
PROPOSED LEGISLATION REGARDING BANK HOLDING COMPANIES

ADDITIONAL STATEMENT OF THOMAS B. McCABE, CHAIRMAN, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, BEFORE SENATE BANKING AND CURRENCY COMMITTEE, MARCH 17, 1950

Mr. Chairman and Members of the Committee:

I want to express my very great thanks to the members of the Committee for allowing us this opportunity to discuss some of the matters which have developed in the course of these hearings. As you may know, I have attended all of the sessions and have listened with much interest to the various suggestions and criticisms which you have received. Needless to say, these have all received our very careful attention at the Board and we are now prepared to make certain concrete recommendations in the light of them.

I should like to say at the outset that I was particularly impressed, as I hope the Committee was, with the fact that only two organizations appeared here in opposition to this bill. On the other hand, as the Committee remembers, you have received expressions endorsing the primary purposes of this legislation from the American Bankers Association, the Federal Advisory Council, the National Association of State Supervisors, the Independent Bankers Association of Sauk Centre, Minnesota, the Independent Bankers Association of the Twelfth Federal Reserve District, and from numerous other individuals occupying important places in the banking world. These organizations collectively represent the cream of American banking thought. Their views are not only those of big banks but of thousands of little banks scattered throughout the country. And the Committee will remember that, as I testified earlier, all of these organizations have had one or more conferences with members of the Board and its staff during which S. 2318 was literally picked to pieces. Having in mind their testimony, I think, it is fair for everyone to believe that this legislation has been drafted in the light of every possible concept of the public interest.

I want publicly to thank the representatives of all of those organizations, as well as the many other individuals, who have given so freely of their time and talents in aiding the Board in this

program. Their attitude at all times has been constructive, not destructive. The testimony which they have given to the Committee and the amendments which they have proposed are ample evidence of their constructive approach to the problem.

I shall limit my remarks this morning to a discussion of the principal suggestions which were made by the proponents of this legislation. When I have finished, I shall ask Mr. Townsend, the Board's Solicitor, if he will briefly discuss the objections which have been raised by the representatives of Transamerica Corporation.

As I listened to the various proponents of the bill, I was left with the impression that there are but two or three basic matters which they would have the Committee consider further before determining whether or not to amend the present draft of the bill. The first of these relates to whether or not there should be a preamble to the bill similar to that contained in the bill which you considered last session. Most of the independent organizations were desirous of inserting such a preamble. On the other hand, the representative of the American Bankers Association was opposed to so doing.

In my previous testimony I pointed out that the Board had removed the preamble because it had become convinced, as a result of its many deliberations on the subject, that some of the language contained therein was so broad as to draw not only the legitimate and serious objections of those within the bank holding company field and the Reserve City Bankers, but also of many other business organizations as well, who were concerned that it might introduce a new and potentially harmful concept in the field of regulatory legislation generally. In removing the preamble the Board felt, as it now feels, that the various provisions of the bill are entirely adequate to insure effective regulation of bank holding companies in the public interest.

Another, and I think more substantive, question which has been raised by various proponents

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of the bill is related to the subject of States' rights. I am sure the members of this Committee realize that this is a subject which very frequently finds its way into the deliberations of the Congress when considering legislation of all kinds. It is a subject which certainly received the very careful attention of the Board in drafting this legislation. As I explained in my previous testimony, various provisions were inserted in this bill with the genuine attempt to insure that the powers granted to the Board under this bill should contain only an irreducible minimum of those now vested exclusively in the States. And the purpose of suggesting that those powers be conferred upon the Board was in order that the bank holding company problem, which the proponents of the legislation themselves told you cannot be effectively dealt with by the various States individually, might be brought under integrated and effective regulation.

