Bd. Ex. 3, 10, R. Ex. 83]

#### Arizona

141. In 1937, Transamerica first acquired a stock interest in First National Bank of Arizona at Phoenix, and Phoenix National Bank, which had one branch as well as

an affiliate, Phoenix Savings Bank and Trust Co., which carried on a savings business in the same banking office as the head office of the Phoenix National Bank. Later in the same year, First National Bank of Arizona at Phoenix consolidated with Phoenix National Bank to form First National Bank of Arizona, having a head office and two branches. Phoenix Savings Bank and Trust Co. continued to operate in the head office of First National Bank of Arizona (formerly the head office of Phoenix National Bank) until 1949 when its assets were acquired and deposit liabilities assumed by First National Bank of Arizona, and it was liquidated. Transamerica now owns a majority of the stock of First National Bank of Arizona.

[Bd. Ex. 3, 8, 334]

142. First National Bank of Arizona is engaged in operating a branch bank on a sound basis which the management of the Bank considers most appropriate to meet the needs of the public served by the Bank.

[Bd. Ex. 3]

143. During the period of the growth of First National Bank of Arizona the population and economic activity of Arizona have been expanding at a rapid rate and the Bank's growth has been directly responsive to

such expansion, which has been of the following magnitude:

	<u>1929</u>	<u>1948</u>	<u>Rate of Growth</u>
Population (thousands)	430	664	54%
Income Payments to Individuals (millions)	\$245	\$823	236
Retail Sales (millions)	\$193.8	\$652	236
Manufacturing Employment (thousands of workers)	8.4*	14.9	77

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\*/ As of 1939

[R. Ex. 293]

144. As of December 31, 1949, First National Bank of Arizona had a total of 6 banking offices located in 2 of Arizona's 14 counties. These 2 counties contain almost half of the State's population.

[Bd. Ex. 11, 334, R. Ex. 127]

145. Three of the offices of First National Bank of Arizona are located in Phoenix, Arizona, which has 14% of the State's population, and the remaining 3 are located in separate communities.

[R. Ex. 80; U. S. Census]

146. Since the 1937 consolidation, First National Bank of Arizona has established three additional branches, one after acquisition and two de novo.

[R. Ex. 80]

147. Acquisitions have played an insignificant role in the growth of the First National Bank of Arizona. During 1937 through 1949 the total deposit liabilities of this Bank and its formerly affiliated savings bank grew from approximately \$18,000,000 at the time Transamerica purchased their stock to approximately \$83,000,000, and during the same period only \$3,000,000 of deposit liabilities were assumed from other institutions, an amount equal to approximately 5% of the total increase.

[Bd. Ex. 3, 10, R. Ex. 83]

California

148. In 1937 Transamerica acquired a majority stock interest in Central Bank of Oakland, which consisted of a head office and two branches. At the time Central Bank of Oakland had been the subject of an unfavorable report by the bank examiner.

[Bd. Ex. 3, 8; Tr. 5734]

149. In October, 1937, Central Bank of Oakland was dissolved and its assets and deposit liabilities transferred to Central Bank, Oakland.

[Tr. 7696-97]

150. Since 1937, Central Bank, Oakland, has developed into a sectional branch bank with 11 branches, four of which are located in the City of Oakland and the balance in separate surrounding communities.

[R. Ex. 79, 254]

151. Central Bank and its branches compete aggressively with Bank of America and its branches, particularly in Oakland where both banks have branches, and there has been no lessening of competition between them.

[Tr. 5801, 7130-31, 7143,  
8770-75, 12856-57]

152. Central Bank, Oakland, has at all times been managed and operated by its directors and officers wholly independently of Transamerica and all other banks, and has never received instructions from Transamerica or any bank with respect to its operations.

[Tr. 4227-30, 5802-03]

153. Central Bank, Oakland, is organized under the laws of the State of California and operates under the supervision of the California Superintendent of Banks and the Federal Deposit Insurance Corporation, both of which authorities have, as required by law, expressly approved all branches established by it.

[R. Ex. 398]

154. At various times since 1937, Transamerica acquired the stock of the 22 banks in California (listed in Finding No. 103) the assets of which Bank of America contracted to buy in 1950. Transamerica acquired the stock of those banks primarily with the view to the profitability

of such investments, but also having in mind the fact that the banks would make natural and logical branches of Bank of America. The possibility of sales of these assets to Bank of America at some later date made the investments more attractive both because such sales would be profitable to Transamerica and because the resulting branches would enhance the value of its investment in Bank of America.

[Tr. 4241-42, 10660-61]

155. In 1946, Transamerica purchased majority stock interests in First National Bank of Mountain View, First National Bank of Oakdale and its affiliate Stanislaus County Bank. Since 1946, Stanislaus County Bank has moved from the premises of First National Bank of Oakdale and established new premises of its own. Transamerica purchased the stock of these banks, upon an offer by the owners, solely for investment.

[Bd. Ex. 3, R. Ex. 303;  
Tr. 4241, 10660-61]



V.

TRANSAMERICA'S RELATIONS WITH  
ITS MAJORITY-OWNED BANKS

156. The relations between Transamerica and each of the banks in which it holds a majority stock interest are entirely consistent with, and in furtherance of, the investment interest Transamerica has in each such bank and the investment purpose it had in acquiring such stock, and reflect no effort by Transamerica to control the banks' operations or to bring about a single integrated operation.

[Tr. 4230]

157. The Transamerica majority-owned banks in California, Arizona, Nevada, Washington and Oregon, are each managed and operated without instructions, direction or control from Transamerica.

[Tr. 4227-30]

158. The 47 Transamerica majority-owned banks have 314 directorships in the aggregate of which only three are occupied by officers or directors of Transamerica. Such limited representation has not resulted in Transamerica controlling the operation of such banks in any way.

[Bd. Ex. 3V, 298; Tr.  
4590-93]

159. The 314 directorships are filled by 266 individuals, so that there are 48 duplications. Eight of these exist in California between national banks and savings bank affiliates sharing the same banking office and operated by the same staffs. The other 40 are held by officers of First National Bank of Portland, who serve as officers or directors of one or more other banks in Oregon in which Transamerica has majority stock interests.

[Bd. Ex. 3V, 298; Tr. 4485,  
4487, 6694]

160. Throughout the period that Transamerica has held a majority of its stock, First National Bank of Portland has had about 20 directors on its Board, of whom no more than 2 were suggested by Transamerica. The management of First National Bank of Portland has never submitted the names of other directors to Transamerica for approval. Mr. E. B. MacNaughton's successor as president, Mr. Frank Belgrano, was selected by Mr. MacNaughton and the Board of Directors of the Bank, and not by Transamerica or its representatives.

[Bd. Ex. 298; Tr. 6568,  
6696-6701, 6712]

161. Many of the Transamerica majority-owned banks are managed and operated by persons who were members of their respective staffs at the time of Transamerica's initial investment in such banks.

[Tr. 4242, 5791-92, 6567-68,  
6934]

162. It has been a basic feature of Trans-america's investment policy respecting majority-owned banks that the incumbent management be retained wherever possible and permitted to continue to operate those banks so long as they remain profitable.

