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Insurance and the State

It was late in the sixties when the project of erecting a new Capitol for the Commonwealth of Iowa was undertaken. Fifteen years were spent in its construction, and more than three million dollars were expended for land, labor, and materials. When at length the great edifice was completed and its golden dome shone forth in the brightness of the summer sunlight, it was regarded as monumental — the outward evidence of internal wealth and stability. But in a larger sense this spacious building with its towering dome is more than wood and stone and mortar. It is a symbol of all that is good in government and an insurance against the advent of an evil day in the body politic.

States, for many generations past, have found it expedient to invest millions in great buildings which shall make governments more secure. In like manner thrifty and frugal individuals find it desirable to invest their savings in some form of insurance as a protection to their families and personal effects. This has given rise to the incorporation of many insurance companies within the State. As a great capitol symbolizes protection

and connotes stability of government within a Commonwealth, so the laws emanating from that government symbolize protection and connote strength of corporate activities. A river can not rise higher than its source: neither can the good that flows from life insurance rise higher than the laws of the State in which the company is located or operates and by which it is protected and controlled.

Insurance laws in Iowa have developed as the business has grown. During the Territorial days there were no insurance companies and consequently no insurance legislation. Indeed, at that time, there were no general incorporation laws of any kind in Iowa. Corporations were formed only by authority of special acts of the Legislative Assembly, a procedure which proved to be very unsatisfactory. In the first constitution of the State was inserted a provision that "Corporations shall not be created in this State by special laws, except for political or municipal purposes", though all corporate institutions except banks could be created in conformity to a general incorporation act. Accordingly, the First General Assembly, on February 22, 1847, passed a general measure providing that any number of persons may incorporate themselves for the transaction of any legally authorized business, "including the estab-

lishment of ferries, the construction of railroads, or other works of internal improvement." This law did not refer specifically to the incorporation of insurance companies, yet in 1867, when it seemed desirable to establish a life insurance company in Iowa, this act of 1847 was made the basis of organization.

The desire for expansion in this field of endeavor gave rise in 1868 to the passage of new legislation designed especially for the benefit, protection, and control of life insurance companies organized within the State. This act provided that each company should invest its reserve in government bonds and real estate securities, and deposit with the Auditor of State resources equal in amount to its outstanding liabilities. The law further directed that money received by a beneficiary of an insurance contract should be exempt from liability for debts of the insured. It also required that the Auditor of State should make an annual report to the Governor relative to the status of companies organized within the State.

Since the year 1868, the insurance laws of Iowa have been amended many times, but there has never been a complete and thorough revision of them. One group of amendments has been designed to protect the insured. These have provided restrictions relative to medical examinations,

established rules concerning the issuance of reports, made funds received by beneficiaries exempt from execution for debts, and designed methods for the prevention of fraud. Thus, as early as 1890, the law provided that "no life insurance company doing business in Iowa shall make or permit any distinction or discrimination in favor of individuals" obtaining insurance. Rebates of premiums "or any special favor or advantage" was declared to be illegal, and companies were denied the right to make any contract or agreement "other than is plainly expressed in the policy issued".

No less than twelve acts of legislation have been passed regulating the investment of funds by Iowa insurance companies as a protection to policyholders. Other regulatory measures have been enacted with regard to the duties and responsibilities of insurance agents, the loan value of policies, the purchase of corporate stock, the writing of health, accident, and employers' liability insurance, the forms of policies issued, and the administrative supervision of companies by State officials.

Despite the numerous and valuable safeguards thrown around the insurance business, difficulties sometimes arose. The early laws of Iowa provided for two types of life insurance companies.

Stock companies might be formed upon subscription by the stockholders of one hundred thousand dollars of capital stock. One-fourth of this amount was required to be paid in cash and invested in government bonds or in mortgages upon unencumbered real estate, which were deposited in the office of the Auditor of State. Companies might also be organized upon a "mutual plan", if bona fide applications were made by at least two hundred and fifty persons for insurance amounting on an average to \$1000 each. The mutual company was required to deposit with the Auditor of State cash or securities equal in amount to three-fifths of the annual premium on each application. The cash or securities deposited by either the stock or mutual company were intended to serve as a guarantee of their policies.

In addition to the regulation of these two types of companies the law provided for the organization of mutual benefit associations which were not required to have a legal reserve. During the early eighties the State was overrun with agents of this type of organization, and many innocent and unsuspecting persons were induced to become members. These companies were not fraudulent *per se*, but were attempting to operate on a basis that was not scientific and at a premium rate that was not economically sound.