Most of those who raised this question in their testimony have not offered any concrete suggestions by way of amendment to meet their criticisms. However, Mr. Brumbaugh, Chairman of the Legislative Committee of the National Association of Supervisors of State Banks, did offer certain amendments along this line. These have received the very careful and sympathetic consideration of the Board. In considering these suggestions the Board felt, as it hoped this Committee might feel, that the views expressed on this subject by Mr. Brumbaugh probably represent the most practical thinking on the question of States' rights so far as this bill is concerned because they reflect the views of all of the State Bank Supervisors. After all, these officers are the ones whose powers might be directly affected by this legislation and who, therefore, would be most likely to express realistic concern over the question of how far, if at all, S. 2318 derogates from the powers of the States. The Board was pleased in reading Mr. Brumbaugh's statement to find that he pointed out that the National Association of State Supervisors did not feel—and I quote—"that the bill is as seriously deficient in this respect as has been suggested in the past two sessions of this Committee's hearings." Only as to a very few sections of the bill did Mr. Brumbaugh express any concern on behalf of the State Supervisors. Accordingly, the Board felt that it should make every effort to meet these suggestions in the hope that by so doing all ques-

tions of States' rights would be removed from the deliberations of this Committee and the Congress in dealing with the bank holding company problem.

Mr. Brumbaugh made suggestions respecting four sections of the bill. I shall discuss them in order.

In commenting upon Section 3, which relates to examinations of bank holding companies and the banks controlled by such companies, he suggested that the bill should be amended by requiring the Board, before it examined any State nonmember bank, first to secure the approval of the Federal Deposit Insurance Corporation in the case of insured banks or the approval of the State Supervisor in the case of a noninsured bank. As Mr. Brumbaugh pointed out, I had suggested in my previous testimony that the Board would have no objection to this and, accordingly, an amendment has been drafted, which I shall hand to you in a moment, which incorporates this suggestion. So far as concerns his suggestion that a provision be inserted in this section which would require such examinations to be made concurrently with the examinations of the bank by the Federal Deposit Insurance Corporation or the State Supervisor, the Board feels that an emergency situation might arise which would make such a provision undesirable. Furthermore, the necessity for securing approval even in emergency cases necessarily implies that the Federal Deposit Insurance Corporation or the State Supervisor might grant such approval only upon condition that it be made concurrently with their own examination. Because of the close relations which exist between the various examining authorities, I would not anticipate the slightest difficulty in obtaining the complete cooperation of all concerned in this matter.

In his next suggestion Mr. Brumbaugh pointed out that in Section 4 a State bank which is a bank holding company might be compelled to conform to the investment standards prescribed by Federal law for national banks. This he felt was an invasion of the power of the States to prescribe the investment standards for State banks. The Board did not feel that this represented any important segment of the holding company problem or that in actual practice the investment standards for State banks, generally speaking, are materially different from those of national or

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member banks. However, in order to meet Mr. Brumbaugh's suggestion, an amendment has been prepared, and will be offered, under which a State bank which is a bank holding company may be permitted to invest its funds in any manner conformable to State law on the subject.

In Section 5 Mr. Brumbaugh suggested that there be eliminated that provision which would require a State member bank in a holding company system to first obtain the approval of the Board before establishing a branch within the limits of the city or town in which the head office of such bank is located. The Board did not agree with Mr. Brumbaugh's suggestion on this point and for the following reason.

Under existing law national banks must obtain permission to establish branches from the Comptroller; State member banks must obtain consent of the Federal Reserve Board, except in the case where the branch is to be located in the head office city of such State member bank; and non-member insured banks must obtain the approval of the Federal Deposit Insurance Corporation. One of the fundamental purposes of S. 2318 is to provide a single set of standards for the guidance of these three agencies in dealing with the expansion of any bank within a bank holding company group. The Congress can, of course, apply these standards to the Federal bank supervisory authorities; it cannot apply them to State authorities. Consequently, it was felt that to leave any area of possible bank holding company expansion unregulated in this bill would be to offer a potentially important loophole for bank holding company expansion, which expansion could be obtained outside the limits of the Congressional standards prescribed for all other banks in a holding company group. The Board is not suggesting that State member banks not a part of a bank holding company system should be required to secure such approval. The suggestion is made only in that extremely limited number of cases where the State member bank is also a part of a bank holding company system.

Mr. Brumbaugh's final suggestion is one with which the Board has agreed. Incidentally, it is one which was touched upon in one way or another by some of the other proponents of the bill who raised the question of States' rights. Mr. Brumbaugh's suggestion is that a provision be inserted in the bill as an amendment to Section

13 which would prevent the Board, the Comptroller, or the Federal Deposit Insurance Corporation from allowing any expansion within a bank holding company group if to do so would be in contravention of any State law now existing or hereafter enacted which places a limitation upon the size of domestic bank holding companies.

