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Chair: Mr. Peter Fonseca



Standing Committee on Finance

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• (1700)

[English]

The Chair (Mr. Peter Fonseca (Mississauga East—Cooksville, Lib.)): I call this meeting to order.

Welcome to meeting number 62 of the House of Commons Standing Committee on Finance.

Pursuant to the House order of reference adopted on Wednesday, June 22, 2022, the committee is meeting to discuss Bill C-228, an act to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act and the Pension Benefits Standards Act, 1985.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Members are attending in person in the room and remotely using the Zoom application.

I would like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mike, and please mute yourself when you are not speaking. With regard to interpretation for those on Zoom, you have the choice, at the bottom of your screen, of floor, English or French. Those in the room can use the earpiece and select the desired channel.

I will remind you that all comments should be addressed through the chair. Members in the room, if you wish to speak, please raise your hand. Members on Zoom, please use the "raise hand" function. The clerk and I will manage the speaking order as well as we can. We appreciate your patience and understanding in this regard.

Members, before we move on to the election of the vice-chair, on the collective behalf of the finance committee, we would like to thank and take this opportunity to pay our respects and tribute to our friend and former colleague, the late Honourable Bill Blaikie, our friend MP Daniel Blaikie's father. The speeches in the House today were truly moving. We're with you, Daniel, in honouring and celebrating your father today.

Also, members, I do recognize that during our last meeting we had to end abruptly, cutting short MP Blaikie's time, owing to House resource constraints. As a mutual moment of courtesy on our behalf, I'd like to allow MP Blaikie the two-plus minutes of his remaining time.

MP Blaikie, the floor is yours.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Thank you very much for that, on both counts, Mr. Chair.

You may recall that, at that time, I moved a motion with respect to how to dispense with Bill C-228. It's a little bit stale, given that we're hearing from witnesses today—which is wonderful, and I'm very glad to have them here—but I wonder if I might have unanimous consent from the committee to replace that motion that was on the table with the following, and perhaps we could pass it swiftly: that the committee dedicate the meetings of October 24 and 26 to pre-budget consultation hearings and dispense with clause-by-clause consideration of Bill C-228 on Monday, October 31.

I'm happy to motivate that, if you'd like, Mr. Chair. I think it speaks for itself in the context of the last day's discussion. If there are any questions, I'm happy to answer them, but if folks around the table are comfortable with that, then we could perhaps proceed to the decision.

The Chair: Thank you, MP Blaikie.

I am looking around the room, and I'm seeing the nodding of heads. We have unanimous consent.

(Motion agreed to [See Minutes of Proceedings])

Mr. Daniel Blaikie: Thank you.

The Chair: Thank you.

Now, members, we're moving to the election of the vice-chair. We have a vacancy in the vice-chair position.

The clerk will now preside over the election of our new vice-chair.

The Clerk of the Committee (Ms. Carine Grand-Jean): Pursuant to Standing Order 106(2), the first vice-chair must be a member of the official opposition.

I am now prepared to receive motions for the first vice-chair.

Mr. Marty Morantz (Charleswood—St. James—Assiniboia—Headingley, CPC): I'm honoured to nominate my friend, Jasraj Singh Hallan, for the vice-chair position.

The Clerk: It has been moved by Mr. Marty Morantz that Mr. Jasraj Singh Hallan be elected as the first vice-chair of the committee.

Are there any further motions?

Is it the pleasure of the committee to adopt the motion?

(Motion agreed to)

The Clerk: I declare the motion carried and Mr. Jasraj Singh Hallan elected first vice-chair of the committee.

Some hon. members: Hear, hear!

The Chair: Congratulations to the vice-chair, MP Hallan.

Would you like to say a few words? No. Okay.

Now, we are going to—

[*Translation*]

Mr. Gabriel Ste-Marie (Joliette, BQ): Mr. Chair, I would like to make the following motion regarding the committee's work on Bill C-228...

[*English*]

The Chair: One moment. I'm not getting interpretation.

[*Translation*]

Mr. Gabriel Ste-Marie: Can you hear me now, Mr. Chair?

[*English*]

The Chair: Yes.

[*Translation*]

Mr. Gabriel Ste-Marie: The clerk has just emailed you the motion I want to make. If you need time to study it and discuss it, just let me know, but I don't think it's a problem. The motion reads as follows:

That, for its study of Bill C-228, in the interest of concision and efficiency, the committee consider all the evidence and documents gathered by the Standing Committee on Industry, Science and Technology during the 2nd Session of the 43rd Parliament as part of its study of Bill C-253.

