

FEDERAL BANKING LEGISLATION

Address by M. Monroe Kimbrel, Chairman of the Federal Legislative Committee, The American Bankers Association, and Chairman of the Board, First National Bank, Thomson, Georgia, before the Wisconsin Bankers Association, The Hotel Schroeder, Milwaukee, Wisconsin.

June 20, 1961

The first hundred days of the Kennedy Administration, a period which expired at the end of April, was essentially a sizing-up period. It was, to a large extent, the "honeymoon," which had been predicted by many observers of the Washington scene.

But it was also a sparring period - a time when Congress was testing out the new Administration and vice versa. While this mutual probing throughout the length of a Congressional session never really ends, we could begin to see a pattern emerging about a month and a half ago. President Kennedy had gained the upper hand, at least temporarily, in the historical struggle between the legislative and executive branches of government.

His legislative recommendations have made noticeable progress toward enactment and most of the sixteen priority measures which he asked for in January stand a fairly good chance of becoming law before the 87th Congress adjourns.

These proposals, however, are not revolutionary and their treatment by Congress reflects two things - one, the initial courtesies extended to a new President, and two, the fact that Mr. Kennedy has a majority of his party in both houses. Up until June 15, the President had sent Congress some fifty bills for new legislation and seven reorganizations plans. In this same period, Congress passed forty-five measures which have been signed into law by the President. But only eight of the forty-five have dealt with major Presidential proposals.

They cover Federal aid to depressed areas, a minimum wage increase, two bills on temporary unemployment insurance extension, and four others which do not

affect banking in any way. The other thirty-seven varieties of legislation which Congress has passed thus far are principally Government housekeeping operations, the extension of laws about to expire, or minor amendments to other laws.

The intriguing questions now are - when will the "honeymoon" end, and how much of a break, if any, will Congress make with the Chief Executive? Still on the calendar are some very controversial issues which could arouse Congressional resistance. Among these are: tax revision proposals, Federal aid to education, Social Security liberalization, omnibus farm, housing, and foreign aid bills, the Peace Corps, and creation of a new Department of Urban Affairs.

If the present pattern does not change in the next few months, these proposals should fare pretty well. But, if Congress departs from the pattern, some of the programs will be in for trouble.

Commercial banking is somewhere in the middle of this minor dilemma as far as these legislative proposals are concerned.

Here's why: On the one hand The American Bankers Association stands in opposition to some of the remaining measures, either in part or in total. These include withholding on dividends and interest and certain features of the housing and farm bills which are high on the President's list. There are other bills, not on the priority list but having Administration support, about which the A.B.A. has many reservations. Among these are the Douglas Disclosure bill, a bill increasing the power of the Secretary of Labor under the Welfare and Pension Plans Disclosure Act, and an unlimited extension of the Federally aided student loan program. A Congressional resurgence would be very helpful to us in connection with all of these proposals.

On the other horn of the dilemma, we do have the Administration's support for our position on the tax status of savings and loan associations and

mutual savings banks, and we hope that its weight will continue to bear on this issue.

I wish I could report that the Treasury Department's recommendations on the tax-free, 12 per cent bad debt reserve presently accorded these institutions have been sent to Congress. But at this point they have not.

Treasury officials are working diligently to have their proposals ready so that hearings can be held in this session of Congress. The proposals will implement President Kennedy's recommendation for a review of the tax deductible reserve provisions presently accorded private savings and lending institutions, and the remedial legislation suggested by him.

In the meantime, the Harrison and Curtis bills remain pending in the House Ways and Means Committee. These measures would simply repeal the 12 per cent bad debt reserve provision in existing law, making savings and loan associations and mutual savings banks go to the Treasury for a determination of their bad debt reserve as all other businesses are required to do. Whether this approach will be contained in the Treasury's recommendations is anybody's guess.

The Ways and Means Committee is currently holding executive sessions to consider the other parts of the President's tax program. When these have concluded, and if the tax uniformity recommendations are transmitted within a reasonable period of time, Chairman Wilbur Mills will undoubtedly reopen the hearings.

By that time we will be well along in the session with possibly a little more than two months remaining before adjournment. Realistically speaking, this will not leave too much time for a bill to go through all the steps needed for enactment.