[Tr. 199-200, 4242, 5680, 6934]

163. Each of the majority-owned banks of Trans-america has been operating profitably since the date of Transamerica's acquisition of its stock, and Trans-america's equity in the net asset value of these banks is more than double what Transamerica paid for its stock.

[Tr. 4248-49]

164. Transamerica's equity of the 1948 profits of the nine banks in which it has acquired a majority stock interest since June, 1946, constitutes a yield of between 6% and 12% on its investment.

[Tr. 4237-40]

165. Each of the Transamerica majority-owned banks in California, Arizona, Nevada, Washington and Oregon determines its own policies with respect to interest rates, loans, investments and other operating matters without direction from or consultation with Transamerica or Bank of America and wholly independently of the rates and policies adopted by Bank of America.

[Tr. 4227-28, 4230-31, 4590-91,  
5970-71, 6960-61, 6974]

166. There is no division of territory or allocation of customers in effect between the Transamerica majority-owned banks in California, Arizona, Nevada, Washington and Oregon, and each competes for business where and in such manner as its officers and directors see fit without regard to the location or nature of any other bank in which Transamerica owns stock.

[Tr. 5801, 10632]

167. Banking officers and employees frequently change jobs and employers among banks and other financial institutions since they find this a more rapid means of advancement than under the seniority system of many banks. There is always a strong demand from smaller banks and business corporations for employees who have been thoroughly trained in a large banking organization. Such changes in positions by individuals as have occurred among banks and companies in which Transamerica owns stock have not been greater in degree or different in kind than is normal in the banking business, especially as between correspondent banks, and such changes have not been directed by Transamerica, or by anyone else except the employees affected.

[R. Ex. 214; Tr. 3254-55,  
6081-90, 12857-58]

168. Transamerica has never had a general voting permit to vote stock in any bank other than First National Bank of Portland, First National Bank of Nevada, and Bank of America, which permit was obtained prior to July, 1937.

[Bd. Ex. 4]

169. Transamerica has never attempted to use its stock in any bank to control the policies or operations of that bank.

170. Transamerica has never used or attempted to use its stock in any bank to bring about the lessening of competition between that bank and any other bank or banks.

171. The banks in which Transamerica holds a majority stock interest do not constitute a single banking group or entity.

[Tr. 4230]

VI.

THE FINANCIAL SERVICES PROVIDED BY BANKS  
AND THE NATURE OF COMPETITION THEREIN

172. A bank is one of the organizations utilized to provide various deposit, lending and related financial services to the public.

[Tr. 2236, 2262-63, 2266-69, 2421-22, 8490-91, 9188-94, 9658-61]

173. "Commercial banking" is a term without legal significance.

[Tr. 2222-23, 9190-91]

174. There is nothing unique, special, or unusual to distinguish the financial services offered by "commercial banks" from those offered by the numerous other individuals and institutions that provide similar and identical services in vigorous competition with "commercial banks."

[Tr. 2421-22, 2611-19, 2635-36, 8490-91, 8544-45, 9276-79]

175. Before opening a new banking office, "commercial banks" consider not only the competition afforded by "commercial banks," but also the nature and extent of the competition afforded by other financial institutions performing services competitive with those performed by a "commercial banks."

[Tr. 4769-70]

176. When the Board exercises statutory authority to supervise specialized lines of credit, such as securities margin requirements and housing or consumer financing, its regulations are not confined to "commercial banks" but extend to all individuals and institutions engaged in providing such services. In addition, the Board's recent voluntary credit restraint program, affecting all types of credit, contemplates participation by the "90,000 private financing institutions" in the United States, "including without limitation all individuals, firms, partnerships, corporations and other organizations of any kind which are engaged in the business of extending credit, making loans, or purchasing, discounting, selling, distributiong, dealing in, or underwriting securities . . . ."

[Tr. 12007-08; Program for Voluntary Credit Restraint announced by the Board March 9, 1951; Statement of Voluntary Credit Restraint Committee March 19, 1951]

177. The provision of various financial services by "commercial banks" and other individuals and institutions does not constitute interstate commerce.

178. "Commercial banking" is not a line of commerce subject to monopolization within the meaning of the Clayton Act.

179. Even if the provision of some or all of the services that "commercial banks" offer were commerce, all individuals and institutions providing identical, similar or closely competitive financial services would be engaged in the same line or lines of commerce.

180. The principal services which "commercial banks" provide are:

Extension of Non-Farm Credit Secured by Real Estate

Extension of Consumer Credit

Extension of Farm Credit

Extension of Short Term Business Credit

Extension of Long Term Business Credit

Safe-keeping of Funds

(a) Through interest bearing time deposits

(b) Through demand deposits subject to check  
Trust Services

They also perform a variety of other financial services, including provision of safe deposit facilities, issuance of travelers cheques and letters of credit, collection of funds and purchase of securities as agent, in all of which they face competition from a variety of individuals and institutions.

[Tr. 2266-69, 2282-87, 2509-10,  
8474-76, 8490-91, 8964, 9317-  
18, 9659-60]



181. The principal individuals and institutions that compete with "commercial banks" with respect to each of the principal services are:

Extension of Non-Farm Credit  
Secured by Real Estate --

Principal Competitors

Life Insurance Companies

Private Individuals

Mutual and Stock Savings Banks

Savings and Loan Associations

Building and Loan Associations

Extension of Consumer Credit -- Principal Competitors

Automobile Finance Companies

Commercial Finance Companies

Industrial Credit Unions

Industrial Loan Companies

Retail Credit Stores

Personal Loan Companies

Private Individuals

Extension of Farm Credit --

Principal Competitors

Federal Land Banks

Banks for Cooperatives

Production Credit Associations

Life Insurance Companies

Private Individuals

Extension of Short Term  
Business Credit --

Principal Competitors

Trade Creditors  
Mutual and Stock Savings Banks  
Accounts Receivable Financing  
Companies  
Commercial Finance Companies  
Federal Reserve Banks  
Reconstruction Finance  
Corporation  
Other Government Lending  
Agencies  
Banks for Cooperatives  
Life Insurance Companies  
Private Individuals

Extension of Long Term  
Business Credit --

Principal Competitors

Life Insurance Companies  
Private Individuals  
Federal Reserve Banks  
Reconstruction Finance  
Corporation  
Other Government Lending  
Agencies  
Finance Companies

Safe-keeping of Funds

(a) Through interest bearing time-deposits --

Principal Competitors

U. S. Postal Savings System

Mutual and Stock Savings Banks

Savings and Loan Associations

U. S. Government Savings Bonds

Life Insurance Endowment and Annuity Policies

(b) Through demand deposits subject to check --

Principal Competitors

U. S. Postal Savings System & Post Office Money Orders

Travelers Cheque Agencies

Radio and Telegraphic Communication Companies

Express Companies

Private Corporations

Private Individuals

[Tr. 2250-52, 2277-81, 2558-61, 2613-15, 2626-29, 3432, 5240, 5249, 5545-46, 5684-85, 8526-27, 8534-35, 9001, 9050-51, 9057-58, 9061, 9071, 9289-91, 9854-55, 9862-64, 10534-36, 10662-63, 10689-90, 12069-70]

182. "Commercial banks" throughout the United States extended, as of 1948, only the following percentages of total credit extended in the five categories listed below:

Non-Farm Credit Secured by Real Estate	19%
Consumer Credit	42%
Farm Credit	36%
Short-Term Business Credit (to corporations)	14-20%
Long-Term Business Credit	17%

These same percentages apply to "commercial bank" loans in the five-state area defined in the complaint, except that the percentage for Consumer Credit is between 42% and 50%.

