

1. Generally I think this opinion is all right, though not inspired. I point out a few objections and reservations.

2. At the end of the first paragraph on page 8 there is what seems to me a tautology. Murphy says that the highly pyramided system “represents the holding-company system at its worst.” Yet when we refer back to page 6 where he begins the discussion of the evils of holding companies we see that one of the evils is that they are highly pyramided. This is going in circles.

3. In *North American Co. v. SEC*, 66 Sup.Ct. 785, it was pointed out, in answer to the argument that the Act in terms covered both interstate companies and those that do business solely with one state, that the Act, section 3, permits the SEC to exempt wholly intrastate holding company systems. And we reserved the case where the SEC did not exempt “some truly local holding company”. It might be well to make that reservation again in the light of Murphy’s statement that “the federal commerce power is as broad as the economic needs of the nation” which means, I suppose, only that national needs always will as a matter of fact involve interstate commerce. P. 9

4. The discussion of the absence of a requirement for notice to security-holders I find somewhat sloppy. Murphy suggests that “the security holders must accept the representation of their legal agents, the management, who are best equipped to comprehend the relevant factors” although elsewhere he tells us that one of the evils of the holding companies is that the management does not truly represent security holders. P. 13 with which compare P. 8.

As a matter of fact, I don’t see why the SEC shouldn’t give at least notice by publication to all security holders. Making such a rule apparently would not upset the present case, because Murphy states on pages 13-14 that all security holders of American and Electric were given public notice of the pendency of section 11(b)(2) proceedings.

5. A minor point is Murphy’s argument on page 19 to the effect that since section 11(f) and 11(g) refer to dissolution, the SEC must have that power under section 11(b). But this is not necessarily true. Section 11(f) and 11(g) could refer to cases in which companies had submitted under section 11(e) voluntary plans calling for dissolution.

6. The part of Murphy’s opinion which says that that the SEC did not have to hold up the section 11(b)(2) order to pass upon the voluntary plans submitted under section 11(e) worries me a bit, in view of the statutory provisions, in section 11 (e) for “opportunity for hearing”. The SEC did not give a hearing to the section 11(e) proposals here. And it seems rather pointless, if Murphy means to suggest this, that the SEC should give a hearing on the section 11(e) proposals after it has issued its section 11(b)(2) order, for surely in such an event it is not very likely to be persuaded by company proposals under section 11(e). I am not at the moment quite sure how this can be fixed up.