

## The Bank Holding Company Act of 1956

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## LEGISLATION

### THE BANK HOLDING COMPANY ACT OF 1956

Amid cries of government intervention in private enterprise,<sup>1</sup> the Bank Holding Company Act of 1956<sup>2</sup> became law on May 9th of this year. The act is primarily intended to define bank holding companies, to supervise and control their expansion, and to require divestment of all their non-banking activities.<sup>3</sup> Within the past few years banks and bank holding companies have expanded to the point that the financial structure of our banking system will soon resemble that of Great Britain and Germany, where all the financial resources are controlled by a few giant interlocking banks.<sup>4</sup> For example, there were over 350 bank mergers in 1955, over 200 in 1954, 116 in 1953, and 119 in 1952.<sup>5</sup> From 1931 to 1955 the number of banks in this country shrank from 19,375 to 14,400, a decrease of approximately 5,000 banks.<sup>6</sup> As a result of this decrease the 100 largest banks now control over 48 per cent of this country's bank deposits.<sup>7</sup> In 1954, 32 banks were absorbed by two banks in different states and these two banks were controlled by the same holding company. This gave the holding company 44.6 per cent of one state's total bank deposits and 66.7 per cent of another state's deposits, and in 1955 this bank felt constrained to absorb one of its seven competitors.<sup>8</sup> The effect of all this is an increasing concentration of power over the money and credit of this nation.<sup>9</sup>

From 1950-54 inclusive many banks were taken over by banks having over 100 million dollars in total assets,<sup>10</sup> and the majority of these banks which were absorbed are considered small banks; that is,

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<sup>1</sup> *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency, 84th Cong., 1st Sess., at 477 (1955).*

<sup>2</sup> 70 STAT. 133, 12 U.S.C.A. § 1841-48 (1956).

<sup>3</sup> S. REP. NO. 1095, 84th Cong., 2d Sess. (1955) in 9 U.S. CODE CONG. & ADMIN. NEWS at 2048 (June 5, 1956).

<sup>4</sup> *Hearings Before the Antitrust Subcommittee of the House Committee On The Judiciary, 84th Cong., 1st Sess., ser. 3, pt. 1, at 446 (1955).*

<sup>5</sup> *Id.* at 445.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Id.* at 446.

<sup>8</sup> *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency, 84th Cong., 1st Sess., at 117-18 (1955).*

<sup>9</sup> *Ibid.*

<sup>10</sup> See *Hearings Before the Antitrust Subcommittee of the House Committee On The Judiciary, 84th Cong., 1st Sess., ser. 3, pt. 3, at 2159 (1955).*

banks having less than ten million dollars in total assets.<sup>11</sup> The logical result of this trend is a decrease in competition within the banking business. The smaller banks, being unable to compete with the large holding companies, must either join them or unite against them in order to survive.<sup>12</sup> Mr. J. L. Robertson, Member of the Board of Governors of the Federal Reserve System, stated before the House Committee that ". . . competition is probably one of the strongest single factors which safeguard a sound banking system."<sup>13</sup>

In an effort to retain a sound banking system, Congress felt that the bank holding companies presented the greatest threat within the banking system because of their unrestricted ability to acquire banks, coupled with the power to control non-banking companies.<sup>14</sup> This article will illustrate how the Government attempted to contain the holding company prior to this present legislation. The main provisions of the Bank Holding Company Act<sup>15</sup> will be discussed with the stress placed on their effect on the banking business, particularly in light of the evils which are attempted to be remedied.

### *The Holding Company Device*

Originally, a corporation could not purchase or own the stock of other corporations unless expressly authorized by law.<sup>16</sup> The holding company is the product of the statutory right of corporations to own stock in other corporations.<sup>17</sup> In this manner a corporation can control another corporation by controlling a majority of the voting shares.<sup>18</sup> For example, X1 corporation acquires the majority voting stock of corporations A, B and C; X2 corporation acquires the majority voting stock of corporations D, E and F. XT, the top holding company, acquires the majority stock of X1 and X2. In this manner the top holding corporation directly controls two corporations and indirectly controls six subsidiary corporations. The reason for all this maneuvering is to obtain the greatest amount of control with the smallest capital investment. A direct result of this type of control is a lessening of competition among the corporations.<sup>19</sup> A bank holding

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<sup>11</sup> *Ibid.*

<sup>12</sup> *Id.* at 2164.

<sup>13</sup> *Id.* at 2162.

