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# Standing Committee on Industry, Science and Technology

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EVIDENCE

**Thursday, November 18, 2010**

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**Chair**

**Mr. David Sweet**



## Standing Committee on Industry, Science and Technology

Thursday, November 18, 2010

• (1100)

[English]

**The Chair (Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC)):** Good morning, ladies and gentlemen, and welcome to meeting 45 of the Standing Committee on Industry, Science and Technology.

We have witnesses before us, but Monsieur Bouchard has notified me of a motion that's germane to our meeting that he wants to introduce right now.

Go ahead, Monsieur Bouchard.

[Translation]

**Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ):** Thank you, Mr. Chair.

Before hearing from the witnesses, I would like to present a motion. I believe there was some confusion. Mr. Gaston Carrière, president of local 142 of the Communications, Energy and Paperworkers Union of Canada, was supposed to have been asked to appear this morning. According to information I obtained, we apparently invited Mr. Coles, the national president, instead.

Mr. Carrière was prepared. Since he expected to be asked to appear, he made preparations. He learned yesterday that he would not be coming. This is why I would like to present a motion. It reads:

That the committee invite Mr. Gaston Carrière, president of local 142 of the Communications, Energy and Paperworkers Union of Canada at the AbitibiBo-water plant in Gatineau, as part of the review of Bill C-501.

I therefore table this motion. I hope that my colleagues here and opposite, the members of the Conservative Party, will understand that this man had been informed—I don't know whether it was by the clerk or someone else—and prepared himself. According to the information I obtained, there was apparently some confusion and someone else—Mr. Coles—was asked to appear.

This is why I'm asking you to respect the steps we took to invite Mr. Gaston Carrière to appear.

[English]

**The Chair:** Thank you, Monsieur Bouchard.

I have two points. I want to make sure the clerk doesn't shoulder more responsibility than she already has. I'm certain it was not her issue. She had invited the witness, and the invitation was passed on, so we do have a witness here from the Forest Products Association of Canada.

Of course, witnesses and such are germane to our business at hand, but I would caution that right now we have four witnesses before us and we have six in the next panel. We have quite a roundup.

Mr. Lake, did you want to speak to this?

**Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** I have a quick question.

Am I correct in understanding that we already have someone coming from that organization at a later meeting as a witness?

**The Chair:** No, we have somebody here today. It is Mr. Casey.

We already have one representative coming from the organization on November 23, and this would be an additional representative.

**Mr. Mike Lake:** We won't have two witnesses appearing separately from the same organization. We have witnesses from organizations that haven't even been invited to appear or haven't had the opportunity to appear before the committee. We have four witnesses here who are scheduled to appear. We can't add a witness for an organization that's already scheduled to appear at a later date. If we start going down that road, there's no end to where that goes in the atmosphere that we're in, in a minority Parliament.

• (1105)

**The Chair:** Is there any other comment?

Go ahead, Mr. Rafferty.

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

I'll provide a bit of a clarification. First of all, the Forest Products of Canada Association is a lobby group, and not CEP. That's so there's no confusion as to those two organizations.

Second, I'm not exactly clear as to who was invited and who wasn't. I know we want to get on with the witnesses we have here right now, but was it an internal CEP decision for someone else to come? I don't know.

**The Chair:** I believe that the invitation was passed on, and the person who was initially supposed to be invited was subsequently contacted, and then this person said they wanted to come.

Go ahead, Mr. McTeague.

[Translation]

**Hon. Dan McTeague (Pickering—Scarborough East, Lib.):** I have no problem supporting the motion, given that there was a misunderstanding somewhere along the way. I'm not pointing the finger at anyone. So we'll agree to it.

We have already gone over our seven minutes. In those seven minutes, someone else could have testified. The objection has been heard. It was a mistake and we accept it.

**The Chair:** Mr. Cardin, the floor is yours.

**Mr. Serge Cardin (Sherbrooke, BQ):** I have nothing to add to what the last speaker said. But I want to make sure that Mr. Carrière is invited to a future meeting, especially since I don't know if the next witnesses will be representatives from the AbitibiBowater plant and from its union. We need to make sure.

To avoid any confusion, we need to invite Mr. Carrière to a future session.

[*English*]

**The Chair:** Is there any other debate?

**Mr. Mike Lake:** I'm not even sure what we're—

**The Chair:** We're talking about the date. It would be November 23, Mr. Lake.

**Mr. Mike Lake:** So that's the other witness from the same organization?

**The Chair:** That's correct.

**Mr. Mike Lake:** So the motion is that he would appear with them, then, at that meeting. They can bring whomever they want at the meeting on November 23. If they want to add the third person to their contingent at the meeting on the 23rd, of course we have no problem with that.

**An hon. member:** He doesn't need a motion.

**Mr. Mike Lake:** No, he doesn't need a motion to do that. The organization can bring whomever they want, right?

**The Chair:** To be specific, Mr. Lake, I think one is from management and one is from labour.

**Mr. Mike Lake:** They're from a union, though. They're from a union, both of them. It's the same union.

**The Chair:** I was not aware of that. I thought it was different unions.

**Mr. Mike Lake:** No, no. The Communications, Energy and Paperworkers Union is coming here on the 23rd, and they want to appear today as well.

**The Chair:** I'm sorry; I just heard the differentiation. One is a national rep and one is a local rep. That's the difference.

**Mr. Mike Lake:** Who appears on their behalf is their decision, and if the local rep wants to appear with the national rep on the 23rd, that would be the appropriate way to do it.

**The Chair:** Okay, it sounds as though we have consensus, then. Did you actually want to...?

[*Translation*]

**Mr. Robert Bouchard:** Mr. Chair, I agree with Mr. Lake's position that both Mr. Coles and Mr. Gaston Lemieux be together when they testify here on Tuesday, November 23.

[*English*]

**The Chair:** It sounds as though we have consensus. Very good.

I'm going to apologize to the witnesses in advance. I'm not going to introduce you. We have the standing orders in front of us, and we've already used up some time, so we'll start from left to right—my left, anyway.

Mr. Casey, would you begin? I think you've all been instructed to please stick to the five minutes so that we can get to questions as well.

**Mr. Andrew Casey (Vice-President, Public Affairs and International Trade, Forest Products Association of Canada):** Thank you, Mr. Chairman, and thank you to the committee for this opportunity to appear before you today on this very important matter of Bill C-501.

By way of introduction, the Forest Products Association of Canada is the national voice of Canada's wood, pulp, and paper producers. Our industry represents about 12% of Canada's manufacturing GDP. We directly employ over 230,000 Canadians from coast to coast, and we are the economic lifeblood of well over 200 communities across this country.

As you might imagine, a number of our companies, given the number of employees we have, have significant defined benefit pension plans. For that reason, we're very pleased to have this opportunity to appear.

As members of this committee and of Parliament are well aware, this industry has faced some fairly serious, challenging times over the past couple of years. Indeed, parties on all sides of the House, as well as individual members, have gone to great lengths to try to find ways to support the industry throughout this challenging period. We're now looking at somewhat of an economic recovery. There are some encouraging signs on the horizon, but in our view it's still in a fragile state of play right now.

While we're waiting for the recovery to fully take hold, one of the things the industry is doing is preparing for when markets do return. To that end, a couple of things we are doing that will help us prepare for that return are reinvesting in—retooling—our mills and getting ready for when markets return. A key component of that ability to retool is access to capital.

Capital is the lifeblood of our industry. It is in great shortage. It is a very fickle guest. It will go wherever it feels most comfortable, wherever there is the least amount of risk, and wherever there's the greatest return on that capital.

In our view, Bill C-501, while well intended, risks capital. It risks shutting off capital for our industry at a very delicate time. I would say that this risk probably extends to the economy more broadly, and that is our biggest concern with this bill.

We certainly can understand trying to address possible loopholes in Canada's pension system going forward, particularly as they relate to bankruptcies and insolvencies. There are other jurisdictions around the world where certain measures have been put in place, including backstop mechanisms similar to what we have here for our banking system in the form of CDIC. Maybe that's something this committee should study. Certainly this committee has undertaken studies in the past for which they've brought together all stakeholders and departments; in this case, maybe that would be industry, finance, and HRSDC. They could take a comprehensive look at this issue to come up with solutions to address any inadequacies in the system.

I think we have to look at this from a going-forward perspective. The reality is that as we look forward, one of the best ways to ensure that we keep jobs and ensure the safety of pensions is to have healthy companies. The way to ensure that we have healthy companies is to ensure that we have access to capital in a timely fashion, in a reliable fashion, and in a competitive way. For that reason, we urge the committee to reject Bill C-501 and look for ways to address the pension deficiencies in another fashion.

Thank you very much for the time. I look forward to any questions.

• (1110)

**The Chair:** Thank you very much, Mr. Casey, and thanks for your punctuality.

We'll go to Mr. Harden now, for five minutes.

**Mr. Joel Harden (Pension Policy Advisor to the President, Canadian Labour Congress):** Thank you, Mr. Chair.

My name is Joel Harden. I'm the registrar for the Labour College of Canada, and today I'm also a representative of the Canadian Labour Congress.

It's a pleasure to be here. We work for 3.2 million members in the country.

I've had the opportunity to talk to a lot of you individually, and I know that everybody around this table, regardless of your partisan stripe, cares a great deal about pensions and this particular issue we're talking about today, the security of pension benefits in bankruptcy.

We know this: over the last six to eight years, about 450,000 manufacturing and resource sector jobs have been lost in Canada. With those job losses, many people's livelihoods have been placed in a great degree of insecurity. We began today's meeting talking about whether or not to include brother Carrière as part of the CEP delegation. While that might have been a bit frustrating, I encourage you to listen to brother Carrière's story on November 23, because that particular town of Thurso, Quebec, which is not far from here, has seen a 40% haircut in those members' pension benefits.

That town has been very important to Canada's economic security and framework. The products that have come out of that mill have been important, but right now those folks are dealing with a 40% haircut. My friend didn't elaborate on this fact, but I was shocked to learn from some of our negotiators in the Communications, Energy and Paperworkers Union that today over 50% of paperworkers work for insolvent companies in Canada. Canada has been described as

the nation of hewers of wood and drawers of water; at this point, half of that equation is placed in extreme uncertainty, and people's pension benefits follow that.

There are other countries, and Diane Urquhart, who I understand is also going to be a witness before this committee, will elaborate on the research—oh, she has already spoken. There are 35 other countries that prioritize people's pension benefits higher in bankruptcy proceedings, so what we're really dealing with here, I think, is a question of what this committee wants to do as this bill that Mr. Rafferty has proposed heads to its third reading.

What I'm impressed with so far is that there has been cross-partisan support to have this bill reach fruition. I don't think that's an accident, because we have been through a major pension debate in this country, and a big part of that debate is how we secure folks' pensions.

I'm not an actuary by training—I'm a political scientist—but one of the reasons I think my president, Ken Georgetti, wanted me to be here was to share with you, in addition to Mr. Carrière's story, what we've been hearing from our members across the country.

Our members, we like to remember, are the fortunate ones when it comes to pension benefits in the public and private sectors. We're the ones with workplace pensions. Six out of 10 workers in this country do not have workplace pensions. I won't throw facts and figures at you. I've done that already. In closing I want to share with you two stories that remind us of our collective sense of urgency on this issue, because we've held town halls and leadership capacity training on pension issues across this country in the last two years, and security benefits have come up.

