

ANTI-TRUST SUBCOMMITTEE  
OF THE  
SENATE COMMITTEE ON JUDICIARY

Report to the Members of the  
Second Session of the Sixty-sixth General Assembly

State of Iowa  
1976

F I N A L   R E P O R T  
ANTI-TRUST SUBCOMMITTEE  
OF THE  
SENATE COMMITTEE ON JUDICIARY

January, 1976

The Anti-trust Subcommittee of the Senate Committee on Judiciary was established by the Legislative Council at its June 16, 1975 meeting. The Legislative Council directed the Subcommittee to study the provisions of House File 584, as amended and passed by the House of Representatives during the First Session of the Sixty-sixth General Assembly.

The Legislative Council named Representative Norman G. Jesse as ex officio member of the Subcommittee and directed Senator Gene Glenn, Chairperson of the Senate Committee on Judiciary, to appoint the remaining membership of the Subcommittee. Senator Glenn named the following members of the General Assembly to serve as members of the Subcommittee:

Senator James Redmond  
Senator E. Kevin Kelly  
Senator Norman Rodgers  
Senator Elizabeth Shaw  
Senator Earl Willits

Senator Glenn designated Senator Redmond to serve as Chairperson of the Subcommittee.

Staff members assigned to the Subcommittee were Mr. Mark S. Soldat and Mr. Robert Egge, both of the Legislative Service Bureau.

At its first meeting on September 23, 1975, oral presentations were made to the Subcommittee by Mr. John Sarbaugh, Chief of the Midwestern Office, Anti-trust Division, Federal Department of Justice, and Mr. Gary H. Swanson, Assistant Attorney General, Iowa Department of Justice. Mr. Sarbaugh generally observed that the workability and approach of House File 584 is an acceptable approach to anti-trust regulation. He further indicated a number of suggestions for improving the bill. The Subcommittee considered Mr. Sarbaugh's recommendations for improvement at its third meeting.

At its second meeting on October 23, 1975, the Subcommittee held a public hearing. Persons testifying at the public hearing were as follows:

Professor Richard F. Dole, Jr., College of Law, University  
of Iowa  
Mr. Ben C. Buckingham, General Counsel, Iowa Farm Bureau  
Federation

Mr. Stephen W. Roberts, member, Special Committee on  
Corporation and Business Law, Iowa State Bar Association  
Professor Wayne E. Newkirk, Department of Economics, Drake  
University  
Professor Glenn Clark, Law School, Drake University  
Mr. Gerald Pepper, Executive Director, Iowa Institute of  
Cooperation  
Mr. Addison Parker, attorney, Dickinson, Throckmorton,  
Parker, Manheimer and Raife  
Mr. J. S. Craiger, Iowa Manufacturers Association  
Mr. Robert Rush, Shuttleworth and Ingersoll, representing  
Iowa Soft Drinks Association  
Mr. Wilbur N. Bump, attorney, Stewart, Weimer, and Bump, P.C.  
Mr. John E. Leininger, manager, Financial Services Department,  
Iowa Grain and Feed Association  
Mr. James B. West, Iowa Automobile Dealers Association  
Mr. Gary H. Swanson, Assistant Attorney General, Iowa Justice  
Department  
Mr. L. J. Maasdam, citizen, Pella, Iowa

Testimony received at the public hearing fell basically  
into the following areas:

1. Whether or not the General Assembly should adopt the  
"laundry list" approach of House File 584 or the approach embodied  
in the Uniform State Antitrust Act;
2. Whether or not the section 11 exemption in House File  
584, relating to agricultural and horticultural organizations,  
should be narrowed or expanded; and
3. Whether or not the section 6 conclusive presumption in  
House File 584 should be altered to some type of rebuttable  
presumption.

More criticisms, both positive and negative, of House File 584 were  
also made in testimony at the public hearing.

At its third meeting on November 5, 1975, the Subcom-  
mittee began consideration of the various specific recommendations  
made to the Subcommittee with regard to improving House File 584.

During this meeting, the Subcommittee voted to recommend  
that the following amendments be included in its omnibus proposed  
amendment to House File 584:

1. Page 1, line 21, by inserting after the word "includes"  
the words "the terms and conditions of sale,".
2. Page 3, line 10, by striking the word "understanding" and  
inserting in lieu thereof the word "agreement".
3. Page 3, by striking everything in lines 22 through 27,  
inclusive, and inserting in lieu thereof the following:

"Sec. 8. NEW SECTION. MONOPOLIZATION. It is unlawful for a person to attempt to monopolize, to agree to monopolize, or to monopolize the sale or rental of a commodity or service in a relevant market."

4. a. Page 3, by striking everything in lines 28 through 35, inclusive, and inserting in lieu thereof the following:

"Sec. 9. NEW SECTION. EXCLUSIONS. Labor of a human being is not a commodity or an article of commerce. This Act shall not be construed to forbid the existence and operation of any labor, agricultural or horticultural organization instituted for the purposes of mutual help, while lawfully carrying out its legitimate objects."

b. Page 4, by striking everything in lines 1 and 2, inclusive, and by striking everything in lines 3 through 21, inclusive, and renumbering the bill section numbers accordingly.

5. Page 6, line 6, by inserting before the word "person" the word "natural" and page 6, line 9, by inserting before the word "person" the word "natural".

6. Page 7, line 34, by inserting after the word "remedies" the words "as to the person indicted"; page 7, line 35, by inserting after the word "petition" the words "against such person"; and, page 8, line 12, by inserting after the word "remedies" the words "as to the enterprise against whom the petition is filed" and by inserting after the word "action" the words "against such enterprise".

7. Page 7, line 34, by inserting after the word "indictment" the words "or the filing of an information".

8. Page 4, lines 31 through 34, by striking the words ", or if he believes it to be in the public interest that an investigation be made to ascertain whether a person has engaged in, is engaging in, or is about to engage in such conduct,".

9. Page 2, line 1, by striking the word "An" and inserting in lieu thereof the words "Notwithstanding any other provisions contained in this chapter, an".

10. Page 8, by striking everything in line 31, and inserting in lieu thereof the following: "action, within four years after this cause of action becomes known, whichever period is later."

At its fourth and final interim meeting on January 7-8, 1976, the Subcommittee suspended further consideration of the various specific recommendations made to it so that it could receive further testimony. The following persons testified with regard to the following subject matters:

Professor Richard E. Day, Law Center, University of South Carolina, concerning the uniform approach to state antitrust legislation.

Mr. Edgar F. Hansell, Mr. L. Call Dickinson, Jr., Mr. Addison M. Parker, Mr. Stephen W. Roberts, Professor Glen W. Clark, and Mr. G. Neumann, concerning the Ad Hoc Committee on Iowa Antitrust Legislation's approach to antitrust legislation in Iowa and concerning potential problems with House File 584.

Professor Dorsey D. Ellis, Jr., College of Law, University of Iowa, concerning further observations on the development of House File 584 and criticisms directed toward it during the interim.

The Subcommittee resolved to complete its deliberations during the 1976 Session of the Sixty-sixth General Assembly and make no further recommendations as an interim subcommittee.