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FEDERAL VERSUS STATE REGULATION OF REINSURANCE

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Debate: Should regulation of reinsurance be under federal or state regulatory control?

MR. JOHN E. BAILEY: The topic of the debate is "Federal Versus State Regulation of Reinsurance." This has become a very important topic this year, with the introduction of HR 4900 by Representative Dingell. If you don't realize it, that bill has a very extensive section based on reinsurance. We believe that it will affect not only all the reinsurers, but all the ceding companies that use reinsurance. So it's a very important topic to consider at this point.

Denis Loring, senior vice president of the Equitable, has agreed to take the position in favor of federal regulation. Defending the state regulation is Gene Copeland of Security Life of Denver. We really hope that this debate will open some new ideas of thought for you.

I'd like to give a little information about both of the speakers. Gene Copeland is an attorney who is admitted to practice both in Colorado and Iowa, as well as to the District Court of Colorado and the U.S. Supreme Court. He has served as state vice president of the ACLI. He's a past member of the Legislation and Reinsurance Litigation Committees of the ACLI. He has served as president of the Colorado Life Convention and is a lecturer and speaker at many legal convention seminars and meetings. He's the author of "Preventive Law for Medical Directors and Underwriters." I'm also pleased that he's a fellow alumnus of the University of Iowa.

Denis Loring, of course, is well known to most of you. He's senior vice president of the Equitable. He has a bachelor's degree from Harvard and a master's degree from MIT. In addition to being an FSA, he's a member of the Academy and an enrolled actuary. He's had responsibility for both the assumed and ceded reinsurance at the Equitable for a number of years and has really been responsible for all the reinsurance aspects of the recent demutualization of the Equitable, especially in financial reinsurance.

We set up a special commission to determine the rules of the debate. We're just going to have a town-meeting style of discussion. The main purpose here is to have a little fun and to bring out the main points that involve federal and state regulation. Denis Loring will have the opening statement.

MR. DENIS W. LORING: As you know, this is an election year. You can't open a newspaper or magazine without seeing the results of a new poll. A recent poll was taken of the most frightening sentences in the English language. In fifth place was the sentence, "Hi, I'm Ross Perot and you're all not feeling too well today." In fourth place was Dan Quayle, "Hi, I'm Dan Quayle, and George isn't feeling too well today."

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Third place was, "Hi, I'm Bill Clinton, I'm feeling just terrific." Second place was, "Hi, I'm from the government, and I'm here to help you." In first place, was "Hi, we're from the governments. There are 50 of us and we're all here to help you in our own special way." That's really the difference between federal and state regulation.

Would you rather have one of them, or would you rather have 50 of them, each in their own special way? Notice I do not say 51 of them, because the premise of this debate is federal *or* state regulation. Both isn't an alternative. It's not on the program. So if you really want dual regulation, you have to schedule your own debate, because this is a federal versus state debate.

That premise put aside, let's look at federal regulation. I would advance several suggestions and five principal reasons why federal regulation might be better for the reinsurance industry. The first one is what I call globality. Reinsurance is a global business. It is no longer a simple national domestic business and it requires a single national voice. *The New York Times* stated, "Offshore insurers are creating concerns among regulators, offshore insurance companies have internationalized an insurance shell game." This comment points to glaring holes in our current system of regulation because state regulators, no matter how well intentioned, are powerless to stop it. A state cannot effectively deal with a nation. It cannot negotiate on an equal footing. It doesn't have the constitutional or legal authority to transact with another country. It certainly doesn't have the resources, the budgets, the manpower, or the training to be able to cover an entire world. There are cases exactly like this where insubstantial offshore reinsurers slip under NAIC radar. It is exactly these reinsurers, these surplus-line companies, that cause many problems when they fold up.

Frankly, the states just don't have the power. The federal government has the power to deal with the aliens. That power is now necessary. We heard earlier about the global economy, the one-world financial business. This is a perfect example; states can't function in a one-world business.

My second reason is solvency. To the extent that insurance is a national business, and many insurance companies do cross state lines, solvency is a national concern requiring federal regulation. A headline from *The Wall Street Journal* reads, "New York insurance official objects to the plan to rescue Mutual Benefit." So, Connecticut, New York and New Jersey are each fighting the good fight for their own policyholders, and meanwhile, the Mutual Benefit policyholders are sitting there trying to figure out what's going to happen to them. Until recently, anyone who tried to have a letter of credit that worked both in California and New York, or who had a reinsurance treaty that tried, at the same time, to conform to New York 102 and California 89-3, knows exactly what I'm talking about.