I want to talk to you first about Loretta Kent. Loretta Kent is a pulp and paper worker from Nackawic, New Brunswick. You may be familiar with the story of this particular mill. Over the course of five years, the pension plan at this company went from 94% funded to 48% funded, and what we know after the fact is that this was a bankruptcy proceeding planned well in advance in accordance with pension benefit laws in New Brunswick, which allow employers not to fund benefits to the tune of 100% a year, but to underfund benefits and still stay within the law, given pension regulations. Compounded over five or six years, what that meant was a dramatic reduction in the funded health of this sister's plan.

In 2004, when the company declared bankruptcy, essentially what workers got paid—their commuted value payout at the end—was abysmal. For Loretta personally, after 16 years of service it was \$400 in pension benefits—not \$400 a year or a month, but \$400, period, after 16 years of service.

I want to share with you the story of Gail Clark, whom we've brought to meet with finance minister Dwight Duncan in the Province of Ontario. She's from Windsor and is a union member with the Service Employees International Union. Her long-term care facility in Windsor closed down about four years ago, and when it closed down, the pension benefits were also placed in jeopardy. This is a parapublic sector workplace, I'll remind us, not a private sector forestry workplace. For Gail, what it meant after 16 years of service as well—ironically, similar to Loretta's—was about \$170 a month in pension benefits. The previous expectation was \$800 or \$900 a month.

The question Mr. Rafferty's bill is posing to all of us is this: who should bear the risk when it comes to bankruptcy protection? I understand my friend's concern about access to capital, but in 35 other countries, that has not been the primary concern; the primary concern is to know what financial institutions and which folks who are involved in the bankruptcy process can bear the risk.

• (1115)

I dare say we should have laws that stand up for Loretta and for Gail, and we should follow the lead of other jurisdictions that have done that.

**The Chair:** Thank you, Mr. Harden.

Go ahead, Mr. Everson, for five minutes.

**Mr. Warren Everson (Senior Vice-President, Policy, Canadian Chamber of Commerce):** Thank you, Mr. Chairman.

My name is Warren Everson. I am from the Chamber of Commerce. With me is Jonathan Allen from RBC Capital Markets.

Thank you very much for inviting us to appear.

[*Translation*]

The Canadian Chamber of Commerce is Canada's most representative business association. Through our network of over 400 local member chambers of commerce, we speak on behalf of 192,000 active companies of all sizes across Canada.

[*English*]

My part in our presentation today will be to outline the policy concerns of our members who offer defined benefit pension plans and whose businesses would be fundamentally affected if pension plan liabilities are accorded the status of secure debts in the event of a bankruptcy.

Then I'm going to ask Mr. Allen to quickly speak to Bill C-501 from the perspective of a debt market expert.

It's clear to everyone in this room that pensions will be the dominant public policy issue in finance over the next few years, and presumably would have been, had we not experienced the meltdown we did in the last couple of years.

I wish we could support a bill that deals with such a significant issue and such an emotional one. However, this particular bill does not attract our support. We're here today because of significant potential for damage that could be done to many of our members and to millions of Canadians who invest in them if this bill moves forward.

I'd like to deal immediately with two misapprehensions regarding Bill C-501.

The first misapprehension is that Bill C-501 would help members of pension plans whose sponsors have already declared bankruptcy. I think members of the committee heard in the last couple of days that this is not the case. This is not a bill that would rescue Nortel pensioners.

The second misapprehension is that companies who sponsor defined pension benefits have been underfunding their plans. That's not the case. The current underfunding of defined benefit plans is a result of a combination of unusually severe financial circumstances, the 2008 collapse in equity markets, and a very significant decline in long bonds to a level not seen in 50 years. I think it's important for the committee to recognize that we're dealing with a once-in-50-years circumstance.

We do think there are several unintended and adverse consequences in granting creditor protection to defined benefit pensions for employers, for plan sponsors, and for millions of Canadians.

I'd like to ask Jonathan to speak to that.

• (1120)

**Mr. Jonathan Allen (Director, Global Research, RBC Capital Markets, Canadian Chamber of Commerce):** Thanks very much.

If pension liabilities are moved above other creditors in a company, we believe their rating agencies and investors stand to lose billions of dollars. It would increase the borrowing cost for companies and reduce their access to raising funding for investment. I can't underscore the importance of how important the bond market is to Canadian businesses. When a company wants to go out and build a bridge, build a lumber mill, or improve their broadband networks, they go to the bond market first. This is a critical source of funding in the market, and it is where companies will primarily go.

The consequences of implementing this bill will be overwhelming. We estimate, in a report that we published earlier this week, that we'd be looking at something in the order of \$4 billion to \$7 billion of destroyed wealth. Keep in mind that not all of these investors, these bondholders, are sophisticated mutual funds and insurance companies. Many of the people who hold these bonds are actually retail investors, other pensioners. These people are perhaps not sophisticated enough to hedge some of these bets. I think we should ignore looking at some of the junk bonds, but look at the people who stand to lose: the people who are initially holding these bonds.

Contrary to what you heard on Tuesday, there's also no easy way for bondholders to insure themselves. I believe we could see a number of unexpected and harmful consequences from this bill, in particular—and ironically—an increase in the bankruptcy risk for many companies, as well as a reduction in their capital investment, which would lead to lower productivity and job growth. Canada would be less attractive for foreign investment.

Ultimately, the low interest rate is really to blame. In a few years, as interest rates rise, I think you'll see many of these solvency deficits turning into large, inefficient surpluses.

I'll turn things back over to Mr. Everson.

**Mr. Warren Everson:** I am conscious of my time, so, while we have submitted our brief to the clerk, I'm going to jump through and address in particular two points.

First, you've seen a trend in recent years of sponsors moving away from defined benefit plans. I worked at a company that did that and I was the first employee to be covered in the defined contribution side of the pension. Increasing the risk to sponsors of a defined benefit plan will hasten the movement of sponsors away from that particular approach.

I also want to impress upon the committee, with vehemence, that Parliament has been active in this field. You passed a budget recently, and the budget had many features relating to pensions. I've listed them in my brief, so I'm not going to speak to them now. We believe it would be an error for the committee to lard on top of the actions that Parliament has already taken another very significant and sweeping piece of legislation.

**The Chair:** Thank you very much.

I'm sorry that time is always our enemy here. Because we have a minimal amount of time, we'll start with five-minute rounds and go as far as we can.

Mr. Garneau, you have five minutes.

**Mr. Marc Garneau (Westmount—Ville-Marie, Lib.):** Mr. Chair, one of our challenges as legislators is to try to sort through what is actually the real picture as opposed to something that is perhaps a little bit misleading.

One thing about Bill C-501 that has been advertised, and advertised falsely, is that it would elevate pensions to super-priority status. That's simply not the case. The reality is that it only deals with special payments that have been paid up to the date of a company's bankruptcy, which is really a much smaller portion. In that sense, it's unfortunate that this bill is misleading a lot of people.

At the same time, perhaps from the other side of the coin, I have difficulty understanding how the situation I've just described with Bill C-501 is going to cause so much turmoil in the credit markets that it's going to shut off all of that capital that has been mentioned.

As you can appreciate, it's difficult for us to get an accurate picture of the truth.

What I would like to ask Mr. Everson first, and then Mr. Casey afterwards, is how you would answer the question for somebody who has contributed for his or her entire career to a pension and is now in a situation in which the company they worked for has gone

bankrupt, and they're only going to get a portion of their pension. I'll use the example of Nortel in your case, Mr. Casey, and of AbitibiBowater in your case, Mr. Everson.

How would you explain the situation to them? Do you have an alternative that would perhaps satisfy them?

• (1125)

**Mr. Warren Everson:** I understand the emotional difficulty of dealing with people, and the fear and frustration that someone would feel in a situation such as Joel described in the two cases. However, the significant thing for Parliament to consider, we think, is the access to capital and the capital formation that created those jobs in the first place.

Jonathan's an expert, and I'm going to defer the question to him.

**Mr. Marc Garneau:** That's good enough.

Would you comment, Mr. Casey?

**Mr. Andrew Casey:** It certainly speaks to the complexity of the issue, for sure. From our standpoint, I would re-emphasize the point that these have been very difficult times for our industry. We need the capital to retool and to reinvest in our mills in order to keep the jobs and the pensions that are there and get them back up onto a level footing.

For us, access to capital is absolutely paramount. If we don't have that access to the capital, it will go elsewhere. Where it will go is to other jurisdictions where they have some sort of mechanism in place to protect pensions.

I would suggest that the committee take a look at other jurisdictions, such as Germany or Ireland, where there are guaranteed funds in place. Maybe that's a way to address this situation.

**Mr. Marc Garneau:** Our Liberal critic, Judy Sgro, is the author of a white paper that looks at pensions from a holistic point of view. It has 28 recommendations. She's also going to be in debate next week on second reading of a private member's bill that deals with what's called a bill of rights for pensioners.

I want to make sure of this: are you aware that Bill C-501 only deals with special payments in the way that I described it in my first question, and that it does not affect all pensions by moving them up to super-priority? Is that something that you clearly understand? This has an effect on how much you see by way of turmoil in the credit markets.

**The Chair:** Go ahead, Mr. Allen.

**Mr. Jonathan Allen:** My understanding is that under some of the proposals made as part of the budget this year, a company that enters a state of bankruptcy or CCAA would be forced to immediately fund that pension deficit over an accelerated timeline.

If so, that would mean that any remaining deficit payment would not be stretched out over five years but would be immediately payable within the first year. Thus the effect would be that the solvency deficit would essentially be of priority status.

**Mr. Marc Garneau:** Mr. Casey, do you have an interpretation?

**Mr. Andrew Casey:** No, I do not have an interpretation one way or the other. My interpretation, though, is from the street: what we are hearing anecdotally, from both our industry and from outside our industry, is that capital markets are nervous. That makes us nervous.

**Mr. Marc Garneau:** Right. I'm not sure that anybody should be taking their interpretation from the street. That's the point I'm trying to make.

**Mr. Andrew Casey:** The street I'm referring to is Bay Street, the Royal Bank—those institutions that are our lifeblood.

**Mr. Marc Garneau:** The piece of legislation that was put forward is a piece of legislation that does not accomplish what its authors intended, so it's quite possible that there is a discrepancy between what it intends to do and what it actually will do. I think that's important to recognize in assessing whether it will create a big problem of access to risk capital.

**The Chair:** Now we will go on to Mr. Cardin for five minutes.  
[Translation]

**Mr. Serge Cardin:** Good morning, gentlemen.

We know that situations like this are relatively difficult for retirees. The example of the Nortel workers who came to testify this week is very enlightening and we have many questions as a result.

A defined benefit pension plan is something negotiated between the company and the employees. It is a contract between the two. It's a contract that sets out that the employer must put all contributions in this pension fund. If an unfunded actuarial liability arises, the agreement is that the employer will inject funds into it. So there is a contract, and the company assumes the risk. Someone—I think it was Mr. Harden—just asked who would take on the risk. For the agreement between the employers and employees, it is a matter of assuming a risk.