[Tr. 8504-06, 8508, 8511, 8516,  
8518, 9067]

183. Banks of whatever type derive the great bulk of their profits from loans and investments, which are their principal assets, and they seek deposits, which are liabilities, only because their ability to lend and invest is in approximate proportion to the amount of their capital funds and deposits. In 1946, all insured banks in the United States derived 81.4% of their profits from loans and investments.

[Tr. 8476, 8542-43, 9256-57,  
9261-63, 9294, 9676, 9708]

184. The financial services described in Finding No. 177 and reasonably adequate substitutes for such services are readily available to the public and meet the public's

requirements, whether offered by "commercial banks" or by other individuals and institutions.

[Tr. 2421-22, 2611-19, 2635-36,  
8490-91, 8544-45, 9276-79]

185. The competition of the individuals and institutions that compete with "commercial banks" in the provision of financial services is vigorous, constant and increasingly effective. For example, "commercial banks" have in recent years held a declining proportion of long term savings and extended a declining proportion of all real estate credit.

[Tr. 2605-09, 2611-19, 2627-28,  
2635-36, 8530-31, 9276-79]

186. The geographical area within which banks and other individuals and institutions offer effective competition for each other varies in accordance with the nature and characteristics of each service provided:

- (a) there is nation-wide competition for large loans and large deposits, as well as for various types of real estate loans, long term credits, farm credit and trust services;
- (b) for consumer credit, short term credit and small deposits the area of effective competition is generally somewhat narrower, depending upon economic, industrial and geographical characteristics which vary from community to community.

- (c) in no case are political boundaries such as city, county or state lines significant in determining areas of competition.

[Tr. 2530-31, 5463-64, 6037, 6388-89, 8557, 8559-60, 8576-78, 9858-61, 10191-92, 10529-32, 10632-34, 12349-51, 12354-55, 12357]

187. Competition in the provision of financial services in any given area is not confined to individuals or institutions whose offices or places of business are located within such area.

[R. Ex. 185; Tr. 5729-30, 6037, 6296-97, 6388-89, 6681-82, 8552-53, 9858, 10047-48, 10529-32, 10632-34]

188. Neither "commercial banks" nor the individuals and institutions with which they compete confine their services to the community, or state, or other precise geographical area in which they may be located.

[R. Ex. 185; Tr. 5729-30, 6037, 6296-97, 6388-89, 6681-82, 8552-53, 9858, 10047-48, 10529-32, 10632-34]

189. The five-state area defined in the complaint to include California, Nevada, Arizona, Oregon and Washington is not the geographical area of effective competition for any of the financial services provided by "commercial banks."

[Tr. 8551-53, 8556-60, 8621, 9300-01, 9857, 10529-32, 10632-34, 12012-16, 12357]

190. No single one of the five states named in the complaint is the geographical area of effective competition for any of the financial services provided by "commercial banks."

[Tr. 8551-53, 8556-60, 8621,  
9300-01, 9857, 10632-34,  
12012-16, 12357]

191. Individual banks emphasize different functions and services, varying with the passage of time, the area and community in which the bank is located, and the management policies of the particular bank. For example, prior to 1941, Bank of America's policy of catering to the small depositor produced a predominance of savings deposits. Since that time, however, its demand (so-called "commercial") deposits have run slightly larger in volume than its savings deposits.

[R. Ex. 255; Tr. 5481-87, 5499-  
5502, 5692, 9630-31, 9677-78,  
9709-13, 9736-37]

192. There has been constant change with respect to the provision of financial services arising from (a) the aggressiveness of some banks in undertaking to provide services not traditionally offered by banks, such as consumer credit which was first offered on an extensive and full-line basis by Bank of America which in turn was followed by other banks, and (b) the entry of other individuals and institutions

into competition with "commercial banks" in the provision of various services previously offered only by "commercial banks", such as direct business financing by insurance companies and government agencies.

[Tr. 2241-42, 2244, 2262-63, 2287,  
2605-09, 2618, 5481, 5502, 5513-15,  
5520-21, 8510, 9188-94, 10533-36]

193. The nature of the services rendered by "commercial banks" has changed from time to time in response to competition afforded by other institutions, the development of new services by the banks themselves, and public demand. For example, the lending function has been largely abandoned by some "commercial banks" which as a matter of choice invest their funds to an increasing extent in government bonds, while other "commercial banks" have developed and are still developing new forms of lending services.

[Tr. 2292, 5481-87, 5499-5502,  
5513-15, 5520-21, 9188-94,  
9262-63, 9630-31, 9709-11,  
9736-38]

194. The creation of money is incidental to banking operations in the banking system as a whole, is not an article or commodity in trade or commerce, is not subject to competition by the banks, and is not capable of monopolization under the Clayton Act.

[R. Ex. 298; Tr. 9220, 9661-64,  
9675-76, 12033-34]



195. The provision of facilities for handling demand deposits subject to check is one of many services ancillary to the safekeeping of funds and to the obtaining of lendable funds, and is not a separate business activity engaged in for profit, and is not a line of commerce under the Clayton Act.

[Tr. 2287-89, 8184-95, 8194-95,  
8542-43, 9256-57, 9678-79,  
9703-04, 9855-56, 10468-69]

196. Alternative methods exist for payment of funds by means other than bank checks, including:

- (1) Currency payments
- (2) Postal money orders
- (3) Debits and credits on open accounts, where money claims flow back and forth between businesses.
- (4) American Express Travelers cheques
- (5) Telegraphic money orders
- (6) Radio money orders
- (7) Express Co. money orders
- (8) Commercial drafts or bills of exchange
- (9) Corporate treasurer's drafts on corporations which hold memberships in clearing house associations.

[R. Ex. 318, 319; Tr. 2277-81,  
2558-61, 8534-35, 9290-91,  
9854-55, 10662-63, 10689-90]

197. The occupation of business offices is not a service offered by banks to the public, is not a subject of competition, and is not capable of monopolization under the Clayton Act.

[R. Ex. 332; Tr. 8621-24, 8904,  
9322-23, 9853-54- 10568-69]

198. Institutions and individuals with vast resources compete with Bank of America and the banks majority-owned by Transamerica in providing the same financial services.

[Tr. 2605-09, 2611-19, 2627-28,  
2635-36, 5249-51, 9276-79]

199. Neither Bank of America, nor the banks majority-owned by Transamerica, nor all of them in the aggregate provide more than a small portion of the total of each of the financial services available to the public served by such banks.