<sup>14</sup> S. REP. No. 1095, 84th Cong., 2d Sess. (1955) in 9 U.S. CODE CONG. & ADMIN. NEWS at 2049 (June 5, 1956); *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency*, 84th Cong., 1st Sess., at 44 (1955).

<sup>15</sup> 70 STAT. 133, 12 U.S.C.A. § 1841 (1956).

<sup>16</sup> See *People v. Marcus*, 235 App. Div. 397, 399, 257 N.Y. Supp. 424, 426 (1st Dep't 1932) (dictum).

<sup>17</sup> N.Y. STOCK CORP. LAW § 18. See PRASHKER, CORPORATIONS 889 (2d ed. 1949).

<sup>18</sup> See PRASHKER, *op. cit. supra* note 17.

<sup>19</sup> *Ibid.*

company is a top holding company which specializes in controlling banks.

The bank holding company primarily originated and expanded in those states that restricted or altogether prohibited branch banking.<sup>20</sup> In this manner the state laws were easily avoided.<sup>21</sup> A bank is also prohibited from doing an interstate banking business, while before the present law the holding company was free to establish subsidiaries in different states and thus avoid these laws.<sup>22</sup>

### *Beginning of Federal Control*

In the late twenties and early thirties the holding company was subjected to severe criticism because of the widespread abuse of subsidiary companies.<sup>23</sup> Congress, recognizing the then present evils, passed the Public Utility Holding Company Act of 1935.<sup>24</sup> The main provisions of this act were that the Securities and Exchange Commission regulate the public utility holding company;<sup>25</sup> the definition of a holding company as one that owned ten per cent or more of the voting stock of a public utility;<sup>26</sup> and a provision for the elimination of unnecessary holding companies.<sup>27</sup> This was the first direct government legislation controlling holding companies.<sup>28</sup>

Prior to this, The Banking Act of 1933 had given the Board of Governors of the Federal Reserve System a limited control over holding companies within the national bank system.<sup>29</sup> However, there was no way to prevent a holding company from acquiring as many banks as it wished or as many non-banking companies as it desired.<sup>30</sup> The Board could only control the holding company if that company wished to vote its stock in the subsidiary bank.<sup>31</sup> A holding company could remove itself from the jurisdiction of the Board merely by re-

<sup>20</sup> *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency, 84th Cong., 1st Sess., at 107 (1955).*

<sup>21</sup> *Ibid.*

<sup>22</sup> *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency, 84th Cong., 1st Sess., at 107 (1955); see Note, 1 STAN. L. REV. 658, 662 (1949).*

<sup>23</sup> PRASHKER, CORPORATIONS 890 (2d ed. 1949).

<sup>24</sup> 49 STAT. 838 (1935), 15 U.S.C. § 79 (1952).

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> 49 STAT. 838 (1935), 15 U.S.C. § 79 (1952). See also PRASHKER, *op. cit. supra* note 23.

<sup>28</sup> PRASHKER, CORPORATIONS 890 (2d ed. 1949).

<sup>29</sup> 48 STAT. 186 (1933), 12 U.S.C. § 61 (1952).

<sup>30</sup> S. REP. No. 1095, 84th Cong., 2d Sess. (1955) in 9 U.S. CODE CONG. & ADMIN. NEWS at 2049 (June 5, 1956); *Hearings Before the Antitrust Subcommittee of the House Committee On The Judiciary, 84th Cong., 1st Sess., pt. 3, at 2169 (1955).*

<sup>31</sup> *Hearings, supra* note 30, at 2166.

fraining from voting the shares it controlled in the member bank.<sup>32</sup> Aside from voting its shares, however, a holding company could exercise control in many other ways; for example, the holding company could acquire the assets of a bank, thereby placing itself in a position to direct the bank's operations.<sup>33</sup>

In 1914, Congress passed the Clayton Act which forbids a corporation engaged in interstate commerce from acquiring shares of another corporation where the effect of such acquisition may be a substantial lessening of competition.<sup>34</sup> Due to the vagueness of the Act it was recently amended.<sup>35</sup> However, the Act remains ineffective because it presents serious problems of inquiry for the trier of fact, especially since there are no set standards on which to base a decision.<sup>36</sup> Furthermore, there has existed considerable uncertainty in the application of antitrust laws to the field of banking.<sup>37</sup>

