

INSURANCE SUBCOMMITTEE
OF THE
STANDING COMMITTEES ON COMMERCE

Final Report

The Insurance Subcommittee was created by the joint action of the Standing Committees on Commerce to study and submit recommendations concerning problems in the insurance industry. The membership of the Insurance Subcommittee, as appointed by the respective Commerce Committee Chairmen, is as follows:

Representative Harold O. Fischer, Chairman
Senator James E. Briies
Senator Gene W. Glenn
Senator Jim Griffin
Representative Theodore R. Ellsworth
Representative James H. Schwartz

The Insurance Subcommittee considered a wide variety of problems concerning the insurance industry, and in so doing received information and testimony from a considerable number of individuals knowledgeable in the field. Among the problems considered are the following:

1. Establishment and regulation of group credit insurance rates.
2. Control of variable annuity contracts.
3. Arbitrary cancellation of automobile insurance policies.
4. The "no fault" concept of automobile insurance coverage.
5. Cancellation of insurance agency contracts by insurance companies.
6. The sale of title insurance by Iowa licensed insurers.
7. Regulation and control of insurance holding companies.
8. Group credit insurance premium tax assessment procedures.
9. Taxation of health insurance premiums collected by the Blue Cross-Blue Shield companies, or the exemption from taxation of health insurance premiums collected by private insurers.
10. The "use and file" method of establishing insurance rates.
11. Conflict of interest laws relating to insurance company directors and officers.

12. The effect upon insurance policyholders and claimants of insurance companies becoming insolvent.

The Insurance Subcommittee recommends that the Standing Committees on Commerce endorse the enactment of the following legislative proposals:

1. The Model Credit Insurance Bill, as amended and recommended by the Commissioner of the Department of Insurance ("Commissioner's Bill").
2. Senate File 203, Sixty-third General Assembly, (as passed by the Senate), relating to cancellation and nonrenewal of automobile insurance policies, as amended by the deletion of sections 10 and 14 providing for a hearing before the commissioner and a penalty clause respectively.
3. House File 633, Sixty-third General Assembly, relating to the encouragement of competition among certain casualty insurance companies in rate making, as amended pursuant to suggestion by the American Insurance Association.
4. A bill relating to conflicts of interest of officers and directors of insurance companies.
5. A bill containing the provisions of the Model Insurance Holding Company System Regulatory Act, as amended pursuant to suggestion by the Insurance Department.
6. A bill to exempt from taxation all premiums collected by private insurance companies for hospital and medical insurance policies.
7. A bill to require insurance companies to submit one year's notice of intent to cancel agency contracts.
8. Iowa Insurance Guaranty Association Act, an act to avoid financial loss to individuals due to the insolvency of an insurer.

The eight recommended bills and amendments are currently being prepared by the Legislative Service Bureau for introduction or filing.

INSURANCE SUBCOMMITTEE OF THE STANDING

COMMITTEES ON COMMERCE

MINORITY REPORT

FILED BY: SENATOR GENE W. GLENN

DEC. 15, 1969

Except insofar as my vote on specific legislative proposals coincided with those of the majority of the Subcommittee, I dissent from the Majority Report filed herein.

The pervasive malaise of contemporary democracy - that of government guided by self-interested groups and organizations - has imbedded itself firmly upon the deliberations and findings of the Subcommittee. When such influences clearly dominate legislative recommendations, the public interest necessitates full information on the processes that are operative.

In composition, the six-member Subcommittee has four members, a majority, who are engaged in the insurance business. While admittedly more knowledgeable, perhaps, than the average legislator on the intricacies of insurance matters, the possibility of personal interest in legislative policies enacted into law looms much larger. It may fairly be presumed that the tendency of industry-oriented legislators will be toward a reduction of public regulation, and the advancement of such formulas as will result in higher yields to the industry. In microcosm, the Subcommittee structure cannot be depicted as representative of the Iowa Legislature.

In procedure, the minutes evidence a grievous imbalance of presentation. Although requested by the undersigned, no public hearing was held on matters considered by the Subcommittee. Correspondence received from constituents suggests injustices that have occurred under present regulations, and which may persist unless remedial action is taken. The Subcommittee might well have benefited from the citation of personal experiences by those most affected - the general public.

Reconsideration of legislative action completed by the Iowa Senate during the 1st Session of the 63rd General Assembly by the Senate Subcommittee members appears violative of the spirit if not the rules of the Senate. Technically, S.F. 203, the automobile insurance cancellation bill, had been placed beyond our jurisdiction, having been sent to the House subsequent to its passage. Yet, the Senate Subcommittee members voted upon a motion recommending adoption of the measure with deletion of two significant provisions. The essence of bicameralism requires independent consideration by the two houses of legislative proposals; when one house has worked its will, the matter then moves to the other body. If veto power is vested in the hands of three Senators, two of whom voted on the losing side when the two amendments in question were considered, then the considered action of the whole Senate may be labelled a nullity.