[Tr. 8504-06, 8508, 8511, 8516,  
8518]

200. The record does not show the percentage of any of the financial services rendered now or in the past by Bank of America, or the Transamerica majority-owned banks, or all of them in the aggregate, in relation to the total amount of any such service provided in the five-state area defined in the complaint or nation-wide.

VII

COMPETITION HAS INCREASED AND THERE  
HAS BEEN A TOTAL ABSENCE OF ANY  
TENDENCY TO CREATE A MONOPOLY OF  
THE SERVICES PROVIDED BY BANKS

201. Throughout the period since Transamerica was organized, competition among "commercial banks," both within and without the five-state area defined in the complaint, has not diminished but, on the contrary, has increased with resulting benefits to the public.

[Tr. 3251, 6390-91, 6459-  
60, 6471, 6485, 10048-  
52, 10632-34]

202. "Commercial banks" located both within and without the five-state area defined in the complaint have increased in size and strength throughout the period since Transamerica was organized and have at all times provided vigorous and effective competition.

[R. Ex. 121, 125; Tr. 6459-  
60, 6471, 6485, 6676,  
10048-52, 10632-34]

203. "Commercial banks" located outside of the five-state area have representatives who maintain offices and solicit business in the five-state area described in the complaint, make numerous loans to persons residing or doing business in such area, carry deposit accounts for such individuals or concerns, and offer other financial

services in the area both directly and through correspondent banks. Some banks located in the five-state area which have no branches or a small number of branches also maintain travelling solicitors who compete for business in sections where the bank has no branch.

[Tr. 5724-30, 10529-32]

204. Bank of America has lost business to "commercial banks" located in the East, even to the extent of losing all or a portion of an existing account to such banks. For example, in the early development of the moving picture business, Bank of America did a large part of the financing. As the producers and distributors grew, large portions of their business were transferred to large eastern banks. Recently, Bank of America lost a part of the account of a big distilling corporation to a New York bank.

[Tr. 10632-4]

205. Interest rates in the five-state area follow the national market, because borrowers with top credit ratings can readily borrow anywhere, and rates established by nation-wide competition for loans to such prime borrowers are the basis of rate scales established for all types of loans. All rates are also strongly influenced by the national character of the fiscal policy

of the United States Government. Interest rates (paid on deposits and charged on loans) and service charges of Bank of America and the Transamerica majority-owned banks are the result of competition with banks and financial organizations throughout the United States.

[Tr. 2313, 2640-50, 8551-61,  
8576-78, 9226-27, 9300-01,  
9857-62]

206. Large banks conduct business in both deposits and loans with customers from all over the nation, and frequently, in addition, handle both deposits from, and loans to, customers outside the continental United States.

[R. Ex. 273; Tr. 8551-61,  
10529-32]

207. Transamerica's proportionate share of the capital in banks in which it owns stock -- both majority and minority interests -- as of December 31, 1948, represented but 1.22% of total capital funds of all banks in the United States, and only 13% of all banks in the five-state area defined in the complaint.

[R. Ex. 51; Tr. 4225-26]

208. A substantial portion of the larger loans and deposit liabilities of Bank of America and of the Transamerica majority-owned banks are attributable to

customers who live and whose places of business are located outside the five-state area described in the complaint and for whose business such banks are in competition with numerous "commercial banks" and other institutions located outside the five-state area. For example, in 1949 Bank of America had \$268,000,000 in deposit liabilities of domestic corporations domiciled outside the five-state area.

[R. Ex. 273; Tr. 6038-40,  
6734-35, 6755-56, 6760,  
6762, 6768]

209. The following banks, all of which are domiciled within the five-state area defined in the complaint, had the indicated national size ranking in 1948, measured by total deposit liabilities:

<u>Bank</u>	<u>National Rank</u>
Security First National Bank, Los Angeles	8
American Trust Company, San Francisco	18
Anglo-California National Bank, San Francisco	34
Wells-Fargo Bank & Union Trust Co., San Francisco	33
California Bank, Los Angeles	36
The Bank of California, N. A., San Francisco, Portland & Seattle	55

Crocker First National Bank, San Francisco	53
San Francisco Bank, San Francisco	61
Farmers & Merchants Bank, Los Angeles	65
Seattle First National Bank, Seattle	23
National Bank of Commerce, Seattle	46
United States National Bank, Portland	24
Valley National Bank, Phoenix	75

[R. Ex. 123; Tr. 4874,  
4877, 4887]

210. The rate of growth of all "commercial banks" located in each of the five states named in the complaint, excluding Bank of America and the Transamerica majority-owned banks, from 1938 through 1948, has been of the following magnitude, as measured by deposit liabilities:

<u>State</u>	<u>Rate of Growth 1938 - 1948, of Deposit Liabilities</u>
California	188%
Oregon	377
Nevada	235
Arizona	437
Washington	328

[R. Ex. 126]

211. Of the total of 170 banks located in California as of December 31, 1948, other than Bank of America and the Transamerica majority-owned banks, 14 had experienced an increase in total deposit liabilities from 1938 through 1948 of over 800%, 15 had shown an increase in the same period of between 600% and 800%, and 33 had experienced an increase in this period of between 400% and 600%.

[R. Ex. 121]

212. The rate of growth of the Bank of America from 1938 through 1948 measured by deposit liabilities was 292%, and the average rate of growth of the Transamerica majority-owned banks in California during the same period measured by deposit liabilities was 209%.

[R. Ex. 141; Tr. 8071-74]

213. Bank of America has obtained an increasing share of the banking business resulting from the expansion of California because it has pioneered branch banking and has been more alert and aggressive in offering new and improved services than most of its competitors, who, until recent years, were slow to recognize and meet the increasing financial requirements of the State.

[Tr. 5481-5502, 10474-75]



214. The largest banks located in the State of California, other than Bank of America, had deposit liabilities as of December 31, 1948, as indicated in the following table, and from 1938 through 1948 had all experienced a substantial growth as measured by deposit liabilities:

<u>Banks</u>	<u>Deposit Liabilities (in millions) Dec. 31, 1948</u>	<u>Rate of Growth 1938 - 1948</u>
Security-First National Bank of Los Angeles	\$1,620	186%
American Trust Company San Francisco	928	235
Anglo-California National Bank of San Francisco	469	129
Wells Fargo Bank and Union Trust Company, San Francisco	465	88
California Bank, Los Angeles	431	310
The Bank of California N. A., San Francisco	321	192
Crocker First National Bank of San Francisco	316	133

[R. Ex. 121, 251]

215. In the eight largest metropolitan areas of California, containing about 80% of the State's population, and in which are located 70% of Bank of America's banking offices carrying 81% of its deposit

liabilities, Bank of America faces vigorous competition from strong and growing branch and unit banks. For example:

- (a) In the San Francisco metropolitan area, containing 20% of the State's population, Bank of America has 121 offices carrying 34% of the deposit liabilities, while six of its largest competitors in that area have 83 offices carrying 49% of the deposit liabilities. The largest of the six competitors, American Trust Company, alone has 59 offices carrying 17% of the deposit liabilities.
- (b) In the Los Angeles metropolitan area, containing about 40% of the State's population, Bank of America has 162 banking offices carrying 37% of the deposit liabilities, while four of its largest competitors have 172 offices carrying 51% of the deposit liabilities. The largest of these, Security First National Bank, Los Angeles, alone has 99 offices carrying 30% of the deposit liabilities.