More difficult situations can arise, such as bankruptcy or potential bankruptcy. The bill requires that special amounts covering the unfunded actuarial liability be prioritized. At that time, the financiers, who do business with large companies, knew that there was a significant risk. In the event of bankruptcy, the financiers assume their risk as well. So I do not currently see a major problem in assuming the risk right up to the end.

A company like Nortel should have paid. It had the means to pay that amount, which I realize would not have been anywhere else. But in this case, perhaps everyone was expecting to lose, at least the retirees. They had a contract with their employer and they are going to really be taken to the cleaners. The employees honoured this agreement over the years.

In my opinion, the bill still brings an important dimension of justice and fairness. Everyone has to take on their own risk. I personally don't see a major problem with financing. The financiers assumed the risk right up to the bankruptcy as well.

In the case of Nortel, who would lose if Bill C-501 was in force? Who would be from the Nortel list and who would have paid the most?

Have you reviewed this case, have you gone back to the drawing board with it?

• (1130)

[English]

**The Chair:** Who is your question for, Mr. Cardin?

[Translation]

**Mr. Serge Cardin:** For all the witnesses, in reverse alphabetical order.

[English]

**The Chair:** Mr. Harden, go ahead.

**Mr. Joel Harden:** I'll have the first kick at the can and in the interest of honesty say something that I think is true for all parties at this table.

What we're dealing with often in a situation like Nortel's is a company that has taken advantage of weak funding rules, in contrast to a lot of its fellow companies, which actually do fund pensions properly. When Nortel became a company that was worth pennies a share and not \$126 a share, it encountered risks, but it utilized the flexibility of pension rules to which it was privy to allow for that.

What this committee is contemplating is supporting the back end of protecting people's pensions in bankruptcy, but the front end—the funding rules making sure that there are regulatory cops on the beat at OSFI who pay a little more attention to how pensions are funded under the federal jurisdiction, which you're responsible for—is crucial.

There are forestry companies that have lived through the last two or three years, such as Domtar, that have properly funded their pensions. Then there are companies like AbitibiBowater, often in the same community and producing the same product, that have taken advantage of the flexibility of funding rules and have then imposed upon their retirees and their workers to bear that risk, which I think is absolutely unconscionable.

**The Chair:** Thank you, Mr. Harden.

If somebody else wants to respond as well, we have about 30 seconds left.

**Mr. Warren Everson:** Thank you. I have just one very quick statement.

The bill asks you to pick a particular party and assign them the most importance in a bankruptcy situation. We understand the reasons for that, but you don't know the other parties in the bankruptcy situation and you don't know whom you're jumping ahead of in the queue. I would say that in most cases in Canada, you're jumping ahead of ordinary Canadian investors. Their money may be in mutual funds and various other devices, but it's the ordinary retail investor whose money is involved, and you're jumping ahead of them.

You don't know the consequence of this bill. If you pass it, you don't know what it will do, but I'm an investor; I know very well what the risks are. I calculate them carefully. When you change the risk profile, I'm going to change my behaviour. It would be reckless for this committee to pass the bill unless you did a very thorough examination of what impact it will have on capital markets.



**The Chair:** Thank you, Mr. Everson.

Now we'll go to Mr. Van Kesteren for five minutes.

**Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC):** Thank you, Mr. Chair, and thank you, panel, for appearing before us.

We were talking about something to do with bonds, and I want to get back to that. We had quite a discussion last time. I really think we may not have a true description of bonds. My understanding of bonds is that they are the blue-chip investments that people make when they want something that's really secure.

Mr. Allen, you were talking about how companies will raise capital to make those large investments that need to be made. If a company like Bell, for instance, didn't lay down its lines, we wouldn't have the telecommunications industry that we have, so it's a very important part of the market.

I want you to tell me, first of all, who normally invests in bonds, and then what happens to bonds when a company enters bankruptcy. What happens at that point? Then maybe you could give us a little information on CDS, because there have been some allegations that the hedge funds that take over these bonds profit from the bankruptcies. Could you shed some light on that?

• (1135)

**Mr. Jonathan Allen:** To start, I'll underscore the importance of the bond market and how big it is.

You used the example of Bell Canada. If my memory serves me correctly, they have about \$12 billion of unsecured bonds outstanding. These people would rank equally with pensioners. They have zero secured bank lines in place; they have a few hundred million dollars of suppliers outstanding, so it is critical. The bond market is essentially the lifeblood of these companies for funding.

Who owns these things? The corporate bond market in Canada is about \$500 billion or so, and it's grown significantly over the last 10 years. The mix of who owns these bonds is a combination of many pension funds, many investment counsellors, mutual funds, and a large segment of retail investors, but in the end I don't think you can necessarily separate these into institutional and retail investors, because at the end of the day, this is our money being managed. For any of you who have a mutual fund, the chances are that the money belongs to you at the end of the day.

Now, the people who own these bonds are not 25-year-old people starting their careers and going out to buy corporate bonds. Corporate bonds, in the bond market in general, are deemed to be safe, very low-risk, low-volatility investments. The people who own these bonds are people who are a few years from retirement or people who are already retired and living on the monthly interest they receive from the bonds. These are the people who invest in this market and are most at risk.

With regard to your second point about what happens when a company goes into bankruptcy, I think on Tuesday a lot of the focus was on junk bond holders who are trying to profit from this situation. Really, the people who lose are not the junk bond holders. As soon as a company goes into bankruptcy, a lot of these institutions and the pension funds out there are not allowed to hold non-investment-grade bonds. They can't hold junk bonds, so they've already lost 50%

of their investment. It's already been destroyed as soon as the company goes into bankruptcy.

Now they have to sell it; someone has to step forward and pay for it, and that's generally where the transfer comes in to some of the distressed bond funds or hedge funds that you look at. Those people are taking on a very large risk and looking for very large returns from it, but essentially the damage has really been done to the original investors, those people who owned the bonds in the first place and who have lost half their wealth.

**Mr. Dave Van Kesteren:** Can they insure these bonds, these junk bonds?

**Mr. Jonathan Allen:** They can't do it easily. On Tuesday I think there was a lot of focus on a product called CDS, or credit default swaps. They provide a way for bondholders to insure themselves against loss. The big focus was on Nortel.

The problem is that CDS doesn't exist in Canada. These swaps are very liquid in the U.S. and are frequently used in Europe. Only companies that actually issue a lot of U.S. dollar bonds, such as Nortel, actually have these insurance contracts. Otherwise, in terms of the typical Canadian company, I could count on one hand the number of companies that actually have a CDS product insurance policy available to them, and I'd probably have a couple of fingers left over. It's not a viable solution in the Canadian market.

**Mr. Dave Van Kesteren:** Thank you.

**The Chair:** Go ahead, Mr. Wallace.

**Mr. Mike Wallace (Burlington, CPC):** Thank you for coming and for bringing up that point.

I'm going to ask the Canadian Labour Congress a couple of questions.

You talked about much of the industry being insolvent. If it were proven or shown that this bill makes it more difficult for those companies to come out of insolvency and get back into business—because that's basically what we're talking about—would you still have the same position on this bill? Second, has your organization looked at that woman who unfortunately only has \$400 left and what the ramifications would have been if this bill had been implemented? Would she have received much more money out of it, or not? Have you actually done that study?

**Mr. Joel Harden:** Thanks for the question.

We rely on the research we think is bona fide and peer reviewed. At this committee you're all engaged political folks, so you can distinguish between positioning and bargaining and fact. The fact I've been made familiar with—I and my counterparts at other unions who do labour market research studies in those jurisdictions where pension liabilities are ranked much higher up the food chain—is that it hasn't meant catastrophic consequences for access to capital.

**Mr. Mike Wallace:** So you couldn't tell us what the difference would have been to that woman?

**Mr. Joel Harden:** What I can tell you is that in the current marketplace we have, there is one priority for people who are actually producing the wealth in the communities—working hard, getting up in the morning, and doing their job—and then there's another set of priorities for employers, some of whom—the very minority of whom—use bankruptcy legislation to offload pension liabilities. I think that's the issue we should consider.

On the credit default swap issue, it bears—

•(1140)

**The Chair:** I'm sorry, but I can't allow you to expand. I already gave you some grace in order to be able to finish it, even though you mentioned a haircut, which, if you had read the blues from the last meeting, is a term I disdain.

**Mr. Joel Harden:** I'd prefer a chance at a future question to elaborate on that, Mr. Chair.

**The Chair:** Mr. Rafferty, go ahead. You have for five minutes.

**Mr. John Rafferty:** Thank you very much, Chair.

I have a quick comment to Mr. Everson and the Chamber of Commerce. As a past member of a chamber of commerce, I can tell you that if seniors and retirees don't have enough money, your membership is going to suffer, and so will all those communities and small businesses that count on people having money to get by daily. I can understand why you're here and I understand your concern, so thanks for that.

Mr. Allen, you made some interesting comments about bonds. I'm not sure I agree, but I wonder if Mr. Harden could make a couple of quick comments about Mr. Allen's comments.

**Mr. Joel Harden:** The only thing that's very clear is that in terms of the over-the-counter derivatives market and the insurance for those derivative products, nobody can say who holds what, because it's not regulated or listed anywhere. It's impossible to say that there are no Canadian companies that are participating in hedging products on the insurance side of things or in the derivative market.

My anecdotal research, which I know from people at bargaining tables and people who are familiar with the finances of large corporations, indicates that most large institutions in this country have gotten in on the game of the derivatives market. The derivatives market today is \$650 trillion, if you can conceptualize that, and the world economy at this moment is \$45 trillion.

This is a global paper behemoth that puts the entire world's economy at risk. At the moment, those junk bond holders you were debating in your last session have greater standing than the Loretas and the Gails of this world. I think that's why this bill that you're working on is incredibly important.

**Mr. John Rafferty:** Thank you.

If I can make a further comment, I think the bottom line is that some bonds—many bonds—can be insured, and the fact is that retirement is apparently not insured at all.

One of the things I hope my bill does is provide some measure of insurance for those people who work for 40 years, put their money in faithfully every paycheque, and expect there will be something there at the end.

Mr. Casey, I'm not sure if you realize it, but my involvement with the forest industry is one of the main reasons I decided to put this bill forward, so I'll leave my last question for you.

Employer after employer, mill after mill, has gone under, and not just in my riding and in northwestern Ontario, but right across Canada. There have been 35,000 direct jobs that have been lost in forestry in the last year. There are 1,000 direct and indirect forest jobs a month that continue to be lost in Ontario, and that's just in Ontario. That's why I'm here and that's why I tabled the bill.

Your industry and your companies, quite frankly, have let too many people down. I understand that you're a lobby group and you don't include all the forest companies—in fact, a rather small percentage of forest companies are under your umbrella—but underfunding pension plans and spending the termination and severance pay of workers is something that some in your industry have done on a regular basis. It's unconscionable.

Do forest product members not feel an obligation to live up to the contractual obligations they enter into voluntarily, such as paying people's wages and severance and making sure they contribute the full amount to the pension?

**Mr. Andrew Casey:** Thanks for the question.

I think you cited some numbers that are very true. These have been a very tough couple of years for the industry. You're very well aware of your riding, as are a number of other members around this table whose ridings have been directly impacted by what's happened to this industry, and of course our industry is not unique in the general economy more broadly.