You may recall that a bill similar to Bill C-228 had been tabled and that the Standing Committee on Industry, Science and Technology had studied this issue thoroughly. Our committee should consider everything that was done by the previous committee on Bill C-253.

The Chair: Thank you, Mr. Ste-Marie.

[*English*]

Is there any discussion?

Is there agreement on the motion that was put forward?

(Motion agreed to)

The Chair: Thank you, MP Ste-Marie.

Yes, MP Lawrence.

Mr. Philip Lawrence (Northumberland—Peterborough South, CPC): Mr. Chair, perhaps you could indulge me here. I'm just wondering if we could move quickly, as I believe it's been agreed upon by all the parties, to approve Mr. Chambers' motion on the luxury tax. I think it's a bit of housekeeping that's been hanging out there for a while. I believe all the parties have agreed to it.

• (1705)

The Chair: Thank you, MP Lawrence.

I think Mr. Chambers had some amendments to the luxury tax. I'm looking to the members in terms of agreement.

Are members in agreement?

Yes, MP Dzerowicz.

Ms. Julie Dzerowicz (Davenport, Lib.): Mr. Chair, I believe it was amended. Are we able to read out what we have, just to make sure we are agreeing to what was amended? Is that okay?

The Chair: Has everyone received it? Has it been distributed?

I do not have it before me yet.

Mr. Clerk, can you please read it?

The Clerk of the Committee (Mr. Alexandre Roger): Okay. I will read it in English.

The motion states:

That, with regard to implementation of Part 4, the Select Luxury Items Tax Act of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures, the Department of Finance provide the following to the House of Commons Standing Committee of Finance:

On or before March 1st, 2023, the Department of Finance provide a detailed written "economic impact study" on the implementation of the Select Luxury Items Tax Act ("the tax"), including a breakdown of the expected impact on employment and expected tax revenue for each asset class. The aforementioned study should also provide an estimate on the total number of items (dollars and units) affected by the new tax (by asset class) compared to the previous three years.

On or before December 9th the Department of Finance provide a detailed written "progress report" on efforts by the Department of Finance to address issues with the implementation of the Select Luxury Items Tax Act—including a summary of discussions and issues raised by impacted sectors.

Additionally, by December 16th the Department of Finance appear before the House of Commons Standing Committee of Finance for one hour to discuss the implementation of Select Luxury Items Tax Act, which appearance should occur after the interim report has been tabled.

Ms. Julie Dzerowicz: Thank you.

The Chair: Members, I'm looking again for approval.

(Motion agreed to)

The Chair: That is carried.

Now we'll move to our witnesses. We have until seven o'clock.

I would like to welcome our witnesses. From the Association of Canadian Pension Management, we have Andrea Boctor, partner and chair of pensions and benefits at Osler LLP; Ross Dunlop, executive vice-president, Ellement Consulting Group; and Ric Marrero, chief executive officer, Association of Canadian Pension Management.

From the Canadian Association of Retired Persons, we have Bill VanGorder, chief operating officer and chief policy officer. Welcome.

We also have Alex Gray, senior director, fiscal and financial services policy, Canadian Chamber of Commerce; Michael Powell, president, Canadian Federation of Pensioners; Siobhán Vipond, executive vice-president, and Chris Roberts, director of social economic policy, Canadian Labour Congress; and Nicolas Lapierre, area coordinator, United Steelworkers.

Welcome to all our witnesses.

We will now have an opportunity to hear remarks from our witnesses.

The Association of Canadian Pension Management is on first, for five minutes.

• (1710)

Mr. Ric Marrero (Chief Executive Officer, Association of Canadian Pension Management): Thank you, Mr. Chair.

Thank you to the committee for allowing us to get our point across. We will keep it very brief.

I've been with ACPM since 2012. I spent the last 30 years in national senior management in the charitable and private sectors.

We are a politically neutral, non-profit national organization. Our membership contains many of the largest DB plans in Canada. Our private and public sector members together manage plans totalling trillions of dollars, with millions of plan members.

I would like to introduce my volunteer colleagues.

Ross Dunlop is the executive vice-president of Ellement Consulting Group. Ross is a pension actuary and investment consultant who has, for over 30 years, provided advice to pension plan sponsors and trustees. He has experience in winding up pension plans, pension plan provision design, investment strategy design, and assisting clients in hiring and terminating investment managers. He is the past president of ACPM and has been an ACPM board member for over 10 years.