[R. Ex. 122, 123]

216. While Bank of America is the only bank in the State of California that operates a state-wide branch bank, every section of the State of California in which there is a branch of Bank of America is served by one or more competing branch banks as well as by competing unit banks.

[R. Ex. 121-123, 254]

217. The branch banking development of Bank of America has greatly stimulated the development of other branch banks and has in no way hindered that growth or confined such growth to limited sections or areas of the State.

[Bd. Ex. 308A, 314A, 316A,  
R. Ex. 121-123; Tr.  
5571-74, 11714-15]

218. The sectional branch banks in California are in vigorous and aggressive competition with Bank of America, and their banking offices in the sections and communities where such banks conduct a banking business are comparable in number and competitive strength to those of Bank of America.

<u>Name</u>	<u>Banking Offices</u>
Security-First National Bank of Los Angeles	126
The American Trust Company, San Francisco	77

California Bank,  
Los Angeles

38

Anglo-California National  
Bank, San Francisco

24

[Bd. Ex. 308A, 314A, 316A,  
R. Ex. 85; Tr. 5729-30,  
6459-60, 6471, 6485]

219. United States National Bank of Portland in which Transamerica owns no interest, is the largest bank in the state of Oregon. That bank has pursued a policy of developing a state-wide branch bank system in Oregon, and has done so primarily by establishing branches in the premises of banks whose assets were acquired and deposits assumed. United States National Bank has had a growth in offices and deposit liabilities comparable to that of First National Bank of Portland. During the period from 1928 through 1948, United States National Bank grew from \$64,802,000 to \$556,614,000 in deposit liabilities, had assumed \$70,732,000 of deposit liabilities of other banks, and achieved the rank of 24th largest bank in the nation. During that period United States National Bank acquired the assets of banks and, depending on the circumstances, discontinued banking offices or established branches and later discontinued such branches. The total banking offices so discontinued during the period were nine.

[R. Ex. 243, 246; Tr. 4884-85,  
8282-83]

220. Beginning in about 1943 the Commercial National Bank group of banks, located in various communities in Oregon, began its development. Since that time it has developed into a group of three banks and five branches. That group of banks has common officers and common controlling stock interests and has grown by acquiring the stock or assets of a total of five banks. The total deposit liabilities of the group in 1949 were \$19,301,000.

[ R. Ex. 244; Tr. 2931-32]

221. In Nevada, Nevada Bank of Commerce, in which Transamerica owns no interest, commenced operations in 1939 and since that date has shown phenomenal growth to the point where its deposit liabilities as of December 31, 1948, were \$15,328,000.

[ R. Ex. 100, 125]

222. During the period from 1938 through 1948, the rate of growth of the deposit liabilities of First National Bank of Nevada was about one third of the rate of growth of the aggregate deposit liabilities of all of the other banks in Nevada in which Transamerica has no interest.

[ R. Ex. 125, 136, 141]

223. In Arizona, Valley National Bank, in which Transamerica owns no interest, is the largest bank in the State, has its principal office in Phoenix, and in 1948,

had deposit liabilities of \$230,000,000 and operated 26 offices. These figures may be compared with deposit liabilities on the same date of \$87,000,000 and operation of six offices by the Transamerica majority-owned bank, First National Bank of Arizona.

[Bd. Ex. 11, 313A, 334,  
R. Ex. 136]

224. During the period from 1928 through 1948, Valley National Bank acquired the assets of six banks and assumed total deposit liabilities of \$20,156,000, an amount equal to about 9% of its total deposit liabilities as of December 31, 1948.

[Bd. Ex. 313I, Tr. 4888]

225. Not only Valley National Bank of Phoenix, which is three times larger than First National Bank of Arizona, but at least two other strong Arizona banks, in which Transamerica owns no stock, have experienced a more rapid rate of growth from 1938 through 1948 than First National Bank of Arizona, as is seen from the following table:

<u>Banks</u>	<u>Deposit liabilities (in millions) Dec. 31, 1948</u>	<u>Rate of Growth</u>
Valley National Bank	\$230	484%
Southern Arizona Bank & Trust Co., Tucson	49	416
Bank of Douglas	27	668
<hr/>		
First National Bank of Arizona	87	252

[R. Ex. 125, 136, 141]

226. There are four banks located in the State of Washington which are substantially larger than the Trans-america majority-owned bank, National Bank of Washington, and with which that bank competes, as well as many smaller competing banks. The rate of growth of three of these four larger banks from 1938 through 1948 has exceeded that of National Bank of Washington, as follows:

<u>Banks</u>	<u>Deposit liabilities (in millions) 1948</u>	<u>Rate of Growth</u>
Seattle First National Bank	\$629	327%
National Bank of Commerce, Seattle	344	365
People's National Bank, Seattle	125	380
The Old National Bank, Spokane	102	394
<hr/>		
National Bank of Washington	98	358
[R. Ex. 125, 136, 141]		

227. Seattle First National Bank and National Bank of Commerce both are extensive branch banks. In the period from 1928 to June 30, 1948, Seattle First National Bank acquired the assets of 42 banks, and in 1948 had 43 branches. National Bank of Commerce in the period from 1906 to June 30, 1948, acquired the assets of 30 banks, all but one of which were acquired after 1926. In 1948 National Bank of Commerce had 27 branches and one affiliated bank.

[Bd. Ex. 312A, 312I, 317A, 317I]

228. In the period from 1928 through 1948, Seattle First National Bank assumed deposit liabilities of other banks of \$149,446,000, which is an amount equal to 24% of its deposit liabilities at the end of 1948. During the same period National Bank of Commerce assumed \$35,055,000 of deposit liabilities of other banks, an amount equal to 10% of its deposit liabilities at the end of 1948.

[Tr. 4883-84, 4887-88, 7754-56]

229. Throughout the period since Transamerica's organization in 1928, seventy-one new banks have been established within the five-state area defined in the complaint, and, in successful competition with previously established banks, have obtained total deposit liabilities of more than \$300,000,000 as of December 31, 1948, as follows:

<u>State</u>	<u>Number of New Banks</u>	<u>Deposit Liabilities 1948</u>
California	32	\$205,000,000
Oregon	16	47,000,000
Washington	21	35,000,000
Nevada	2	23,000,000
Totals	71	\$310,000,000

[R. Ex. 100]



230. In order to enter the "commercial banking" business, a newcomer is not required to provide any substantial accumulation of capital, to master involved technologies, to construct facilities, or to secure rights under patents. A newcomer may accordingly enter the business with great speed and facility. Regulations of the state and federal authorities have not seriously restricted freedom of entry. Two hundred new banks and branches were established in the five-state area in the period 1936-1947.

