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(PRELIMINARY DRAFT - SUBJECT TO
CORRECTION AND REVISION)

DIGEST OF STATE LAWS
PROHIBITING OR LIMITING THE OWNERSHIP OF STOCK
IN BANKING INSTITUTIONS BY HOLDING CORPORA-
TIONS OR IMPOSING UPON THE STOCKHOLDERS OF
SUCH HOLDING CORPORATIONS A STOCKHOLDERS'
LIABILITY SIMILAR TO THAT IMPOSED BY
LAW UPON THE STOCKHOLDERS OF BANKING
INSTITUTIONS.

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ALABAMA.

There are no laws in this State covering either of the points raised.

ARIZONA.

There are no laws in this State bearing directly upon either of the points raised.

(Note:- Section 20, Chapter 31 of the 1922 Session Laws of Arizona provides that a "bank, loan or trust company or association" may purchase and hold stock of "any other bank, loan or trust company or association or other corporation" if such purchase is authorized by the executive committee or approved by the board of directors and if bank stock is purchased the approval of the superintendent of banks must also be obtained.)

ARKANSAS.

There are no statutes in this State covering either of the points raised.

CALIFORNIA.

There are no laws in this State covering either of the points raised.

COLORADO.

There are no laws in this State covering either of the points raised.

CONNECTICUT.

There are no laws in this State covering either of the points raised.

DELAWARE.

There are no laws in this State covering either of the points raised.

DISTRICT OF COLUMBIA.

There are no laws in the District of Columbia covering either of the points raised.

FLORIDA.

There are no laws in this State covering either of the points raised.

GEORGIA.

There are no laws in this State covering either of the points raised.

IDAHO.

There are no laws in this State covering either of the points raised.

ILLINOIS.

There are no laws in this State specifically covering either of the points raised.

However, the Illinois General Corporation Law provides that corporations organized thereunder may "own, purchase or otherwise acquire * * * stocks * * * of any corporation, domestic and foreign", but it is doubtful whether this provision applies to bank stock. (See case of Central Life Securities Company v. Smith, 236 Fed. 170. See also Section 6 of the Illinois Banking Act which, by referring to stockholders of banks by the use of the pronouns "he" or "she" in imposing a liability upon them, creates the implication that it was intended that the stockholders in banks should be natural and not artificial persons.

INDIANA.

There are no laws in this State covering either of the points raised.

IOWA.

There are no laws in this State bearing directly upon either of the points raised.

(Note:- Section 7940 of the 1927 Iowa Code, which authorizes corporations to hold stock in Railway Corporations, and Section 8434 of the 1927 Iowa Code, which recognizes the right of holding corporations to own stock in a public utility, are the only sections of the Iowa Laws relating to the ownership by corporations of stock in other corporations. Section 9 of Article VIII of the Iowa Constitution fixes the liability of stockholders of banks and refers to such stockholders by using the pronouns "he or she", implying that stockholders in banks must be natural and not artificial persons. In view of these provisions it is doubtful whether holding corporations in this State may hold or purchase stock in banking corporations.)

KANSAS.

There are no laws in this State covering either of the points raised.

KENTUCKY.

There is no law in this State limiting the power of corporations to hold bank stock unless it be Section 567 of Carroll's Kentucky statutes, which reads as follows:

"Nor shall any corporation directly or indirectly, engage in or carry on in any way the business of banking, or insurance of any kind, unless it has become organized under the laws relating to banking and insurance * * *".

(Kentucky continued.)

A double liability is imposed upon stockholders of banks for all contracts and liabilities of such banks by Section 595 of Carroll's Kentucky Statutes.

LOUISIANA.

There are no laws in this State bearing directly upon either of the points raised but it is doubtful whether holding companies may purchase or own stock in banking institutions.

(Note:- Although subdivision II(e) of Section 12, (P. 417), Act No. 250 of the 1928 Acts of the Louisiana Regular Session, permits corporations "to acquire * * * and to hold, * * * shares * * * of any other corporation, domestic or foreign, * * *" it is doubtful whether this subdivision is an authorization to holding corporations to acquire or hold shares of banking institutions in view of certain other subdivisions of Section 12, namely, I and II, and Sections 1 (P. 409) and 2 (P. 411) of the aforesaid 1928 Acts and Sections 1 (P. 1196) and 5 (P. 1203) of Volume 2 of the 1920 Constitution and Statutes of Louisiana.)