### *Transamerica—The Acme of the Holding Company Problem*

In an attempt to restrict the holding companies, the Board of Governors of the Federal Reserve System began proceedings against *Transamerica* under Section 7 of the Clayton Act.<sup>38</sup> *Transamerica* presented the holding company problems in their most acute aspects. In 1947 *Transamerica* held a majority interest in forty separate banking systems in addition to controlling an ever increasing number of non-banking corporations.<sup>39</sup> The Board of Governors also found that *Transamerica* controlled the world's largest commercial bank—the Bank of America.<sup>40</sup> Yet *Transamerica*, because the Clayton Act proved ineffective, emerged from this trial almost as powerful as before.<sup>41</sup>

The Board of Governors of the Federal Reserve System also sought to restrict *Transamerica's* growth by retaining the right to withdraw a bank's membership in the National Bank System if its

<sup>32</sup> S. REP. No. 1095, 84th Cong., 2d Sess. (1955) in 9 U.S. CODE CONG. & ADMIN. NEWS at 2049 (June 5, 1956).

<sup>33</sup> *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency, 84th Cong., 1st Sess., at 56-57 (1955)*; see Gruis, *Antitrust Laws and Their Application To Banking*, 24 GEO. WASH. L. REV. 89, 96-97 (1955).

<sup>34</sup> 38 STAT. 731 (1914), 15 U.S.C. § 18 (1946).

<sup>35</sup> 64 STAT. 1125 (1950), 15 U.S.C. § 18 (1952).

<sup>36</sup> See Neal, *The Clayton Act and the Transamerica Case*, 5 STAN. L. REV. 179, 182 (1953).

<sup>37</sup> See Berle, *Banking Under The Anti-Trust Laws*, 49 COLUM. L. REV. 589, 590 (1949).

<sup>38</sup> See Note, 1 STAN. L. REV. 658, 659 (1949).

<sup>39</sup> See Note, 57 YALE L.J. 297 (1947).

<sup>40</sup> See Neal, *supra* note 36, at 192.

<sup>41</sup> See *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency, 84th Cong., 1st Sess., at 125 (1955)*.

stock should be acquired by *Transamerica* without first seeking the approval of the Board of Governors.<sup>42</sup> However, the court ruled that the condition was void as it exceeded the Board's statutory authority.<sup>43</sup>

As of 1955 *Transamerica* was still spread over a wide area doing 78 per cent of the banking business in Nevada; 21 per cent in Arizona; 45 per cent in Oregon; 5 per cent in Washington, and 4 per cent in California.<sup>44</sup> For seventeen years Congress has had before it various proposals to restrict the bank holding company.<sup>45</sup> They have ranged all the way from a bill which would dissolve bank holding companies, to a bill which would give the Board of Governors widespread discretionary authority over bank holding companies.<sup>46</sup> The Bank Holding Company Act of 1956 is considered a compromise between these proposals.<sup>47</sup> However, Senator Douglas, a member of the Subcommittee on Banking and Currency, stated that the Subcommittee proposed to restrict *Transamerica* by this bill.<sup>48</sup>

### *Provisions of the Bank Holding Company Act of 1956*

A bank holding company is defined as any company that either directly or indirectly controls, owns, or has the power to vote 25 per cent or more of the voting shares of two or more banks; or 25 per cent of the stock of a company which becomes a bank holding company under this act; or which controls in any manner the election of a majority of the directors of two or more banks; or where trustees hold 25 per cent or more shares of two or more banks for the benefit of the companies' shareholders.<sup>49</sup> The Board of Governors' previous authority extended to a holding company which controlled 50 per cent or more of the voting shares of a bank.<sup>50</sup> Under the old definition only eighteen bank holding companies were subject to supervision by the Board of Governors.<sup>51</sup> The new definition will encompass at least forty-six more holding companies that were exempted under the old definition.<sup>52</sup> It should be pointed out that the Board of Governors

<sup>42</sup> See *Peoples Bank v. Eccles*, 161 F.2d 636 (D.C. Cir. 1947), *rev'd on other grounds*, 333 U.S. 426 (1948); Note, 57 YALE L.J. 297, 303 (1947).

<sup>43</sup> See *Peoples Bank v. Eccles*, *supra* note 42, at 643-44.

<sup>44</sup> *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency*, 84th Cong., 1st Sess., at 125 (1955).

<sup>45</sup> S. REP. No. 1095, 84th Cong., 2d Sess. (1955) in 9 U.S. CODE CONG. & ADMIN. NEWS at 2051 (June 5, 1956).

<sup>46</sup> *Hearings*, *supra* note 44, at 119-20.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Hearings*, *supra* note 44, at 124.

<sup>49</sup> 70 STAT. 133, 12 U.S.C.A. § 1841(a) (1956).