[R. Ex. 100, 102, 234;  
Tr. 821, 10567-69]

231. In many instances where Bank of America or a Transamerica majority-owned bank sought to open new branches in community centers requiring service, competing banks have succeeded in obtaining authority to open branches even where they were late in recognizing the need for such facilities.

[Tr. 6642, 7064, 7073-74, 10541]

232. The procedures followed by Bank of America, and the Transamerica majority-owned banks in acquiring assets of another bank and by Transamerica in acquiring stock have followed normal and accepted business methods without use of coercive influence and such transactions have been negotiated at arms-length at fair prices and terms.

[Tr. 8332-34, 10482, 10492-  
515, 10681-83]

233. In no instance where a bank in which Trans-america owns stock has desired to purchase assets of another bank has it had power or attempted to force the sale against the wishes of the owner.

[Tr. 3120-22]

234. In no instance where Transamerica has desired to purchase stock in a bank has it had power or attempted to force a sale against the wishes of the owners.

[Tr. 4251-53, 8329-30]

235. No bank's assets have ever been purchased by Bank of America or a Transamerica majority-owned bank from a bank whose owners were unwilling to sell, and some of such banks might otherwise have been liquidated, thus depriving the community of a banking facility.

[Tr. 4243-44, 10492-98]

236. The establishment and acquisition of new banking offices, as well as discontinuance of offices over the years for economic reasons, is a usual, ordinary, and necessary incident to the development of a state-wide or sectional branch bank. This is evident from the experience of three competing branch banks in California, each of which established and discontinued offices in the 20-year period from 1928 through 1948, as follows:

	<u>Offices Established</u>	<u>Offices Discontinued</u>	<u>Offices at End of Period</u>
Security-First National Bank	70	44	124
American Trust Company	16	38	75
California Bank	7	21	38

[R. Ex. 85]

237. The importance of the acquisition of banks and branches in the development of a branch bank is shown by the following comparison of the total number of banks and branches acquired by competing California branch banks with the number of their banking offices as of 1948:

	<u>No. of Banks &amp; Branches Acquired</u>	<u>No. of Banking Offices As of 1948</u>
Security-First National Bank and Los Angeles First National Trust & Savings Bank	108	126
American Trust Company	64	77
Anglo-California National Bank	26	24
Citizens National Trust & Savings Bank of Riverside	9	10

[Bd. Ex. 308A, 308I, 314A,  
314I, 315A, 315I, 316A, 316I]

238. During the period from 1928 through 1948 other branch banks in California assumed proportionately more deposit liabilities of other banks than did the Bank of America system:

Deposit Liabilities Assumed  
as a Per Cent of Total Depo-  
sit Liabilities as of Decem-  
ber 31, 1948

Bank of America	3.15%
Security-First National Bank	16.30
Anglo-California National Bank	5.41
Citizens National Trust & Savings Bank, Riverside	4.32

[Tr. 4882, 4887, 7755-56]

239. The growth of Bank of America and the Trans-america majority-owned banks has been fully approved by the appropriate supervisory authorities, since the establishment of every branch by such banks has been approved by the federal or state authorities respectively charged with supervision of those banks' operations.

[R. Ex. 75, 77-81, 398]

240. The acquisition of assets of banks and establishment of branches by the banks in which Trans-america holds stock have not limited or reduced competition but, in fact, have stimulated competition as demonstrated by the testimony of large and small depositors, borrowers, bank owners, and the officers of the banks themselves.

[Tr. 3139, 3250-51, 6316-17, 6319-  
20, 6328-37, 6382-86, 6390-91,  
6459-60, 6471, 6485]

241. Asset acquisitions by Bank of America and the Transamerica majority-owned banks have in many instances been from institutions that were in failing condition or for other reasons going out of business, and such acquisitions kept the acquired facilities as going operations, protected their depositors and the communities they served, and in no way lessened competition.

[R. Ex. 391; Tr. 5760, 6588,  
6625-28, 10493-502]

242. The successful development of branch banking by Bank of America and the Transamerica majority-owned banks has stimulated the development of competing branch banks throughout the states in which those banks operate, and these competing branch banks have grown in strength and become increasingly more effective competitors.

[Bd. Ex. 308A, 311A-317A, R. Ex.  
121, 125; Tr. 3251, 5495-5502]

243. Every branch opened by Bank of America or any national bank majority-owned by Transamerica, whether de novo or following purchase of assets from an existing bank, has been established with the express approval of the Comptroller of the Currency, whose legal duty it is to take into consideration, among other matters:

(1) Competitive factors, such as whether the establishment of the branch would be prejudicial to other existing banks.

(2) Effect upon the public interest, in terms of the current or near future banking needs of the area or community.

(3) Ability of the bank to meet such banking needs in view of its management, capital structure, and prospects of profitable operation.

[R. Ex. 329]

244. The growth of Bank of America and the Transamerica majority-owned banks has been accomplished without violating any state or federal regulation or statute, and with the full approval of the Comptroller of the Currency, the Board, Federal Deposit Insurance Corporation and state supervisory authorities where appropriate. For example, the Board itself has at times issued special voting permits authorizing Transamerica to vote its stock for the liquidation of banks and discontinuance of banking offices and the sale of their assets to other banks majority-owned by Transamerica, which liquidations and discontinuances are among those challenged by Paragraphs FIVE and SIX of the complaint. The most recent permit of this character was issued in 1947, about a year before the filing of the complaint, and authorized Transamerica to vote its stock in Bank of Newman for the discontinuance of the Crow's Landing branch of Bank of Newman and its consolidation with First National Bank of Crow's Landing.

[B. Ex. 72-75, 77-81, 236, 338, 339;  
Tr. 3658-59]

245. Neither Bank of America nor any Transamerica majority-owned bank has engaged in price or rate fixing, in division of territories or allocation of customers, or action of any kind in restraint of commerce.

246. No person, partnership, corporation, community or area served by Bank of America or a Transamerica majority-owned bank has complained of injury, or has had reason to complain, that there has been any lessening of competition in the provision of banking services.

247. The dominant purpose in the establishment of additional branches by Bank of America and the Transamerica majority-owned branch banks has been to make such banks' services more readily available to the largest practical number of customers and potential customers.

[R. Ex. 81, 194; Tr. 6641, 6658,  
10538-39]

248. Branch banking, which has been developed by banks in which Transamerica has invested, has brought to the very smallest communities the expert financial skills and services that otherwise would have been available only in the largest cities, and has in that way furthered competition.

[Tr. 5689-90, 10463-68]

249. Transamerica's stock acquisitions have promoted competition because as an investor it has encouraged and assisted the growth of branch banking which has broadened the use and availability of traditional banking services and aggressively developed new financial services.

[R. Ex. 255; Tr. 6676-80,  
9771-73, 10551-52]

250. Banks in which Transamerica has invested have grown and been successful because they have brought financial services to the people and have thus better satisfied the needs of all the communities served.

[Tr. 10559-61]

251. The growth and development of Bank of America has been of substantial assistance in enabling the communities served by its branches to finance their needs and expansions, and has greatly reduced those communities' dependence upon eastern financial centers.