I would remind the committee, though, that we continue to employ 230,000 Canadians. This is a viable industry, and we are retooling. We need to invest in our industry to go forward and take advantage of the new markets that are opening up, the new opportunities in the bioeconomy, in biotechnology, in bioenergy. That's going to require money.

Mr. Rafferty, you would know full well from your riding that the equipment in those mills is very expensive. A paper machine costs \$1 billion to build. That requires capital. If we're going to be there—and we do want to be there—I think the most important thing is to ensure, in all of these ridings, that we have healthy companies that continue to employ the employees who are there and that we will continue to fund it.

I think your bill does raise some very important questions about the pension system, for sure. I think the reality is that your bill raises those issues, and as Mr. Harden's testimony says, this is a very complex issue. It would involve provincial jurisdictions and pensions, and it also obviously involves the Bankruptcy and Insolvency Act.

I think we need to take a very comprehensive look at this situation to ensure that we know what the consequences of this bill will be.

• (1145)

**Mr. John Rafferty:** Well, I certainly appreciate your concern. I have the same concern. A few years ago there were 22 paper machines operating in the province of Ontario. Now there are four. Three of them are in my riding, and of course I have a great interest in continuing to make that happen.

There are lots of factors, of course, that have gone into the problems we've had, but let me ask you whether you think it's morally acceptable for your members to borrow money from the pension plans of workers to fund their operations when things start to go bad without even informing the members that this is going on.

**Mr. Andrew Casey:** What I know is that our members are behaving by the rules of the law. If you want to deal with all the different pieces of legislation that are out there and amend them, I think that's certainly the prerogative of the committee. What our members would like to do is remain healthy, continue to grow, continue to access new markets, and service the existing markets. We just have to stay healthy that way. We have to keep investing in our industry. That's what they want to do. They want to keep paying employees.

As you correctly pointed out, this is an industry that's been hit by a number of perfect-storm issues. We're emerging from that right now. We intend to continue to employ the 230,000 people we employ, and we want to make sure that those pension funds are whole.

**Mr. John Rafferty:** Let me be clear—

**The Chair:** Mr. Rafferty, I'm sorry, but we're way over. I tried to let him finish his answer.

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

**The Chair:** Sorry about that. Time is always our enemy.

Now we'll go on to Mr. Rota for five minutes.

**Mr. Anthony Rota (Nipissing—Timiskaming, Lib.):** Thank you, Mr. Chair, and thank you to all the witnesses for being here this morning.

Mr. Allen, you mentioned something that sounded as if you were tugging at heartstrings. You were talking about bondholders looking for a low-risk, secure place to put their money, and it was as though we have to protect the interests of these people who have invested their money and are counting on something secure. They've made a

decision, a conscious decision, to put it in something. For pensioners, on the other hand, that's all they have. It's their lifeblood. Once they retire, they can't start over.

I look at either side, and I'm not sure that it's government's decision to make a choice to either favour the bondholders or favour the pensioners. We have to look at something balanced between the two.

I look at Bill C-501, and it's almost as if it raises hopes on one side. I think a lot of it was geared to the Nortel employees and to giving them hope, and you know, it's not going to help them. On the other side, it creates a crisis in the financial markets. I'm not sure it does anything for them, either. It's almost like a negative negative. I think the intention was good, but it's not really helping anyone. I'm struggling with the frustration of trying to figure out which way to go on this one, because it almost seems like a lose-lose situation. It's almost like a political play more than anything else.

Mr. Harden, you mentioned that 50% of employees in the paper sector work for insolvent companies. I think Mr. Casey and Mr. Harden would probably be best to answer this question: how would Bill C-501 affect the companies right now? What I'm hearing is that you can either have a pension or a job, but you can't have both.

If I can have Mr. Casey and Mr. Harden comment on that, I'd appreciate it.

**Mr. Andrew Casey:** Mr. Rota, thank you for the question. I don't think I said that.

**Mr. Anthony Rota:** No, no; I meant that it's the impression I'm getting.

**Mr. Andrew Casey:** I'm sorry.

We'd like to keep both, and the way to do that is to ensure that companies are healthy and have access to capital.

**Mr. Anthony Rota:** Okay.

Would you comment, Mr. Harden?

**Mr. Joel Harden:** I think that at the end of the day, the facts you're going to extract from your witnesses should guide your thinking. What I'm encouraged by in this moment is that we've had a positive dialogue with all parties on the Hill around the need to do something about pension security. My worry is that by the next federal election, if we don't have something concrete not just for the Nortel folks, who have been very wonderfully vocal, but also for the tens of thousands of people out there whom you've never spoken to and who are worried about whether they're going to have to go back to work at age 66 or 63, it's going to be a major problem in this country.

I respect my industry friends here, but we're all bargaining, and the threat of capital flight and lack of access to capital has been the tried and true argument we've heard from our counterparts when we're in the position of political bargaining. The facts I have before me indicate that capital markets won't freeze up if we prioritize pension benefits more in the bankruptcy proceedings. Capital markets will freeze up, though, if we allow speculative derivative instruments to run roughshod over the economy. We've already seen a credit crunch on the basis of those players. Your government has had to deal with the asset-backed commercial—

**Mr. Mike Lake:** It's your government too.

**Mr. Joel Harden:** It's the people's government. It's had to deal with the asset-backed commercial paper crisis, which threatened to imperil the entire economy. That had nothing to do with bankruptcy law. That had to do with speculative interests in our economy threatening the integrity of the whole thing.

What I think this bill will do, and why I'm happy to be here, is that it actually will allow people some peace of mind. How it gets sorted out—what pension security instrument and legislation you're going to propose—is your decision, but we need something.

• (1150)

**Mr. Anthony Rota:** That's what I'm reading as well. I'm just not sure what that something is, because it just seems to be on both sides.

If it's okay, we'll continue in that vein. I wouldn't mind asking Mr. Harden and Mr. Allen this question: in the 35 other countries that do have some form of protection, how does it affect the markets? Maybe I'll get both sides of the coin here, if you don't mind, and get your opinion on both sides.

**Mr. Jonathan Allen:** If you're looking around the world, yes, there are many different examples, but we start to get into an academic exercise of looking at which country is most similar to Canada. Many countries do have forms of insurance guarantee. Examples include the U.S., the U.K., Germany, and several other countries. Some have preferred status.

The question you want to ask, though, is this: how many of them changed that in the middle? How many of them went from an unsecured to a secured status and did not have an impact on the market? I'm afraid I don't have the answer to that, because this could get into a very large academic exercise.

**Mr. Anthony Rota:** This would be on an ongoing basis, then, a floating basis.

**Mr. Jonathan Allen:** I'm saying this could have been done a lot more easily, perhaps, at the formation, but changing the rules halfway through.... Investors have put their money forward. They have loaned to a company. That company has promised to pay them back. If all of a sudden we change the rules midway through, that will cause a disturbance.

Will it be a functioning credit market? It will, absolutely; the markets will continue going on, but bondholders are very cautious people, so they're going to price in the worst-case expectation and they're going to demand a higher return for it. They're going to charge a higher interest rate for it.

**The Chair:** Thank you very much, Mr. Allen and Mr. Rota. I'm sorry, but time is up again.

We'll go on to Mr. Lake for five minutes.

**Mr. Mike Lake:** Thank you, Mr. Chair.

Thank you to the witnesses for coming today.

I was interested in Mr. Rota's line of questioning. He talked about the balance between the two. He was talking about bondholders and pensioners, in effect about one pensioner and another pensioner, and making sure there's balance. I think one of the things we want to avoid in terms of unintended consequences is throwing that balance off. Of course, we also have to take into account suppliers and the many small businesses out there that are also affected by any decision that's made.

Mr. Harden talks about positioning and political positioning, but one of the things I find interesting is that one of the things I think you as an organization would be most concerned about is jobs in the future. Mr. Casey talks about unintended consequences in terms of lack of access to capital, which we as a committee have heard over the last two years has been a major problem.

Maybe I'll go to Mr. Casey first. Could you talk about how that lack of access to capital impacts jobs? Maybe you can make that connection for us, Mr. Casey.

**Mr. Andrew Casey:** Thank you for the question.

Essentially, as in my answer to Mr. Rafferty, this industry is a capital-intensive industry. Beyond the cost of the fibre and the energy that goes into making the product, we need to invest heavily into new equipment and new machinery, and that's in the existing product lines of pulp, paper, and lumber.

However, as we transform our industry and move more into the bioeconomy and are looking at more bioenergy and biochemical products, that's going to require new technology and new research and development. That in turn is going to require money for investment. That's where our future lies.

If we're going to continue to employ the 230,000 people that we do employ and maybe even grow the industry beyond that, we're going to need to move into those territories, and that's going to require investment. The investment is, of course, capital, and we need to have access to capital in a competitive way, not with onerous rates.

**Mr. Mike Lake:** Mr. Harden talked about 50% of paperworkers working for what he phrased as "insolvent companies". There are many companies out there that were on the edge during the global economic slowdown. Many of them have bounced back, thankfully.

Mr. Allen, maybe you could speak to the effect of the proposed legislation, particularly on those on-the-edge companies. First of all, maybe you could speak to their challenge in accessing capital in the first place, because I would think those would be the companies that have the most desperate need for capital just to stay alive in the first place. What impact would this have on their ability to...?

**Mr. Jonathan Allen:** I don't want to get too technical in talking about basis points and all the rest, but let me give you an analogy.

A high-investment-grade, stable company will still have access to capital, but those companies that are not investment grade, or perhaps those ones that are on the edge....

Let me give you an example. If I started up a business—let's say a convenience store—and it was going very well, I might decide that I wanted to expand. If I had to start financing that expansion using my credit card and paying 20% per month, I'm probably not going to invest in that. I'm probably not going to expand.

Of course, that's an extreme example, but smaller companies don't have the same access to capital as some of the larger companies, and they will face a much higher borrowing rate. It may not be 20% per month, but it will be something constraining them.

• (1155)

**Mr. Mike Lake:** We talk about the challenges we hear about and the 50% of companies that you say are insolvent, in a sense. When you talk about companies that are having difficulty, how do you respond to that? When you think about the workers you represent, whose jobs, as we've heard time and time again, are going to be in increased danger if we go down this proposed road, how do you respond?

**Mr. Joel Harden:** I sound like a broken record, but we really need to have the peer-reviewed facts guide us on what the actual impact will be. By this measure, if we believe that any strengthening on the back end with bankruptcy law or on the front end with pension regulation would constrict capital markets, your government's recent decision—one we were in favour of—to forbid employers from dumping pension liabilities and remain viable, going concerns would have constricted capital accumulation, but it didn't. We've been through the seeds of a very feeble but ongoing economic recovery.

We have to deal with the real world, not the political positioning world. What I see in the real world are employers, the vast majority of whom want to fund their pension plans.

**Mr. Mike Lake:** In fairness, I would say there might be just a little bit of political positioning on your part as well.