Tax uniformity has, however, advanced to the most promising point since concerted efforts were begun by the A.B.A. some three and one-half years ago. And

perhaps it would be better if legislation in this area was considered apart from the rest of the tax program. I am inclined to take this view since virtually all of the other tax recommendations have come under fire from one source or another. Political strategy indicates in this case that a tax uniformity proposal not be included in the hot floor debates that will greet the rest of the tax program. I also think that a one-month interval between the two would provide an ample time lapse for proper and uncomplicated consideration of our proposal.

Before leaving the subject of tax uniformity I would like to say a word about the increased responsibility that will soon be placed upon individual bankers. When this whole matter has been given to Congress by the Treasury, our program of banker contacts with the legislators must be intensified. We cannot be content with a job only partially done. Every Senator and Representative must be made aware of the existing tax inequality and how they can act to remedy it. Bankers in every State have been working on this program for a long time, but we have no way of knowing how effective it has been until the final vote is taken.

A home-grown illustration might better show you what I mean. In the battle of Shiloh, during the War Between the States, the 16th Wisconsin Regiment was hotly engaged with the enemy. A private dropped down beside his colonel and asked how many rebels the officer had killed. The colonel carefully examined his ammunition and replied that since he had fired thirty-seven bullets he must have killed thirty-seven men. "But," he said, "I'm not sure of six of them."

Commercial bankers have fired at least 537 "shots," one for every Member of Congress, but there are quite a few of them we are not sure of.

The opportunity to make certain of our count has arrived, and we must make the most of it.

Another Presidential recommendation of great interest to bankers is the one calling for a 20 per cent withholding tax on corporate dividends and investment type interest.

On May 26 a panel of four Association witnesses testified before the House Ways and Means Committee on this request. The A.B.A. first expressed complete agreement with the Treasury's objective of obtaining full payment of all taxes legally due and owing and of seeing that taxable dividends and interest are fully reported on Federal income tax returns.

We expressed our conclusion, however, that the proposal presented to Congress is neither practical nor workable and would contribute to confusion and irritation on the part of individual taxpayers. We also believe that it would impose unreasonable hardships and inequities upon charitable, educational, and other tax-exempt organizations, foreign and local governments, banks and other dividend and interest payers.

In support of our conclusion the A.B.A. witnesses detailed the many disadvantages of mandatory withholding. I am sure that you are familiar with these so I won't repeat them here.

In lieu of mandatory withholding the Association suggested several alternatives for improving taxpayer compliance until full use of electronic data processing equipment enables the Internal Revenue Service to make more effective use of information returns. We feel that when EDP is completely operative, in a few years, it will eliminate the supposed need for mandatory withholding. Incidentally, this view is also shared by the Deputy Commissioner of Internal Revenue who made a speech to this effect a few weeks ago.

The suggested alternatives are as follows:

1. A continuation of the educational program undertaken two years ago by banks and other dividend payers which has had but one effective year to show results.

2. The inclusion of appropriate questions on tax returns to clarify and emphasize the dividend and interest tax obligation.

3. Increased prosecution of persistent underreporters and widespread publicity on violations.

4. Amnesty from criminal prosecution or civil penalties for those taxpayers who correct omissions in past returns.

There is little doubt that the mass of testimony in opposition to withholding has made a great impression on Members of Congress. While they might have little compassion for the problems confronting banks and other dividend and interest payers, they will probably have second thoughts about imposing such burdens upon their own constituents.

The President's tax program has run into so much opposition that Congressional leaders may attempt to salvage only a small portion of it this year. If withholding is the part chosen it will have rough sledding, whether through regular legislative procedures, or by an amendment to another bill.

Once again we are faced with the finance charge disclosure bill by Senator Douglas of Illinois which is cosponsored by Wisconsin's Senator Proxmire. This year it has a new title, "Truth in Lending," obviously intended to arouse public appeal. Identical bills have been introduced in the House by Representative Multer of New York and your own Representative Reuss.

These proposals would require all extenders of credit to furnish the credit recipient a statement in writing disclosing the full dollar amount of the charges involved and would also require that these charges be expressed in terms

of a simple annual rate. We understand that hearings will be held in the Senate during this session but not until sometime in July, after more pressing legislation has been acted upon.

The only major difference between this year's measure and the one on which hearings were held last year concerns the conformity of State disclosure laws to the Federal law proposed by Senator Douglas. Unless State laws conform substantially to those provisions contained in the Douglas bill, including the simple annual interest requirement, they would have to be amended. Credit transactions in States without such statutes would be governed by the Federal law, unless their legislatures enacted replicas of the Douglas bill.