[Tr. 5693-95, 6212, 10519-  
21]

252. The facilities and services offered by Bank of America and Transamerica majority-owned banks have been of such character that various communities and governmental authorities have urged the establishment by such banks of branches in specific localities in order to procure adequate banking service.

[R. Ex. 194-204, 208; Tr. 5744-  
45, 10545-48]



253. In no case has the purpose or effect of Transamerica's acquisition of bank stock been to eliminate any substantial competitor of any bank.

[Tr. 4244-48]

254. No action or course of conduct in the determination or execution of Transamerica's investment policy evidences any purpose of eliminating or lessening competition or creating a monopoly. No stock acquired by Transamerica has been used for the purpose of lessening competition, restraining commerce, or creating a monopoly, and no such acquisition has had the effect of lessening competition, restraining commerce, or tending to create a monopoly.

255. No bank or banking office has been acquired by Bank of America or any Transamerica majority-owned bank and closed for the purpose of eliminating a competitor.

256. No course of conduct on the part of Transamerica, alone or in concert with others, indicates any reasonable probability of its achieving effective monopoly power with respect to the services provided by "commercial banks."

257. Because of the variation in size of banking offices, the number of personnel they employ, the amount of business they handle, the range of their services, the economic characteristics of the areas in which they are located,

the character of the population in the community where they are located, and other differences, comparisons of the number of banking offices operated by different banking institutions do not measure market occupancy or control.

[R. Ex. 254, 332, 398; Tr. 5689,  
8621-24, 8904, 9322-23, 9853-54,  
10568-69]

258. Growth of percentages of all banking offices, deposits and loans held by any bank or group of banks is not significant in indicating a tendency to create a monopoly.

[Tr. 12327, 12329-32]

259. The growth and size of either Bank of America, the Transamerica majority-owned banks, or all of them in the aggregate are not such as to indicate any tendency to create a monopoly.

260. There has been no showing that at the time Transamerica purchased a majority of the stock in any bank there was substantial competition between that bank and Bank of America or any bank majority-owned by Transamerica.

261. There has been no lessening of such competition, if any, as may have existed between any of the banks in which Transamerica has acquired stock.

[Tr. 4772, 5801, 6703-05, 7126-30,  
7143-7212, 8774, 12856-57]

262. Citizens National Trust and Savings Bank of Los Angeles, a branch bank having about 35 branches in and around Los Angeles, competes vigorously with Bank of America. There has been no lessening of competition between Citizens and Bank of America or any other bank in which Transamerica holds stock following Transamerica's purchase of a minority interest in Citizens stock under the following circumstances:

(a) For some time prior to 1943, substantial stockholders of Citizens had expressed dissatisfaction with its management and a committee of the directors had been appointed to obtain new senior officers. Transamerica acquired practically all of its holdings of Citizens stock in May, 1943, after being urged by these substantial stockholders to take an interest and help them solve the management problem. Transamerica's management believed Citizens stock would be a profitable investment.

(b) Since 1943, Transamerica has voted its Citizens stock to nominate and elect 5 out of 21 directors. These directors have by their advice and suggestions contributed substantially to the successful management of Citizens, which has greatly prospered in the years since 1943.

(c) Some time after the acquisition, Transamerica offered to sell its holdings in Citizens to some of the directors, and negotiations took place for such a sale, but there was inability to agree on the terms and the sale was never made.

(d) Transamerica never intended to acquire control of Citizens.

(e) Transamerica has never controlled Citizens in any respect whatsoever.

(f) Transamerica has never attempted to influence the policies of Citizens in order to lessen or eliminate competition between that Bank and any other bank.

(g) Transamerica did not purchase stock in Citizens for the purpose of arranging for the sale of the assets of that Bank to any other bank.

(h) As of December 31, 1949, Transamerica owned about 59,000 shares or 23.5% of the total outstanding stock in Citizens.

[Bd. Ex. 3V, 227, 228, 237-242;  
Tr. 1875-77, 1884-89, 1902-03,  
1963-65, 1969, 2035-38, 2041-  
42, 2044-52, 2055-60, 2071-75,  
2080, 2084-86, 2116-18, 2120-  
23]

263. Transamerica has not at any time, directly or indirectly, acquired any stock of any of the banks listed below from paragraphs FIVE and SIX of the complaint.