**Mr. Joel Harden:** There always is.

**Mr. Mike Lake:** Okay.

**Mr. Joel Harden:** There always is, but I'm saying that the vast majority of players I speak with want to fund their pension plans well. Unfortunately, we have to build the back end of the system and the front end of the system to deal with the AbitibiBowaters, the Nortels, and the pulp and paper mill I mentioned in Nackawic, New Brunswick. We have to deal with people who will look at the pension law and the bankruptcy law, try to game it for their own interests, and put retirees and workers at risk in doing so.

It's highway traffic act planning. You have to deal with the worst drivers, despite the fact that most drivers are fine. If we don't do that, the risk will ultimately be borne by the good employers, who will have their industries' images tarnished, and also by workers and retirees, which I think is unfortunate.

**The Chair:** Thank you, Mr. Harden. I'm sorry; your time has run out.

Mr. Desnoyers, we have another panel coming. Take three minutes if possible, and then we'll have to excuse these witnesses.

[*Translation*]

**Mr. Luc Desnoyers (Rivière-des-Mille-Îles, BQ):** Thank you, Mr. Chair.

Nortel is sort of the standard-bearer of the social drama that is currently playing out in Canada and Quebec. It isn't only Nortel; there are a number of others, such as Atlas Steel. I could give you a list of companies where, unfortunately, the workers had to pay from their pension plan. It was their money that they had invested, that they had put in out of their own pockets. It belongs to them. Unfortunately, the only solutions that we're finding around this table seem to be that the workers have to pay.

I feel that there are other solutions. Look at the forestry sector. We are asking for loan guarantees, which facilitates credit. The Conservative government has helped the automotive industry enormously. Why not do the same thing for the forestry sector? You'll be able to respond to that.

In the case of Nortel workers, let's keep in mind that the company no longer exists. All its assets are being sold, and revenue from those sales is being given to the shareholders.

So why wouldn't we help the workers? The representatives from the Canadian Chamber of Commerce could answer that question. We want to impoverish communities and we are impoverishing workers at the same time.

Mr. Harden, you can speak first.

[*English*]

**Mr. Joel Harden:** We're singing from the same hymn book.

The fact of the matter is that we are a laggard jurisdiction in the world. We do have a choice. The Government of Quebec has taken the first step in creating bankruptcy procedures to allow orphaned pension plans a home in the case of a Nortel situation or in other situations. There are many ways to deal with this. However, you're absolutely right: those are the risks.

**Mr. Warren Everson:** Well, I know that no member would want to suggest that nothing is being done on this issue. Pensions are an extremely active area. Your Parliament has passed a series of reforms—

[*Translation*]

**Mr. Luc Desnoyers:** What I want to know is if you support putting assets into the pension plan of workers when a company goes bankrupt, rather than have workers pay out of their pension plan and find themselves with nothing in the end.

With that, you will end up causing the economic death of communities. The chambers of commerce will disappear.

• (1200)

[English]

**Mr. Warren Everson:** Undoubtedly, but I also think it is disingenuous to suggest that workers are not investors and don't have an interest in the success of their companies. The biggest investor in our country is probably the teachers of Ontario. It's not true that pensioners have no other assets. They usually have—as everyone does—some kinds of investments—

[Translation]

**Mr. Luc Desnoyers:** You didn't answer my question, but...

[English]

**Mr. Warren Everson:** I think Parliament makes a mistake to suggest—

[Translation]

**Mr. Luc Desnoyers:** Let's look at the forestry sector now. Would loan guarantees have helped? In Quebec, the forestry companies demanded loan guarantees.

**Mr. Andrew Casey:** I will answer you in English because I want to be very clear.

[English]

First of all, in our view the government has been extremely supportive of the industry. Throughout this entire crisis, they've gone to great lengths to find ways to support the industry, and we are very grateful for that. Loan guarantees are not an answer, and I don't think we have enough time to get into the softwood lumber dispute—

[Translation]

**Mr. Luc Desnoyers:** In Quebec, everyone was in favour of it. I don't know where in Canada you're from, but...

[English]

**Mr. Andrew Casey:** —but what I will say is that our goal is to make sure we continue to—

**The Chair:** Mr. Desnoyers, actually, we've run out of time. Thank you very much.

Go ahead, Mr. Lake, on a point of order.

**Mr. Mike Lake:** Mr. Harden referred in his opening comments to 35 jurisdictions that have legislation that deals with this. Could we get his research on that tabled, if that's okay for the committee?

**The Chair:** Mr. Harden, could you supply that to the committee clerk, please?

**Mr. Joel Harden:** Diane Urquhart's research has done it, actually. You've already had her before, but we could get it to you.

**The Chair:** First, I thank the witnesses—Mr. Harden, Mr. Everson, Mr. Casey, and Mr. Allen—for coming. I apologize that it was so brief.

We have another panel coming in. If we could suspend for a moment, we'll do that as quickly as possible.

Thank you.

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(Pause)

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• (1205)

**The Chair:** Members, we're back in session now. We're going to hear from our first witness, Mr. Wacheski.

We have six witnesses here, I believe. If you'll accept my apologies in advance, I don't have enough time to introduce each one of you. Because I feel badly when I have to cut somebody off, I would ask you to please stick to your five minutes.

Go ahead, Mr. Wacheski, for five minutes, please.

**Mr. Tony Wacheski (As an Individual):** Good afternoon.

Let me first thank the committee for inviting me to participate in this very important discussion. I appreciate that you must deal with many complex issues affecting many people in different ways and that laws must be changed very carefully and thoughtfully.

The current insolvency laws do not protect all creditors fairly. Employees are a distinct group of creditors, and it is imperative, and in the best interest of Canada, to adjust these laws to recognize this fact.

On April 30, 2009, after 18 years of service, I was terminated from Nortel without notice, without severance, and with a large portion of my pension unfunded and lost. I was saddened to see how the laws forced companies to treat their employees while restructuring.

I will let other witnesses argue for the protection of pensions and long-term disability benefits, even though my own pension losses are great. I will attempt to provide you with a new perspective on severance and convince you that changes are justified.

The simple facts are that suppliers and lenders have ways to protect themselves against bad debtors through securities and security agreements. Employees are protected against termination without cause by provincial employment acts and through severance. However, CCAA supersedes these acts and lumps all creditors together. Even if restructuring companies wanted to pay severance, the law prevents it.

Suppliers have multiple customers and lenders have diversified portfolios, but severed employees instantly lose their only source of income and the means to support their families. Suppliers and lenders can write off losses and insure investments. Lenders assume risk as a part of business. Suppliers can continue to operate and make money. The severed employees must mitigate the loss of income and benefits through tax-funded social programs.

Suppliers and lenders have leverage in the process. They sit at the creditors' committee. Their goods and services and capital are still needed. Employees have little leverage. Suppliers and investors are better able to wait for the plaintiff arrangement, but severed employees are often months away from defaulting on their mortgages. Employees are the least equipped to manage the impact of the employer insolvency that caused termination. They instantly lose their sole source of income, their health benefits, their insurance, and their means to save for retirement or their children's education. They even lose their homes.

Suppliers are impacted, but most will continue in business. Lenders may have lower rates of return, but in some cases they even profit from bankruptcies, as we've heard. Employees are the most severely impacted of all creditors, and they have few defences.

The objective of CCAA is to provide a means for a company to restructure, avoid bankruptcy, maximize returns for their creditors, and preserve jobs. When a company enters CCAA and severance is no longer paid, a bonus must be paid to retain employees. I assert that the security of knowing you will receive severance if your position is lost in restructuring is equally effective in retaining talent, and it is much less costly to the state. Lavish bonuses are insurance against potential loss of severance for people who actually keep their jobs, while those without jobs get nothing.

Severance is a powerful tool that helps to build a strong economy and enables workers to focus and apply their talents on building value for a company instead of looking over their shoulders and planning their escape routes or never taking a risk on a young or challenged company. For example, when a member of Parliament is voted out of public service through no fault of their own—perhaps their party takes the wrong side on a key issue—you will receive a severance, and I agree that you should receive it—well, most of you.

**Some hon. members:** Oh, oh!

**Mr. Tony Wacheski:** This reasonable and necessary benefit serves to attract the talent needed to provide a strong, effective government for this great country. By allowing CCAA to lump severance in with unsecured creditor claims, the value of severance for building strong companies is being lost, and Canada suffers.

The Nortel bankruptcy is one of the most complex international insolvency cases in history. I have only touched on a few issues related to severance. There are many abuses of the current law and many opportunities for improving the insolvency process.

I hope I have provided some points demonstrating that severed employees are a distinct group of creditors. Suppliers and lenders can protect themselves against insolvencies; employees cannot. CCAA takes away entirely timely severance. The severed are most severely impacted, instantly losing their only source of income and the means to support their families. Removing the severance increases the cost to the state and lowers other creditors' returns. CCAA is undermining the value severance brings to building a strong economy.

I hope these points and the discussion following will convince you that changes are required to protect the hardworking Canadians who build the companies and wealth in this country. I urge this committee to work together and to ensure that Bill C-501 prompts the

appropriate changes to the CCAA and the BIA to ensure that timely severance is paid.

Thank you.

● (1210)

**The Chair:** Thank you, Mr. Wacheski.

Now we'll go to Mr. Hanlon for five minutes, please.

**Mr. Joe Hanlon (President, Local 2693, United Steelworkers):** Good afternoon.

I would like to thank John Rafferty and the NDP for introducing this very important bill. I would also like to thank the committee for this opportunity to speak to you today on Bill C-501, a forward-moving bill that will correct a lot of the injustice that affects our members today.

I am Joe Hanlon, a representative of the United Steelworkers Local 2010. Nationally our union, the United Steelworkers, represents about 280,000 members, of whom about 50,000 work in the forest industry. Our local represents approximately 6,000 members in a large number of communities across northern Ontario. The vast majority of our members work in the forest industry, or, should I say, used to work in the forest industry: we have about 4,000 members who are laid off. Our members and their families and communities have been devastated by the recession. We are talking about thousands of people who are unemployed, people with families, who have lived most, if not all, of their lives in these communities.

These are members who believed in the system. They believed that if their operation ever shut down, they would receive termination and severance pay to assist them through difficult times. That is the part of Bill C-501 that I would like to speak to.

Others have spoken on, or will speak on, the importance of pension. Don't get me wrong: that is extremely important also, because people believe that as they grow older and retire, their pension will be there for them in the future. Why not? It was part of their wage package, and we all expect to be paid properly. It's the same as termination and severance pay, which is also part of the agreement employees have with their employer. Employers have to give their employees notice of layoff or pay them in lieu of notice. What is also understood and agreed is that should a temporary layoff extend into a long-term layoff or a closure, the employee will receive severance pay for each year of service.

The reality is that employees don't want termination and severance pay; they want jobs. However, at this time they need to pay their bills and support and clothe and feed their families. How do they do that? They cannot get another job, especially because a vast majority of our members live in one-industry towns. Their EI has run out. They have used up all their life savings and cashed in their RRSPs. They can't sell their house. No one wants to move to a community where there's no employment. Some people have lost their homes. They've lost their automobiles. They have had to stop their children's education. Families have split up. People have turned to drugs or gambling or both. Unfortunately, some have paid the ultimate price and have taken their lives.

