

**FEDERAL RESERVE BOARD**

WASHINGTON

**ADDRESS OFFICIAL CORRESPONDENCE TO  
THE FEDERAL RESERVE BOARD**

X-6406

October 31, 1929.

**SUBJECT: Digest of State Laws Relating to the Owner-  
ship of Bank Stocks by Holding Corporations.**

Dear Sir:

There is attached hereto for your information, copy of a digest of State laws relating to the ownership of bank stocks by holding corporations which has been prepared by the Board's Counsel with the assistance of Counsel for the various Federal reserve banks.

Very truly yours,

E. M. McClelland,  
Assistant Secretary.

**TO ALL GOVERNORS AND CHAIRMEN.**

## STATE LAWS RE OWNERSHIP OF BANK STOCK BY HOLDING CORPORATIONS.

There is published below an analysis of State laws affecting the ownership of the stock of banks and trust companies by holding corporations, which has been prepared by the Office of the Board's General Counsel, with the assistance of Counsel for the various Federal reserve banks.

The States not mentioned in this Digest apparently have no legislation affecting this subject directly or indirectly.

ARIZONA.

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.

ILLINOIS.

The General Corporation Law provides that corporations organized thereunder may "own, purchase or otherwise acquire \* \* \* stocks \* \* \* of any corporation, domestic or foreign." The statute contains some restrictions, such as forbidding the holding of stock in a building corporation, but there is no express prohibition in the statute upon the right of a corporation to own stock in a bank, although there may be an implication to that effect. (See case of Central Life Securities Company v. Smith, 236 Fed. 170.) Likewise Section 6 of the Illinois Banking Act, which refers to stockholders of banks, by the use of the pronouns "he" or "she" may create the implication that it was intended that the stockholders in banks should be natural and not artificial persons.

IOWA.

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

(Iowa continued)

-2-

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.

#### 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 \* \* \*".

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 dealing specifically with this subject. 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.

#### MICHIGAN.

There are no laws in this State dealing specifically with this subject. However, 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 dealing specifically

(Minnesota continued)

-3-

with this subject. Under Section 3, Article 10 of the Minnesota Constitution, each stockholder 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.

#### MISSOURI.

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

#### 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."

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

(New Jersey continued)

-4-

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."

Under the laws of New Jersey, stockholders of New Jersey banks and trust companies are not subject to a double liability, as are stockholders of national banks and of banks and trust companies in other States. Nor do the laws of New Jersey impose such liability upon stockholders of holding corporations.

#### NEW MEXICO.

There are no laws in this State dealing specifically with this subject 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.

Section 1019 of the 1915 Annotated Statutes of New Mexico authorizes 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.

#### OHIO.

There are no laws in this State dealing specifically with this subject. Stockholders in banking corporations are subjected to double liabilities for debts of the bank (General Code of Ohio, Section 710-75).

-5-

OKLAHOMA.

There are no laws in this State dealing specifically with this subject, but it is possible that it might be held that corporations may purchase and hold stock in banking institutions.

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 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.

Under the provisions of an Act of this State approved March 9, 1929 (Chapter 444, General Laws of Oregon, 1929) any corporation "now or hereafter organized in this state, or licensed to do business herein" may own, hold or control the stock of any bank or trust company and while so owning, holding or controlling such stock the corporation is subject to the following restrictions:

(Oregon continued)

(1) It shall not borrow money or otherwise secure credit directly or indirectly, from such bank or trust company, unless the loan or credit is adequately secured by collateral other than stock or evidences of indebtedness of any corporation which it controls.

(2) It shall not sell any stock, securities or other evidences of indebtedness of any other corporation which it controls, to or through the bank or trust company in which it owns or holds stock; nor can it use such bank or trust company as an agent for the purpose of selling or otherwise disposing of such stock, securities or other evidences of indebtedness without first obtaining permission from the Oregon Corporation Commissioner.

(3) It shall not carry as an asset any expenses incident to organization or to the sale of stock after organization.

Penalties are prescribed for violations of this act by corporations or their officers or employees, and all corporations heretofore organized under the laws of Oregon or licensed to do business therein must bring themselves within the provisions of this act within six months after the date it became effective.

There is no provision in this act imposing upon the stockholders of corporations owning or holding stock in banks or trust companies the liability imposed upon the stockholders of such banks or trust companies.

