

On Chapter 12 Bankruptcy Law

Sen. Grassley Hears Banker Concerns

By **BEN HALLER, JR.**
Publisher

AS HE PROMISED earlier, Sen. Charles Grassley (R., Ia.) met with a banking industry group in his Des Moines office February 9 to discuss the great concerns all community bankers are expressing over the impact of the Chapter 12 Bankruptcy Law enacted in the 1986 Congress and which became law Thanksgiving Day. That legislation was co-sponsored in the Senate by Sen. Grassley.

Present for the meeting were the Senator and two aides. Representing the banking industry were Russell S. Howard, president of the Iowa Bankers Association and chairman of Mahaska Investment Co., Oskaloosa, a bank holding company that owns three Iowa community banks; Leslie Miller, assistant vice president and ag loan officer at Davis County Savings Bank, Bloomfield; Neal Conover, chairman, First National Bank in Creston, who testified for ABA at Congressional hearings on the bill; Neal Milner, executive vice president, Iowa Bankers Association; Wes Ehrecke, vice president for government affairs, IBA; Richard Stageman, recently retired Bankruptcy Judge for Southern Iowa and now a member of Davis,

Hockenberg, Wine, Brown & Koehn law firm, Des Moines, and this publisher.

The meeting was prompted by the "Open Letter to Senator Grassley" which we published in the December 15 issue of the *Weekly Newsletter*, which described for the Senator the great concerns over Chapter 12 being expressed to us by so many banker readers. We invited him to meet with bankers at home and listen to the problems they have with this law that so many consider was totally unnecessary. Sen. Grassley wrote a response to that letter, published in full in our January 19 *Newsletter*, and the February 9 meeting ensued. In the meantime, we gathered letters and various documents from more than 50 bankers who wrote us from across five states with their views and experiences. Photocopies of this entire file were turned over to Sen. Grassley at the meeting last week.

That meeting took a very positive tone when Sen. Grassley expressed a genuine interest in learning directly from the bankers present how and why they felt Chapter 12 would impact banks adversely. The testimony of the participating bankers touched basically on several points, all of them using specific cases from

within their own banks which, for privacy reasons were not divulged by name.

Each banker cited instances already where farmer borrowers who are currently making loan payments with a positive cash flow and not delinquent, but technically are insolvent because of reduced land value collateral, are threatening a Chapter 12 to get "a free gift" of a reduced secured loan position.

Mr. Howard cited a case where the farmer actually made a small, taxable income. However, the individual is filing a Chapter 12 "to get his debt relieved and we'll lose \$60,000. That loan cash flows but that will be no good under a Chapter 12."

Another case was cited where the borrower has enough to pay his bank debt but is threatening a Chapter 12 on the Federal Land Bank, which holds the mortgage on 320 acres. "We'll be sucked in," was the comment, "and we have no idea what our loss could be even though we are now marginally collateralized."

Mr. Conover suggested to Sen. Grassley that since so many farmers are in trouble in their dealings with the FLB that there should perhaps be separate consideration for long-term and short-term debt so that the deficiency with the FLB long-term debt doesn't taint the short-term debt that is being cash flowed with the local bank. Ms. Miller agreed and said, "The failure to deal with



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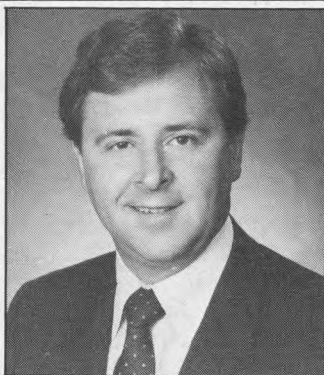


Jay Nichols

the Federal Land Bank is paramount. They (FLB) threaten they'll drag bankers down with them before they'll mediate."

Both Mr. Howard and Ms. Miller stated emphatically to Sen. Grassley that many good farm customers are unhappy that other borrowers can walk away free on a bankruptcy. Ms. Miller also pointed out, "Large amounts of debt are held in a few hands. If those are dealt with through bankruptcy, they'll be compressed through Chapter 12 instead of being worked out over a longer time. We've crunched all of the numbers and we feel we can work out things better than going into bankruptcy with all the attendant expenses."