A lot of our members have exhausted everything except termination and severance pay, because their employer has not given it to them. Some employers have threatened bankruptcy, while others have gone into bankruptcy. Some employers have worked out arrangements to pay in instalments or to pay a lesser amount. No matter what, a large number of employees are not getting what they have earned or deserve for the years of dedicated service to their employer.

Let me give you some examples. JF Thompson is a woodlands operation that couldn't continue to operate. The company shut down with no notice of termination and no severance pay. When the employees requested payment, the employer threatened bankruptcy. Our members in the operation agreed to a settlement based on 29 cents on the dollar for what they were owed.

We have members with the Buchanan group of companies. They were employed at McKenzie Forest Products, Atikokan Forest Products, Dubrueil Forest Products, Nakina Forest Products and Solid Wood Products and have not received any termination and/or severance pay, even though some of these operations have been closed for over three years. Some members are waiting for the operation to reopen, while others have moved on with their lives. The members who are not returning want their termination and severance pay, and rightfully so. However, the company says it has no money. The unfortunate thing is that these companies will more than likely declare bankruptcy in the near future. Again, employees are left with nothing.

We had employees at Dorion Fiber Tech, Sturgeon Timber, and Atway who requested termination and severance pay, only to be told that the company had no money to pay them. They had enough money to declare bankruptcy, which they did, and our members received nothing for all the years they had devoted to their employer.

We had two members at AbitibiBowater in Thunder Bay apply for severance on the same day. Because one wanted to place his into an RRSP, he needed to get forms filled out at the bank. In April of that year, without warning, AbitibiBowater applied for CCAA, only days following their application for severance. The member who wanted his severance put into RRSPs will receive about 35 cents on the dollar, while the other member, who received his cheque prior to the filing of CCAA, received 100%. Where is the justice?

There are other examples of employees not receiving the money that is owed to them. We are only a small local in the bigger picture; if this is happening in one local in northern Ontario, imagine all the people who are being affected across Canada. We need to ask

ourselves how this can happen in our country. How can we let employers walk away from their employees, walk away from their agreements and commitments?

• (1215)

Nevertheless, that is why we are here. We are here to correct the injustice that workers are facing. We are here to ensure that we are doing everything in our power to move workers to the front of the line. Why not? Employees have made many sacrifices in their working careers to help build these companies. Employers have made profits from the hard work and dedication of their workers over the years. Now that we have a downturn in the economy, workers need to be recognized for their sacrifices, not made to suffer more.

That is why I'm here. I'm here on behalf of workers to ask all parties to unite to support and pass this important bill. Bill C-501 will ensure that workers receive what is owed to them, not only termination and severance pay, but also in pensions.

Thank you.

**The Chair:** Thank you, Mr. Hanlon.

Now we'll go to Madam Comeau for five minutes, please.

**Ms. Gladys Comeau (As an Individual):** You surprised me.

**The Chair:** Would you like me to go to somebody else first?

**Ms. Gladys Comeau:** It's fine.

[*Translation*]

Good afternoon, distinguished committee members. Thank you for asking me to appear before you today.

My name is Gladys Comeau. I am a simple woman of a certain age and the widow of Gilbert Comeau, a retiree who worked for Nortel loyally for 40 years.

[*English*]

I need not repeat the statistics; you have heard all this before. This is not for me. I wish to make a positive contribution to the visibly humane side in order to effectively finalize Bill C-501. For some reason, I would be insulted if I proposed that it was no good. You are here to debate, and I'm sure that you can do the appropriate thing. Modify this now for Nortel. Right this wrong. Am I right? It was a wrong.

When I first was told by the monitor's letter on January 14, 2009—22 months ago; remember that—I phoned the office of my MP, Marlene Jennings, and asked what government documentation there was in this regard. They sent me a small document on the effects of bankruptcy on company-sponsored pension plans. I asked the very nice lady if they had had many calls. She said no, that I was the first. In all the years since 1867, with all the companies gone down, I was the first to call?



**Mr. Mike Lake:** I have a point of order, Mr. Chair.

I want to point out that Marlene Jennings has not been around since 1867, just for the record.

**A voice:** Don't tell her.

**Mr. Marc Garneau:** Those are fighting words.

**Ms. Gladys Comeau:** There I go, putting my foot in my mouth. It's a certain age.

Gilbert worked for his pension. It was not a gift. Gilbert opted for a reduced pension, a negotiated pension. He signed to secure my financial protection in the event that he passed away before me. According to the agreement, the resulting survivor pension amounts to 60% of the monthly reduced payments he received.

Now that Nortel has abandoned its pension plans on September 30, we are faced—you've heard this before, but I'm saying it again, if you don't mind—with an additional projected pension reduction of 35% to 50%. *Ce n'est pas supportable, pas du tout.*

We never envisioned that Nortel would default from its contracted obligation. Now I am faced with this pension reduction and the loss of medical benefits as of December 31. I am not going to buy private insurance. It would cost too much.

I represent the Nortel pensioner survivors who could heretofore rely on a dependable budget and guaranteed medical benefits to secure an autonomous and healthy way of life. Many will suffer physically as well as financially when they no longer can afford their medication and are faced with the prospect of losing a quality of life that is the result of hard and honest work.

I am fortunate because my health is not too bad, but I don't know for how long, and I don't know when He will call me. What if I live to be 100?

The telephone calls that members of the Nortel retirees' protection committee have received are truly heartbreaking. You've heard other stories, and this is true. I am not stretching the truth.

I would say that the truth was perhaps stretched by the people who were just here. I thought, "Capital investment". Do you know the first word that came to my mind? Am I wrong? It was "threatening". I thought it was threatening. They said we won't have the workers if we don't invest. I invested \$4,000 in Nortel. That's nothing to you, but it was a lot to me. It was a risk. Of course, I lost it. Don't you, when you invest? Don't you lose it if something happens?

Lest you forget, moneys from Nortel sales are deferred wages that belong to us. I am worried. As I said, I don't know how long I will be on this earth.

Finish writing this bill. Give us the justice we deserve. Please don't tell me that you can't change all of it and you'll throw it out. Your duty is to protect us. The one thing I heard on Tuesday was the word "can't". I don't think a government would be in place if it "can't" do something—no way.

If you were in my position, would you expect anything less than what I am asking from my government? What more can I say?

Thank you.

● (1220)

**The Chair:** That is all the time you have. Thank you. I'm sorry; time is always our enemy here.

Go ahead, Mr. Phatak, for five minutes.

**Mr. Prabhakar Phatak (As an Individual):** Thank you, sir.

I would like to introduce myself. I am rather old—I am approaching 84 now—and fairly literate and numerate. These days I am an observer of the pension plan business. At one time I used to be the treasurer of a company, and for seven years I was deeply involved in pension management of a mid-sized pension fund.

For the last 20 years or so I have been receiving a pension from that same pension fund, and I have some perspectives about some government policies that have affected the fortunes of the pension industry simply by an often ignored means. I'll outline that to you in a couple of moments.

Pension fund management is a business that is essentially a liability-driven business. You employ a person, especially if he is a young man of 25 or 30, and you provide for a liability that you will pay after 40 years. He will work for you until about age 65, and then as the lifespan is expanding, you will probably keep on paying him after he retires. At one time it was for seven years. When I retired, you were expected to get your pension for about 10 years or so. Now I am virtually 84, and I have been enjoying my pension for the last 20 years. If I live long enough, I will have enjoyed a pension for about 25 to 30 years.

For us, managing that business then was a very ticklish problem. We ran after first-quartile performance. We ran after all kinds of standards that we tried to apply to results, but as I went through the logic of the pension business, I realized that it was a very dynamic situation in which we had to manage assets and liabilities in a very transparent way.

Liabilities were created first, and we had to manage them through the next 50 or 60 years by managing our assets in terms of cash flow, in terms of maturity, in terms of matching, and in terms of all kinds of little things that we had to worry about in relation to our assets. Our investment strategy at that time, in the 1980s, was gradually being developed away from mere equity performance standards and the standards you've heard about from different experts so far and towards the management of a liability-and-asset relationship.

Unfortunately, during the last 10 years this important function of pension management came under a virtual shock, simply because of the central bank's policies of reducing interest rates in the market. This policy started after 9/11 and the recession that came in. The banks started slashing interest and creating cash flows in the market. After the disaster of 2007 and 2008, they brought the interest rates down to virtually nil. We had 0% interest rates.

● (1225)

You may have heard the stories of people in the U.S. paying money to keep their deposits with the treasury free of interest for some time, an absolute reversal of the position. What that did to pensions was virtually shut off the question of the relation between fixed investment and equity investment, which is obviously more risky in this declining marketplace.

Because interest rates were down so badly, it also indirectly caused an increase in the present value of the pension liabilities.

**The Chair:** Mr. Phatak, I'll have to interrupt you there. If you need to make further points, you can make them during the question period. We have other witnesses that we have to go to.

We'll now go on to Ms. Johannink. You have five minutes, please.

**Ms. Melanie Johannink (As an Individual):** Hi, there.

I come before you today as one of many thousands of Canadian workers who have been numbed by the abuse of the existing BIA and CCAA processes. I am the person who initiated the petition presented in the House numerous times to change the BIA and the CCAA to protect all Canadians impacted by a corporate bankruptcy to have a preferred status. Unpaid severance has long-term impacts on hundreds of thousands of people, as dipping into retirement savings becomes a necessity to pay mortgages and bills to avoid personal bankruptcy while looking for new work.

On the date of termination I and other severed employees lost all severance, including Employment Standards Act minimums, benefits, and an underfunded portion of my pension. I am downloaded onto the taxpayer's purse, and employment insurance is my only income. EI means barely living above the poverty line. During this global economic recession, a time when it is so difficult for many to get a new job, the government is failing to protect the EI fund and allowing employers to escape paying any severance. Taxpaying Canadians are left to fund the shortfall, despite companies' having billions of dollars on their balance sheets and paying millions of dollars in executive bonuses.

Severed employees are a separate group with no current recourse. Bondholders have access to credit default swaps, a form of insurance available to offset the credit losses and gain windfall profits. In bankruptcy, credit default swaps are an expropriation of an individual's net worth and are not a private matter; they are a public matter impacting thousands of Canadians who are harmed by bankruptcy, yet employees have no ability as such. How can the government allow the judges involved to interpret that it is the CCAA's and BIA's intent for me to be treated like a junk bond holder? The existing archaic acts are assisting foreign investors to reap an inappropriate share of the bankruptcy assets, and with the existing BIA and CCAA, the federal government is leaving me on the street.

In the Nortel case, the U.S. and U.K. unsecured creditors are also after the Canadian purse, with lawsuits against the estate in this specific bankruptcy. EI is paying severed employees in bankruptcy with taxpayers' money, and now there is a significant potential that estate funds will leave the country, as the federal government does not step up and block these out-of-country windfalls. It's the federal government's responsibility to change the act to protect all funds that are to be paid in Canada and to ensure they are kept in Canada. Nortel is a Canadian company, and now most of the financial estate is no longer here.

The hardest hit are employee-related claims. Once Nortel went into CCAA, an unsecured creditor committee was established to work with unsecured creditor claims, enabling other organizations to generate side deals to claim most of their money owed. Employee-

related claims are the largest unsecured creditor claims at Nortel, and there is no seat at the table for us. How can this happen? The process is unjustifiable.