<sup>50</sup> 48 STAT. 162 (1933), 12 U.S.C. § 221a (1952).

<sup>51</sup> *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency*, 84th Cong., 1st Sess., at 49, 52 (1955).

<sup>52</sup> *Id.* at 54.

was not happy with the definition of a bank holding company as enacted in the new law, but wished it to read and extend to controlling 25 per cent of one bank.<sup>53</sup> This would increase the scope of the Board's supervision. However, the Senate committee felt that there was no necessity to have such a widesweeping definition.<sup>54</sup> It is estimated that at least 163 bank holding companies are now subject to supervision under the present definition.<sup>55</sup>

Under the second major provision of the Act, the prior approval of the Board is necessary before: (1) any action can be taken which would make a company a bank holding company, as defined by this act; (2) for a bank holding company to directly or indirectly acquire control or ownership of any voting shares of a bank if the acquisition will result in the holding company having more than five per cent control; (3) for a bank holding company or subsidiary other than a bank to acquire all or substantially all the assets of a bank; (4) or for bank holding companies to merge or consolidate with one another.<sup>56</sup> The method of application for approval is set forth in detail. It provides for the advisory opinions of the Comptroller of the Currency and of the particular state supervisory authority involved.<sup>57</sup> The Act enumerates the specific tests to be applied by the Board of Governors of the Federal Reserve System in either denying or approving the application of a holding company.<sup>58</sup>

The Board *cannot* approve an application where the bank whose shares are to be acquired is in a different state from that of the principal office of the holding company, unless this transaction is specifically authorized (not merely by implication) by the state statute where the bank is located.<sup>59</sup> As a result, the Board has no power to permit a holding company to spread across state lines. This matter of allowing interstate banking is primarily left in the hands of the states.

#### *Divesting of Non-Banking Interests*

The Act provides that from May 9, 1956 no bank holding company can acquire either direct or indirect control of any voting shares of any company that is not a bank. It further provides that a bank holding company that owned shares in any business not closely allied to banking must divest itself of all these shares within two years from

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<sup>53</sup> *Id.* at 46.

<sup>54</sup> S. REP. NO. 1095, 84th Cong., 2d Sess. (1955) in 9 U.S. CODE CONG. & ADMIN. NEWS at 2054-55 (June 5, 1956).

<sup>55</sup> *Hearings, supra* note 51, at 58.

<sup>56</sup> 70 STAT. 134, 12 U.S.C.A. § 1842(a) (1956).

<sup>57</sup> *Id.* § 1842(b).

<sup>58</sup> *Ibid.* They are: 1. The financial history and present condition of all concerned. 2. Their prospects. 3. The character of their management. 4. The needs and convenience of the communities concerned. 5. Whether the expansion would be beyond limits consistent with sound banking, the public interest and the preservation of competition.

<sup>59</sup> 70 STAT. 134, 12 U.S.C.A. § 1842(d) (1956).

the date this Act became law.<sup>60</sup> The Board is empowered to extend this two-year period for one-year periods where the need is manifested. However, the time cannot be extended for more than five years.<sup>61</sup>

The Act makes it unlawful for a bank to invest in, or to purchase the capital stock of, or to lend money to its holding company, or any of the other subsidiary companies, or to extend them credit, or to purchase from them under a repurchase agreement.<sup>62</sup>

The Act in no way supersedes the right of any state to impose any further restrictions they deem necessary.<sup>63</sup> Because of the unique divestment provisions of the bill, an amendment to the Internal Revenue Code is incorporated in the Act which provides for the distribution of gain to the shareholders of a holding company.<sup>64</sup>

#### *Application of Bank Holding Company Act*

By requiring a bank holding company to divest itself of all its non-banking activities the Act is in accord with the law that banks may carry on only a banking business.<sup>65</sup> The Board of Governors believe that the greatest evil in the banking field was the combination of banking and non-banking interests.<sup>66</sup> This is now prohibited.<sup>67</sup> Banking activities are carried on mostly with depositors' funds rather than by use of equity capital subscribed by shareholders.<sup>68</sup> Since a bank holding company will not be able to use depositors' money to finance some non-banking company owned by the holding company, bank depositors now receive greater protection. Nor will they be able to force the bank's customers, as a condition of doing business, to use the non-banking activities of the holding company.<sup>69</sup> A holding company can no longer take from one subsidiary and give to another<sup>70</sup> in order to gain advantages in a particular area. Nor can the holding companies undermine their subsidiaries in order to strengthen themselves since "upstream" lending is prohibited by the Act.<sup>71</sup> For example, suppose one of the holding company's subsidiaries in a particular area had healthy competition from other banks. It could

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<sup>60</sup> *Id.* § 1843(a).