Judge Stageman observed, "We have the law and have to live with it.



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I felt it should be more in the Chapter 11 context, but it slipped more into the Chapter 13 context. It is intended to bring more negotiation. If you are really going to make it work, it needs more than three years of supervision to pay off unsecured creditors. Why should creditors and bankers have to spend more on supervising these people? As money starts to come in, creditors should be able to ask for a re-opening of the case to recover any gain. It needs the benefit of 11.11B so they (creditors) can gain the advantage of future appreciation. Otherwise, it's a windfall to the farmer."

Mr. Milner concurred, stating, "Also, this would protect against the farmer who cash flows, but files a Chapter 12, reduces his debt, then gains by any valuation increase which the lending bank can't touch."

Comments from other states were included in the testimony to assure Sen. Grassley and his aides that this

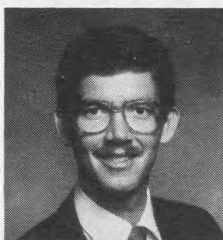
is not an Iowa problem only. At the conclusion of the meeting, Sen. Grassley arranged with IBA officials to meet with the IBA delegation when they visit Washington early in April and go over the bill completely, noting IBA banker recommendations for changes that should be made in the law. He promised to take that information to the subcommittee which he chaired at the time he co-sponsored the bill, although he is no longer chairman. The IBA accepted this offer and is making arrangements to have recommendations spelled out for that April meeting. □

Iowa News

The Central Iowa chapter of the Bank Administration Institute will hold its monthly meeting Feb. 19 at the Quality Inn Westmark at I 80 and Ashworth Road, Des Moines. The topic of bottom line banking will be presented by Robert DeMeulenaere, Brenton Banks, Dale Froehlich, Ankeny State Bank, and Robert Millen, First Interstate Bank.

IOWA CITY: Richard "Dick" A. Barkalow, senior vice president of Iowa State Bank and Trust, died Feb. 22 after a long illness. He had been with the bank since 1951.

MISSOURI VALLEY: Gregory D. Pollard has been elected president and chief executive officer of The First National Bank. He has been



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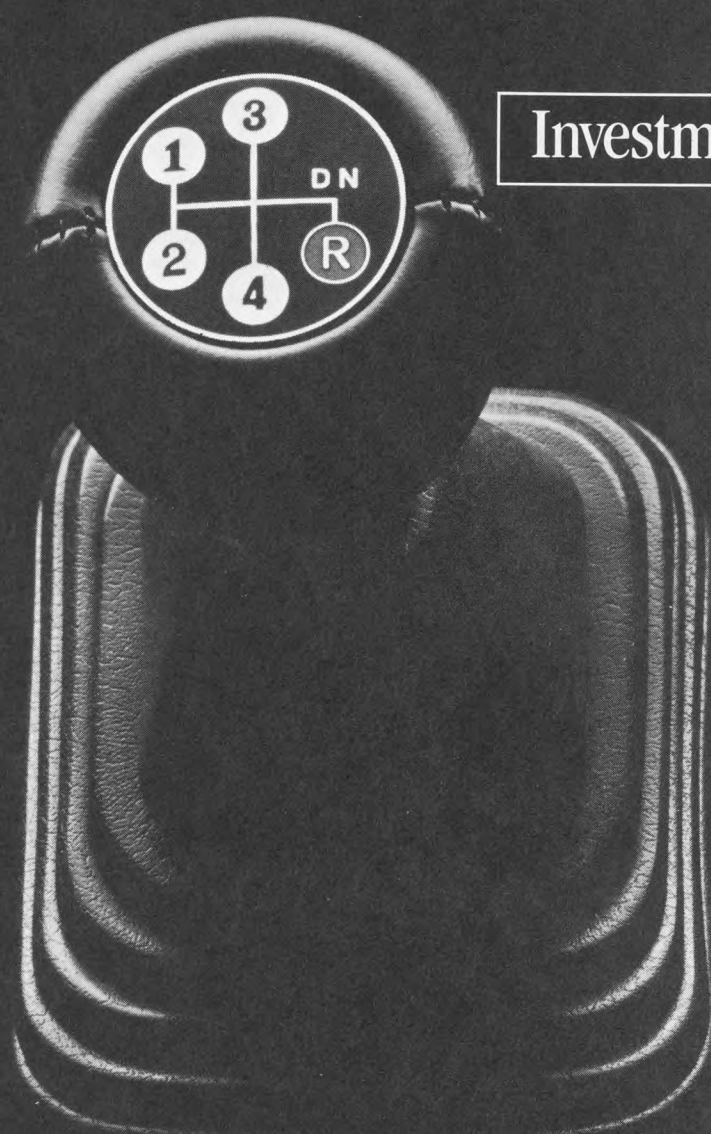
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with the bank since 1981 serving as executive vice president.