Our duly appointed legal representation allowed people to be personally appointed, rather than committee voted, to represent me in an agreement related to a Nortel settlement agreement. The members were forced to sign a non-disclosure agreement that prohibited communicating to us on the Nortel progress. This agreement allowed me to get \$3,000—a loan of my personal money owed to me—in exchange for allowing pensioners to have benefit coverages until the end of the year. I am now legally bound by an agreement without being consulted. To me, this is abusive. We were unable to choose our own legal counsel or our personal representation, and now we have no information on our situation because of the non-disclosure agreement. No other severed employees in other countries have been placed in this situation. Canadian severed employees' rights are now relinquished for another's gain.

I fully believe the federal government is legally able to make the CCAA and BIA amendments retroactive to all proceedings commenced prior to the implementation of an amendment in order to protect unpaid severance and unfunded pension owed for hard-working Canadians.

Unpaid severance and underfunding of my pension denies me the ability to save for my own retirement. Loss of severance means reduced retirement savings, reduced immediate savings, and a significant loss to the overall economy due to gaps and lack of process to protect employees in the existing BIA and CCAA legislation.

Severance is part of an Employment Standards Act minimum and a corporate responsibility. With existing federal acts trumping all provincial acts, we walk away with pennies as others receive a windfall. My unpaid severance and pension losses are due to an abuse; it's not a compromise I should be asked to make.

• (1230)

**The Chair:** Thank you, Madam Johannink.

We will go on now to our last witness, Mr. Hanrieder. You have five minutes, please.

**Mr. Paul Hanrieder (Professional Engineer, As an Individual):**

No other group is more deeply affected emotionally, financially, and psychologically by a bankruptcy than the employees of that company. I doubt you can fathom the heart-wrenching fear and panic that employees undergo at the moment they hear their employer has filed for creditor protection or bankruptcy. Their thoughts jump to the clear and resonating fact that they immediately have no income, benefits, or job to go to. Their job is the cornerstone of their financial security, and it is now gone. This comes to reality later that day when they find their office doors are locked. At that point, they are, by all means, thrown out onto the street. In most cases, this is without warning, planning, or compassion.

With many Canadian workers within two paycheques or less of dire financial distress, this terrifying path of discovery, disappointment, and growing disillusionment begins. As an employee of Nortel Networks for nearly 15 years, I have lived through this nightmare and can speak to every facet of this nightmare in detail.

Many severed employees will never recover from this process. With little or no money to retrain and next to nothing in EI income, many will take the first job they find and never recover financially or emotionally over the remainder of their working careers. Severance is a critical monetary payout that must be protected to allow an employee to transition during the huge upset a bankruptcy places on their lives. This is not the same as a layoff or other job loss event, as those events are legislated to provide a gentle transition to a new job or career. In a bankruptcy it is far from gentle, and it is extremely traumatizing to anyone who must go through it.

I am here to tell you that the bankruptcy process is being abused in Canada, and it needs to be fixed. This bill is a critical step in resolving this abuse and in making a safe future for Canadian workers. In Nortel's case, how can a company with over \$2.4 billion in cash be led into bankruptcy? Bankruptcy and creditor protection are now tools used by lawyers and banking institutions to dispose of employee liabilities in the interests of larger gains for commercial creditors and shareholders. In Nortel's case these devices are also a means of making bondholders a substantial profit at the expense of those same employees. A new instrument, the credit default swap, is being used to make substantial profits from the downfall of this great institution and many more.

Left unchecked, this could be a disaster for our economy and for workers in the future. I am told the bankruptcy process has been carefully designed to ensure that all creditors are treated equally. I'm here to tell you that this is the heart of the law, but it is seldom followed in practice. I've been told as an employee that I have ranking equal with every other creditor of Nortel, but this is not true. As employees we have no one representing us, even in proxy, on the creditor committees. This is apparently reserved for people who have the most expensive legal representation. I also note that key suppliers had sufficient leverage with this process to ensure that their debts were completely paid as they held hostage the production of Nortel's products in their factories.

How many commercial creditors have only one client? Most are diversified and can readily survive the bankruptcy of a client. It is quite common in the business world to accumulate a bad debt; the debt can be then written off as a tax writeoff to minimize impact to that company. An investor can write off a bad investment against

other gains as well. How many employees have more than one employer and can write off the nonpayment of their severance during their income tax filing? None.

This being said, I hope you can see that all creditors are not equal, and we as employees are honestly the very last in line at the trough. An employee has more to lose than any other creditor and has the least ability to recover from that loss, not to mention the fact that these employees are so focused on trying to recover their lives at this point that they are far from focused on trying to recover payout funds that may not appear for three or more years.

All other creditors hire a lawyer to represent their interests; legal counsel representing us was appointed and paid by Nortel. Given a choice, would you select that option? Also of note is that legal means are being used to ensure we receive the lowest possible recovery payout in comparison to any other creditor group within Nortel. Debts have been artificially built into the Canadian estate for global restructuring to ensure less money is available for employee claims. Sales proceeds of R and D divisions based in Canada have been deemed property of the global estate and not the Canadian estate. Note also that all commercial creditors have the right to file their claims in the U.S. and Canada, but employees cannot.

Since ethics and common decency do not appear to apply or can be legally justified away in any of these processes, we feel we must stand up and fight to ensure our bankruptcy laws are amended to protect us and all Canadian workers.

I personally don't want my children to grow up in a Canada that can allow their futures to be pillaged in the pursuit of profit by investment interests. It's time for Bill C-501's reforms to be enacted into law to ensure that these loopholes in the heart and soul of our Canadian bankruptcy process are no longer left open for abuse and for profit.

• (1235)

I implore you to make the decent choice and ensure that Canadian workers and their families are protected.

Thank you.

**The Chair:** Thank you, Mr. Hanrieder.

Now we'll go to the Liberal Party. We'll have one round for each party, so please share your time accordingly.

Go ahead, Mr. McTeague.

**Hon. Dan McTeague:** In this case there may be time for Mr. Rota at the end.

I'm sorry you've had to be here today. I think we all understand and we have a better picture, so we thank you for your efforts. They are not falling on deaf ears.

Mr. Phatak, you never had a chance to finish your presentation, but I thought it was interesting, as were all the others. One of the areas touched on by Ms. Johannink and Mr. Hanrieder was the issue of swaps and derivative markets. In particular, you all cited the concern you have with the credit default system.

This is not federal jurisdiction yet. It could be, but there is some debate about this, and the Province of Ontario has moved ahead, as has the U.S. government with the Dodd–Frank act, which apparently is not getting a lot of attention here in Canada.

As to specific amendments in that area, what, Mr. Phatak, would you propose the government do beyond Bill C-501? I think there is a general concern about the limitations going backwards for Nortel workers and for other workers as well.

• (1240)

**Mr. Prabhakar Phatak:** The question of going back is extremely difficult. How far you go back is a major problem. You may have to go back, if you really want to, all the way back to 2001-2002. One of the first few companies to go into a similar kind of liquidation was the Atlas steel company in 2001-2002. Do you really want to go back that far? I'm not sure.

That's the fundamental question the government will have to ask when they think of going back in time. How far has the damage reached? Is the damage still continuing? Can it be rectified?

In the case of Nortel, it's a very recent happening, and the damage can and should be rectified.

**Hon. Dan McTeague:** This bill will not do that, but you're suggesting something far greater. I think Mr. Hanrieder and Ms. Johannink suggested something a bit more in the way of giving equity or fairness by ensuring a level playing field and putting it on the same footing as other creditors.

**Mr. Prabhakar Phatak:** The question of giving absolute priority may be difficult in the current marketplace. I thought it would be reasonable to offer status equal to that of the existing secure creditors of the company. That might work. It might eliminate the pressure on the interest rates, given the panicky conditions in the market today.

If open market rates are available at all—and today is not really an open market—you will find that companies work under high interest rates too. I remember we worked at 14% interest rates for a while.

**Hon. Dan McTeague:** I suppose someone has to guarantee this at the end of the day. The marketplace cannot do it, because of all the reasons you've listed. It goes in ebbs and flows. The current system that protects creditors, swap defaults, etc., has proven itself not to be something that people recognize as secure.

I'll have to go to Mr. Rota. I know he has a question.

**Mr. Anthony Rota:** Actually, I was going to touch on derivatives.

Mrs. Comeau mentioned deferred wages, which is what pensions are. It's a liability to employees. What Mr. Wacheski said is true as well: employees have few options. This is all they have. It seems that the previous panel talked about pension rules. They talked about Domtar being good and AbitibiBowater being bad.

Mr. Hanrieder and Mr. Phatak, what restrictions can we put on pensions so that employers actually put the money where it belongs?

They should not be able to use it as a slush fund to keep operations going. I'm looking outside of Bill C-501. If we can make Bill C-501 functional, that would be great. We have to stop that money from being used as a slush fund to keep companies going. It's not an easy-credit place; it's a place where people put deferred wages. They should have that money back when they retire; they should be able to count on that money down the road.

• (1245)

**The Chair:** We're actually over time, so be as brief as you can, Mr. Hanlon.

**Mr. Joe Hanlon:** I'll be very brief. Employers have an obligation to fund, but in relation to Bill C-501, if you take AbitibiBowater in the middle of the CCAA announcing that they're going to put \$6 million as a bonus to their supervisors, why isn't that money going into individuals' pensions and severance pay, into the money that's owed the workers? Never mind the people who put the companies into the distress they are in today.

**A Voice:** Exactly!

**The Chair:** Thank you, Mr. Hanlon.

*Monsieur Bouchard, vous disposez de cinq minutes.*

[Translation]

**Mr. Robert Bouchard:** Thank you, Mr. Chair.

Good afternoon, ladies and gentlemen. Thank you for coming to testify.

You have spoken about the great difficulties that you have had since losing your respective jobs. In addition to losing your job, you have been deprived of severance pay, and even your pension has been drastically reduced.

I presume that most of you have reviewed Bill C-501. I'd like to hear your thoughts on a solution that could be proposed. What would you say if the federal government assumed the trusteeship of the pension fund, like the government of Quebec, to avoid disposal at a loss? In the case of a quick disposal, the pension funds would really be insolvent, it's true. But if there was a better period, there could be more monetary interest added to the value of the pension funds. Do you think this would provide better protection to retirees with respect to Bill C-501?

Perhaps Mr. Wacheski, Mr. Hanlon and Mr. Hanrieder could answer this question.

[English]

**Mr. Tony Wacheski:** From our perspective of being severed, we had an opportunity to extract what pension we could as we got severed. I think an approach whereby a pension is being managed to give an option to some of the pensioners is a good possibility. If the companies funded the pensions properly in the first place, we probably wouldn't be in this position.

I don't know if Paul has anything to say.

**Mr. Paul Hanrieder:** I can add a few more comments.

I think that would be a favourable opportunity. As some will be aware, the Ontario pension guarantee has stepped up to help with the Nortel pension, but a westerner or anybody outside of Ontario doesn't have those same protections. They're still getting similar impacts to their pensions, despite what Ontario has done. I think that would be a good measure; it would help all pensioners, not just the larger group.