There are inconsistent guarantee laws among states. Some policyholders can shop for forums; others just drop through the cracks. A number of life insurance holding companies are multistate, such as Executive Life, so you have the California Executive Life people versus the New York Executive Life people. States can act in their own local interest, which can have very bad consequences for the other 49 states. Federal arbitration proceedings allow reinsurers to bring disputes outside of state liquidation proceedings. The federal government also has a special priority as a tax collector or a policyholder. So, in those roles it can automatically supersede the states.

There is a much better opportunity for meaningful nationwide solvency standards under federal regulation for solvency. The states are more susceptible to lobbying by insurers. The federal presence can perhaps act to prevent a run on the bank. It was a big headline in a Newark newspaper that really triggered the final run on Mutual Benefit. Perhaps if the federal government could step in and say, "No, this isn't going to happen," Mutual Benefit wouldn't have gone down. We don't know, but we certainly do know that the federal government has more clout than the state governments.

The third argument is uniformity. There is the elimination of very local self-serving initiatives, like Proposition 103 in California. Remember, business likes stability, business likes long-term planning. You foster that with a level playing field, rather than being afraid of what 50 different state regulators are going to do. Let's look at the new model regulation, for example, for financial reinsurance. Missouri is out there trying to pass it with a 1992 grandfather date. Colorado has already passed it with a 1995 grandfather date. California is probably going to say, "Well, you won't have to comply with 91-10 if you comply with our new regulation or have a substantially similar regulation in your state." We don't know what the grandfather date will be to make it substantially similar. Meanwhile, if you have financial reinsurance treaties out there, you may have to file 50 different accounting forms, because every state with its own grandfather date will have old treaties and new treaties being treated differently at different times. Think what that's going to do to your accounting.

That plays right into my fourth reason, which is efficiency – both for companies and for regulators. You eliminate company inefficiencies when dealing with many states. Would you rather file 50 policy forms or one policy form? Would you rather have 50 letters of credit or one letter of credit? You have economies of scale for the regulators. You can build one substantial quality regulatory mechanism instead of 50, some of which are terrific, and some of which are not so terrific. You also eliminate poor communication among the states. You eliminate uneven implementation among the states; the 1992 versus the 1995 grandfather date, for example. Wouldn't it make your accounting departments a lot happier if they knew that by December 31, 1994 you had to conform to this regulation in all 50 states?

My final reason is enforcement. You need the power of the federal government to punish the serious bad guys.

In summary, there is globality. Reinsurance is a global business requiring a single national voice. There is solvency. Insurance is a national business and solvency is a national concern. There is the uniformity, eliminating conflicting regulation, creating a level playing field. There is efficiency for the companies in dealing with one entity, instead of 50, and for regulators, creating one talented, knowledgeable body. There is enforcement -- the power of the federal government to go after the bad guys. These are my arguments in favor of federal regulation.

MR. BAILEY: We'll give Gene Copeland an opportunity to present the other side.

MR. EUGENE L. COPELAND: It seems to me that the goal of insurance regulations should be financial solvency with a free and competitive marketplace benefiting the consumer. My discussion position is that the current system works. It's not flawed. We should be continuing with what works and not rock the boat. Any new system is going to be complicated, costly, and may be of lower quality.

Why is the question up for discussion? In the October 25, 1992 *Washington Post*, George Will says that for decades the federal government, that overbearing and overreaching underachiever, has been on a binge of activity acquisition. It is now buckling beneath the weight. We need a sorting out of federal from state and local responsibilities. Congress is concerned that we not have another financial insolvency crisis in the insurance business, and there have always been those people who have been pushing for federal regulation of our insurance business. Large casualty companies have legitimate concerns about rate-making issues from state to state, and they're being squeezed on risk-based capital issues. Then there are the protectionists. A few large companies and a reinsurance association are working quietly behind the scenes to include protectionist measures, subtly though, in the Dingell bill.

I've seen estimates that as much as 40% of our capacity comes from outside the U.S. I would say that, in the solvency arena, the reinsurance problems are not significant. The major insolvencies of direct writers have not related to reinsurance. Life insolvencies have been asset related and, historically, fraud has played only a small role. Regarding property/casualty insolvencies, the National Association of Independent Insurers says that most insolvencies are related to mismanagement, underpricing, failure to spread risk, and failure to take adequate precautions against fraud, the latter of which it says is a 7% factor. Senator Nunn has had some hearings pointing out some smaller alien reinsurance frauds, and finally, the NAIC has asked Congress for some federal criminal antifraud legislation. The congressional response has been some antifraud legislation, which the industry generally supports in Representative Dingell's Bill HR 4900. This bill is in the process of being rewritten and will be reintroduced next year. It will be seriously pursued.

I'd like to point out the resources that I used principally for this talk. The National Association of Independent Insurers (NAII) report on improved solvency regulation is an outstanding, very thoughtful, thorough report on federal versus state regulation. The next is a paper which is principally authored by Debra Winston, on the discriminatory impact of the Dingell Bill on alien insurers and reinsurers. The paper is going to be presented in Europe in November 1992. Finally, there is Hansel and Gretel by the Brothers Grimm.

The rest of my talk is outlined as follows: A general discussion of federal versus state or centralized versus decentralized regulation, and general comments on the Dingell bill, including how it affects reinsurance, its impact on reinsurers, its impact on ceding companies, and finally, its impact on the consumer.

With a federal system, we're likely to see something that is more complicated and costly. You're likely to have less access, and your consumers are likely to have access to regulators with the federal system. The people who are interested in this forget that the Washington federal bureaucracy is generally hostile to business, and especially ours. A federal system is likely to provide us all with much more nonproductive work. The federal government seems to be unwilling to provide any new guarantees, like the FDIC. But certainly the federal government, with the Dingell bill as an example, is willing to delegate broad authority without guidance, and in Washington, there's certainly no federal bureaucracy or expertise, so they would have to start from scratch.

Washington is a more highly politicized environment in which to work. For any legislation to pass, in spite of the format for this debate, there's likely to be dual regulation. That's really likely to be a first step toward full federal regulation. In my view, the Dingell bill is flawed in that respect and so, when you see something that's as flawed as the Dingell bill, it is likely to shift further on to federal regulation in short order, and I think it was designed that way. Certainly, a dual system would have redundant costs and conflicts in it.

It's very likely that a federal system may result in lower quality, rather than better regulation, and we would all be guinea pigs for years and years until a new system was organized and operating smoothly. A centralized system seems to be inconsistent with what's happening with the rest of the world. Business is decentralizing. Countries around the world are decentralizing – certainly that's notable in Eastern Europe. A federal system is likely to accelerate consolidation into larger companies. We might expect more insurer homogeneity, less flexibility, less innovation, and perhaps less responsiveness in products, markets and economic conditions.

A great federal example is ERISA. We see how it's driving defined-benefit pension plans out of business. There's a great new regulatory classic that has just come out for the banks. It's called "Truth In Savings." It's 267 pages long. It's very expensive for the banks, and it includes a great section on "Truth in CD Interest Rates." The purpose seems to be homogeneity and consistency among all banks. Ask any banker how he feels about federal regulation. At least they get FDIC insurance, which the Dingell bill does not provide.

Now, let's talk generally about a decentralized system. Like committees, it's harder to work with. But, also like committees, you're likely to get overall better results. The current system is already in place. It seems to be working well and is rapidly being improved. Insolvencies have occurred and will occur -- that's the nature of the free enterprise economic system. But, the state record with respect to insolvencies is outstanding compared to the federal record on dealing with thrift institutions and their record of overreacting. There was an overreaction a dozen years ago with deregulation. Then, they were slow to act, and they ignored aggressive high-risk loans. They thenhad a punitive overreaction the other way, which is helping strangle our economy. Their regulators have a tendency to liquidate, mismanage and get bottom dollar, rather than rehabilitate and conserve good assets. The acid test, of course, is what happens to the policyholders. Certainly in the life area we've been extraordinarily successful in protecting policyholders. The life guarantee associations are in place in all states and are doing an outstanding job under the able leadership of Jack Blain and the National Organization of Life and Health Guarantee Association.

We have 50 independent supervisory bodies. This assures a kind of peer review. It's also not putting all your eggs in one basket, which is subject to enormous political manipulation in Washington. Finally, it supports a system of pluralism for creativity in innovation, which is one of the strongest advantages of our free enterprise system.

Now, the only bill we have on the table is the Dingell bill. So, let's look at what it does. It's complicated; 234 pages of densely interwoven legal fabric that is difficult to analyze. It is generally, for direct writers, considered to be an optional bill, but, for reinsurance, it is mandatory. To undertake one transaction, for which a ceding company wants credit, the reinsurer has to have a federal reinsurance certificate. This is for cessions that occur after two years after the date of enactment. The isolated, one-time transaction, aliens that are not doing business in the U.S., and exchanges of risk by direct writers all require a federal reinsurance certificate. This is different from the federal solvency certificate. The law says that no state agency shall deny any ceding insurer credit if the reinsurer meets the standards of this bill. There are four different kinds of reinsurance certificates, and they all have their complicated little hoops to jump through.

Aliens, for example, must consent to allow the federal Insurance Solvency Commission to examine their books and records upon the showing -- by the Commission -- of good cause for concern about their soundness and solvency. Even a company that doesn't want to opt into the federal system is, defacto, opting into the system once it gets the federal solvency certificate. So, almost everyone is going to be under the federal system if they do one reinsurance transaction.

The Dingell bill provides a super class of professional reinsurers. It includes companies that have at least $50,000,000 of surplus and are exclusively in the reinsurance business. This really fits the casualty folks. It's limited to U.S. companies or alien companies that have gone to the extent of providing a branch in the U.S. The super professional reinsurers are exempt from any state law pertaining to reinsurance licensing, regulation or reinsurance transactions. All the other reinsurers are so-called mixed reinsurers, and they're subject to dual federal and state regulation.

It's hard to see how any insurer or reinsurer can want to opt into the Dingell bill. It creates a five-member commission that is a virtual dictator over the insurance business in the U.S. Have you ever dealt with the Texas Insurance Commission? There's no guidance. There's no congressional guidance or detailed intention in this bill. There's a total absence of any fabric of detailed operating rules. There are no accounting rules, no reserving rules, no investment rules, other than the prudent man rule, and no evaluation rules. It contains no rules on the amount or methods of determining reinsurance credits. What is your recourse if you have an unreasonable regulation or determination, with no clear congressional intention, and only one regulatory body? You don't have any. Just feel that sense of hopelessness that you might have in the event of a federal license suspension that puts you out of business in all states at once. Get a sense of how much more difficult it may be to deal with an arbitrary or a misunderstood issue at the federal level.

It's going to be much more difficult to do any planning with the rules coming down from a commission in the absence of any operating rule framework. You can expect many more regulatory surprises, as well as conflicts with the states. Certainly, there's no record that exists that justifies mandating a federal certificate for every reinsurer, even for isolated transactions. The reinsurance system does work well and the

Dingell bill would regulate vast numbers of insignificant and trouble-free transactions. Again, it subtly, but materially, discriminates against alien reinsurance and is strongly protectionist.

With respect to reinsurers, few life and health reinsurers are going to be able to get the professional reinsurance license unless they restructure to be exclusively reinsurance companies. The cutting through all the state regulation should be a plus. I suggest that the conflicts will still exist. It is a class of license that should have a competitive advantage over so-called mixed insurers that are doing both reinsurance and direct business and who have less than $50,000,000 of capital and surplus. Aliens are precluded from getting the professional certificate, unless they want to branch into the U.S.

The mixed license has dual regulation; part of it's federal, part of it's state. There are three different types of mixed reinsurer licenses or certificates. Most importantly though, let's look at the ceding company and ultimately the consumer. From the ceding company's point of view, economic power will be concentrated in fewer institutions. There will be fewer available reinsurers, and it's going to be more difficult for smaller insurers to stay in business. It's going to be more difficult to understand the requirements and have confidence in these four different types of certificates that a reinsurer may have. In any event, if a reinsurer fails to get its reinsurance certificate renewed in any one year, the party that bears the penalties is the ceding company, creating a sense of unpredictability on the part of the ceding company.

The Dingell bill certainly makes transactions more difficult to undertake. Available capacity will be reduced by the protectionist hurdles. Costs are likely to rise. The law says that the credit can't be challenged by any state, but it doesn't regulate the amount of credit or how it is to be calculated. If I were a ceding company, I think my first instinct would be to avoid using reinsurance. It may not be the best business decision or the best solvency decision. So, we may have the situation where confidence in the solvency of the reinsurer is diminished to the extent that the system doesn't have all of these operating rules -- accounting, reserving, investment, etc. -- and is subjected to regulatory surprises. The mandated federal system is likely to stifle innovation and creativity and force more and more homogeneous transactions. There certainly would be conflicts with state regulators on noncredit issues. It doesn't look like the ceding company gains.

With respect to the consumer, you can suspect that there will be reduced competitiveness, increased cost and less confidence in the solvency system, because we're likely to have a reduced quality of regulation. We're going to have less innovation in creativity and there will be reduced local access and responsiveness by regulators if the consumer needs to go to Washington. So, it doesn't look like the consumer gains.

In conclusion, federal regulation doesn't mean better regulation. Representative Dingell's bill is too much solution for a nonproblem, and it creates the opportunity for protectionists to create hurdles to alien capacity. Now, back to Hansel and Gretel by the Brothers Grimm. As you recall, when we last left them, they were lost in the woods. They found a cottage, though, that was made of bread, roofed with cakes, and the window was made of transparent sugar. An old woman opened the door, "Just come in and stay with me. No harm shall come to you." The old woman appeared to be most friendly. But she was really an old witch and had only built the little bread house to lure them in. When anyone came into her power she cooked and ate them and held a regular feast day for the occasion. When Hansel and Gretel fell into her hands, she laughed and said, "I've got them now. They won't escape from me." Will Hansel and Gretel escape? Stay tuned next year for the final installment.

MR. BAILEY: I think now we'd like to have an opportunity for each of the participants to rebut the other's statement.

MR. LORING: My esteemed colleague has done a magnificent job in presenting a totally hopeless case for state regulation. I will attempt to point just a few things out. He mentioned Senator Sam Nunn as perhaps being concerned. Let me quote Senator Nunn: "We have to get somebody capable of piercing the veil that surrounds these offshore insurers." Senator Nunn said in a recent interview. "The states now are just woefully inadequate."

My colleague says that centralization is inconsistent with the rest of the world and points to Eastern Europe. I instead would tend to point to such things as the Maastricht Treaty and say that from a business point of view, centralization and globalization is exactly the way that the world is going. Therefore, states will become even more inadequate to deal not only with nation states, but multinational free border, free trade and free business enterprises. He uses, for some reason, an argument for state regulation that 40% of the capacity of the reinsurance business comes from out of the U.S. This to me is, again, exactly a reason why you would want federal regulation of reinsurance, because that 40% is not going to be touchable. Again, offshore insurers create concern; there is a growing list of abuses. He points to the consumer: many Los Angeles policyholders with unlicensed companies still being paid after the riots. That is a property/casualty issue. But, I think that just as you are seeing globalization and uniform rules and regulations, it would be naive to think that we're going to get happy state regulation of the life business and federal regulation of the nonlife business.

He mentions that federal regulation would be more complicated, more costly and lead to more nonproductive work. I am merely going to requote my former example. Imagine your accounting statement in 1994 when 32 states have a 1992 grandfather date on the grandfather regulation, other states have a 1993 grandfather date, others have a 1994 grandfather date, and others have a 1995 grandfather date. The accounting varies for reinsurance of enforced contracts and new contracts, and you have to submit a financial statement with different accounting rules for each transaction for each of those states. Now, if that isn't nonproductive work, I don't know what is, and if that isn't complicated, I don't know what is. I would certainly rather be able to file one blue blank, one place, under one set of rules.

He mentions it is hard to do planning under a federal regulation because of regulatory surprises. I think we are all familiar with the lightning-fast speed of the current federal regulatory environment. I seriously doubt that we are going to get hit with too many surprises. Even if we do see something coming down the road, it's going to come from only one road, not 50 different roads motivated by 50 different entities. Finally, he mentions that it's going to be easier to do business under the current state environment. I respectfully disagree.

MR. COPELAND: First of all, I think we can have a happy system. At the state level, some of the things that are in the Dingell bill, for example, look a great deal like things taken right out of NAIC models. Solvency, I would say, in terms of internationalization and the problem you mentioned, is not a reason for switching to the federal system. In Los Angeles, there's a lot of interest and support for the federal fraud legislation, and I suspect that will be taken care of. There really isn't a globalization problem. There are committees and problems from state to state, but, they have not been insurmountable hurdles. The reinsurance thing is just simply the process of an issue being sorted out, and it will get sorted out. I would say overall the state system is a happy system, and we can look forward to unhappiness if we have a federal system.

MR. BAILEY: We seem to disagree on which system is the happiest here.

MR. ANTONIO D. VILA: I have one quick comment on Gene's presentation, where he compares the states to committees. I might point out that the members of the committee at the end of it come up with one paper that then has the force of the committee decision, and there may be some dissenting opinions that have no force of anything. There is this committee of 50 here, and each dissenting opinion carries the force of law in its own state. It would be nice if the states acted as a committee, but they don't. Also, it would seem to me that federal regulation would tend to be, in general, best when all the problems within the whole area are about the same. State regulations would tend to be best when the problems of one state are markedly different from the problems of another; perhaps like homeowner's insurance, where the hazards faced by somebody in Florida might be quite different from those faced by somebody in Montana. But, how is life insurance different from state to state that we should have decentralized regulation?

MR. LORING: I'd like to point out an example of regulation by committees. As you know, a working group of the NAIC has put out a model regulation. This was the product of a committee. There are several clauses in there that were settled by votes of the committee; three to two, four to one, some unanimous. But the final product was a single committee document. I can tell you for a fact that I've heard at least two state regulators say, "Well, now that we have a model bill that I have to pass in my state, I can get rid of the things that the committee decided upon that I don't like and pass the version that I really want in my state." So, even though there is the NAIC, which is supposed to pass, so to speak, all the national regulations, you will see this regulation in particular taking lots of different forms in lots of different states.

MR. COPELAND: I would simply say that from my experience in the business, there are differences, but they're differences that don't ultimately, in a larger picture, make a difference.

MR. JOHN E. TILLER, JR.: Let's see if we can get a little more down to the basics. Both of you in one way or another represent large, internationally connected corporations with vast resources to devote to items such as national legislation and regulation. I represent many little companies that don't happen to have the resources, at least not all the time. My companies and other companies represented here do have the ability to work with our state legislators and our state regulators and have some influence. Would you each address the loss that we may have in running our businesses, some of which may be regional, rather than national in scope, if we have to cede our hopes, our dreams, our college payments for our kids to the federal government?

MR. LORING: I would hope you wouldn't cede your hopes, your dreams and your college payments to anybody, let alone the federal government. That's a very valid point. It's not clear that you would have the same level of access to a federal regulator. That's certainly true. One would hope for a well-staffed expert federal system. Certainly, if you consider the talent that might be released from 50 state systems, you might be able to put together a fairly decent federal system. It would not be as responsive as a current state is, but it would be, at least to some degree, better than a faceless bureaucrat in Washington. I agree. That is one of the problems of a federal system. But it's a problem that could be addressed, it could be worked on. At least you would know that the one regulatory body that you address would have the power to make the changes nationwide. You represent a small company. You wouldn't have to worry about dealing under separate rules with separate states. You say you're regional. That means you have more than one state to work with. You certainly would have an economy of scale dealing with one system rather than those regional systems. So you might be able to focus and devote your resources more closely to that one effort that makes a difference.

MR. COPELAND: I would propose that IRS agents be designated as local insurance regulators, so that they can come and spend more time with you and give you the attention that you need. That's the point. I think you could expect that some of you folks might not be around after a few years of federal regulation.

FROM THE FLOOR: In connection with the Dingell bill, it's been suggested that the total capacity of the reinsurance marketplace might be significantly reduced under a federal system. I'd like to ask Denis to address that. Is that a real concern?

MR. LORING: Don't expect me to stand up here and defend the Dingell bill, because I'm not going to. The Dingell bill is a first try. It is seriously flawed. It's obviously oriented toward property/casualty (PC) companies. We are life companies. We need to tell them that the life business is different. It allows some dual regulation, which we don't want. The definition of professional reinsurer may make sense to the PC business. It certainly does not make sense to the life business. So, no, the Dingell bill is seriously flawed. Now, to the extent that a well-maintained federal system might cause the reduction of some capacity outside, I would argue that's probably exactly the capacity that that regulatory system is supposed to protect us against.

MR. JAMES R. HOREIN: I think the speakers have done a quality job of giving us some facts. If you look at our collective, and I'm speaking principally as a reinsurer, as a group of people involved in the reinsurance industry – we're neophytes in this business of sorting through legislation and lobbying. Whether you have resources or you don't have resources, if you think back over the last 10-15 years, it's only been in the last few years that you've had to learn how to sort through an issue and take a position – at least as a reinsurer. So one of the pieces of good news that comes out of all of this, and this is maybe my main message, is we now have a chance to get involved. You go to most any industry meeting and you're encouraged to get involved in the legislative process. I think the panel should at least leave us with the message that we have a chance to get involved. Possibly some Canadians, or people with Canadian experience, can give us some perspective as to how you deal with the changing legislative system, as well.

The only thought, or it might turn out to be a question, relates to how can we think of ways to differentiate the life and health industry from the P&C industry as we get involved in legislation? I appreciated Gene's comment that it's not broke, or it works, as I guess was the quote. The results might suggest the life and health industry doesn't have a problem, whether it's because of regulation or it's in spite of regulation. I think the data would reasonably bear out the fact that no policyholder has really lost a significant amount. There's a fairly good chance that our industry will remain able to say that no policyholder has lost a fairly significant amount of money as a result of inadequate legislation. So, whichever way it goes, our challenge might be to get involved and to ask ourselves how we can separate our positions from the P&C positions.

MR. COPELAND: You're touching something that's near and dear to my heart. In the 1990s, we have to be more involved in the political process than we ever have been, and I urge every one of you to take at least some portion of your week to spend time establishing relationships with Congressional representatives, because it's going to be critical in the 1990s. If it's federal regulation, federal regulation tends not to be an all-or-nothing thing, it tends to be a process of accretion, taking an arm here and a leg there. Not only are we looking at federal regulation, but we're looking at challenges to the inside buildup in the 1990s. As you're starting to hear people talk about the restructuring of how the government might spend its money in the 1990s, the inside buildup can be looked at in the framework of a discussion of entitlements and how they're going to spend the money there. You can just see us having a debate with the American Association of Retired Persons over Social Security versus the inside buildup, something like that. So we're in for some serious times, and if you value your business, I'd say spend a little time each week getting to know your Congressional representatives before the hot issues are on the table.

MR. MICHAEL P. TINE: Just a follow-up to your comments, Gene. I think one of the problems, not so much in terms of your debate, but in terms of federal versus state and the Dingell bill is that the federal government doesn't seem willing to sort out the difference between life and property/casualty in that bill or in others. From what I've seen at the ACLI level and of our other efforts in the life business, our response has been to just stonewall the whole federal government issue and say that we're just going to fight, fight, fight. Someone made the comment at an earlier session that the Health Insurance Association of America is viewed as impotent and no one listens to it in Washington. Maybe the life industry or parts of it are getting that way, too. I guess I would encourage us to become part of the debate, because if we simply stonewall everything, what we're going to end up with, my fear is, is a federal system designed for property/casualty people that will apply to us, and I think that's probably the worst of all worlds. So I would encourage all of us to get involved, at least to become part of the dialogue and not just part of the people who fight against dialogue.

MR. LORING: About once a year, the notion of "Should there be a life version of the Reinsurance Association of America?" comes up, and we all bob our heads up and down vigorously. Mel Young has taken a couple of surveys that asked, "Should we have such an organization and would you fund it?" The answers have been virtually unanimously yes, and then it goes away until we ask exactly the same questions the next year. So, here we are again, folks.

MR. COPELAND: If I may add to that, I'd say it's more challenging than that. The ACLI has a reinsurance section. There are many folks who show up just to get the latest information they can get, but, nobody holds up their hand to volunteer to do any work. There's work to be done out there and we're all paying a price for it because nobody wants to put their hand forward. It's a very serious problem and what you're talking about are strategic things. My understanding where things are right now is that the ACLI's position is to still stonewall it, but the Reinsurance Committee has an authorization to go forward with some technical objections without providing fix. I would just say that my understanding of the Reinsurance Committee is that the members are opposed to the Dingell bill, even though that's not an official position for them to take publicly.

FROM THE FLOOR: Every time something comes up, they don't have to work to be volunteers. But, that's still the ACLI doing work, and the staff person exhibits a great deal of frustration in having to deal with, somehow work her way through the ACLI to get permission to do things. Doing the survey for a number of years, there seems to be a unanimous feeling of better lobbying and agents, and I've just been waiting for one or more companies to pick up the staff and say, let's just get it done.

MR. COPELAND: That was an intentional overstatement on my part. There are people who do, but I would also say I've talked with Carolyn Cobb of ACLI at length about her frustrations, and people make commitments and then don't deliver, and I would also say that I think part of the problem is lack of time on her part, because she has so many other assignments. I think an estimate of her time that she has available for reinsurance, considering everything that's going on at the NAIC -- there's no federal staff that is knowledgeable about reinsurance -- is only 10% of her time. That alone is just an operational issue.