Inordinate reliance upon the positions of industry spokesmen permeated the Subcommittee's deliberations. Apart from Subcommittee members, counsel, and representatives of the Insurance Commissioner's office, the persons in attendance at Subcommittee meetings and offering statements on legislative proposals overwhelmingly represented the insurance and banking industry, with many having been registered lobbyists in the 1st Session of the 63rd General Assembly. As the minutes disclose, the positions urged by such special interest advocates bear striking resemblance to the recommendations adopted in the Majority Report in nearly all instances. One possible exception may be that of the Blue Cross-Blue Shield representative.

In anticipation of the contention that all or nearly all of the recommendations adopted were approved by the Insurance Commissioner's office, thereby safeguarding the public interest, several observations may be appropriate. One, the whole Legislature - not the Commissioner - is entrusted with legislative decisions as to what constitutes sound public policy. Two, the Commissioner is placed in a somewhat untenable position when his views are solicited concerning matters that enlarge or circumscribe his regulatory authority. No incumbent Commissioner would choose to appear unduly bureaucratic in his posture on such matters, and particularly not when the majority party hoists the untrammelled standard of free enterprise above all other economic virtues. Three, by the very nature of his position, the Commissioner is subjected to subtle pressures from the industry and its representatives that tend inevitably to blur objectivity of position. Nothing herein should be construed as a personal reflection upon the incumbent officeholder.

While not concurring in the supporting statements on legislative matters contained in the Majority Report in but a few instances, I shall limit specific observations on legislative recommendations to the following:

S.F. 203

This measure should be enacted as passed by the Senate; the hearings and penalty provisions should not be deleted. According to the Insurance Commissioner, an estimated 30,000-40,000 Iowans had their automobile insurance policies cancelled last year on grounds defined as other than valid by the bill. The only recourse provided these unfortunates is a complaint to the Commissioner, with only occasional redress, or the purchase of high-risk insurance.

A statutorily-defined hearing procedure would ensure due process of law. Every citizen then might know such procedure was available, and invoke it upon necessity. A great many Iowans do not presently know of the existence of the Commissioner's office, and its services. Moreover, its procedures are indefinite, redress depending upon the aggressiveness of the investigation, tenacity in confronting the offending carrier, and ultimately the willingness of the carrier to reverse or adjust its position. Clearly, precise legal standards embodied in a hearings clause would be more protective of the motorist.

The penalty provision would remove an offending carrier from its present status of immunity; individuals are subjected to penalties when they violate laws, why should not insurance companies be subjected to similar sanctions? Moreover, a conviction or multiple convictions would provide the Insurance Commissioner with a sound basis for refusing to permit a violating carrier from doing business in Iowa.

H.F. 633

I oppose enactment of the so-called "Use and File" bill. This proposal, if adopted, would bypass the existing requirement of advance approval on automobile and casualty insurance rates by the Insurance Commissioner, allowing the carriers to increase their rates whenever and in what amounts they should choose. Specific objections include these:

One, the regulatory authority of the Insurance Commissioner would be greatly reduced. Upon a finding that a class of insurance was "competitive" - a guideline, it may be observed, so loose in concept as to be practically indistinct - the Commissioner might promulgate rules permitting self-determined premium rates. Thereafter, under the Subcommittee amendment, if the Commissioner were to conclude that such class of insurance was no longer "competitive", he might after hearing amend or withdraw his original order. Contrary to published reports, the bill does not give the Commissioner specific authority to disapprove rates after they are filed; his authority is limited to a determination of "competitiveness."

Two, no evidence was presented to the Subcommittee that the present system of advance approval is injurious to the public welfare or to the insurance industry in the State of Iowa. While apprehension was expressed that a "political" Commissioner might at some future time emerge, no such present contention was raised.

Three, it is apparent that the insurance industry objective in supporting this bill is to enable the carriers to increase premium rates without effectual State regulation. A higher profit-motive thus appears to be the rationale behind this legislation. Manifestly, such reason is inconsistent with the public interest that should serve as our guide in legislating.

Four, no showing has been made that the present system for setting rates imperils the solvency of the insurance industry. While underwriting profits may be slender, the over-all health of the industry - as demonstrated by a Staff Study of the Senate Antitrust Subcommittee in Washington, released just two weeks ago - is indisputable, with average after-tax earnings in the 1959-1968 decade of 10.5 percent. Sufficient flexibility is present in our existing rate structure to permit adjustments when economic circumstances so warrant.

Credit Insurance Bill

While I favor the enactment of this legislation, I voted no in Subcommittee because of partisan political considerations injected. A similar bill, H.F. 671, introduced in the House of Representatives, March 26, 1969, by Representative Gannon, was bypassed by the Subcommittee because as one Subcommittee member observed, the sponsor was of the wrong political party. It is deplorable that such an attitude should prevail when worthy legislation is under consideration.


Health Insurance Tax

While I concur in the Subcommittee recommendation that the tax on health insurance premiums should be repealed, I submit that private carriers should be required to abide by similar legislative controls in regard to rate approval, employee salaries, and non-profit status, currently imposed upon Blue Cross-Blue Shield. Unduly large profit yields in this area penalize those citizens who need protection most, and are least able to afford it.

Recommendation

For all the reasons aforesaid urged, I recommend to the Standing Committee on Commerce that the Majority Report of this Subcommittee be rejected, and this Minority Report adopted.

Respectfully Submitted,


GENE W. GLENN
STATE SENATOR, SUBCOMMITTEE MEMBER