**Mr. Joe Hanlon:** I think we need to take a look at what we can do in regard to pensions overall. We know one of the problems with all pension plans, whether they're into bankruptcy or not into bankruptcy right now, is the solvency issue. It's because of the downturn in the economy. We need to take a look at that, basically, so we don't jeopardize them.

In regard to CCAA, we need to look at whatever option is there to ensure that the worker is not going to take a penalty and take a cut. We need to have the financial institutions making dollars, but when they're making billions of dollars in profits....

When there was a downturn in the economy, we didn't see any banks across Canada go bankrupt. What we see, though, is that we have to pay \$12.95 a month for our bank services and \$1.50 to take money out of a machine. We need to look to ensure that the workers are treated fairly and properly, because they have no other opportunities. They can't raise fees here and there. They have to use everything in their power in order to survive.

If you reduce a pensioner's benefits by 20%, 30%, 40% or 50%, all you've done is basically ruin their lifestyle. Some of them can't even afford to continue to pay for their house or to look after and maintain their house. We need to look at whatever is out there in order to ensure pensioners are going to receive what they've earned over their years of employment.

[Translation]

**Mr. Robert Bouchard:** Mr. Hanlon said that the workers don't have many ways to protect themselves when a company goes bankrupt or closes.

The companies told us that if we adopted Bill C-501, there would be an increase in the cost of capital. So we are facing two situations that could be considered to be opposing. Mr. Hanlon, you were talking about means.

Would there be changes or amendments to make to Bill C-501? What could be done to give companies flexibility, but also meet the needs of those people who are concerned, like you?

• (1250)

[English]

**The Chair:** Mr. Hanlon, unfortunately the ball has been passed to you again. Can you make it very brief?

**Mr. Joe Hanlon:** I believe Bill C-501 is going in the right direction in assisting workers. I speak passionately on it, because as a rep and the president of our local I've unfortunately had to deal with the thousands of members who are facing the problems I've spoken about here today.

Can we do anything politically as a federal government to ensure that they have livelihoods, that their pensions survive, and that they get the severance and termination pay they deserve? That's all in our means to do, and we should do it.

Bill C-501 is a good start, but is there something else we can do? We should be doing that today, because the financial institutions aren't going to loan money today based on the changes of Bill C-501. I say that because it's the economy: in the forest industry, lumber prices are down in the toilet—

**The Chair:** I'm sorry, Mr. Hanlon. Thank you.

**Mr. Joe Hanlon:** That'll change their minds.

**The Chair:** Mr. Rafferty is next. You have five minutes, please.

Mr. Rafferty might allow you to continue.

I apologize. It's Mr. Lake first, and then Mr. Rafferty.

**Mr. John Rafferty:** I thought I had 10 minutes there.

**Some hon. members:** Oh, oh!

**Mr. Mike Lake:** It always feels like 10 minutes when you talk.

**Some hon. members:** Oh, oh!

**Mr. Mike Lake:** I'm just kidding, Mr. Rafferty.

This is an important part of the process for us. We have a unique panel in this set-up. We're hearing from people who have been impacted. I think it's very important for us to have the opportunity to hear from all of you.

One of the things we've heard as we've gone through the first few panels is that this bill clearly has no retroactive effect. Does everybody have a clear understanding of that? Everybody's nodding. Good.

There's another thing I want to clarify about bankruptcy. So often it seems to get distilled down to a "workers versus big companies" concept, but the reality is that it's far more complicated. Let's face it: in relation to the Nortel company, many of the owners of Nortel were Canadians who had Nortel stock in their RRSPs or pension funds. One hand's up there. I'm sure most of you were in that boat.

Many of those pension funds that held Nortel stocks would have been union pension funds, so the workers Mr. Hanlon talks about would have been impacted by the bankruptcy as well. It's obviously very complex.

Unfortunately, we only get five minutes. Mr. Hanrieder, how old were you when you started working for Nortel, if you don't mind my asking?

**Mr. Paul Hanrieder:** I started basically out of school, so I was around 22.

**Mr. Mike Lake:** I'm just going to throw the ball to you. Let's say you were talking to someone who was in a circumstance similar to yours when you were at that age and stage in your life, someone who was going to work for a big company similar to Nortel, one that had a defined pension plan and all of those things. I know at that age you probably never had any idea that this would happen. It never would have crossed your mind.

**Mr. Paul Hanrieder:** No.

**Mr. Mike Lake:** What would you tell that person if you had the chance to talk to them now?

**Mr. Paul Hanrieder:** It's a difficult one. You come out of school and want to work for a good employer. You plan to work for that employer for the rest of your life because it's a company with a good pension plan and those kinds of things. Unfortunately, with the way the markets have changed, investment opportunities, etc., have all forced companies to be somewhat less loyal to their employees, so now the employees have to start looking out for themselves.

When I was with Nortel, you always thought the company had your best interests at heart. It's very clear at this point that those best interests were where the money and the shareholders and other things were. Employees have to watch out for that and be able to survive that kind of thing, because there are no other mechanisms. EI, obviously, isn't the case.

Anybody who worked for Nortel was almost a fanatic about being at Nortel. You were fully invested in the company. I know people who gave up their marriages and other things to work overtime for Nortel. They just pillaged their lives because they were so invested in that company. Unfortunately we were multiply invested. We had stock options, RRSPs, retirement savings, etc., all in Nortel, so if anything, we were more than three times affected by this.

• (1255)

**Mr. Tony Wacheski:** If I could sum it up, Paul, what I've learned is this: trust no one.

Two months before our company declares bankruptcy, our CIO stood in front of the whole company, and when asked if there was any chance we could be going bankrupt, answered, "No, there is no chance. We have money to lead us through for three years".

Then we were going to lay off half of my division, and at the eleventh hour they said, "No, let's not lay them off". A week later they declared bankruptcy. They were just avoiding.... I think they knew what they were doing all the time. It was planned well ahead. I'm sure they talked about it with all their lawyers and everybody else.

In summary, trust no one.

**Mr. Mike Lake:** Trust is an issue, obviously, and we've heard that from several stakeholders.

Mr. Hanrieder, being prepared for other circumstances is another thing, preparing on the side. Did you have no idea you needed to do that? It would never have crossed your mind at the time?

**Mr. Paul Hanrieder:** No. Exactly as Tony said, we were very firmly told, "Don't worry". There were a lot of people who were very

concerned and they were looking for other employment. At that time the economy was much better, and if they had left, they would have landed much better on their feet. They duped us into basically sticking around and holding out to the point of bankruptcy.

I was actually terminated from Nortel, and I was within two weeks of receiving.... Nortel had a policy of giving two months of pay to help find a job. I was within two weeks of receiving my cheque for \$87,000. I had not worked for the company for a month and a half when the bankruptcy happened.

**Mr. Mike Lake:** My time is up, but I just want to thank you for taking the time to come today.

**The Chair:** Thank you very much.

I just want to advise members before you go—some may have to go—that I have an important piece of information I'd like to share with you in camera after we dismiss the witnesses, so we'll try to clear the room as quickly as we can. I'll give you that information as quickly as possible. I have to go to another committee as well.

I'm conscious that you have time left, Mr. Rafferty.

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

First of all, thank you for coming.

Trust is a very important word. As I look out the window and I see Centre Block there, I want to assure everybody on this panel that I have had lots of discussions with not only many around this table but also with many other MPs who are not here today, and there is a will among MPs to remedy the situation, just so you know. That's among everyone here and everyone else I've talked to, so trust us.

**Voices:** Oh, oh!

**Mr. John Rafferty:** I can only go with what they tell me and with what everybody else has told me, and there really is a will. There is also a recognition that there is some urgency. We've just been through a recession—and Mr. Lake has already talked about the fragility of that—and the economists are telling us that we're in for a rough 2011. We don't know what's going to happen, so there is some urgency to doing something here and now on this.

To be clear for everyone, I'd like to ask all of you to relate a very short story about what has happened to someone because of what has happened, in particular with severance and termination, but first I want to ask Mr. Hanlon something. When we're talking about termination and severance moneys, what sort of dollar figure would that mean, just so everybody knows? What sort of dollar figure are we talking about for someone who has worked for Sapawe Lumber, which is a Buchanan company that went bankrupt in my riding?

**Mr. Joe Hanlon:** We're talking about weeks of service, so it's approximately \$1,000 per week of service. The legislation in Ontario is capped at 26 weeks per year of service. Some of our collective agreements are capped at 52 weeks, so the termination could be up to \$52,000. Our termination pay is eight weeks for every year of service. It depends on whether you are going to do a mass layoff.

We're not talking huge dollars and cents. I mean no disrespect to the pensions—the pensions need to be funded also—but we're not talking the same dollars as a pension plan when it comes to severance and termination.

• (1300)

**Mr. John Rafferty:** Let's say I worked for that forest company all my life. I left school and started at 18, let's say, and worked 40 years. What sort of package would I have been expecting, really, since the age of 18, in terms of severance and termination?

**Mr. Joe Hanlon:** You mean for severance and termination.

**Mr. John Rafferty:** I don't mean pension, but just those two.

**Mr. Joe Hanlon:** If we're talking severance and termination, with 40 years you're probably talking at least \$40,000 to \$50,000.

**Mr. John Rafferty:** In the scheme of things, as you said, for a pension that's not a lot of money, but that's a lot of money when you expect to have a future. You expect to have a pension and you expect to have some termination benefits and so on.

Maybe we could start with Ms. Johannink for a quick story about how this has affected her, and maybe Mr. Hanlon could add a story too.

**Ms. Melanie Johannink:** Sure. I was at Nortel for 18 years. I got married and had two kids. My kids are now seven and nine. I'm still not working. It's been 18 months. I am trying to look for a job very aggressively, but there's not much out there.

I look at my two kids and I say that I have to hide this as much as I can so they don't see it. The one thing I'm teaching them is to stand up and fight for their rights. At the end of the day it will hopefully all come through and they will have a better world.

**Mr. John Rafferty:** Would you comment, Mr. Hanlon?

**Mr. Joe Hanlon:** Just to get a sense of understanding of what happens in northern Ontario, I'm going to use the community of White River. There are 1,000 people who live in that community. We had 240 people who worked in the mill and the woodlands, so 24% of the total population lost their jobs. If that happened here in Ottawa today, there would be mass hysteria. Every party of the government would be there. Everybody would be doing what they can. If it's in northern Ontario, it's a story for a day or two, and then it's all forgotten. Let's not forget those people.

I appreciate what John has just said about all parties being interested in doing something to fix this. I really appreciate all the work that you're going to do. It will assist our members and assist the people from northern Ontario and across Canada.

**Mr. John Rafferty:** Mr. Hanrieder, Ms. Comeau, or Mr. Wacheski, do you have comments?

**Mr. Tony Wacheski:** The severance claim for Nortel is \$165 million. The lawyer fees are expected to be over \$300 million. If we just change the law to give us our severance when we get laid off, we'd save the creditors a lot of money and everything would be much better.

**The Chair:** Thank you very much, Madame Comeau. Thank you to Mr. Wacheski, Ms. Johannink, Mr. Hanrieder, Mr. Phatak, and Mr. Hanlon. I appreciate your being here and I apologize for the brevity of the required statements and questions.

We'll suspend for two minutes and then we'll go in camera.

*[Proceedings continue in camera]*

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