MAINE.

There are no laws in this State bearing upon either of the points raised.

MARYLAND.

There are no statutes in this State covering either of the points raised.

MASSACHUSETTS.

There are no laws in this State covering either of the points raised.

MICHIGAN.

There are no laws in this State covering specifically either of the points raised.

(Michigan continued.)

(Note:- The Session Laws of 1925 of Michigan, No. 363, p. 692, authorize corporations organized for pecuniary profit to purchase and hold shares of stock in other corporations organized for purposes similar to those of such corporations and this might be held to affect the right of holding corporations to own stock in banks, depending upon whether or not banks are organized for "similar purposes.")

MINNESOTA.

There are no laws in this State specifically covering either of the points raised.

(Note:- Under Section 3, Article 10 of the Minnesota Constitution each stockholders in any corporation organized under the laws of Minnesota, except those organized for the purpose of carrying on a manufacturing or mechanical business, is liable to the amount of the stock held or owned by him.)

MISSISSIPPI.

There are no laws in this State covering either of the points raised.

MISSOURI.

There are no laws in this State specifically covering either of the points raised.

(Note:- Trust companies may purchase or hold stock in other banks or trust companies. Paragraph 9, Section 11807 of the 1919 Revised Statutes of Missouri.)

MONTANA.

There are no laws in this State covering either of the points raised.

NEBRASKA.

There are no laws in this State covering either of the points raised.

NEVADA.

There are no laws in this State covering either of the points raised.

NEW HAMPSHIRE.

There are no laws in this State covering either of the points raised.

NEW JERSEY.

While there does not appear to be any statute in this State prohibiting absolutely the ownership of bank stock by holding corporations, there is a statute known as Chapter 273, 1928 Laws of New Jersey, Section 3 of which prohibits corporations that own more than ten per cent of the stock of any bank or trust company in the State of New Jersey from purchasing after the date the statute became effective more than ten per cent of the stock of any other bank or trust company doing business in the State of New Jersey. This statute does not require corporations to dispose of any bank stock that they may have owned before the law became effective and certain institutions (enumerated in Section 14 of the laws above referred to) are specifically exempted by Section 3 from its provisions. Section 3 reads as follows:

"3. Any corporation, other than corporations specifically exempted from the provisions of this act, which now or hereafter owns more than ten per centum of the number of shares of the capital stock now or hereafter at any time issued and outstanding of any bank or trust company or national bank, now or hereafter doing business in this State, shall not purchase more than ten per centum of the number of shares of capital stock at any time issued and outstanding of any other bank or trust company or national bank, now or hereafter doing business in this State."

(New Jersey continued.)

Section 14, which enumerates the specifically exempted institutions referred to in Section 3, reads as follows:

"14. The provisions of this Act and the penalties thereof shall not apply to the following corporations, viz.: Banks and trust companies organized under the laws of this State and national banks doing business in this State, nor to such banks, trust companies and national banks while acting in a fiduciary capacity representing any individual or individuals or the estate of any individual; nor to any other corporation the entire capital stock of which is owned by or held in trust for the shareholders of any bank or trust company organized under the laws of this State or any national bank doing business in this State, in the same relative proportion as the stock held in said bank, trust company or national bank."

(Note:- On March 11, 1929, a bill was introduced in the New Jersey Legislature to repeal Sections 4, 5 and 6 of the laws above referred to. These sections require banks and trust companies whose stock is owned by corporations to obtain statements from such corporations as to their bank stock holdings as a condition precedent to the voting or transfer of and the payment of dividends on, their holdings of bank stock. It is interesting to note that the repeal of these sections was sought by the banks and trust companies themselves because it was felt that the requirements contained therein were cumbersome, interfered with the free sale of their stock and imposed an unnecessary burden upon them, but the bill failed of enactment.)

There does not appear to be any legislation in this State imposing upon the stockholders of holding corporations a stockholders' liability similar to that imposed upon holders of bank stock.

NEW MEXICO.