<sup>61</sup> *Ibid.*

<sup>62</sup> 70 STAT. 137, 12 U.S.C.A. § 1845(a)(1-4) (1956).

<sup>63</sup> *Id.* § 1846.

<sup>64</sup> 70 STAT. 139, 26 U.S.C.A. §§ 1101-03 (1956).

<sup>65</sup> REV. STAT. 5136 (1875), as amended, 12 U.S.C. § 24(7) (1952).

<sup>66</sup> See *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency*, 84th Cong., 1st Sess., at 64-65 (1955).

<sup>67</sup> 70 STAT. 135, 12 U.S.C.A. § 1843(a) (1956).

<sup>68</sup> S. REP. No. 1095, 84th Cong., 2d Sess. (1955) in <sup>o</sup> U.S. CODE CONG. & ADMIN. NEWS at 2049 (June 5, 1956).

<sup>69</sup> *Id.* at 2052.

<sup>70</sup> *Id.* at 2062.

<sup>71</sup> *Ibid.*



invest the funds of other subsidiaries or transfer the assets of these subsidiaries to the one receiving healthy competition. In this manner the subsidiary would then become more powerful than its competitors, either forcing them out of business or assimilating them. This process in turn could be worked with all the subsidiaries until the whole holding company system was without competition and the members of the community would then be forced to deal with the banks on their terms instead of the terms demanded by a healthy competitive market. However, this is no longer possible since the prohibition of "horizontal" and "upstream" lending.<sup>72</sup>

On the other hand "downstream" lending is not prohibited, *i.e.*, from the holding company to the subsidiary, since it was felt that this is one of the most beneficial advantages of the holding company system.<sup>73</sup> The overall effect of the Act is that a sounder credit system results and at the same time there is an increase in the protection over depositors' funds. Another important feature of the Act is that supervision and control are in one agency, the Board of Governors.<sup>74</sup> Previously, what small control existed was divided among many departments which rendered proper enforcement and adequate supervision difficult if not impossible.<sup>75</sup>

A modified freeze is placed on the banking business under the provisions of this Act as those holding companies with many subsidiaries do not need approval to retain those companies already under their control;<sup>76</sup> whereas any company either wishing to become a bank holding company or to acquire further banks must first obtain the approval of the Board of Governors.<sup>77</sup> Those that are large can at least remain large while it is uncertain whether the Board will approve further holding companies and further acquisition of banks. Also those large holding companies still exert a great influence over money and credit even though they are now supervised.

A bank holding company can no longer acquire non-banking companies<sup>78</sup> while those that have them can retain them for at least two years but not more than five years.<sup>79</sup> Therefore, these latter holding companies have an advantage over those that come into existence after the passage of this Act, as they can do all they can to strengthen themselves and to further their interests before the five-year period lapses. However, there is a possibility that those non-banking companies which must be released will not be able to survive alone or that their business will be seriously retarded because of the

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<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> 70 STAT. 134, 12 U.S.C.A. § 1842 (1956).

<sup>75</sup> See Gruis, *Antitrust Laws and Their Application To Banking*, 24 GEO. WASH. L. REV. 89, 90 (1955); Note, 1 STAN. L. REV. 658, 667 (1949).

<sup>76</sup> See 70 STAT. 134, 12 U.S.C.A. § 1842(a) (1956).

<sup>77</sup> *Ibid.*

<sup>78</sup> *Id.* § 1843(a) (1).

<sup>79</sup> *Id.* § 1843(a) (2).

lack of capital behind them.<sup>80</sup> Along the same lines, there may be some companies that just fall under the definition of a bank holding company although their main business lies in the non-banking field so that they will choose to divest themselves of their bank holdings and that these banks will not be able to survive alone. The Senate considered the possibility of freezing the holding companies and letting them retain all their banks and non-banking companies, but they decided that this would be too inequitable.<sup>81</sup>

### *Conclusion*

The Bank Holding Company Act of 1956 should provide some of the needed supervision and control over the holding company phase of the banking industry. However, there already appears a need to expand the coverage of the Act by enlarging the definition, since it is claimed that too many holding companies escape coverage under the present definition.<sup>82</sup>

