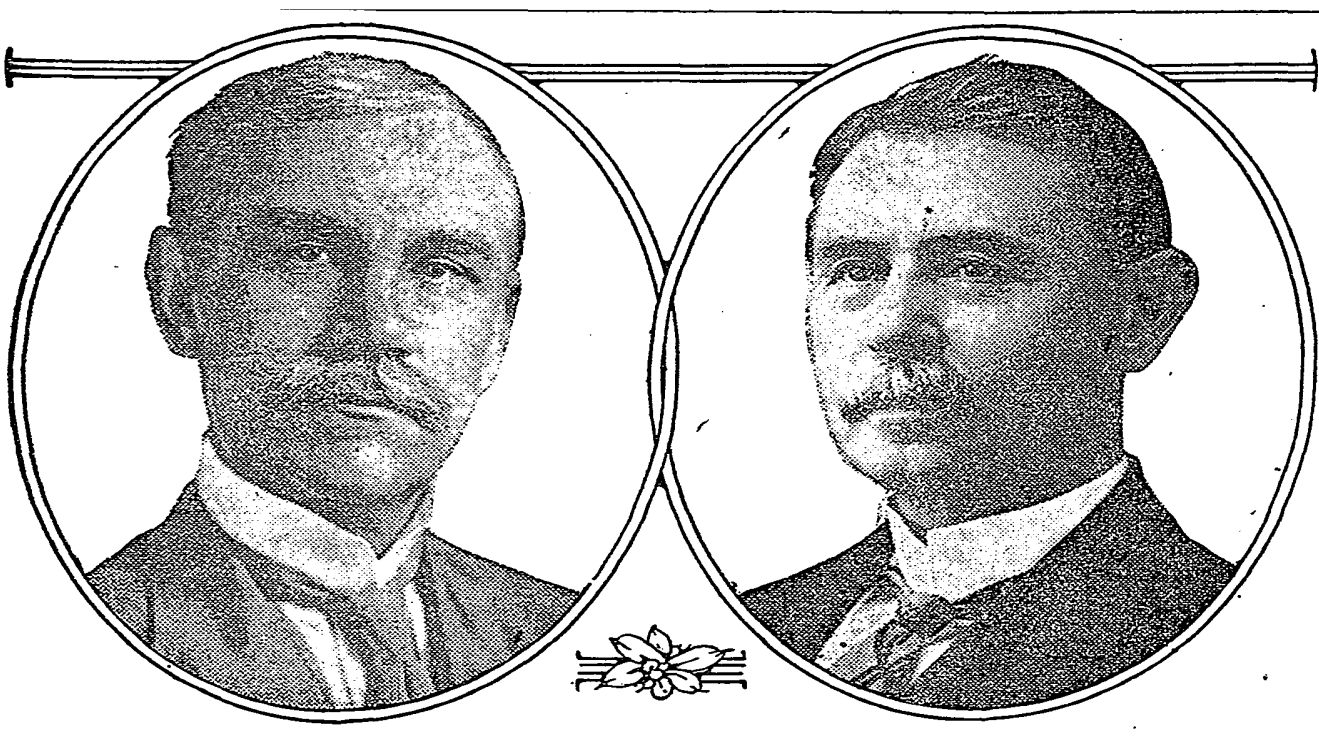

(©) *Harris & Ewing.*
Senator Reed Smoot of Utah, Chairman of Senate Finance Committee.

(©) *G. V. Buck.*
Senator F. M. Simmons of North Carolina, Ranking Democratic Member of the Committee.

SENATE LEADERS IN SHAPING TAX MEASURE.

AN OUTSTANDING ISSUE

Washington Wonders Whether Coolidge Can Bring Congress to Revise the New Revenue Law

By WILLARD M. KIPLINGER.

A MILD-MANNERED man in Washington the other day dipped his pen in the inkwell and wrote his name, "Calvin Coolidge," half way down a page bearing some printing. That gave the United States a new general tax law, the Revenue act of 1924, the seventh since 1913. Mr. Coolidge blotted his name and then gave out a statement saying he did not like the new law very well because it was "political," not "economic," and because it represented "tax reduction, not tax reform." He signed because the bill gives "temporary relief," but said he would try to get Congress to amend it materially at the next session in December.

So the country sighed in relief over getting any sort of a tax reduction, which for months had been in doubt, and markets recovered from sluggishness, and a few million taxpayers began figuring how much they would save on taxes payable this month on last year's income, and next year on the current year's earnings. Though the relief may be only temporary, it is given a whistling reception and the nation is in a grinning mood. A penny saved may be a penny earned, but there seems to be more jubilation over a bit of saving than a deal of earning.