There are no laws in this State specifically covering either of the points raised but there are certain sections of the laws of New Mexico which might be held to authorize corporations to purchase or hold stock in banking institutions.

(New Mexico continued.)

(Note:- Section 1019 of the 1915 Annotated Statutes of New Mexico authorize corporations unrestrictedly to "purchase, hold, * * * the capital stock of, * * * any other corporation or corporations, of this or any other territory or state, * * *" and no limitation is placed upon the amount of such stock that may be so purchased or held.

Section 395 of the Statutes above referred to prohibits banks from purchasing or holding the capital stock of "any other incorporated company" unless the acquisition of such stock is necessary to prevent loss upon a debt previously contracted and stock so acquired must be disposed of within six months if possible.

In view of the fact that the only specific prohibition in the New Mexico laws against the purchasing or holding of stock in other corporations is that as contained in Section 395, which restricts Banks only, and that corporations unrestrictedly are given the broad power, under Section 1019, to purchase and hold stock of "any other corporation or corporations", it might be held that banks are included within the phrase "any other corporation or corporations" and that, therefore, corporations may purchase stock in banking institutions.)

NEW YORK.

There are no laws in this State covering either of the points raised.

NORTH CAROLINA.

There are no laws in this State covering either of the points raised.

NORTH DAKOTA.

There are no laws in this State covering either of the points raised.

OHIO.

There are no laws in this State specifically covering either of the points raised. Stockholders in banking corporations are subjected to double liability for debts of the bank (General Code of Ohio, Section 710-75).

OKLAHOMA.

There are no laws in this State bearing directly upon either of the points raised but it is possible that it might be held that corporations may purchase and hold stock in banking institutions.

(Note:- Section 5301 of the 1921 Compiled Statutes of Oklahoma provides that "All corporations organized for any of the purposes authorized by this section shall have the power to own and hold stock of other corporations, except as prohibited by the Constitution of this State".

Section 41, Article 9 of the Constitution of Oklahoma, forbids corporations to own or hold stock in other competitive corporations engaged in the same kind of business and banks or trust companies to own or hold stock in other banks or trust companies, except in those cases where such corporations or banks or trust companies have acquired such stock to secure or satisfy a bona fide indebtedness, and in such cases the stock must be disposed of within twelve months.

Section 11029 of the 1921 Compiled Statutes makes it unlawful for corporations to combine to place the control of these corporations in the hands of a trustee or a holding corporation if the intent and purpose of such combination is to restrict or restrain trade.

In view of the fact that the provisions of Section 5301 of the 1921 Compiled Statutes granting to corporations the power to hold or own stock in other corporations seem rather broad, and that neither the prohibitions of the Constitution referred to therein and upon which such power is dependent, nor the provisions of Section 11029 of the 1921 Compiled Statutes appear to be specifically applicable, in that Article 9 of the Constitution prohibits only banks or trust companies from owning or holding stock in other banks or trust companies and does not purport to prohibit corporations from owning or holding

(Oklahoma continued.)

stock in other corporations if the latter are not engaged in the same kind of business as, and do not compete with, the purchasing corporations, and Section 11029 of the Compiled Statutes only affects combinations in restraint of trade, it is possible that it might be held that corporations may purchase and hold stock in banking institutions.

OREGON.

In this State corporations may purchase and hold stock of banks, corporations or associations but when they do so they are required to comply with certain conditions and restrictions, (Page 671, Chapter 444 of the 1929 General Laws of Oregon). However, no limitation as to the amount of stock which may be owned or held by such holding corporations is imposed nor is any stockholders liability imposed upon the individual stockholders of such holding corporations.

PENNSYLVANIA.

There are no statutes in this State that expressly forbid corporations to purchase or hold stock in banking institutions but in view of the fact that this right is not included in the exhaustive list of purposes for which corporations may be formed (Section 5598 of the Pennsylvania Statutes), none of which are general in terms, it is doubtful whether a corporation may be formed for the purpose of holding stock in banking institutions.

Section 1184 of the Pennsylvania Statutes imposes a double liability upon stockholders of banking institutions.

RHODE ISLAND.

There are no laws in this State covering either of the points raised.

SOUTH CAROLINA.