Wisconsin, for example, has a disclosure law which pertains to motor vehicle sales only, and its provisions do not include a simple annual interest requirement. This law would have to be expanded considerably in order that Federal law would not take precedence over credit transactions in Wisconsin.

Last year the A.B.A., in testimony before a Senate Subcommittee, endorsed the basic objective of the finance charge disclosure bill and the requirement that lenders disclose to borrowers the dollar amount of finance charges on instalment credit. It was pointed out that for many years the Association has been stressing the need for giving full information on the terms of credit to consumer instalment borrowers. However, the A.B.A. took the view that expression of such charges in terms of simple annual interest is not necessary to enable the public to compare the cost of credit, that it would be an impractical and expensive requirement, and would only serve to confuse the customer. In addition, it was felt that such regulation, without the simple annual interest expression, could be more effectively administered and enforced at the State level.

Our position on the Douglas bill remains unchanged and we will be prepared to testify again this year. The future of this measure is cloudy. It has

evoked a good deal of opposition in the Senate Banking and Currency Committee and may not even get out of the Subcommittee, where it was bottled up last year. Passage by the Senate, then, is considered unlikely and the House seems even less inclined to take favorable action.

Another proposal that bears watching is the one to provide for a Federal system of mutual savings banks.

These banks would be privately managed, organized without capital stock, and insurance by the F.D.I.C. would be mandatory. They would be permitted to join the Federal Home Loan Bank System, though not required to do so, and would be supervised by a new three-member commission. The proposals authorize the voluntary conversion of Federal and State savings and loan associations and State-chartered mutual savings banks into Federal mutual savings banks, and the conversion of Federal mutual savings banks into similar thrift institutions.

As you may know, the A.B.A. went on record by resolution at its convention last September opposing in principle the establishment of such a system. The Association took this position because there has been no demonstrated public need or demand for a system of Federal mutual banks; the proposal would force mutual savings banks on States that have previously rejected or found no need for such facilities; and a system of new mutual banks would most likely disperse present savings rather than create new savings.

At this time the chances for consideration of the proposal in the present session seem fairly remote. But it has a number of Congressional supporters and a concerted effort for enactment will undoubtedly be made next year.

There are several other bills of interest to banking that should be mentioned at this time.



The National Association of Supervisors of State Banks has sponsored two bills that have had the close attention of the A.B.A. One bill provides for the removal of the Comptroller of the Currency from the Board of Directors of the Federal Deposit Insurance Corporation. The other bill revises the method of approval of applications for branch charters by requiring all insured banks to obtain the approval of their supervisory authority and the Federal Deposit Insurance Corporation.

After careful study, the Federal Legislative Committee of the A.B.A. recommended that these bills not be approved in their present form, but offered alternative proposals which have been submitted to the State Bank Supervisors. Under our proposals the Comptroller of the Currency would remain on the Board of Directors of the Federal Deposit Insurance Corporation, but one of the other directors would be designated the representative of the State - chartered banks. Also, the A.B.A. is on record as approving an enlargement of the Board from three to five members, if necessary, to achieve this result. In the matter of branch chartering, the alternative proposal would require a single approval for all banks, both State and National, by their supervisory authorities. But it would give the F.D.I.C. thirty days to intervene if the Corporation felt the proposed expansion of the bank jeopardized in any way its insurance liability.

A bill to clarify the confused situation existing in the field of Federal tax liens has been introduced under the sponsorship of the American Bar Association. Our Tax Committee worked closely with the Bar Association in the preparation of the bill and we are hopeful that this legislation will receive the approval of the Congress because of the very serious need for clarification in this area.

This summarizes the outlook for banking legislation in the present Congress and I know you will be interested in following the progress of these various propositions as the 87th Congress moves along.

It is imperative that all of us, as citizens and as bankers, keep abreast of legislative developments on the Federal level and take whatever actions they make necessary. We alone have the responsibility of presenting our opinions to our elected representatives in Washington. No one else can represent banking's views as well, nor with as much conviction and local emphasis, as the individual banker.

This demands a constant sharing and interchange of thoughts between you and your Congressmen. In this way both parties will be better informed and the result will be better legislation.

Do what you can to make your influence felt in banking's behalf. It is not enough for us to have the perception to know what is right; we must have the courage to speak up for it.