Now comes up on the horizon a cloud no bigger than a man's hand—Calvin Coolidge's hand. It is a threat to make this very tax law an issue in the national campaign next Fall. This will surely be done. The merit or imperfections of the tax law of 1924 are to be thrown into the pit to be fought over by big and little seekers for political office. Voters are to be the judges and juries and the referee. Therefore it behooves voters to examine well this new tax law.

Mellon Plan Reshaped.

Viewed politically, the tax law is largely a child of the Democratic minority in Congress, aided by the radical or insurgent Western Republicans of the La Follette group. They forced the Republican majority to reject the essential features of the tax reduction and revision plan which was put forward originally by the Secretary of the Treasury, Mr. Mellon, and which will go down in history as the biggest single legislative issue of the 1924 campaign year. The "Mellon plan" provided relief for both large and small taxpayers, but more for the large and less for the small than the bill as finally enacted. The Mellon plan was designed to "take the load off of business." One way of doing this was to reduce surtaxes, with a maximum of 25 per cent., as compared with the former maximum of 50 per cent., and thus to encourage capital to flow into "productive enterprises" and away from tax-free investments in which it is supposed now to be largely tied up.

Will It Be Changed?

Mr. Coolidge wants the act amended at the next session. That will be the same Congress which enacted it, the same minds, the same perspectives, the same prejudices, the same ideas of right and wrong, good and bad, which put through this law over the Administration's most urgent recommendations during the session just closing. Arguments alone can not change those minds. Perhaps the actual operations of the law, with its generally acknowledged imperfections, will do it. Perhaps popular judgment will change the situation, and perhaps not.

The common talk in Washington is that Mr. Coolidge will not be successful in getting many material amendments at the next December session, and that any important revision of taxes will await a special session which the President—either Mr. Coolidge or his successor, depending on results of the November elections—undoubtedly will call for March 5, 1925. If this line of speculation is to be depended upon, it means that taxes on this year's income, payable next year, may be calculated definitely on the basis of the rates in the new law.

The law as adopted will provide about the same amount of revenue as the Mellon plan, and the Treasury does not expect a serious actual deficit for the fiscal year 1925, ending a year from this month. The present outlook is for a deficit in 1926, however, and this points to the necessity for upward revision of some kinds of taxes next year, or new taxes. There is much covert talk of a new form of sales tax, and although this does not appear now as a probability, it is a possibility.

The goodness or badness of the new tax law depends on perspective. With few exceptions Washington tax practitioners regard it as an excellent thing for their business, which has been declining for the past year as taxpayers became familiar with intricacies of the old law. It is a Washington saying that what is good for tax practitioners is bad for taxpayers. The new law embodies many recommendations of the Treasury for stopping evasion or avoidance of taxes by tight-purse taxpayers. But necessarily this involves new intricacies, amended technical definations and rules, new principles and revised formulas for calculations. The law as it stands must be clarified by the usual regulations of the Bureau of Internal Revenue, and these are complicated and perplexing things. Tax lore, already complicated, is undoubtedly rendered more intricate by administrative provisions of the new law whose purpose is to plug up the leaks.

The Specialists' Day.

Said one Washington lawyer, a successful tax practitioner, with glee: "The lawyers in Congress certainly did a good thing for their fellow-lawyers. There is mutual handshaking over the expectance of a new era of prosperity for tax specialists in Washington."

Whether this is true or not remains to be seen. The general holding of the belief is significant, and is reported for the guidance of taxpayers.

What are the new intricacies? To answer that would take a book of technical language. They relate to such matters as determination of gain or loss in corporate reorganizations and mergers, depletion allowances on natural resources, loss or gain from sale of capital assets and calculation of inventories. They involve questions of fact, not law, and these are always hard to determine. The burden of determination is largely on the machinery of the Revenue Bureau. Predictions are freely made in Washington that the machinery will break down under the load, that cases will pile up, action will be tardy, and that remedial legislation will be necessary. The fact that these forebodings come from men whose natural sympathies and prejudices are the other way gives them some weight.

The publicity provisions of the new law deserve special attention, both on merit and because they have constituted one of the principal features of contention preceding passage.

First—As soon as practicable in each year tax authorities are required to make up lists showing names and addresses of all income taxpayers, together with the amounts paid, and to make these lists available for public inspection. The avowed purpose is to aid in detecting failure to make returns or to pay the proper tax. It is assumed that citizens knowing persons who should pay but whose names are not listed will report these facts, or will check on the probable accuracy of the amounts paid. One result will be to enable any person to calculate approximately the income of any person. Among competitors this may prove embarrassing.

Privacy of Information.