There are no laws in this State covering either of the points raised.

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SOUTH DAKOTA.

There are no laws in this State covering either of the points raised.

TENNESSEE.

There are no laws in this State covering either of the points raised.

TEXAS.

There are no statutes in this State bearing directly upon either of the points raised but it is questionable whether holding companies may purchase and hold stock in banking institutions.

(Note:- Article 513 of the 1925 Revised Statutes forbids banks or trust companies "to own more than ten per cent of the capital stock of any other banking corporation, * * * " unless the ownership of such excess stock "shall be necessary to prevent loss upon a debt previously contracted in good faith; * * * ", and in such cases the stock must not be owned for a longer period than six months.

Article 1302 of the 1925 Revised Statutes permits private corporations to "purchase, * * * hold, own, * * * shares of capital stock, * * * of foreign or domestic corporations not competing with each other in the same line of business; provided the powers and authority * * * conferred shall in no way affect any provision of the anti-trust laws of this State."

Article 7426 of the 1925 Revised Statutes defines a trust to be "a combination of capital, * * * by two or more persons, firms, corporations, * * *: (1) To create, or which may tend to create, or carry out restrictions in trade or commerce * * * or to create or carry out restrictions in the free pursuit of any business authorized or permitted by laws of this State" or "(3) to prevent or lessen competition in aids to commerce, * * *."

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(Texas continued.)

Article 7427 of the 1925 Revised Statutes states that a monopoly exists when two or more corporations combine or consolidate to bring the "direction of the affairs" of such corporations "under the same management or control for the purpose of producing, or where such common management or control tends to create a trust", or where "any corporation acquires the shares * * * of stock * * * of any other corporation or corporations, for the purpose of preventing or lessening, or where the effect of such acquisition tends to affect or lessen competition, whether such "acquisition is accomplished directly or through the instrumentality of trustees or otherwise."

In view of the foregoing it is questionable whether holding corporations may purchase or hold stock in banking institutions.

UTAH.

There are no laws in this State covering either of the points raised.

VERMONT

There are no laws in this State expressly prohibiting the ownership by holding companies of the stock of banks but there is a provision prohibiting holding companies from holding or acquiring stock in other corporations. Section 4925 of the 1917 General Laws of Vermont contains this prohibition and reads as follows:

"The corporation shall not be permitted to acquire or hold stock in other corporations to such an extent that its primary business is the holding of such stock. A violation of this provision shall be cause for the dissolution of the corporation under the provisions of Section 4944."

(Note:- The above provision applies to the stock of "corporations" generally but it would seem that it is broad enough in its terms to prohibit also the ownership of bank stock by holding companies).

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(Vermont continued.)

There are no laws in this State imposing upon stockholders of holding companies a stockholder's liability similar to that imposed upon holders of bank stock.

VIRGINIA.

There are no laws in this State covering either of the points raised.

WASHINGTON.

There are no laws in this State covering either of the points raised.

(Note:- During the 1929 Regular Session of the Legislature of this State a bill known as "Substitute House Bill No. 72" was introduced to restrict the ownership of bank or trust company stock by corporations, to 20% of the capital stock of such bank or trust company, but this bill did not pass.)

WEST VIRGINIA.

There are no laws in this State expressly limiting the power of corporations to hold stock in banks and such practice might be permissible under Section 2, Chapter 54 of the West Virginia Statutes, which, after enumerating certain purposes for which corporations may be formed, reads as follows:

"For any other purpose or business useful to the public for which a firm or co-partnership may be lawfully formed in this State".

Section 78 A, Chapter 54 of the West Virginia Statutes imposes a double liability upon stockholders of banking institutions.

WISCONSIN.

A statute was recently enacted in Wisconsin providing that no corporation may acquire more than 10% of the capital stock of any

(Wisconsin continued.)

State bank or trust company unless 75% of the capital stock of both corporations shall vote in favor of it. No foreign corporations under the new law, may purchase stock in a State bank or trust company unless it shall have obtained authority to do business in Wisconsin. (This information was obtained from the American Banker for Sept. 10, 1929, p. 1. The text of the Statute is not available.)

WYOMING.

There are no laws in this State covering either of the points raised.