#### PENNSYLVANIA.

There do not appear to be any provisions in the statutes of this State specifically covering the purchase or ownership of stock in institutions engaged in a banking business. However, under Section 1 of an Act of July 2, 1901, P. L. 603, as amended by an Act of April 18, 1929, and Section XX of paragraph 5598 of West's 1920 Pennsylvania Statute Law, it might be held that corporations are authorized to exercise this power.

Section 1 of an Act of July 2, 1901, P. L. 603, as amended by an Act of April 18, 1929, provides that " \* \* \* any corporation created by general or special laws, may purchase, hold \* \* \* the shares of the capital stock of \* \* \* any other corporation or corporations of this or any other State, and while the owner of said stock may exercise all the rights, powers and privileges of ownership, \* \* \*."

(Pennsylvania continued)

Section XX of paragraph 5598 of West's 1920 Pennsylvania Statute Law provides that a corporation may be formed "For any lawful purpose not specifically designated by law, as the purpose for which a corporation may be formed."

There does not appear to be any statute in this State expressly providing that stockholders of corporations owning stock in banks are subject to a stockholders' liability similar to the liability imposed upon stockholders of banks. Section 1184 of the Pennsylvania Statutes imposes a double liability upon stockholders of banks and it has been held that stockholders of trust companies are not subject to a double liability. See case of De Haven v. Pratt, (1909), 72 Atl. 1068, 223 Penn. 633.

#### TEXAS.

There are no statutes in this State dealing specifically with this subject, but it is questionable whether holding companies may purchase and hold stock in banking institutions.

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, \* \* \*."

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

-8-

(Texas continued)

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.

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."

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.

WASHINGTON.

There are no laws in this State dealing specifically with this subject.

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.

Under date of February 28, 1929, an Act was passed by the Legislature of this State affecting the purchase or ownership of stock in banking institutions by firms, associations or corporations. (Section 9, Chapter 23, Acts of 1929). Section 9 of this Act provides in part as follows:

(West Virginia continued)

"It shall be unlawful for any firm, association or corporation to purchase and hold stock in any banking institution organized or authorized to transact business hereunder for the purpose of selling, negotiating or trading participation in the ownership thereof either for the purpose of perfecting control of one or more such banking institutions or for the purpose of inducing other persons, firms or corporations or the general public to become participating owners therein. Nothing herein shall prevent the ownership of stocks in any such banking institution by any corporation for investment purposes.

With reference to the liability imposed upon stockholders in banks, Section 9 provides as follows:

"Each stockholder of any banking institution organized under the laws of this state, in addition to the liability imposed upon him as stockholder of a corporation under the provisions of the general corporation laws shall be liable to the creditors of the banking institution, on obligations accruing while he is a shareholder, to an amount equal to the par value of the shares of stock held by him."

#### WISCONSIN.

In this State an Act recently was enacted regulating the ownership of stock in banks and trust companies. (Chapter 445, Wisconsin Laws of 1929 - Published, August 30, 1929) Relevant provisions of this Act are summarized briefly as follows:

No corporation organized under the laws of Wisconsin is permitted to hold more than 10% of the stock of any bank or trust company, unless 75% of the stockholders of both corporations vote in favor thereof at a meeting especially called for that purpose.

No State bank or trust company may vote to authorize a foreign corporation to purchase stock in such State bank or trust company, unless such foreign corporation shall have qualified to do business in Wisconsin.

Whenever the ownership or control of a majority of the stock of any State or national bank doing business in Wisconsin is held by any foreign corporation which has not qualified to do business in the State, such bank shall be disqualified to act as a depository for any public funds of the State or any subdivision thereof, or as a depository for reserve

(Wisconsin continued)

funds of State banks until such foreign corporation shall have qualified to do business in the State.

Domestic corporations and foreign corporations authorized to do business in the State which own or control the stock of a State bank or trust company shall be held liable for any assessment made against the stockholders of such bank or trust company to the par value of the stock so owned or controlled; and such holding corporations are required to deposit with the State Treasurer securities equal to fifty per cent of the par value of the stocks of State banks or trust companies owned or controlled by such holding companies, except that the aggregate amount of such securities shall not exceed the largest amount required to be deposited by Wisconsin trust companies.

If the stockholders' liability of any such holding company is not fully paid, the stockholders of such holding company are liable for an assessment sufficient to cover the deficit.

SES-sad