First National Bank,  
Alturas, California

Central Bank of California,  
Auburn, California

Berkeley Bank,  
Berkeley, California

First National Bank,  
Chino, California

Cloverdale Commercial & Savings Bank,  
Cloverdale, California

First National Bank,  
Colton, California

Bank of Dixon,  
Dixon, California

First National Bank,  
Exeter, California

First National Bank,  
Geyserville, California

Bank of Pacific Grove,  
Pacific Grove, California

Petaluma Savings Bank,  
Petaluma, California

Richmond Commercial & Savings Bank,  
Richmond, California

San Carlos Bank,  
San Carlos, California

State Bank of Ramona,  
Ramona, California

First National Bank,  
South Pasadena, California

Lassen Industrial Bank,  
Susanville, California

Commercial Bank,  
Turlock, California

El Dorado County Bank,  
Placerville, California

Dairymen's Coast Bank,  
Valley Ford, California

Golden State Bank,  
Walnut Park, California

Citizens State Savings Bank,  
Gardena, California

National Bank of Hermosa Beach,  
Hermosa Beach, California

Bank of Isleton,  
Isleton, California

First National Bank,  
Long Beach, California

Arroyo-Seco State Bank,  
Los Angeles, California

Florence National Bank,  
Los Angeles, California

Pacific National Bank,  
Los Angeles, California

Monterey Park Commercial & Savings Bank,  
Monterey Park, California

Bank of Norwalk,  
Norwalk, California

Bank of San Clemente,  
San Clemente, California

First National Trust & Savings Bank,  
Whittier, California

Commercial & Savings Bank of Sutter County,  
Yuba City, California

Broadway Commercial & Savings Bank,  
Burlingame, California

First National Bank,  
Alhambra, California

First National Bank,  
Sebastopol, California

Oregon State Bank,  
Portland, Oregon

American National Bank,  
Portland, Oregon

Montavilla Savings Bank,  
Portland, Oregon

First National Bank,  
Astoria, Oregon

First Inland National Bank,  
Pendleton, Oregon

Shute Savings Bank,  
Hillsboro, Oregon

First National Bank,  
Salem, Oregon

Bank of Woodburn,  
Woodburn, Oregon

First National Bank,  
Condon, Oregon

First National Bank,  
Cucamonga, California

Russ-Williams Banking Company,  
Ferndale, California

McCloud National Bank,  
McCloud, California

Wallowa National Bank,  
Enterprise, Oregon

First National Bank,  
LaGrande, Oregon

Commercial National Bank,  
Lakeview, Oregon

First National Bank,  
Medford, Oregon

First National Bank,  
Tillamook, Oregon

First National Bank,  
Union, Oregon

Sierra Valley Bank,  
Loyalton, California

Plumas County Bank,  
Quincy, California

Bank of Milpitas,  
Milpitas, California

Citizens Bank,  
Laguna Beach, California

First National Bank,  
Fallbrook, California

Westwood National Bank,  
Westwood, California

Delta Bank,  
Rio Vista, California

Bank of Point Arena,  
Point Arena, California

First National Bank,  
Del Rey, California

Calistoga National Bank,  
Calistoga, California

Lumbermen's National Bank,  
Bend, Oregon

North Bend National Bank,  
North Bend, Oregon

Lindsay Savings Bank,  
Lindsay, California

First National Bank,  
Glendora, California

First National Bank,  
Molalla, Oregon



First National Bank of Coos Bay,  
Marshfield, Oregon

Steiwer & Carpenter Bank,  
Fossil, Oregon

Mason Valley Bank,  
Yerlington, Nevada

Yuma Branch of Miners & Merchants Bank,  
Bisbee, Arizona

Coffman-Dobson Bank & Trust Company,  
Chehalis, Washington

Toledo State Bank,  
Toledo, Washington

State Bank of Winlock,  
Winlock, Washington

Bank of Alameda County,  
Alvarado, California

First National Bank,  
Clovis, California

Bank of America,  
San Pedro (Los Angeles), California

First National Bank,  
Auburn, California

Chino Savings Bank,  
Chino, California

First Savings Bank,  
Colton, California

Security Savings Bank,  
Exeter, California

Sonoma County National Bank,  
Petaluma, California

First National Bank,  
Santa Rosa, California

First National Bank,  
Turlock, California

New First National Bank,  
Visalia, California

Security Savings Bank,  
Visalia, California

Vallejo Bank of Savings,  
Vallejo, California

First National Bank,  
Anaheim, California

First National Bank,  
Gardena, California

Graham National Bank,  
Los Angeles, California

First National Bank,  
Healdsburg, California

First Savings Bank,  
Healdsburg, California

Donahue-Kelly Banking Company,  
San Francisco, California

Eagle Rock State Bank,  
Los Angeles, California

First National Bank,  
Ventura, California

Home Savings Bank,  
Ventura, California

Atlantic Avenue Bank,  
Bell, California

First National Bank,  
Ducor, California

First National Bank,  
Vacaville, California

Vacaville Savings Bank,  
Vacaville, California

First National Bank,  
Sonora, California

Tuolumne County Bank,  
Sonora, California

First National Bank,  
Redondo Beach, California

First National Bank,  
Orland, California

Bank of Lassen County,  
Susanville, California

Sebastopol Savings Bank,  
Sebastopol, California

Hibernia Bank,  
Portland, Oregon

National Bank of Commerce,  
Astoria, Oregon

State Bank of Echo,  
Echo, Oregon

Fortuna State Bank,  
Fortuna, California

State Bank of Ashland,  
Ashland, Oregon

Covina Valley Savings Bank,  
Covina, California

First National Bank,  
Covina, California

First Savings Bank,  
Glendora, California

Bank of Lakeview,  
Lakeview, Oregon

First National Bank,  
Napa, California

Estacada State Bank,  
Portland, Oregon

Winters National Bank,  
Winters, California

Farmers & Merchants Bank,  
Gardena, California

Citizens National Bank,  
Ontario, California

Bank of Galt,  
Galt, California

First National Bank,  
Laton, California

First National Trust & Savings Bank,  
Fullerton, California

[Bd. Ex. 3, 8, R. Ex. 232]

264. Neither Transamerica, nor Bank of America, nor any Transamerica majority-owned bank, nor all of them in the aggregate has now, or ever has had, a monopoly of "commercial banking" or any service provided by "commercial banks" in the nation, in any state or group of states, or in any section or community.

265. Neither Transamerica, nor Bank of America, nor any Transamerica majority-owned bank, nor all of them in the aggregate has now, or ever has had, any purpose or intention to acquire a monopoly of "commercial banking" or any service provided by "commercial banks" in the nation, in any state or group of states, or in any section or community.

266. Neither Transamerica, nor Bank of America, nor any Transamerica majority-owned bank, nor all of them in the aggregate has now, or ever has had, power to withhold or control the quantity of the services provided by "commercial banks" available to the public in the nation, in any state or group of states, or in any section or community.

267. Neither Transamerica, nor Bank of America, nor any Transamerica majority-owned bank, nor all of them in the aggregate has now, or ever has had, power to establish the price, rates or terms on which the services provided by "commercial banks" shall be available to the public in the nation, in any state or group of states, or in any section or community.

268. Neither Transamerica, nor Bank of America, nor any Transamerica majority-owned bank, nor all of them in the aggregate has discriminated among users of services provided by "commercial banks" in the nation, in any state or group of states, or in any section or community.

269. Neither Transamerica, nor Bank of America, nor any Transamerica majority-owned bank, nor all of them in the aggregate has ever operated, or now operates, banking

offices beyond the needs of the public for the purpose or with the effect of discouraging the establishment of banking offices by others in the nation, in any state or group of states, or in any section or community.

270. Neither Transamerica, nor Bank of America, nor any Transamerica majority-owned bank, nor all of them in the aggregate has excluded or sought to exclude any competitor or potential competitor from engaging in business as a "commercial bank" in the nation, in any state or group of states, or in any section or community.

271. No evidence presented by any competitor, potential competitor, customer or potential customer indicates that there is any reasonable probability that Transamerica, Bank of America or any Transamerica majority-owned bank or all of them in the aggregate have any reasonable probability of creating a monopoly with respect to "commercial banking" or any of the services provided by "commercial banks" in the nation, in any state or group of states, or in any section or community.

272. The power, if any, of Transamerica, Bank of America, any Transamerica majority-owned bank or all of them in the aggregate to withhold or control any significant

quantity of the services provided by "commercial banks" available to the public in the nation, in any state or group of states, or in any section or community, or to fix rates or terms or discriminate with respect to such services has not increased by reason of the growth of such banks.

273. "Commercial banking" is so thoroughly subject to Government regulation and actual Government participation that there is no reasonable probability that any private group could attain effective monopoly power over it.

274. "Commercial banking" is incapable of monopolization because it depends entirely upon continued customer satisfaction, and by the mere transfer of a deposit or loan to another bank a customer can obtain the same service, and even create the capacity to provide that service if necessary.

[R. Ex. 183; Tr. 8542-43, 9258-59, 9294-96, 9678-79, 9839-40, 10560-61]

VIII.

CONCLUSIONS

275. The Board lacks jurisdiction in this matter because Transamerica is not a bank, banking association, or trust company, within the meaning of Section 11 of the Clayton Act.

276. The Board lacks jurisdiction in this matter because banks are not corporations engaged in commerce, within the meaning of Section 7 of the Clayton Act.

277. Transamerica has not violated Section 7 of the Clayton Act, because it purchased the bank stocks it owns solely for investment and has not used any of them by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition.

278. Transamerica has not violated Section 7 of the Clayton Act, because its acquisitions of the stock of banks have not had the effect, have not been used by voting or otherwise, and it has not been shown that their effect has been, is or may be (a) to tend to create a monopoly of



any line of commerce, (b) to substantially lessen competition between the banks in which it acquired stock, or (c) to restrain commerce in any section or community.

Respectfully submitted,

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