Second—Returns on which the Commissioner of Internal Revenue has determined the tax are declared to "constitute public records," "but they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary [of the Treasury] and approved by the President." This means that the Treasury Department or President may determine the conditions under which returns may be made public. The present Administration undoubtedly will make such stringent regulations as to maintain most of the private nature of tax returns. Furthermore, there is some talk of construing the provision as meaning that returns may be made public only after they have been audited. This would delay actual opening up of records for several years, and meanwhile effort will be made to modify this provision. The privacy of information contained in tax returns always has been regarded as inviolable, and the sudden reversal of this Government policy has caused consternation in business and Government circles.

Third—Tax returns are to be open to the House Ways and Means Committee and the Senate Finance Committee, which have charge of tax legislation, and to any special committee, and these committees may submit any relevant information in the returns to either body of Congress. This will open up a new avenue for Congressional investigations.

Fourth—Any responsible officers of a State may have access to returns of any corporation. The avowed purpose of this is to check evasion on State taxes, but the possibilities along other lines are great.

Fifth—Any stockholder of a corporation holding 1 per cent. or more of the stock may inspect the corporation's return, but he must not make known any information which he receives under penalties.

Sixth—Publicity is given to proceedings before the newly created Board of Tax Appeals, which is virtually a judicial body situated over the Commissioner of Internal Revenue and below the Federal courts. To this body will go appeals in disputed cases, often involving millions of dollars and always involving disclosures of inside business affairs of an individual or corporation. In similar hearings before the existing Committee on Appeals and Review, officers of corporations often have given information concerning salaries, patent rights, secret processes and similar matters which they regard as highly confidential. They feel that disclosure to competitors would be ruinous. In many cases they have suspended testimony if some stranger entered the room. Before the new board all hearings are to be open. A competitor may come and sit in the room or send an agent. Furthermore, the board is required to report publicly its findings of fact and its decisions. If the amount of tax in controversy is more than $10,000, all oral testimony is to be reduced to writing and published in documentary form by the Public Printer, and copies sold like any other public documents.

A "Sacrifice of Rights."

President Coolidge said of these publicity provisions: "For the needs of revenue, publicity is unnecessary. While the bill purports not to give full publicity, this is scarcely true, and it still sacrifices without reason the rights of the taxpayer. * * * It is not alone in the unwarranted interference with the rights of the citizen to privacy that these provisions are hurtful. It is believed that far from increasing revenue, the desire to avoid the gratification of the idle curiosity of others or the exposure of one's personal affairs to one's competitors will result in the concealment of millions of dollars of income which otherwise would be reported."

The President and the Treasury also feel that instead of simplifying and expediting disposal of disputed cases, the requirements for formal procedure before this Board of Tax Appeals will cause much additional delay in the settlement of disputes which now clutter the tax-gathering machinery.

Under the former law a taxpayer who disputed a certain amount of tax with the authorities ordinarily was required to pay it and then enter a claim for refund before he could resort to the courts. This procedure has been changed, resulting in some benefit to the taxpayer, but adding much to the burden on the tax-determining machinery. A taxpayer may take his dispute to the Board of Tax Appeals. If he loses he pays, but may appeal to the Federal courts. If he wins he does not pay, but the Commissioner may appeal to the courts for collection. This places the burden of proof in disputed cases on the Government rather than on the taxpayer, as at present. Whether it will prove to be good Government policy, or whether it will overload Federal district courts with complicated tax cases, as is feared by many, remains to be seen.

A State of Confusion.

Copies of the new tax law will be printed by the Government in hundred thousand lots during the next week and distributed by the Public Printer and by Revenue Collectors. Many misapprehensions concerning its provisions exist, due largely to the frequent changes made in the bill during the final stages of consideration by Congress. Even high officials of the Bureau of Internal Revenue as late as a few days ago were not familiar with some of the final provisions of the bill.

Men familiar with tax practices for years in the past warn against effort to interpret definitely many new provisions of doubtful application until the Revenue Bureau issues regulations. These often assume the character of "administrative legislation." They define and apply the general law to concrete business practices, and out of disputes over the propriety of these regulations arise many of the cases now appealed to the Revenue Bureau's Committee on Appeals and Review, or to the courts. This committee, by the way, may be retained as an integral part of the bureau, even though the new Board of Appeals assumes some of its functions.

The new tax law represents the first general revision for three years. The original Federal income tax law was enacted in 1913, after adoption of a constitutional amendment authorizing taxation of incomes. The 1913 act was amended in 1916. Then came the big war revenue act of 1917, with its high rates and its excess profits taxes. In 1918 rates were revised in a completely new law. Then in 1921, at the beginning of the Harding Administration, came another general revision and reduction with elimination of the excess profits tax.