

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

April 13, 1977

ATTORNEY GENERAL OPINION NO. 77-116

The Honorable John Crofoot
State Senator
Cedar Point, Kansas 66843

Re: Elections--Corporations--Contributions

Synopsis: Under K.S.A. 25-1709, a parent corporation which owns a subsidiary which falls within the class of corporations prohibited from making contributions, but which itself does not carry on any of the businesses or exercise any of the privileges recited therein, is not prohibited from making political contributions by virtue of its stock ownership in such covered corporations. Similarly, a corporation which does not carry on any of such named businesses, or exercise any of the specified privileges, is not prohibited from making contributions merely by ownership of its stock by a corporation which is covered by this section.

* * *

Dear Senator Crofoot:

K.S.A. 25-1709 states thus:

"No corporation carrying on the business of a bank, trust, surety, indemnity, safe deposit, insurance, railroad, street railway, telegraph, telephone, gas, electric light, heat, power, or water company, or any company having the right to take or condemn land or to exercise franchises in public ways granted by the state or by any county or city, and no trustee or trustees owning or holding the

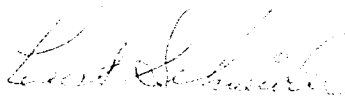
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majority of the stock of such corporation, shall pay or contribute in order to aid, promote, or prevent the nomination or election of any person to public office No person shall solicit or receive such payment or contribution from such corporation or such holders of stock."

You inquire whether a corporation which owns a corporation which falls within the statute is likewise prohibited by such ownership from making contributions. The statute applies, in my judgment, to the corporation which itself carries on the business of a bank, insurance company, railroad and the like, and not to a parent corporation which holds the stock of the operating corporation, but which itself does not carry on the business of a bank, railroad, etc.

In an opinion dated September 1, 1972, to Representative Loux, Attorney General Vern Miller concluded that the phrase "trustee or trustees owning or holding the majority of the stock of such corporations" did not apply to majority stockholders which held such stock in their own right, and not as trustee or nominee for others. By analogy, in my judgment, the provision does not apply to a corporate holder of all of the stock of an operating corporation, when the stockholding corporation is not itself engaged in any of the businesses or empowered to exercise any of the privileges recited in this provision. Similarly, if a company which fell within the statutory classification owned another company which did not, the latter wholly-owned company would not be barred by this statute from making contributions unless, of course, the circumstances surrounding a particular contribution were such that the subsidiary were shown to be acting virtually as the agent of the parent corporation.

Sincerely,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj