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Chair

Mr. James Rajotte

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• (1530)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call this meeting to order.

Welcome, everyone.

Pursuant to Standing Order 108(2) we are continuing our study of the retirement income security of Canadians.

We have with us two organizations and four individuals as witnesses. We have two individuals from the Nortel Retirees' and Former Employees' Protection Committee.

[Translation]

We have the Association des retraités d'Asbestos Inc.

[English]

As individuals we have independent financial analyst Diane Urquhart, Gladys Comeau, Pierre St-Michel, and Diane Blanchard.

I'll ask each of you to make an opening presentation. I believe you have a maximum of ten minutes, but if you can use less time to allow more questions from members it would be greatly appreciated by all members.

We will start with Mr. Sproule, please.

Mr. Donald Sproule (Chair, National Committee, Nortel Retirees' and Former Employees' Protection Committee): Thank you very much.

[Translation]

Thank you, Mr. Chair.

My name is Don Sproule. I am the National Chair of the NRPC, or Nortel Retirees' and Former Employees' Protection Committee. We me is Bernard Neuschwander, NRPC Quebec Region Chair.

[English]

If we could just move to chart 2, please, very quickly, I wanted to put a face on the 19,000 pensioners in Nortel who are going to be affected by this insolvency. Just remember that the people you see in front of you here are healthy enough to come to these kinds of functions. This gentleman here was healthy enough to make it to the Parliament Hill rally, but again, this is affecting 19,000 pensioners.

Next, chart 3 has statistics that show what the 19,000 is made up of. There are 11,700 people currently on pension. Of that, about 11,000 of them are receiving health plan benefits. The average age is 73. These are not golden and gilded pension plans. The average

pension plan for people on retirement right now is \$17,000. If you segregate that, the people in union plans are getting \$12,000 a year.

On top of that, there are the people who will be reaching retirement age. There are some people who have left the company. There are about 5,800 of them. As for new deferred pensioners coming on board, the long-term disability group will be terminated at the end of this year and will become deferred pensioners. We think the majority of them and people laid off within Nortel will become deferred pensioners.

That's how we come up with a total of 19,000 people who will be affected from a pension point of view and about 11,000 people from a health and welfare benefit point of view. Again, the deferred people do not benefit from the health plan.

Across Canada, we have over 9,000 people in Ontario and 6,000 people in Quebec. The remaining 9% are outside of those two provinces.

I made a presentation to you in June of last year on the Nortel situation. Since then, hopefully everybody has been reading the newspapers. Nortel is liquidating under CCAA. Major assets have been sold. The last major asset is the intellectual property. The company will probably be down to about 400 people by the second quarter.

Our pension claims have not been totally calculated, but certainly for the two registered pension plans, we're talking about \$1.1 billion of deficit in those pension plans.

On the Canadian estate, we're far from being close to understanding what we're going to get from the Canadian estate when it is finally settled. We do know that there's no cash left in Canada—just enough to manage operations. The payout will come from global assets. They've all been put into a global lockbox, but it is far from determined as to how those global lockboxes will be unwound and what will come to the Canadian estate.

Now, having just said that I think the whole thing is highly speculative, I'll put my speculation forward. I think we're going to get maybe between 10¢ and 30¢ on the dollar, but again, it's too early to tell.

It's been a year of worry for pensioners. There is no end in sight. I suspect we have another two years of going through this process before we find out the final outcome.

Next is chart 5. In that environment of uncertainty, we're waiting to hear from the judge in the next couple of days, but there is a settlement agreement with Nortel Canada for existing benefits, and our health plan will come to an end at the end of December of this year. Also, our pension plan is going to be wound up as of September 30 of this year. At that time, we expect a cutback of something worse than 31%, so that's something below the 69% level.

That cutback is determined by the expected cost of converting that plan to annuities. The Nortel requirements for annuities will not fit within the Canadian marketplace—both the size and the type of annuities that we're talking about—and because of that we expect to suffer more in terms of annuity payout to the pension plan.

Just so you are aware, we are exploring at an early stage with the Ontario government the concept of a pension orphanage, whereby we avoid having to go to annuities and avoid some of these key windup charges. But the implication is that by the end of this year, the average pensioner will lose about 40% of their income, both in pension and in health payments. This will be a hardship for all and poverty for some pensioners.

Chart 6 asks, "How did we get here?" I looked at other corporations and we worked on this as a committee. We believe we spent something close to 75,000 man-hours on this activity.

Nortel is not an ongoing entity. We had negotiating power in terms of what GM had available to them, and what Stelco and Algoma had available to them, in terms of cutting deals with the federal government and certainly with some of the provincial governments. The negotiating power with ongoing entities, of course, is jobs, jobs, and jobs. In the case of Nortel, there are no jobs. It's all being sold off. What's left is the rump of the pensioners and other people affected by this.

In Canada, there is no viable pension insurance scheme. There's another day set aside for that, we understand.

• (1535)

There is a very limited Ontario scheme, the pension benefit guarantee fund, which will help Ontario pensioners or people who worked in Ontario. We're probably talking about \$310 a month in terms of what that scheme will pay out. And certainly all those pensioners who worked outside of Ontario will get nothing in terms of pension insurance.

If you look across the global stage in terms of OECD countries—and again, there's another day for this—there is no priority for pension deficits in the bankruptcy courts. We have sunk to the lowest of unsecured creditors.

Very quickly, the bankruptcy courts seem to be all about equals negotiating what's left of the corporation. I maintain that the pensioners and other employees affected by this insolvency are hardly equals among the people who are the unsecured creditor class.

Bondholders are extremely sophisticated people. They manage risk not only with Nortel, but across other investments. They can actively manage risk in terms of shortened maturity dates. They were able to cross-guarantee their bonds between Canada and the United States. And they can actually purchase default insurance called "credit default swaps".

The suppliers equally have risk distributed across many customers. In some of the cases they had negotiating power as the assets were sold off because they were critical to the business. Some suppliers managed to get 100% on the dollar.

The U.K. government, as you're probably aware, is making noises about trying to make claims on the Canadian and the U.S. estates. It did not get leave to make those claims, but it's going to be coming back.

In 2006 the U.K. pension administrator negotiated a deal with Nortel Canada, with the parent company, to cross-guarantee some of the pension obligations for the pension administrator in the U.K.

Finally, pensioners never contemplated company default. All our risk is concentrated in a single entity, Nortel Canada; it is not spread across all of the Nortel entities. When they took pensions, pensioners did so to avoid personal risk—would they live too long and not have enough money, would they not live long enough and their wives not be taken care of, and would they become sick.

I maintain that pensioners are hardly among equals when it comes to being unsecured creditors. Our request is that pensioner claims be given preferred creditor status under the bankruptcy laws. We would certainly rank below multiple classes of secured creditors—and hopefully that would not impact the ability of corporations to restructure—but we do wish to rank at the front of the line of unsecured creditors. Our pensioner claims would include pension deficit, health, and other claims.

Now, in making a decision and trying to understand the impacts of what that means within the bankruptcy environment, we do ask you to weigh the societal costs. My colleague has actually calculated that at being in the order of \$355 million. She's also done work in terms of what it means—because people say there are going to be increased capital costs in terms of changing the bankruptcy laws—and in her estimation there will be an increase of 0.02% to 0.11% for all corporations. For those corporations that are in pension deficit, her estimate is 0.16% to 0.79%. So there will be a cost of capital increase, but let's think about what it means to the societal cost.

As I went through these charts, I began to think about what would happen if corporations actually had to pay that amount. It might make them top up their pension plans and not get into the situations they're in now.

From a summary point of view, I will turn it over to my colleague Monsieur Neuschwander.

•(1540)

[Translation]

Mr. Bernard Neuschwander (Chair, Québec Region, Nortel Retirees' and Former Employees' Protection Committee): Thank you.

To conclude, we think it is high time to amend all of the bankruptcy legislation, which we feel is no longer in sync with today's world. While governments are giving more and more time to distressed companies to offset the accumulated deficits in their pension plans, they are not providing retirees with any measures to protect them in the event that their former employers become insolvent. That is simply unfair and appalling. They are shamelessly playing with the income of retirees and not providing any measures to protect them in the event that their companies go bankrupt during that time.

Canada is a country that is recognized for the quality of its social programs, and yet it is the only country in the G20 that does not offer any form of protection to pensioners in case of bankruptcy, whether in the form of a pension security program as is the case in the United States and Great Britain, or by giving them a preferred creditor status. We are told that introducing such measures would increase capital costs and undermine business competitiveness. As Mr. Sproule indicated, our studies show that the increases would be minimal and would mainly affect those companies that are already challenged.

It is fair to say that pension plans constitute liabilities that, in our opinion, are on par with other corporate debts. Pensions are deferred wages, not gifts that companies agree to give to their former employees.

We are also aware of the fact that the government is considering reforming Canada's pension system, and that related consultations are underway. Under those circumstances, we understand that the government does not want to take a piecemeal approach to the review. However, our demands are perfectly consistent with a comprehensive reform and in no way compromise its future success. Amending the bankruptcy legislation does not compromise the restructuring of the pension system.

Our pensioners and those from other distressed companies cannot wait any longer. Our plan will be liquidated by September 30 at the latest, and that will have disastrous consequences for many of us. The changes that we are calling for will provide our pensioners with adequate protection without costing Canadian taxpayers a penny. I think that is something we should keep in mind: It won't cost Canadian taxpayers a cent. Mr. Sproule has indicated that we might even generate savings of \$350 million. Clearly, that is an offer you cannot refuse.

Our 19,000 pensioners and former employees are counting on your support. Thank you for having welcomed us here today, and we remain available to answer any questions you might have.

[English]

The Chair: Okay.

[Translation]

Thank you for your presentation. We will now move on to Mr. Fréchette, if you will.

Mr. Gaston Fréchette (President of the Subcommittee, Retraités et actifs de Mine Jeffrey d'Asbestos, Association des retraités d'Asbestos Inc.): Good afternoon, Mr. Chair.

My name is Gaston Fréchette, of the Jeffrey Mine, in Asbestos. With me is René Langlois who is the Secretary of our committee.

First of all, I would like to begin by thanking you all for having invited us here. If you are taking the time to invite all these people to look at what might be done, that proves that there are problems with our pension plan system.

I would like to talk about the 1,300 asbestos miners who spent their working lives mining asbestos. On the morning of October 25, 2002, the mine's CEO told us that it was all over; no more big pensions. We could forget about our insurance. That was a thing of the past. We learned that our pensions would be cut by at least 20% or 25%, and were later told that our pensions would be cut by 35% to 40%. That represented an annual shortfall of \$5.5 million for the city and region of Asbestos.

Those who have been to Asbestos know that it always used to be a rather small city. Today, it's a village. The Jeffrey Mine was the only real employer. I already said that there were some 1,300 employees. They worked on three shifts. That did not leave any time for their spouses to work outside the home. That means that 95% of Asbestos households had a single earner. In most cases, it was the father and husband. As a result, those pension cuts affected two people. The spouses who stayed at home were not entitled to QPP benefits. They could only depend on old age security. If you added all that up, it made for very substantial losses.

Once we realized that, we took matters into our own hands: we became mobilized and formed a committee. We did everything that was possible and, in 2003, we ended up meeting with the Premier of Quebec. We received \$4.5 million, a substantial amount that helped us cover 11 months of lost income. At the time, we also met with Christian Paradis, who was a minister and a neighbour of ours. He is very knowledgeable about asbestos, and neither does he fear its use. We also met with your former minister, Maxime Bernier, the MP for Beauce. I do not want to make a bad joke, but I wonder whether he did not forget our documents somewhere, because we never heard from him again.

Some voices: Oh, oh!

Mr. Gaston Fréchette: We had handed him a huge pile of documents and called him repeatedly. However, I can say that we received replies from many of you, to whom we had sent a letter. Many of you sent us responses.

That leads me to talk about the same issue raised by people from Nortel: the Companies' Creditors Arrangement Act, or CCAA. That legislation really has to be changed. It is costing us at least \$20 million. Why? Because the banks, credit unions and QPP investment board got their share in the bankruptcy. We were treated as if we had been selling Pepsi. We received \$1,000 each. That was the amount received by our mine. That is to say that, to date, each Jeffrey Mine worker has lost at least \$100,000. The average age of our pensioner-members is 75 years.

People think that Mr. Bellavance's bill, C-290, which we talked about, will be too expensive. If only the Companies' Creditors Arrangement Act had placed employees on the same level as the secured creditors, our losses would have been quite minimal. Yet, we are told that, with such an arrangement, banks would not be able to raise money as easily.

• (1545)

The only thing that companies could do is not to promise pensions if they are not able to pay them. If they do promise them, then there should be a 100% solvency ratio. Since 1991, Jeffrey Mine has never had a solvency ratio of 100% for its pensions, and I can prove that to you anytime.

You must realize that the retirees are the biggest losers in all of this. Just put yourself in the shoes of these retirees for a moment. I have something to say. If the teachers of Quebec lost 35% of their pensions, people would be talking about nothing else. There would be more people who would stand up and defend themselves.

What we want are things that we have really lost. We think we have the right to go after them. Thanks to a great deal of diligent work, we finally managed to get people to listen to us.

Why are we the only creditors who cannot deduct their losses from their taxes? All other creditors of Jeffrey Mine who lost money were able to deduct it from their taxes on their tax return the following year. Why not us?

Remember this: you are the ones who make the laws. You invited us today to try to improve them, and we appreciate that very much. We just want to be able to live decently in Canada.

I can tell you that we are prepared to answer all of your questions. I don't want to take up too much time either. We are 73, 74 years old and we have been working on this for eight years flat out. We have just settled out of court for our class action suit, and we received \$7.5 million. The court ruling was handed down on Thursday, so you can see that we have not been twiddling our thumbs.

We are here today to say thank you for listening to us, and if you need us, we are available anytime. We want to see the end of this matter before we are dead and buried.

Thank you very much.

• (1550)

[English]

The Chair: Merci.

We'll now hear from Ms. Urquhart, please.

Ms. Diane Urquhart (Independent Financial Analyst, As an Individual): Good afternoon.

Canada lags the world in its protection of terminated employees, pensioners, survivors, and long-term disabled employees during bankruptcy. I did a study over the Christmas and New Year season and found that 40 out of 53 countries studied by the OECD have preferred or better status for employee benefits, or they have a public pension benefit guarantee insurance program. The impact of preferred status for employee benefits on the cost of credit is nominal. Despite several efforts to find research reports by the investment community, no research studies have been produced to demonstrate otherwise.

Corporations that liquidate with cash on their balance sheets should not be permitted to shift their employee benefit costs onto the public purse, as this places a burden on all taxpayers. The social security programs must be preserved for Canadians who are most in need, for the Canadians who did not work for the large employers who offered employee benefits.

The unregulated credit default swap market and the proliferation of leveraged private equity acquisitions have made bankruptcies a for-profit business. These two new forces in the economy encourage business liquidations rather than restructuring as ongoing concerns. Distressed debt buyers, the hedged credit default swap junk bond owners, executives, and the bankruptcy professionals are generally making a profit from the liquidations. It is questionable whether the liquidations are protecting jobs in Canada.

Government must ensure that the economy is functioning on the basis of sound drivers and that business is conducted in a fair manner. Society expects government to intervene when unfair business practices take advantage of Canadians who are unemployed, who are senior, who are survivors, and the long-term disabled.

I support the federal bankruptcy law amendments to give pension fund deficits and unpaid severance preferred status ahead of the unsecured creditors. In addition, I strongly recommend that the long-term disabled receive distinct protection in Canada's bankruptcy laws. The long-term disabled must be given priority over the other creditor groups, including other employee groups.

My level of concern about long-term disabled employees getting priority over other employee groups has risen in recent months. I have learned there is limited to no funding within current health and welfare trusts to pay for the long-term disabled's wage loss replacement income. Millions of Canadians who work for private sector employers think they have secure long-term disability benefits when they do not.

In my review of Nortel, I was surprised to learn recently that there was over \$100 million missing in the Nortel health and welfare trust. This is causing a funding ratio for wage loss replacement income and essential medicines of the disabled of only 17%.

There is an alleged breach of trust, since Nortel failed to make employer contributions into the health and welfare trust for the long-term disability benefits plan for many years. In addition, Nortel borrowed \$37 million from both the disabled and the survivors' money held in the health and welfare trust. Both abuses are in contravention of the trustee agreement. The group most deeply affected by the missing money in the health and welfare trust is the disabled.

As a consequence, we have 400 long-term disabled Nortel employees who are being needlessly driven into poverty. A single disabled person who once worked for \$70,000 a year is now expected to have an effective income after medical costs of under \$16,700. This is below the poverty line. That income would be typical of all of the 400 long-term disabled.

Meanwhile, in the bankruptcy estate of Nortel, there is \$6 billion of cash for disbursement to creditors throughout the world. How is it possible that the \$100 million in missing money and the \$37 million loan weren't put back into the trust for the benefit of the survivors and the disabled before the company entered bankruptcy protection?

• (1555)

It is unfair for the long-term disabled to be put into poverty while executives are receiving retention bonuses and annual incentive payments together totalling close to \$500 million. The disabled are not treated equally from a perspective of social security pensions in Canada and from that of the regulation of health and welfare trusts. Disability pensions are much lower and less secure than retiree pensions from both government and employer sources. You would know that the Canada Pension Plan disability income for a single person is a maximum of \$13,521. The combination of the Canada Pension Plan and old age security benefits is \$17,400.

On March 11, Canada signed the United Nations Convention on the Rights of Persons with Disabilities. Under that UN convention, the federal government must ensure that within its sphere of responsibility it promotes equality for persons with disabilities. We clearly have much to repair in terms of equal treatment of the disabled in bankruptcy law, within the CPP disability payment system, and of the combination of both the employer pension and CPP government pension.

Most disabled persons are young. They are not able to accumulate personal savings for their retirement. So it is a group who will not retire well; their pension accruals through age 65 are also very, very low.

I want to make a brief point that Canadian bankruptcy court procedures are not protecting disability income and pensions from abuses in health and welfare trusts throughout Canada. It is not just Nortel but also other very large and reputable companies who are operating their affairs on the basis of self-insured disability and medical benefits without providing full funding within their health and welfare trusts. We are seeing settlement offers being made under duress and being imposed on the disabled. The disabled face threats that their medicines could be withdrawn within eight weeks if they do not accept an offer put before them.

There is not special care taken in the bankruptcy courts to ensure that the settlement offers made to the disabled relating to their wage

loss income replacement—which will determine whether or not they will live in poverty for the rest of their lives—are providing them with sufficiently clear information and adequate time for them, their guardians, and second opinion legal counsel to make informed decisions.

The disabled will always be a minority creditor group. That's in the nature of being disabled. It could be any one of us struck by disability next week, next year, or in the next twenty years. Once disabled, you are in a minority in the country. It's very important that bankruptcy proceedings can give distinct protection and priority to the disabled over other employee groups due to their vulnerability from illness, because they need the peace of mind to have quality of life.

In conclusion, I urge the federal government to play its role in ensuring that the economy is functioning on sound drivers and that business is conducted in a fair manner. The unfair business practices that have been enabled by credit default swaps and leveraged private equity acquisitions and our archaic bankruptcy laws cannot be permitted to take advantage of Canadian taxpayers, the unemployed, seniors, and, as I have said today, the most vulnerable among us, the disabled.

• (1600)

The Chair: Thank you very much, Ms. Urquhart.

We'll now go to Madame Comeau, please.

Ms. Gladys Comeau (As an Individual): *Bonjour.* Good afternoon.

Mr. Chairman, honourable members of the committee, *mesdames et messieurs,*

[*Translation*]

Thank you for your invitation to appear before your committee.

[*English*]

First, I applaud you: retirement income security for Canadians—I like that. I sincerely hope I can make today a positive contribution to your efforts.

I am Gladys Comeau, née Murray, born in Alberta. I have also lived in B.C. and now live in Quebec. I have been widowed 15 years, the surviving spouse of Gilbert Comeau. Gilbert worked 41 years for Northern Electric, Northern Telecom, Nortel. He was a compassionate, hard-working husband and father and always looked forward to his due pension—I repeat, due pension. He opted for a reduced pension to ensure that I would be financially protected with the survivor's pension.

I can still picture him during his last four months of life when we knew the inevitable. He worried if I would be able to make ends meet, despite the survivor pension that he had made provision for, never thinking that Nortel would default on its promise and enter into bankruptcy.

We both worked, I not as long, of course, as Gilbert. We reached middle class. Not today—I'm at the bottom of middle class.

In 2009 I received notice from the appointed monitor of Nortel's intended bankruptcy that my survivor pension would be impacted immediately. On my own, I requested that my federal MP, Madame Marlene Jennings, and the provincial MLA, Monsieur François Ouimet, provide documentation on the government stand on the effects of bankruptcy on company-sponsored pensions. I have only recently been a resident of Lachine. I lived many years in Châteauguay. I also contacted Madame Carole Freeman, the MP for Châteauguay. These people were there for me, and they still are.

The legal implications were not familiar to me, but I soon learned that I would be entering near poverty if the government did not change the legislation to protect all Canadians. I am 75 years old, receiving minimum old age pension, *rentes du Québec*, and the Nortel survivor pension, which survivor pension keeps me above the poverty line.

Please believe me; this is the truth. I live in a mortgaged one-bedroom condo and have no car. I lead a modest life that includes many hours of volunteer community work. I feel fortunate to have this survivor pension. It means I'm not a burden on society or on my children. As a direct consequence of Nortel's bankruptcy, my survivor pension will be reduced by over 30% this September 30, in six months. Who can do something in six months for us? The future looks grim.

I have to agree with Mr. Sproule and Diane Urquhart: Amendments must be made to the Bankruptcy and Insolvency Act and other acts pertaining to business. This, to me, at this time is unjust and bordering on criminal. On September 30—let me repeat—if this government continues to abandon us by not changing the legislation to protect people such as myself, I will have roughly \$200 less a month in my hand. That's not much for some people, but that's the difference that, for me, makes ends meet.

Now permit me to address the loss of medical benefits. This issue must not be taken lightly. I am fortunate enough to have no major medical problems at this time. Therefore, I am not counted among the many pensioners with debilitating medical conditions, which are very expensive. I am not to say how long I will live or in what state of health. I could buy private medical insurance later. No, not with the cost, and I will not do so.

The anger, anxiety, and depression—I thought these were my words, but they've already been used today—that many of us are experiencing will lead to serious medical problems, and you can be sure these problems will occur in the not too distant future.

I stand before you today, as others have done many times over and over through the year 2009, requesting enactment of legislation.

• (1605)

I won't go into more than that, but I still say that the deferred wages at Nortel actually belong to us.

I repeat what I wrote many times in my correspondence. If there's anyone here who has not received correspondence from me, I'll be very surprised. Please do not be influenced by anyone opposing our demand for justice through tactics of persuasion.

And yes, I am afraid. I'm a taxpayer; I look towards my government to protect me.

I received Mr. Flaherty's letter, signed by Mr. Flaherty, just a couple of days ago, and his words were “the government's responsibility”. As I lost my envelope, I don't have it with me, but those were his words. Then he mentioned that I did the right thing to send information to Mr. Clement, who I have never heard from.

I am open to your questions and comments.

[Translation]

Thank you for your attention, distinguished members of the committee. I am available to answer your questions. I will allow Gilbert to conclude.

[English]

Thank you.

[Translation]

The Chair: Thank you very much for your presentation.

Ms. Blanchard and Mr. St-Michel, the floor is yours.

Ms. Diane Contant Blanchard (Secretary, Regroupement des retraités des Aciers Atlas, As an Individual): Mr. Chair, members of the House, ladies and gentlemen, good afternoon and allow me to thank you for listening to us so attentively. My name is Diane Contant Blanchard and I am here before you today in my capacity as Secretary of the Regroupement des retraités des Aciers Atlas.

Our group was founded on June 14, 2005, and our mandate is to call for the fairness to which all Canadians aspire, especially those who, during their working life, made all the sacrifices required to live the last stages of their lives in dignity. I began working for Aciers Atlas in 1966 and I retired in 1997, proud to have honoured my commitments and to have faithfully contributed to the success of the company for 31 years.

Having contributed to the pension fund throughout those years and in accordance with the provisions of the collective agreement, I was to benefit from a pension the amount of which was guaranteed, signed and counter-signed upon my departure, for the rest of my life. This contract included annual indexing and group insurance coverage.

However, on October 1, 2004 things changed. Over seven years after my departure, I learned, as did my 275 retired colleagues, that our pension would be reduced by between 30% and 58%. We could never have imagined a worse tragedy. There was widespread surprise and shock. I had never considered such a scenario. I had never been invited to speak out democratically about a decision likely to influence my future and my quality of living.

How can a pension be cut when it is guaranteed? How can our pension be cut when section 6 of the Supplemental Pension Plans Act specifies that a pension fund is a contract, a financial patrimony, and thus that priority must be given to the interests of the participants? How can our pensions be cut when Groupe-conseil Aon, though its actuarial services and its investment policy, must ensure that a mature pension scheme is funded correctly? How can our pensions be cut when the pension plan's solvency ratio was 120% in 1999?

And yet, since July 1, 2005, our pension income has been cut by up to \$900 per month, which, when your pension is already modest, causes great harm and has appalling consequences. For the past 58 months, the dream of Freedom 55, with its sandy beaches, golf courses and tropical climates that so many workers aspire to, has instead become for the pensioners of Atlas a difficult situation where we have trouble respecting our financial obligations. Once again, we are obliged to struggle and make sacrifices: every time we open an envelope, we see that costs have risen. With these cuts and no indexation for close to five years, our impoverishment has reached a critical level.

How can couples who only have a single pension income from Atlas live? By limiting their spending to basic needs, such as food, housing, medication and gas. There is nothing left over for anything else. How are couples supposed to get by when one or both of them are in nursing or retirement homes? They have no choice but to settle for shabby homes with small rooms, mediocre services and mediocre food.

Last year, the Harper government created a tax credit to encourage home renovation. Were we able to benefit from it? Absolutely not. You had to spend \$10,000 before being able to receive a single penny. That is approximately the amount we have to live on each year. You will understand that any excess spending causes problems. You will understand even more clearly that such a situation has many awful consequences, such as having to move into a smaller home, having to sell our property before we are ready, buying less food—because bread and butter costs the same for everybody—and never being able to indulge in the small pleasures of life, such as clothing, entertainment, trips or holidays. That is exactly what makes life worth living: the 30% to 58% of our pension that has been cut that allowed us to indulge in these pleasures.

• (1610)

There are divorces and family conflicts.

Psychologically, the lower quality of life and reduced expectations undermine health and create premature health problems, often driving people to death. Twenty-three of us have already died.

Economically, we are talking about \$2 million per year that are not being put into the economy. As people grow poor, the state is deprived of taxes but must at the same time pay more for health and housing requirements of their seniors.

Let us talk about the RRSPs, a program that was set up by the federal government to encourage people to save for their retirement. The equivalency factor took retirement pension funds into account in order to determine eligible amounts. Haven't we been fleeced, yet again?

According to the newspapers, Canadian retirees are amongst the happiest in the world, with smiling, serene faces, freedom, recreation and rest. They even show that the older we get, the more fun we have. Why is that not the case for the retirees of Aciers Atlas? Their dreams have been stolen. And yet they have worked hard for 30 to 40 years. We contributed to our retirement fund for all of these years. We placed our trust in all of these good institutions, in all of these laws designed to protect ex-workers and defend their rights.

We reproduced, paid taxes and, in so doing, we participated in the economic well-being of the country and, despite our advanced age, we are still contributing to this prosperity through our volunteer work and the support we give to our relatives. Retirees see that the situation is different for retirees from the public and parapublic sectors, who have sustainable pensions. Is working in the private sector a bad thing? In having everything taken away, we are becoming increasingly destitute.

Mr. Chair, ladies and gentlemen of the House of Commons, thank you for allowing us to make you aware of our difficult living conditions. You have the power, allow us to finish our days in dignity.

• (1615)

The Chair: You have two minutes.

Mr. Pierre St-Michel (As an Individual): Our secretary, Ms. Blanchard, summarized our situation very well. However, I would like to add a few points. I would simply like to point out that we have been living with this social injustice for nearly five years. As far as we are concerned, we find it absolutely unbelievable that we are in such a situation.

During the 30 to 40 years when the Aciers Atlas retirees were working, they were told that a portion of their salary would be kept back, but that when they retired, they would be entitled to a guaranteed pension. We were lied to and, what is more, our money was stolen. The complacency of current legislation is what made this possible. We absolutely therefore agree that the laws need to be changed. In the case of bankruptcy, pension plans should be deemed to have senior debt status.

I would also like to point out that Aciers Atlas retirees cannot take this matter to court. The company liquidated everything. The preferred creditor took everything that was left. We lost 30% to 58% of our pensions. Think about that, 58% is a lot! This has disrupted our lives. I do not mean to be dramatic, but whenever I attend a funeral for a pensioner who has passed away, the relatives come and talk to me about it and tell me that the losses sped up the person's passing. I believe this is true too. When you have worked your entire life and you get to the end of your life and this happens, it is not easy to live through.

An 83-year-old man told me something that struck me so much that I must share it with you. He told me that societies are judged on the way that they treat their elders. He said that in his opinion, we were being treated like expired products that people simply wanted to push aside when they were no longer needed.

I think that is all. Thank you for having listened to us.

The Chair: Thank you very much, sir.

We will begin with Mr. McCallum. You have seven minutes.

[English]

Hon. John McCallum (Markham—Unionville, Lib.): Thank you, Mr. Chair, and I'd like to share my time with my colleague, John McKay.

[Translation]

I would like to thank all of the witnesses for appearing before us here, this afternoon. Thank you for your testimony regarding your often very difficult situation.

[English]

Since I think virtually all of you are concerned with issues surrounding the Bankruptcy and Insolvency Act, I'd like to begin with a couple of words on that, plus the situation of the long-term disabled, and then ask a question or two.

We in the Liberal Party.... Let me put it this way. Judy Sgro, who is the pensions critic for the Liberals, and myself as finance critic, will be recommending that the Liberal Party support the NDP private member's bill on amendments to the BIA, as and when it comes to the House of Commons. We don't know when it will, but as and when it does, we will recommend Liberal support for that.

In addition, just today, I think this afternoon, Senator Art Eggleton presented a bill in the Senate that would give higher status to those on long-term disability, and in the Nortel case and also in other cases would guarantee that those individuals received the money and the medical treatment to which they are entitled. We are hoping—we don't know yet, but we are hoping—given the catastrophic situation facing these individuals should this bill not pass, that this bill in the Senate might command all-party support. But it's too early to know the answer to that yet.

I'd like to ask Mr. Sproule a question. Just today in the House of Commons, Finance Minister Jim Flaherty was asked about amendments to the Bankruptcy and Insolvency Act, and he said the following:

...as was stated in the Speech from the Throne, work is being done on that issue. It is an important issue for Canadians and we have to try to move forward on that issue. But on the broader pension issue, again I say to the member opposite, we have one of the best pension systems in the world....

Blah, blah, blah. That part is not important. The part that is important is.... That part is certainly questionable.

The specific point I want to address is Mr. Flaherty's statement that work is under way by the Conservative government to amend the Bankruptcy and Insolvency Act, and since you and your group, Mr. Sproule, are at the centre of this issue right now, with the Nortel people, my question to you is whether Mr. Flaherty or Mr. Clement or any other member of the government has approached, since the tabling of the budget, either you or a member of your group to advance the cause on amendments to the Bankruptcy and Insolvency Act.

•(1620)

Mr. Donald Sproule: The answer is no, they have not.

Hon. John McCallum: You're the most likely. Has any other member of this group been approached by any member of the government on potential amendments?

Has Ted Menzies approached you, Mr. Sproule? He's the parliamentary secretary. Has anybody in the government approached you on the amendments that were promised in the Speech from the Throne to the Bankruptcy and Insolvency Act?

Mr. Donald Sproule: Since the Speech from the Throne and the budget, no, we have not been approached.

Hon. John McCallum: Okay, thank you very much. I'll turn over now to my colleague John McKay.

Merci.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you.

A lot of this conversation seems to revolve around the prioritization on a bankruptcy, and you say in your material that it wouldn't have any significant impact on capital. I think both Ms. Urquhart and Mr. Sproule said the same thing. It's counterintuitive. Accepting for the moment the proposition that there should be a priority or a super-priority attributed to situations such as yours, it would seem to me that it would have an impact on the raising of capital and that somehow or other the raising of capital would morph, in some manner or another, to regain the priority.

So I would be interested in your observations with respect to what precedents are out there, and how you would get this super-priority, which would in fact be a super-priority over the long term.

Mr. Donald Sproule: I'll hand it over to Diane, but certainly the priority for money, I understand, is the top of the pecking order above secureds, and that's what's been given in the case of the WEPPA legislation. Our request was very specific: to fit below secureds, but above the unsecureds, at the front of the line for unsecureds. Again, you need a company's ability to restructure and to get DIP financing, etc., but we wanted to be at the front of the line of the unsecureds.

Ms. Diane Urquhart: Intuitively you think it must have a material impact on the cost of capital. For me it's the opposite. In the investment-grade markets over any 10-year rolling period in the last century, only 4% of investment-grade corporations become bankrupt. In the junk bond market, 26% become bankrupt. So the cost of capital and any change in the bankruptcy law relates only to that small percentage of companies who go bankrupt. By the time you take that into account for all the corporations as a whole, then the cost of capital is *de minimis*.

In the work I have done with the investment grade, 0.16% would be the average, based on the Moody's statistics for bankruptcy and the losses borne by bondholders in the bankruptcy's centre.

•(1625)

Hon. John McKay: Were Nortel, Atlas, or any of the companies representing your investment grade at some point?

The Chair: Very briefly.

Ms. Diane Urquhart: Nortel is junk bond, Atlas—

Hon. John McKay: It is now, but what was it when the investments were made?

Ms. Diane Urquhart: Nortel has been junk bond since 2002, so all those who currently own the Nortel bonds would not be investment-grade owners. They were long gone at the end of the tech wreck. Therefore, in terms of the cost of capital, there's no question.... If you have a car accident and there's damage to the car, there is damage to the car, but only a certain percentage of society gets into car accidents. So this is the phenomenon we're dealing with.

The Chair: Thank you.

I'm trying to get time for all members here. Thank you, Mr. McKay.

Monsieur Paillé.

[*Translation*]

Mr. Daniel Paillé (Hochelaga, BQ): Thank you for your testimony.

It is sometimes said that of all of the systems, capitalism is the lesser evil, but here we have an example of its worst effects. These testimonies are extremely compelling. I would like to make a few comments.

Someone said that the pension system was like an insurance system providing income, but I do not believe that that is the case. It is simply a salary that you agreed to set aside, along with the employer's contribution. Waiving these contributions for a certain length of time is as if you were not being paid your salaries, in practical terms. Obliging a company to take back these contributions or no longer pay contributions when solvency is over 125% is crazy, as you know. I think that we should go even further and say "Why not?", if the solvency is over 125%, so that these people get the picture.

The purpose of this 110% or 125% was to avoid tax loopholes. By attempting to resolve a tax problem, I believe that we created this gigantic pit in which you find yourselves. Yes, your claims are quite valid, but I think that we should be going even further. Not paying contributions is precisely comparable to what the federal government did, for instance, when it put its hands on the employment insurance fund. It is more or less the same type of theft.

Going back to what you said about bankruptcy, unpaid salaries are generally paid at the start. We talked about preferred creditors, and I believe that pensioners should be deemed to be this type of creditor, as they have not been paid earned salary, and should be treated just like the employees who were there working during the last two weeks. These people are given first consideration, at the same time as the revenue departments.

As far as the financing aspect is concerned, I agree with Ms. Urquhart. Let us not have any illusions. I worked in finance for nearly my entire life, and I can tell you that financiers basically have one responsibility and that is risk assessment. A company on the verge of bankruptcy obviously cannot find any financing. Let us take the example of Nortel. At one point a share cost \$1,260, and that was when the shares were split into 10. Today, these shares are worth nothing. However, I am sure that all of the bankers in the world would have loaned Nortel money without adding one red cent to the interest rate because of the pension plan.

Having pensioners deemed to be preferred creditors would no doubt encourage financiers and shareholders to study the pension plans more closely and to make provisions should the managers—which you weren't—do something crazy.

You have come to us, but we are not the government. In fact, the only one here representing the government is the Parliamentary Secretary to the Minister of Finance. I hope that this situation will encourage him to stop doing analyses and studies, to stop travelling around Canada. I believe that your request is clear. On page 9 of your document, you state that these changes will not cost the taxpayers any money. This is what we need to retain.

I would like to ask Mr. Fréchette, Mr. Langlois, Ms. Blanchard and Mr. St-Michel a question. What happened to the other programs that you were entitled to, such as the health insurance program?

• (1630)

M. Gaston Fréchette: We lost \$55 million in pension money and \$35 million in benefits, namely life insurance, health insurance, immunization insurance. Nothing is left. We lost \$100 million.

Mr. Daniel Paillé: This was not a 20% or 30% cutback?

Mr. Gaston Fréchette: No, we lost 100% of the benefits.

Mr. Daniel Paillé: It is very important that this be said. What happened as far as Atlas was concerned?

Mr. Pierre St-Michel: We experienced the same thing. We have absolutely nothing left with respect to benefits. We no longer have group insurance. At one point we had death benefit insurance, but we no longer do. We have absolutely nothing.

Mr. Daniel Paillé: I would like to go back to the Jeffrey Mine issue. The equipment has been modernized a great deal and this product is still an excellent product. However, you must have a lot of pensioners who were exposed to unhealthy situations early in their career. You did not necessarily take all of the precautions you should have health-wise.

Mr. Gaston Fréchette: It was the same for all of us. When the pension fund was shut down, it was purchased by Desjardins. According to their calculations, we lost 38%. They had difficulties giving this to us because we were going to live a long time. The opposite occurred when we bought life insurance. Both insurance plans came from Desjardins.

There has been a lot of talk about asbestos. We would have been dead a long time ago if asbestos was as dangerous as it is claimed to be. Personally, I do not suffer from any physical illnesses, but my morale is bad. Asbestos has made my morale very sick.

Mr. Daniel Paillé: I would now like to ask Ms. Diane Urquhart a question.

One of the proposed solutions was to have the Régie des rentes du Québec take over the administration of pension funds for bankrupt companies so that the funds would be properly managed.

Do you think that, in Canada, the Canada Pension Plan could do the same thing?

[*English*]

The Chair: Okay.

Go ahead, Madam Urquhart. Please be very brief.

Ms. Diane Urquhart: I would like to see the BIA amended so that the bondholders at the time of the liquidation make up for the deficit that's in the pension plan and the long-term disability plan. The extension of the plan puts all the risk onto the shoulders of the employees. Given the volatility we've seen in the stock market and even in the credit markets in the last financial crisis, I believe it's a burden that's placed too high on the shoulders of the employees.

I could imagine that it would be possible to have a compromise, in which case the estate would provide money up front. If in five years there is a surplus and the capital markets recover, we could then give the money back to the bondholders at that time, but they would bear the risk, or some sharing formula would occur, over the five-year period.

The Chair: Thank you.

We'll go to Mr. Hiebert, please.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you, Mr. Chair.

Thank you all for being here today. I certainly very much enjoyed the information that you provided. Some of you are facing very difficult circumstances, and it was very informative to hear what you had to say about what you're facing.

I have a couple of questions, the first one being for Mr. Sproule. On page 9 of your report you mention an independent study that showed the impact on the cost of capital. Could you provide that to the members of the committee at some point? Are you referring to Madam Urquhart's—

Mr. Donald Sproule: Madam Urquhart did it, so I'm sure she would.

Mr. Russ Hiebert: Is it your study that's referred to in this report?

Ms. Diane Urquhart: That's correct, yes.

Mr. Russ Hiebert: Okay. Do we have a copy of that report, Mr. Chair?

The Chair: Which study is this?

Mr. Russ Hiebert: The independent study done by Ms. Urquhart.

The Chair: Have you submitted that to the clerk, Ms. Urquhart?

Ms. Diane Urquhart: I can do so.

The Chair: Okay.

• (1635)

Mr. Russ Hiebert: I appreciate that. Thank you very much.

Madam Urquhart, you mentioned in a comment just a few minutes ago that the increased cost of capital was minimal. I just want some clarification: were you referring to the cost for all corporations, or only for those corporations with defined plans?

Ms. Diane Urquhart: The estimate that I have for those corporations that have pension plans, and pension plans that have a deficit, is that the investment grade companies would experience a 0.16% increase in the cost of the credit. For those that are speculative grade—junk-bond-rated—I'm saying that the impact is a 0.79% rise in the interest rate that would have to be paid by a corporation that is raising money and is junk-bond-rated. That is the higher cost.

I'd also like to note that today there are twice as many credit default swap dollar values outstanding than there are junk bonds, so even in the junk bond market, that's for an unhedged junk bond owner who's going to experience an increase in the cost of capital. We have hedged junk bondholders who will bear no increase in the cost of capital at all. In fact, they would like to see a bankruptcy triggered so that they can collect the insurance money and have no loss whatsoever. My number of 79 basis points for the junk bond market does not take into account that we have more than twice as many credit default swaps outstanding on junk bonds as there are junk bonds in the world.

Mr. Russ Hiebert: I appreciate that.

In your remarks early on, you referred to 40 of 53 countries, and then you continue by saying “they have preferred or better status for employee benefits or have public pension benefit guarantee insurance”. Could you elaborate on what you mean by public pension benefit guarantee insurance?

Ms. Diane Urquhart: Twelve countries have a public pension benefit guarantee insurance plan. This is a crown agency to which corporations that have pension funds are obliged to pay premiums. It is an insurance plan, such that if a corporation were to become bankrupt and there's a deficit in the pension plan, then those crown insurance organizations, such as the U.S. Pension Benefit Guaranty Corporation, will accept the pension fund and will continue to pay the pension income to the participants in the plan.

Mr. Russ Hiebert: Up to what maximum?

Ms. Diane Urquhart: In the United States, it's to a maximum of \$54,000, based on the current currency. In England, it's approximately £28,000, and in Germany there is a public insurance plan all the way up to the Canadian dollar equivalent, the last time I looked at it, at \$120,000 Canadian per year.

Mr. Russ Hiebert: A little bit later in your comments you mentioned an alleged breach of trust. Further on you commented about a court-appointed representative and the negotiations going on there. Is that breach of trust being litigated?

Ms. Diane Urquhart: We're waiting for Justice Morawetz's decision any day. There was a court hearing from March 3 to March 5 in which there was a dissenting group of long-term disabled employees. For the record, I was retained, as was Joel Rochon of Rochon Genova, to represent the dissenting employees. There was an opportunity to be opposed to the settlement agreement, which would be a proper form of justice, so that opposition was rendered and the allegation of breach of trust was made. We're waiting for Justice Morawetz's decision as to how he wants to handle that allegation.

Mr. Russ Hiebert: Mr. Chair, I have just one more question before I choose to share my time with my colleague, Mr. Généreux, if there's time left.

The Chair: You've got two minutes.

Mr. Russ Hiebert: You talk about a conflict of interest occurring between the court-appointed representative and the rights of the disabled. Can you elaborate on what those conflicts are?

Ms. Diane Urquhart: In a bankruptcy protection proceeding, which is the Companies' Creditors Arrangement Act proceeding, representative counsel may be appointed by the justice. That representative counsel is then directed by a steering committee. The steering committee represents persons who represent the constituent groups. In the Nortel case, Koskie Minsky was appointed to be the representative counsel for the disabled, for the pensioners, and for the terminated workers. I think from the numbers we saw from Don's presentation, approximately 25,000 people in total were represented by Koskie Minsky.

There were two steering committees. One was for the pensioners and the terminated workers, which was chaired by Mr. Sproule, and there was a single person steering committee for the disabled, chaired by a person named Sue Kennedy. So what happened in the negotiations.... First of all, there was one representative counsel for all, and the two steering committees joined together for the negotiation of the settlement. It was the opinion of the dissenting long-term disabled, I and Mr. Rochon as legal counsel retained by them, that the 400 people who were long-term disabled did not have their interests served as 400 people because no effort was made to establish.... Basically, in the settlement there was a denial of the right to sue the parties involved with the health and welfare trust to gain remedy for the \$100 million that was missing from the trust. So it was the opinion of Joel Rochon delivered to the court that there was a conflict of interest as a result of the long-term-disability steering committee joining in the negotiation with the other 24,600 people represented.

• (1640)

The Chair: Thank you, and thank you, Mr. Hiebert.

We will go now to Mr. Mulcair.

[*Translation*]

Mr. Thomas Mulcair (Outremont, NDP): Thank you, Mr. Chair.

I would like to indicate at the outset that I will be sharing the time given to me during this first round with my friend and colleague from Thunder Bay—Rainy River, who is the author of a bill on pensions. He will be doing all of the NDP's second intervention.

I would like to begin by thanking you all for coming here, particularly Ms. Blanchard, Mr. St-Michel and Gladys. Thank you for putting a human face on these issues. The people from Nortel presented us with a document to show the human side, and you represent it well.

Yesterday we learned that the government once again intends to hold consultations throughout Canada. What we need to do is quite clear, in my opinion. The Parliamentary Secretary, Mr. Menzies, had already done his own consultations during the last prorogation. The government was supposed to recalibrate during this prorogation and arrive ready to take action. What is missing now is the will to do something. As you said so clearly, Gladys, we have a date and it is urgent. We have to stop procrastinating.

Ms. Urquhart, it is a pleasure to see you again. Your comments are so relevant and help us so much in our work. I must tell you that you have raised an issue that has already been raised by the experts. We are deeply concerned by this issue. There are, within our current legal structure, incentives pushing companies to declare bankruptcy,

which is not right. I would like to thank you especially for providing us with explanations as well as comparisons with what exists in other countries like ours and which show that we are dragging our heels. From a social perspective, this is inexcusable. We believe that we are socially advanced, and we brag about this, but we are not. So thank you for that.

Mr. Neuschwander, would you be so kind as to share your studies with us? Earlier, you said, according to the opinions we have received, this should not cost any more. Would you be so kind as to send them to us?

Mr. Bernard Neuschwander: They're the same studies as Ms. Urquhart's.

Mr. Thomas Mulcair: Tremendous then. That's great.

Despite the fact that he is from another party, I was delighted to hear my friend and colleague, John McCallum, say earlier that the Liberals would support our bill. I'm very pleased about this because the time for hemming and hawing is over.

The current round of consultations has been pushed back. We agreed to do this because there was apparently going to be a far-reaching study presented in Whitehorse. That amounted to very little. We are starting our work and they want to further consult which would push things back until May. There is no justification for not acting this spring.

These are the same Conservatives who said that they would never accept their House of Commons pension, all of whom have now accepted it. Now I think it's about time for them to start doing something for everyday Canadians' pensions.

I'd like to hand the floor over to my friend and colleague from Thunder Bay.

[*English*]

The Chair: You have about three and a half minutes.

Mr. John Rafferty (Thunder Bay—Rainy River, NDP): Thank you very much, Chair.

I'd first like to emphasize the words of Mr. Mulcair that things can happen quickly in government. If you think back to before Christmas, it only took the government four days to pass harmonized sales tax right through the House of Commons and through the Senate for Ontario and British Columbia. Imagine, it took four days.

Things can happen quickly, and things do have to happen quickly, because every weekend when I go back to my riding I talk to seniors who can't pay their electricity bills now. I'm sure you know people also who cannot pay their electricity bills or their heating bills, or whatever the case may be. We do need to act very quickly.

Let me just tell you quickly about Bill C-501, which I introduced into the House yesterday, and I do thank the Liberals for indicating their support for this bill. Essentially what this bill does is it moves pensions from unsecured to secured, and that's what I've been hearing today. It doesn't move it to the top of secured. It moves it into the secured area and into the preferred secured area.

I hope that is the first step in a number of changes that are going to be made over the years, and I certainly hope the Conservatives and the Bloc will also be supporting this. I will be working very hard to make that happen.

One of the things that is very clear that statistics and science tell us—this is really for Ms. Comeau and Ms. Blanchard—is that the best indicator for seniors' longevity is how many friends they have. Related to that is the less money you have, the fewer friends you have. So this is directly related to a health outcome and longevity.

I wonder if both of you, in the last minute or so that we have left here, would have any comments on what science tells us.

•(1645)

Ms. Gladys Comeau: In Alberta, one aunt is 93 and the other is 103. I just thought you'd like to know that. Also, in B.C. there are people still, and two in Saskatchewan, my relatives, and they're older.

Thank you.

Mr. John Rafferty: [*Inaudible—Editor*]

Ms. Gladys Comeau: Oh, they're wonderful. I love going back. [*Translation*]

Ms. Diane Contant Blanchard: Of course, if you have to make a choice among friends who only have an interest in you for your wallet, well then I'd like my wallet to be a little more thickly padded. [*English*]

Mr. John Rafferty: Do I have any more time?

The Chair: You have one minute.

Mr. John Rafferty: What I was indicating there is, from a psychological point of view, there's a status thing that goes on with all people, but with seniors in particular, and the amount of money they have. Naturally, of course, if you have millions of dollars, you'll have lots of friends, but you could have a million dollars and no friends, and not live longer.

Ms. Comeau.

Ms. Gladys Comeau: Well, yes, I neglected friends. Fortunately, there's quite a group who volunteer. Don't ask me why I do all this volunteering, but until I can't, why not?

Mr. John Rafferty: I wish you all a long life.

The Chair: Thank you, Mr. Rafferty.

We'll go to Mr. McKay, please.

Hon. John McKay: Mr. Chair, this committee never ceases to be informative. I've been wondering for years why I had no friends. Apparently it has something to do with the size of my wallet.

[*Translation*]

Mr. Daniel Paillé: It's because you are a Liberal.

[*English*]

Hon. John McKay: I want to go back to the conversation with Mr. Sproule earlier.

You made the analogy of unpaid wages, or deferred wages I guess is the better way of putting it, that this is money you are owed and

should have been paid, and you weren't because it was put into a pension plan.

Refresh my mind: what is the priority of unpaid wages in bankruptcy proceedings now?

Mr. Donald Sproule: In terms of unpaid wages and contributions for existing employees to pension plans, it's the Wage Earner Protection Program Act legislation, which I think was approved recently under Companies' Creditors Arrangement Act as well. That amounts to \$3,000.

Hon. John McKay: So there's a \$3,000 cap.

My vague recollection is that if there are unpaid wages in excess of that at a bankruptcy, there's a director liability. Is that correct?

Ms. Diane Urquhart: That's correct, and in a bankruptcy filing you have to ask for the right to litigate against the directors. It's subsection 5.1(2) of the Companies' Creditors Arrangement Act. In that, you have the right to sue directors for misrepresentation, wrongful conduct, and oppression. I believe that's where unpaid wages get captured.

Hon. John McKay: If we carry the analogy to the unpaid wages situation further, would you be made whole if you put the vulnerabilities about pensions in the same category as wages—assuming the cap is off?

•(1650)

Mr. Donald Sproule: It all depends on what's left in the estate, the Canadian estate. It would certainly improve our lot. And again, we don't know what the answer is going to be, but right now we're pitted against \$4 billion in bonds and a \$2-billion asset to the U.S. estate, and the list goes on in terms of claims on the estate. We would move ahead of that and do a lot better, but there's no guarantee that we'd get 100%.

Hon. John McKay: Really, your request here is to move up the scale somehow or another. In effect, you're not moving up the scale to secured, you're just moving up the scale to preferred. Is that what it boils down to?

Mr. Donald Sproule: That's correct.

Hon. John McKay: Okay.

In the process of moving up the scale to preferred, your argument is that it would not harm capital formation. You then made the argument that these companies are junk bond. When the capital is being formed, when the capital is being invested, these companies are not at the junk-bond status. Nortel, at one point, was sort of like Mother Bell on the stock. So again I go back to that question, that it does seem to be counterintuitive that if in fact the whole system were changed there would be a potential drag on capital formation.

I'd be interested in your opinion on that.

Ms. Diane Urquhart: The first thing I would note is that 34 out of 53 countries have preferred or super-priority status, so Canada is the laggard. We're by no means going to create any offence to bond investors of the world who are accustomed to investing in those 34 countries.

The second point I'd make is that for those that are investment grade and have pension fund deficits, my estimate is that the impact on the cost of capital, if they are not hedged with the credit default swap, is 0.16%. This is an amount that is easily borne, and should be borne, when you consider the social cost that comes when these companies, through perhaps being hedged with credit-default swaps, seek to enter bankruptcy for the purpose of double-dipping and making profit. They shouldn't be getting the opportunity to make a higher profit by causing seniors, the long-term disabled, and survivors to take a loss.

The Chair: Thank you.

Thank you, Mr. McKay.

Monsieur Desnoyers, *s'il vous plaît, cinq minutes.*

[Translation]

Mr. Luc Desnoyers (Rivière-des-Mille-Îles, BQ): Thank you, Mr. Chair. I'm really pleased to be meeting with you. This is a unique opportunity. The presentation that you made to the government was good, because for the first time they're listening to you, they hear you.

I remember seeing you demonstrate on Parliament Hill. There were folks from Aciers Atlas, Mine Jeffrey, Nortel, and a lot of others were there too. Your stories are important and must be taken into account. At that time, the government said that it wasn't its responsibility, and that the buck stopped with the provincial government of Ontario. The government was blaming everyone else, but everyone knew that it had to do something. Unfortunately, it didn't.

And you've come here now with recommendations and ideas that the government didn't have. I find it interesting that they're open to hearing what you have to say. There have to be additional safeguards to protect pensions. You said that there needs to be serious checks and balances. The kind of checks and balances that you were subject to for 40 years as a taxpayer. The taxman took money out of your wallet over all this time and made sure it was the right amount.

Today, you need help, because there was no rigorous system of checks and balances. You're scrambling, and the house is going up in flames. And they're not sending the firefighters; they're sending decorators instead. But that doesn't fix the problem, and real action is needed right now. We need enhanced bankruptcy laws, that much is clear. We need a pensions act. You talked about reducing taxes when part of your pension is lost, and of taking advantage of these deductions to save money. And I'm really struck by the social impact of all of this. I want to hear what you have to say about that.

When you lose your retirement fund, you get poorer, you have access to less in the way of health care, you can afford fewer things than before. And what's more, you said that it wouldn't cost Canadians a cent. I hope that they're all ears. This is important. They don't need help tomorrow, they needed it yesterday. Time is of the essence.

I'd like to hear your comments on the social impacts and the fact that it won't cost Canadians a cent. Anyone can respond, Ms. Urquhart, Ms. Bernard, or Mr. St-Michel. And if at the same time you want to say more about your ideas, I'd welcome that too.

• (1655)

Mr. Bernard Neuschwander: As far as the social cost is concerned, Ms. Urquhart may be able to say more.

[English]

Ms. Diane Urquhart: I'd just like to make a point. It's not an issue that's not going to cost the government. If you do not act to amend the Bankruptcy and Insolvency Act and the CCAA it will cost the government.

We see in the Nortel case alone that we're going to have an estimated \$355 million of downloading. The downloading is coming primarily from the survivors as a result of them getting 60% of 60% of the working spouse's wage and then getting a further 36% cut. This is going to put them in the range of requiring guaranteed income supplement if they do not have other savings.

For the long-term disabled, they are all already on the CPP disability, but for them it's going to be a burden on the provinces because of the provinces having the prescription drug programs.

We've not spoken much about severance because this is a session on pensions, but all of the severed persons go onto the employment insurance plan. So there is a heavy burden that's placed on the employment insurance plan when there are other more deserving unemployed, more deserving survivors perhaps, and long-term disabled who didn't have employers. So when employers have billions of dollars they should be obliged to honour their contractual obligations.

[Translation]

Mr. Luc Desnoyers: What do you think, Mr. St-Michel?

Mr. Pierre St-Michel: This is about the social costs. We have lost money from our pension fund. You can tell me that there was no violence involved, but there certainly has been psychological violence. Peoples' morale has especially taken a hit.

A little earlier, I said that folks can hardly think of anything else. It has completely changed their lives. I know many people who have had to sell their houses and rent accommodation. You cannot set about doing a lot of projects. It is all the more shocking because it is our money. That is what people are saying. They just do not understand. People are saying to me that, if this was about the pensions of members of Parliament, the law would be quickly changed. I think they are right.

Mr. Luc Desnoyers: What do you think of the social costs, Mr. Fréchette?

Mr. Gaston Fréchette: You would not believe how widespread the hardship is, how many houses are up for sale and how many families are having difficulty. There was a study in our region. Our population now has one of the highest suicide rates. Currently, 300 retirees are getting Guaranteed Income Supplement benefits. It is not as if they are asking for more than they are entitled to, after working for 35 or 40 year in a mine.

They say there is quite an art to getting a company back on its feet. But they do not say much about getting our pensions back.

The Chair: Thank you.

Mr. Généreux, the floor is yours.

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Good afternoon everyone. Thank you for being here.

I would like to put things in context. I have not been a member of Parliament for long. I arrived in the House of Commons last November. I am also a businessman. Over the past 20 years, I have created jobs in my region. I worked very hard to create those jobs and to keep them. As a businessman and company owner, I do not have the means to set up a retirement plan, and neither do my employees. I would like to put that in context because it will be important when I ask my questions.

I really feel deeply for what has happened to you. I feel that Canadian society has progressed a lot over the past 40 years, having instituted programs like Old Age Security for seniors. Generally speaking, that was well done.

As a businessman, I have never created jobs with a view to one day closing my businesses and kicking my employees out on the street. Business people and company board members have a social conscience. I sincerely believe that they are acting in good faith when they create jobs and are hoping to build their business.

Unfortunately, for all sorts of reasons, some businesses run into trouble. There is a law to protect businesses like that. It is called the Bankruptcy and Insolvency Act. Its purpose is to keep losses to a minimum when businesses go under. Everyone understands that. Recently, the law has had a positive impact in Quebec where some companies would have faced certain bankruptcy had it not been for that law. But the law is in effect, and it helps companies to bounce back, to get back on their feet, and to contribute to retirement funds once again.

What is happening to you is absolutely deplorable. My question is for those retirees here who have been affected by the loss of an income. A little earlier, Mr. Fréchette, you said something important. You said that, instead of promising you things that we were not able to give you, we should have promised you something that we were able to give you. That resonated with me. Businesses can try and adopt certain measures, but they still have to live up to their commitments. This is a commitment shared between the employer and the employee.

Contrary to what one of my colleagues said earlier, I do not think that businesses seek protection under the Bankruptcy and Insolvency Act in order to avoid paying retirees or pension funds. When you create something, you do not do so in order to destroy it. You create it in order to build it. That is how I see things.

So I come back to what you said earlier, Mr. Fréchette. What advice would you give us to stop this happening again?

• (1700)

Mr. Gaston Fréchette: What would I do if I were a legislator? There are some things I do not understand. I had been retired for seven years when I was affected by the cut. After 40 years of

working in the mine, I went to see the big boss in his office. It was a real heart-to-heart. He thanked me very sincerely for everything I had done. If you are not somewhat involved in the running of the pension fund while you are an employee, you just cannot conceive that something like that can happen. It is the least of your worries as an employee. I would say that 95% of workers do not worry about it and that is unfortunate.

There are retirement committees in Quebec, but they are primarily on the management side. The Superior Court has ruled that the money in pension funds belongs to the retirees, but those who administer the funds are primarily in management. So it is not that simple.

In Quebec, pension fund legislation changed in 1991. It required the establishment of retirement committees. Since 1991, our solvency level has never been 100%. It is inevitable, because once there were 1,300 employees and, in 2002, only 400 were left working. There were more retirees than people actually working.

I would like to come back to what you said. Currently, they have invested 75% of our money in the stock market and kept 25% in low-risk investments, whereas, had they been responsible, they would have put 75% of our money in low-risk investments and 25% in the stock market.

So that is what has happened to us and that is why we are not happy. It is also why we have said that we are entitled to fight, and we will do so until the bitter end.

[English]

The Chair: Merci.

We'll go to Mr. Pacetti, please.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chair.

[Translation]

My thanks to the witnesses for being here.

I have a number of questions because I know that the witnesses all have claims of varying types.

If we wanted to do something today, Mr. Fréchette, Mr. St-Michel and Ms. Blanchard, what could we do for you? Amending the Bankruptcy and Insolvency Act would not help you much.

• (1705)

Mr. Gaston Fréchette: That would not help us. We are bankrupt.

Mr. Pierre St-Michel: If the laws were changed today, making pension funds into secured creditors would not affect us because our situation is already in the past. But we would be exceptional cases, and that has its importance.

A bill has gone through the first two stages. I am referring to Bill C-290. The bill actually acknowledges the losses we have faced. Some say that, if the laws are changed, it would be very expensive; others say that it would not.

If the law were to change and retirement funds became secured creditors, ours would be exceptional cases that could be addressed under Bill C-290. I do not know when third reading will take place. I think that would help to make things a little fairer for us.

Mr. Massimo Pacetti: The company you worked for was called Aciers Atlas, right?

Mr. Pierre St-Michel: Right, but it no longer exists.

Mr. Massimo Pacetti: When did the bankruptcy occur?

Mr. Pierre St-Michel: There was no bankruptcy. They simply liquidated everything.

When we retired, the actuarial valuations were over 100%. So we were not worried. When the company began to experience problems, everyone who could have stepped in did not. Nothing was paid into the pension funds, which meant that we lost money. The amount depended on the pension plan, because there are three. The losses were between 30 and 58%. When I was working, each time an actuarial valuation was conducted, each year, that is, there was never a problem. The solvency ratio was 120% at one time.

I would like to respond to something that was said a little earlier. When an employer is having problems and does not put the amounts he is supposed to into a pension fund, who pays? It becomes a subsidy to the employer from the pension funds. It is preposterous. That is exactly what happened to us, the retirees from Aciers Atlas. [English]

Mr. Massimo Pacetti: *C'est beau.*

Mr. Sproule, how about you? If there were to be a change right now to the Bankruptcy and Insolvency Act, would that help you at all with the Nortel situation?

Mr. Donald Sproule: Yes, we believe it would. Nortel is under the CCAA right now but hasn't moved under the Bankruptcy and Insolvency Act.

Mr. Massimo Pacetti: Is that only going to happen in the month of September? When is that projected to happen?

Mr. Donald Sproule: We don't know when it's going to happen, quite frankly. There is no date set.

I'd like Madame Urquhart to respond to something you said earlier. I'm stealing from your time, I'm sorry.

Mr. Massimo Pacetti: Yes, that's why I'd rather just wait, because my follow-up question is on the disability side.

Perhaps, Diane, you can answer that as well.

Is it because these people have long-term disabilities that their benefits are not managed by an insurance company? Why is the money still in a separate fund or unfunded?

Ms. Diane Urquhart: There's a substantial—

Mr. Massimo Pacetti: Even for parliamentarians, our fund is administered by outside sources, whether it be Sun Life or—

Ms. Diane Urquhart: The problem has arisen because there is a substantial number of corporations that self-insure their long-term disability benefits. That means they are acting in the role of an insurance company.

Mr. Massimo Pacetti: I know what that means, but doesn't somebody agree to that?

Ms. Diane Urquhart: What happened in the Nortel case was that it was misrepresented. Up until 2005 there were no disclosures that would lead anyone to believe they had a long-term benefit that was

not insured by a third party. Remember, this is a non-unionized environment, and post-2005 Nortel indicated for the first time that the plan was self-insured, but said that it, Nortel, was playing a role similar to that of an insurance company. However, it was not playing a role similar to insurance companies.

Mr. Massimo Pacetti: And nobody—

Ms. Diane Urquhart: Since 2004 there were no employer contributions made into the health and welfare trust.

Mr. Massimo Pacetti: And nobody at Nortel on the staff or in the union side would have—

Ms. Diane Urquhart: Well, apparently not, because all of the 400 long-term disabled were shocked when they saw \$100 million missing from the health and welfare trust, which they learned for the first time on February 18.

The Chair: Your last question.

Mr. Massimo Pacetti: So how can this be avoided in the future if a company does decide to self-insure?

Ms. Diane Urquhart: I think it would be avoided if you made the Bankruptcy and Insolvency Act... We'd like you to do that on an urgent basis.

We'd also like the long-term disabled to be put ahead of the other employee groups, because I'm—

Mr. Massimo Pacetti: So it wouldn't matter if it were self-insured or not?

Ms. Diane Urquhart: Then it wouldn't matter whether or not you had a health and welfare trust, whether you had a trust account at all, whether you had a trustee agreement. It would be irrelevant. And it would in fact be a very good way to provide long-term disability benefits on a self-insured basis, because you would only have to come up with the goods at the time of the bankruptcy.

• (1710)

The Chair: Okay, thank you, Mr. Pacetti.

We'll go to Mr. Menzies, please.

Mr. Ted Menzies (MacLeod, CPC): Thank you, Mr. Chair.

Thank you to all of our witnesses for coming here today. I appreciate how difficult it is to talk about your personal circumstances, so we do appreciate your comments. As much as the opposition is criticizing us for consulting, that's exactly what we're doing today.

I've met with Donald Sproule on a couple of different occasions, and with Diane Urquhart. Hearing from you folks is what we need to do. I am learning more things again today, even after dealing with pensions for two years and hearing from people all across the country.

So for the opposition to suggest that we make a decision right now, we need to know how that decision would impact future pensions.

Mr. Daniel Paillé: Go back to school.

Mr. Ted Menzies: Well, Mr. Paillé, if you want to talk back, I would point out that I had invited you to my office and asked if you had comments to make and whether you would contribute to this conversation. I'm still waiting for an answer, so if you'd show a little respect and if you have an answer, let's talk about it later on; otherwise, this is my opportunity to ask some questions.

All of the individuals here today at one point were under provincial jurisdiction, and I think that's something that isn't understood. Diane, I think you understand that, and Don, of course.

What Mr. St-Michel just said is very troubling, and what happened to him is absolutely wrong. That sort of thing shouldn't happen.

However, there is provincial jurisdiction and there is federal jurisdiction, and I think there is a lot of uncertainty. When it gets into a bankruptcy situation, it is a federal responsibility, and we've said that we're looking at that. The Minister of Industry is responsible for that and is taking a serious look at it. Believe me, the industry department is watching these hearings and listening to what you're saying, so we do appreciate your comments.

However, there have been some comments made. Ms. Urquhart, over a number of appearances, you have provided us with some good statistics and good comments, but I'm concerned about other comments made about this pension guarantee fund. At a previous appearance, we had Edward Whitehouse speaking to us, a pension expert with the OECD. When John McCallum asked him how good these pension guarantee funds were, Mr. Whitehouse's comment was, "I'm afraid that I don't think there is a good international example of one of these types of insurance funds", and he went on to make other comments about these in the U.S. and U.K. They're not effective.

We want to find something that's effective. We saw what happened in Ontario. There was supposed to be one there. It's gone.

Do you have suggestions how we can build a better one than all of the other OECD countries have, and who have failed with theirs? Is that where we want to go? Give us some insight, please.

Ms. Diane Urquhart: I would rather that you spend your time on providing preferred status for the pensioners and the terminated workers and that you give a preferred plus, or super-priority, for the long-term disabled. In that manner we can be assured that when there is money in the corporations the moneys are going to fulfill the commitments of the deferred wage and the insurance-like product that they offered employees.

I personally am not a big fan of public insurance guaranteed plans. I'm concerned that it does give the opportunity for an offloading of legacy costs that were committed to by the corporation. If they have funds to honour those obligations, those funds should be used first. I don't like to see the opportunity to take thousands of people and put them onto a public insurance plan, which is then borne by all corporations.

Mr. Ted Menzies: The concern I have—and this is a personal view—is that if there's a pension benefit fund, a guarantee fund, then it takes the onus away from a sponsor to live up to his or her promise.

Ms. Diane Urquhart: I agree with you.

Mr. Donald Sproule: I'm certainly not an expert in this area, but I know there are proposals around that would actually stop some of the downloading that happens in corporations to the public insurance funds.

When I went in front of the finance committee of the Ontario Legislature to talk about the Ontario fund, I said could you please connect the dots. Yes, the fund is underfunded right now, but if they had priority ranking in terms of bankruptcy, then the Ontario recoveries and payouts for that pension benefit guarantee fund would be reduced. Again, I think it is not an either/or.

I do believe that number one is changing the bankruptcy laws. That would actually allow Ontario, which had an expert commission that said let's increase the payout of that pension benefit guarantee fund.... If you get changes to the bankruptcy laws, that would have a very good feedback loop.

• (1715)

The Chair: Thank you.

Thank you, Mr. Menzies.

We'll go to Ms. Hall Findlay, please.

Ms. Martha Hall Findlay (Willowdale, Lib.): Thank you, Mr. Chair.

Thank you, everybody, for being here.

Ms. Comeau, a personal thank you. Obviously it takes something to come here and participate, so it is much appreciated.

Can you explain to me—and you'll have to bear with my ignorance of this—a little about what your husband did with regard to his pension to allow you to have a survivor pension? Can you explain a bit about how that worked?

Ms. Gladys Comeau: Thank you for asking this.

When it was time for my husband to retire, he opted for a reduced pension—I believe it was 10%—so that if something happened, and of course that was the case, I would receive a pension. As an old age pensioner I have Régie des rentes du Québec, but this survivor pension makes all the difference in the world.

He had 10% off his full pension. That was what we started with. When he passed away, I received 60% of the pension he was receiving at the time of his passing. We're talking about an extra 30%. This is a lot. Think about it: 10% meant 40% more off, and now over 30%, I believe.

Ms. Martha Hall Findlay: Let me get this straight. He agreed to take 10% less than what he was going to get—

Ms. Gladys Comeau: Yes, that's right.

Ms. Martha Hall Findlay: In each year that he got 10% less, you were then able to receive 60% of that 10% amount.

Ms. Gladys Comeau: Let's say he received 90% of his whole pension. When he passed away I received 60% of that 90%—

Ms. Martha Hall Findlay: Oh, it was 60% of the 90%.

Ms. Gladys Comeau: —which would be 54%, *si je ne me trompe pas*. Is that right?

Ms. Martha Hall Findlay: Yes.

Ms. Gladys Comeau: Now there is another 30% plus.

Ms. Diane Urquhart: I think we also have to consider that his pension, which was 90%, was 60%. People don't retire at their working wage. They get 60% of their working wage. Then he takes 90% of 60%, so now he has 54%. Then she takes 60% of 54%, so—who can do the math here?—that is 35%, and then take another cut of a third—

Ms. Martha Hall Findlay: But that survivor pension, absent the challenges of Nortel, would have stayed with you for the rest of your life.

Ms. Gladys Comeau: Yes, it would, definitely.

It's difficult. What can I tell you? It's nice to see there are those from different provinces here, so I cannot just ask Quebec to help me, but I hope the others do too.

Ms. Martha Hall Findlay: I will venture, Ms. Comeau, notwithstanding some of the challenges back and forth, that all of us from all parties are very actively engaged and interested in this consultation process.

I want to thank you all.

The Chair: Mr. Fréchette wanted to comment, Ms. Hall Findlay.

[*Translation*]

Mr. Gaston Fréchette: In Quebec, there is even legislation that deals with private sector pensions. Under this legislation, when a worker decides to take his pension, his spouse must be present. If the spouse does not wish to be present, he or she must sign for what will happen if either of the two spouses dies. The legislation has been on the books for about four or five years.

Ms. Martha Hall Findlay: Thank you.

[*English*]

The Chair: Merci.

We'll go to Mr. Wallace, please.

• (1720)

Mr. Mike Wallace (Burlington, CPC): Thank you, Mr. Chair.

I want to thank every one of you for coming.

I only have a couple of questions and then I'm going to pass it back to the chair for the chair to ask a few questions.

First of all, Ms. Urquhart, I really appreciate the presentation you gave today and the numbers that are here. I understand you're going to be providing the actual study that you provided to...I don't know if they're clients, or how it works. Do you mind if we have that peer-reviewed? Because numbers can lie and be manoeuvred. To confirm the number of the social services piece, I would feel more comfortable if I got that peer-reviewed. Do you have any issue with that?

Ms. Diane Urquhart: Sure, in fact work in the public.... It's been broadly circulated with invitations to anyone who would like to make suggestions as to where I may not have it right. So far, no one has produced any contrary studies, but you're more than welcome to send it anywhere in the world.

Mr. Mike Wallace: Thank you.

I have one question just for clarification for my own.... We're hearing about September and a reduction of 30%, and so on. Has your pension income, monthly cheque, whatever it is, been reduced yet?

Mr. Donald Sproule: No, it hasn't—the basic pension plan.... There are other plans where people have had reductions, but for the majority of people, for the—

Mr. Mike Wallace: So are you assuming it's happening, or you've been notified?

Mr. Donald Sproule: No, we've been notified.

Mr. Mike Wallace: Notified, okay. I just wanted clarification.

Mr. Donald Sproule: In fact we've been under negotiation with the corporation to stretch that out to give us some time.

Mr. Mike Wallace: Okay.

I'll pass it back to you, Mr. Chair.

The Chair: Thank you very much, Mr. Wallace.

I want to follow up on some of the questions from Mr. Pacetti.

Madam Urquhart, you were saying Nortel was not forthright. If I understand you correctly, they were not being forthright with respect to their long-term disability plan. My understanding is the same as Mr. Pacetti's. In normal cases a third party, Sun Life or whoever, would manage this so it's not a troublesome thing, as has happened in this situation. Can I just make sure I'm understanding correctly? The company, in this case, was not forthright with respect to long-term disability?

Ms. Diane Urquhart: They were not forthright with respect to two matters.

They did not adequately advise the employees of Nortel that when they made their own employee contributions to raise the amount paid, or when the employer made his own contributions, those contributions of money were not going to a third-party insurance company. Post-2005, they did admit and give qualifications that this is self-insured, but they would play the role of an insurance company.

The other wrongdoing was that there was a trustee agreement that required employer contributions to be put in each year to fund the present and the future long-term disability wage-loss replacement claims and medical claims. Those employer contributions have not been made for many years.

The Chair: You talk about moving up the pensioners, but you talk about the long-term disability in terms of moving it up in terms of the priority status with the BIA. Do you also then have to amend, whether it's the BIA or another act, to ensure there is accountability and transparency between a company and its employees, as did not happen in this case?

Ms. Diane Urquhart: We'd like to see the BIA amended, because it's going to deal with all circumstances, now and forever, whether you have a trust account or a trustee agreement or whether you're simply providing those long-term disability benefits on a self-insured basis. We'd like to take this first step with the BIA amendment; it would, however, also make sense to proceed to make other amendments in other areas, such as the federal corporations act, the federal labour act, and all the provincial acts.

I would like encourage the Conservative government not to wait, the reason being the ratification of the UN Convention on the Rights of Persons with Disabilities. It says every actor in the network of actors who is working with the disabled must do what it can to ensure that the rights of the disabled are protected, so I'd like to see the federal government move with the BIA. I'm of the view that it should go now, it should go first, and it should go in any case. We shouldn't wait for the provinces. We should make the further amendments that should be done to repair this problem once and for all.

The Chair: Thank you.

I had more questions, but my time is up. I enforce it on others, so I'll enforce it on myself.

Go ahead, Mr. Rafferty, for the final round, please.

Mr. John Rafferty: Thank you, Mr. Chair.

I know everyone's going to run out and get a look at Bill C-501 to see what I tabled yesterday. I'll give you the summary quickly here.

This enactment amends the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act to ensure that unfunded pension plan liabilities are accorded the status of secure debts in the event of bankruptcy proceedings. The enactment also amends the Canada Business Corporations Act to provide an efficacious procedure by which former employees of a bankrupt corporation who were owed amounts by the corporation can proceed with claims against its directors.

That's the summary of Bill C-501. I hope everyone has a look.

Ms. Urquhart, I thank you for talking about the cost, and the cost of not acting, which you talked about earlier. This bill that I have brought forward is a reworked bill from Wayne Marston, Hamilton East—Stoney Creek, and I think it's going to be acceptable to all parties once they have a look at it. One of the reasons I brought it forward is that tens of thousands of forestry workers in my riding in northern Ontario and tens of thousands more forestry workers right across this country, as well as manufacturing workers, did not receive any severance and did not receive any of their pension or their deferred wages. That is going to be a question in a second. What is happening now is that employment insurance is running out for many of those people, and they'll soon be on the welfare rolls, so if you want to talk about the cost of not acting, that's one of the costs.

I have a question for Mr. St-Michel. One of the things you said earlier—and this is my translation, so I hope it's right—is that the employer told you that a pension is a part of your salary that we don't give you right away. I call that “deferred wages”; I think you called it “forgone wages”. I wonder if you'd like to make a few more comments on that in the small time we have left.

• (1725)

[*Translation*]

Mr. Pierre St-Michel: I may not have been clear. I meant to say that it is also a deferred salary. Whether the salary is paid immediately or later...

In the years when we were working, we had no choice: there was a pension plan and we had to pay into it. We were told that part of our salary was not paid to us directly, but that when we retired, it would be guaranteed, we would have a pension. But now look at what has happened. For the past five years, our pensions have been cut by between 30 and 58%, depending on the fund. That is an enormous amount, and we have to cope with it.

[*English*]

Mr. John Rafferty: One of the things that everybody has to understand around this table—and I think they do now—is that the deferred wages are owed to the workers. They earned that money. That's an important principle to understand.

The Chair: Mr. Fréchette would also like to comment.

Mr. John Rafferty: Mr. Fréchette, pardon me. Go ahead.

[*Translation*]

Mr. Gaston Fréchette: Thank you, Mr. Chair.

I would like to take this final opportunity to thank you. I would also like to say that if the Companies' Creditors Arrangement Act had existed in our time, it would have been very helpful. I hope it will be amended for the people from Nortel. We are in the same situation as they are. But I would like you to clearly understand that, in our case, it does not help us very much.

However, if ever the Companies' Creditors Arrangement Act were amended... I once heard on TV the Conservatives referring to billions and billions of dollars. If the Companies' Creditors Arrangement Act were amended, maybe there would not be quite so many billions of dollars.

I would also like to say that we did the best we could with what we had at our disposal in our community. We are two young retirees from Jeffrey Mine and we have spent our whole lives working in the mines. We did the best we could. We hope that we have been able to give you some information and that when the time comes to legislate, you will think of us. Thank you.

[*English*]

The Chair: You have about 30 seconds.

Mr. John Rafferty: I wonder if, in the 30 seconds left, Ms. Urquhart could make one last comment.

Ms. Diane Urquhart: I just want to make the comment that we're very concerned about the Nortel Canada estate. Nortel's bankruptcy process is being driven out of New York, by the unsecured creditors committee. It's entirely possible that the Canadian estate will not have significant funds in it. My estimates are that approximately \$1 billion out of the \$6 billion could end here.

As you can see, there's \$1.1 billion just in the pension fund alone, not including the medical costs. That's why I've come today, to make sure you're aware that the long-term disabled, who have only 17% funding in their health and welfare trust, if they're *pari passu* with the pensioners, are going to end up going to the poverty line.

So that's the basis upon which we say, in the Nortel case and in the general case, the long-term disabled need to have a preferred plus status. There will not likely be enough money in the Canadian estate to pay all of the pensioners, the terminated workers, and the long-term disabled. If the long-term disabled need to take an average of the small amount that could come to the Canadian estate, these people will all go to the poverty line. On that basis, we're asking that they be lifted one notch higher.

It's because of the health and welfare trusts that are not funded, not regulated relative to the pension funds, that as a matter of policy and because of their illnesses and peace of mind they need to be slightly higher.

• (1730)

The Chair: Thank you.

Thank you very much, Mr. Rafferty.

[*Translation*]

Thank you for your presentations.

[*English*]

Thank you very much for being with us here today.

Colleagues, we have just one small item of business, which is the budget operational request for witness expenses.

Mr. Mike Wallace: I move it.

The Chair: It is moved by Mr. Wallace.

Mr. Mike Wallace: That's for these witnesses, right?

The Chair: That's correct, these and others, all witnesses with respect to the pension study.

(Motion agreed to) [See *Minutes of Proceedings*]

The Chair: That's approved.

Thank you very much for being with us.

The meeting is adjourned.

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