OTTUMWA: Roger Rinderknecht, president of Union Bank & Trust Co. since 1986, will also serve as chief executive officer of the bank. He has been with the bank since 1985. Bob Bastron has been named senior vice president and cashier. He most recently served as vice president and cashier. He also heads the operations division. In addition, Frank Juvan has been elected senior vice president and senior trust officer. He has been with the bank since 1972 and is the head of the trust department.

VAN HORNE: Michael C. Hagerty has been elected executive vice president of Van Horne Savings Bank, according to William J. Boehm, president. He succeeds David Coulter, who has resigned. Mr. Hagerty previously was vice president of Tama State Bank.

Nebraska News

BELLEVUE: Bank of Bellevue has elected the following to vice president status: Linda Balash, director of personnel and marketing; Barbara Plott, and Jack D. Steinbeck, cashier. Ms. Balash joined the bank in 1970, and Ms. Plott joined the bank in 1976. Mr. Steinbeck joins the bank from Metro North State Bank in Kansas City, Mo., where he served as vice president and cashier.

GORDON: John L. Way has been promoted from assistant vice president to vice president of Gordon State Bank.

Minnesota News

University of Minnesota head

football coach John Gutekunst will be a special guest speaker at the Minnesota Bankers Association Investing for Profits Seminar scheduled for Mar. 5 at the Hotel Sofitel in Bloomington. He will address the noon luncheon. The all-day seminar will feature various investment experts discussing new investment products and services, tax reform impact on investment portfolios and interest rate outlooks. The seminar is sponsored by the MBA investments and funds management committee, which is chaired by G. Martin Robertson, president of State Bank of Rogers.

Illinois News

The Illinois Bankers Association will hold its Consumer Credit Conference Feb. 25-26 at the Hyatt Regency Woodfield in Schaumburg. The one-and-one-half day annual meeting will feature sessions on home equity lines of credit, student loans, auto/RV/marine loans and other topics for retail bankers.

South Dakota News

BOWDLE: The State Banking Commission has approved the application of the Leola State Bank, Leola to acquire the Bowdle State Bank and establish a branch bank at Bowdle.

HIGHMORE: The application of the First State Bank, Highmore to move its main office to Miller and establish a branch bank at Highmore has been approved by the State Banking Commission.

Montana News

MALTA: Roger Ulrich, president of First State Bank since 1964, has an-

nounced he will retire at the end of this year. He has been elected vice chairman of the board and is succeeded as president by Ron Scott, formerly vice president, who joined the First State Bank in 1962 as a teller.

MILES CITY: Craig Rehm has been promoted to vice president of First Interstate Bank of Miles City. He joined the bank in 1984.

Colorado News

DENVER: United Bank of Denver has elected the following to executive vice president status: Beverly J. Haddon, consumer banking; William S. Hershberger, asset management services; Oliver W. Hickel III, funds management division, and Lawrence J. Ricketts, investment banking. Elected senior vice presidents were Alvin W. Haggerty, Roger E. Johnson, Charles H. Powers, Candice W. Rogers and William J. Rundorff.

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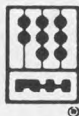
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