In 1883, however, Auditor J. L. Brown refused to issue certificates to such companies, and recommended to the General Assembly that a State Insurance Department be established and that the statutes be amended to prevent unsound companies from operating. In making this recommendation he said: "Hard indeed must be the heart, and ruthless the hand, that seeks, by ingenuity, prompted by greed of gain, to undermine the public confidence by the substitution of a semblance of life insurance for the reality, and a shadow of indemnity for the substance."

"Insurance without absolute indemnity is a misnomer", he said, "yet such is the propensity of many individuals to speculate off the misfortunes of others, and to impose upon the credulity of those who are ignorant of their schemes, that thousands have been deluded by the snare of cheapness, into accepting as life insurance that which furnishes no indemnity whatever, and is at best but a game of chance, with the chances largely, if not altogether, in favor of the authors of the scheme."

Despite this urgent request for revised legislation, the General Assembly adjourned without having passed the desired measure. But the end was not yet. Brown was persistent in his requests for remedial measures. In his report of 1884, he

remarked somewhat satirically that inasmuch as the "General Assembly in its wisdom" had seen fit to continue the supervision of insurance in the Auditor's office, the work would be assumed "with all the cheerful fortitude that can possibly be summoned". He explained, however, that although the law required the publication of annual reports by the "Insurance Department", there was in fact no such department, and the work of supervision had been assigned to one of the clerks in his office. Under these conditions, he said, the annual reports must necessarily be "meager" and supervision would continue to be quite inadequate.

As a result of this agitation the General Assembly in 1886 passed an act to regulate the organization and operation of mutual benefit associations. This law was rewritten in 1900 and later it was amended to provide that assessment life associations should not thereafter be organized within the State and such companies already organized were required to reincorporate as legal reserve companies.

Fraternal insurance presents another aspect of the subject which has many ramifications. Lodges, secret orders, and associations are widely interested in insurance and are subject, in a measure, to insurance laws. In former years their interests were largely fraternal and their insurance

incidental. In more recent years, however, their insurance has become a prominent feature, and many of them have been reorganized upon a legal reserve basis. Notwithstanding this fact they have always been considered in a separate category. Any detailed consideration of their development, operation, or the legislation applicable to them would constitute a narrative in itself.

In response to many urgent requests for improved insurance legislation, the Thirty-fifth General Assembly in 1913 established an "Insurance Department of Iowa" and provided for a "Commissioner of Insurance". Under the provisions of this law the Commissioner has general supervision and direction of all insurance business transacted in Iowa, and the administration of the insurance laws of the State is placed in his hands. All of the powers and duties formerly possessed by the Auditor of State in connection with insurance are now vested in the Commissioner of Insurance. All records, reports, and securities relative to insurance are deposited in his office, and all fees and charges are payable to the State through the office of the Commissioner.

Under the law requiring insurance companies to deposit securities with the Insurance Department, such assets have accumulated to an amount approximating \$410,000,000. A large part of

these securities are in a semi-liquid form, readily available to meet any emergency.

In response to the sound provisions of the law as it has developed since 1868, the insurance business has experienced uninterrupted growth in Iowa, and many of the weaknesses that have appeared in other States have been avoided. In the first insurance report issued in 1868, Auditor John A. Elliott said: "Among the greatest dangers threatening life insurance companies is the feverish anxiety to obtain business." Their incautious haste to grow, "their ambition to exhibit as great an array of figures as that shown by the statement of other companies, lead them to pay too much commission to agents, and induce them to declare larger dividends than the retention of a safe reserve fund would warrant."

During the first decade of the operation of the initial Iowa insurance law, only one company, the Equitable Life Insurance Company of Iowa, was organized. From the time of its incorporation it was brought into direct competition with the older companies of other States doing business in this Commonwealth. Notwithstanding this fact the Iowa company proceeded on a conservative basis and did not attempt to match figures with its competitors. Accordingly, reports show that a fair advancement was made in local business and that

the company had carefully avoided the dangers set forth by Elliott in his annual report. The liabilities of the company during the first year of its operation were \$30,339. In order to be quite secure, the company deposited with the Auditor of State securities to the amount of \$50,000 — almost \$20,000 more than the law required. Moreover, during the early years of its operation the company declined to extend its business into other States where the insurance laws were less rigid.

In 1868 life on the Iowa prairie was simple, business interests were few and life insurance was almost unknown. In the years that have passed since then, Iowa has made great advancement. The open prairie has become a vast field of oats and wheat and corn. Small hamlets have become great industrial and manufacturing centers, and business interests have developed beyond the fondest hopes of the early settlers. Meanwhile, insurance legislation has kept abreast of the times. Under the protection of these laws, citizens of the Commonwealth have been enabled to secure ample protection, and to make investments which have been profitable and secure. In the words of "Ding", the eminent Iowa cartoonist, one living under these conditions may well say: "Every day, I thank God for Life Insurance."

J. A. SWISHER