The Board believes that this suggestion is probably the one most likely to insure the fullest possible protection against the invasion of States' rights in the bank holding company field. Furthermore, it is one which is in conformity with existing legislation respecting national banks. As the Committee knows, no national bank may establish a branch in any State which prohibits its own banks from establishing branches. This principle would now be carried over into the holding company field. While the Board does not know of any existing State bank holding company regulatory statutes, nevertheless, should a State hereafter enact such a statute in which it declares the public policy of that State respecting the expansion of bank holding companies domiciled therein, then it would be entirely consistent to require that the Federal authorities in this field should adhere to such State requirements.

In recommending the adoption by this Committee of the amendments thus proposed by Mr. Brumbaugh, the Board felt that every conceivable avenue of objection on the score of alleged violation of States' rights has been fully and adequately closed.

One other subject and I will have completed my statement. I should like once more to advert to that important provision of S. 2318 which would require the divorcement of bank holding companies from their nonbanking activities. Gentlemen, I came into my position with the Federal Reserve with no feelings for or against banks or for or against bank holding companies. I have no desire to see any business organization subjected to penalties which are contrary to our American way of life. But of this fundamental truth I have become convinced: That the business of banking is a sacred public trust. Only in recent times has banking generally emerged as a profession; it is now a profession with a public trust. The moment you mix private business with banking, and that private business is already in competition with other businesses, you thereby create the possibilities of favoritism of one business

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over another. Just so soon, in my judgment, will the strength of the private enterprise system as we know it become impaired. To me, just on the face of it, the mixing of vast nonbanking organizations with equally vast banking operations is ethically and basically wrong and should be prevented. I cannot help but believe that those who oppose this separation of banking from non-banking affiliations are pursuing a philosophy which cannot but continue the present trend toward the ultimate destruction of the very cause they purport to espouse, namely, a fair field and no favor. Looking backward, I wonder if the business leaders of yesterday were more often merely leaders of the opposition than they were statesmen trying to view objectively the problems of their day. Today none of us would question the wisdom of, or the necessity for, child labor laws, workmen's compensation statutes, and other similar legislation. The record of opposition to such regulation on the part of business leaders of an earlier day, however, is a lesson in history we should not quickly nor easily forget.

I am now going to ask Mr. Townsend to take up and discuss with you some of the particular objections which Mr. Stewart has raised in connection with this bill. Before doing so, however, I cannot refrain from expressing the deprecation I feel over the unfortunate personal references which Mr. Stewart saw fit to make respecting Mr. Townsend. I wish to say to this Committee on behalf of the Board that in whatever duties Mr. Townsend has assumed on behalf of the Board, whether it be in helping prepare bank holding company legislation, in trying the Board's present proceeding against Transamerica Corporation under the antitrust laws, or in any of the other many responsibilities which he discharges for the Board, he has at all times had the full confidence of the Board and has been acting in all those respects under the Board's supervision and pursuant to its express direction.

I should now like to hand to the Committee the various amendments to which I have referred in my statement.

ADDITIONAL AMENDMENTS PROPOSED BY CHAIRMAN McCABE TO S. 2318

Amend Section 3 by adding the following new paragraph:

"(d) Notwithstanding any of the provisions of this section no examination shall be made by the Board of a State nonmember insured bank pursuant to this section without the prior consent of the Federal Deposit Insurance Corporation; and no examination of a State nonmember noninsured bank shall be made pursuant to this section without the prior consent of the State bank supervisory authority in the State in which such bank is located."

Amend Section 4(d) by adding the following clause after the word "Act;" appearing on line 17 of page 9 of the bill:

"nor shall the prohibitions of this section apply to a nonmember State bank which is a bank holding company if the effect of applying such prohibitions is to prevent such bank from owning any

shares or investments which such bank is permitted to own under the laws of the State in which such bank is operating;

Amend Section 13 by changing the period at the end of the section to a semicolon and adding the following:

"and notwithstanding any of the provisions of this Act no application for the expansion of a bank holding company or any bank in a bank holding company group shall be approved by the Federal Reserve Board, the Comptroller of the Currency or the Federal Deposit Insurance Corporation if the effect of such approval will be to expand a bank holding company group in any State beyond limits permitted under any law of such State now existing or hereafter enacted which regulates the size of bank holding company groups or the number of banks in such groups located in any such State."