The problem of unrestricted growth of bank holding companies is checked before it starts by requiring the prior approval of the Board of Governors. This avoids the problem of trying to attack the evil after it has reached tremendous proportions. As pointed out, the prior method of control presented too many problems and consumed too much time.<sup>83</sup>

The bank holding company is now equated with branch banking in that it must now confine itself to a single state.<sup>84</sup> There still remain those holding companies that already have subsidiaries in many states which they may keep under the Bank Holding Company Act of 1956.<sup>85</sup> Other holding companies that do not have subsidiaries in other states are prohibited from acquiring them unless specifically authorized by the statutes of the states wherein the proposed subsidiaries are located.<sup>86</sup> This gives the large multi-state holding companies an advantage in that they are already solidified in their position while the other holding companies will have to await the outcome of

<sup>80</sup> See Neal, *The Clayton Act and the Transamerica Case*, 5 STAN. L. REV. 179, 226-27 (1953).

<sup>81</sup> S. REP. No. 1095, 84th Cong., 2d Sess. (1955) in 9 U.S. CODE CONG. & ADMIN. NEWS at 2061 (June 5, 1956).

<sup>82</sup> See 73 BANKING L.J. 475 (1956). It is stated here that the Act will only require 6 out of 150 bank holding companies to divest themselves of their non-banking interests, while the definition provision exempts 100 of the 150 bank holding companies from this law.

<sup>83</sup> See Neal, *supra* note 80, at 229.

<sup>84</sup> *Hearings Before the Subcommittee On Banking And Currency of the Senate Committee On Banking And Currency*, 84th Cong., 1st Sess., at 47 (1955).

<sup>85</sup> 70 STAT. 134, 12 U.S.C.A. § 1842(d) (1956); *Hearings, supra* note 84, at 120.

<sup>86</sup> *Ibid.*

state legislation in order to be in a position to challenge these large holding companies. In the meantime the large holding companies have a virtual interstate monopoly among the states with only a possibility of competition from other holding companies. It should be noted that the Board of Governors, which administers the Act, objected strongly to this provision of the Act that equates holding companies with branch banking.<sup>87</sup> It would have been more advantageous to have allowed the Board to have the final decision as to whether a holding company could acquire a bank in a different state because the Board is in a better position to see all the essential facts and the basic needs more clearly than the individual state. Also one bank may have a monopoly within a state and the Board is now powerless to allow competition without the state first acting.

There is also further need for legislation to restrict the ability of banks to merge with one another and to acquire unlimited branches. Banks have been able to merge with amazing ease over the past few years<sup>88</sup> and this matter has become one of great concern.<sup>89</sup> A bill which would have covered this subject failed to pass the Senate<sup>90</sup> last summer so the matter still demands immediate action.



## GIFTS OF SECURITIES TO MINORS—ARTICLE 8-A, PERSONAL PROPERTY LAW

### *Introduction*

Very recently, legislation was enacted in New York,<sup>1</sup> and several other jurisdictions,<sup>2</sup> concerning gifts of securities to minors. Although at common law a minor could hold securities, or any other personal property, in his own name,<sup>3</sup> he could disaffirm any conveyance of that property.<sup>4</sup> Third persons dealing with this property assumed

<sup>87</sup> *Hearings, supra* note 84, at 47, 142.

<sup>88</sup> See *Hearings Before the Antitrust Subcommittee of the House Committee On The Judiciary*, 84th Cong., 1st Sess., ser. 3, pt. 1, at 451, 466 (1955).

<sup>89</sup> See *Hearings, supra* note 88, at 465-66, pt. 3, at 2159.

<sup>90</sup> H.R. 5948, 84th Cong., 1st Sess. (1955). This bill was passed by the House but was not acted upon by the Senate.

<sup>1</sup> N.Y. PERS. PROP. LAW §§ 265-70.

<sup>2</sup> California, Colorado, Connecticut, Georgia, Michigan, New Jersey, North Carolina, Ohio, Rhode Island, South Carolina, Virginia, Wisconsin. See N.Y. STOCK EXCHANGE, *Stock Gifts to Minors, A Guide to Recent Legislative Action* 1 (1956). In addition, a similar statute was recently passed for the District of Columbia, Pub. L. No. 976, 84th Cong., 2d Sess. (Aug. 3, 1956).

<sup>3</sup> See *Legis. Note*, 54 MICH. L. REV. 883 (1956).

<sup>4</sup> See *Casey v. Kastel*, 237 N.Y. 305, 142 N.E. 671 (1924); WILLISTON, CONTRACTS 269 (rev. ed. 1938).