Andrea Boctor is a partner and the national chair of the pension and benefits group at Osler, Hoskin & Harcourt LLB. She has practised pension and benefit law for the past 20 years. Her practice has included all types of stakeholders, such as debtors, creditors, monitors, receivers and plan windup administrators appointed by pension regulators. She has taught pension law at Queen's University and pension insolvency law at the University of Toronto and Osgoode Professional Development. She is a past chair and current member of the ACPM federal council, which deals with federally regulated plans.

I would now like to turn it over to Ross Dunlop.

Mr. Ross Dunlop (Executive Vice-President, Ellement Consulting Group, Association of Canadian Pension Management): Thank you, Ric.

Good afternoon, everybody.

There is no other organization in Canada that has done more work promoting retirement security for plan members than ACPM, while at the same time creating an environment where plan sponsors continue to offer pension plans.

ACPM clearly understands the unfortunate situation when a plan sponsor fails and plan members might not receive 100% of their benefit entitlement. Providing secure benefits to plan members is something ACPM has been working on for decades.

ACPM believes that DB pension plans are very valuable benefits for plan members, but we need to recognize that employers choose voluntarily to create and support these plans. Pension plan coverage—particularly defined benefit—has declined in Canada fairly precipitously over the last number of years. Public sector DB plan membership in Canada—this is from StatsCan—was about 82% 20 years ago. It's 82% today. Twenty years ago, private sector DB plan membership was about 21%. Currently, it's around 9%. It's the 9% we're talking about today. That's the worry at ACPM: the deterioration of the 9%.

Our specific concerns relate to the fact that employers need credit and loans to operate, and that banks and bond holders will not lend, or charge significantly higher interest rates, if they are subordinate to pension plans. This will incent board CEOs and CFOs to terminate pension plans that are subject to this legislation. Even those employers who would never find themselves in a bankruptcy situation will be incented to terminate these plans and wind them up.

Although Bill C-228 has the admirable goal of giving priority to plan members in the event of a bankruptcy, we believe what will happen is that plans will be terminated. Bill C-228 would apply to very few plans, because those plans will have been wound up.

At this point, I'm going to hand things over to my colleague Andrea Boctor.

Ms. Andrea Boctor (Partner, Chair, Pensions and Benefits, Osler LLP, Association of Canadian Pension Management): Thanks, Ross.

Our goal in appearing before you today is to share with you other options that can help this committee achieve its important goal, but without sacrificing that 9%, or about 1.2 million private sector workers in Canada, who are presently accruing defined benefit pensions.

The pension industry has evolved in the last many years. We have tools in our tool box to enhance pension security without resorting to a superpriority. In my experience, where pensions have been cut after an employer insolvency, the cause of the cut is not that there's not enough money to provide the pension; the cause is the way we wind up pension plans in Canada. We immediately buy annuities from an insurance company to replicate the pension benefit. Annuities are fully guaranteed, but they are backed by low-yielding assets, and are therefore expensive relative to other options.

In our materials, we outline solutions that parliamentarians could consider instead. They are based on real, recent examples of Canadian successes. An example is allowing for the appointment of a special pensions insolvency trustee to manage or merge pension assets and liabilities based in part on the Stelco model, where pensioners received 100% of their pension, notwithstanding a large windup deficit when the company filed for CCAA protection.

Other examples are asset pooling based on the great success of the model deployed in Quebec for members of insolvent company plans, or variable and advanced life annuities, new tools recently added to the Income Tax Act. These solutions do more with the dollars that are there than simply rush to buy an annuity and crystallize a deficit, and none would disadvantage the 9% of private sector employees still covered by a defined benefit pension plan in Canada.

If the committee is nevertheless committed to a superpriority approach, we've made a number of suggestions in our materials to lessen the blow this bill will levy against existing defined benefit plans, as well as a number of technical comments, which we are happy to speak to.

• (1715)

The Chair: Thank you for your opening remarks.

Now we'll hear from the Canadian Association of Retired Persons, CARP. We have Bill VanGorder with us.

Mr. Bill VanGorder (Chief Operating Officer and Chief Policy Officer, Canadian Association of Retired Persons): Thank you, Mr. Chairman and members of the committee, for this opportunity to speak to you today on Bill C-228.

My name is Bill VanGorder. I'm the chief operating officer of CARP, which is also known as the Canadian Association of Retired Persons. We're a national, non-partisan and not-for-profit organization that advocates for financial security, protection from ageism and improved health care for Canadians as they age. We have over 330,000 paid members in 30 chapters across Canada.

CARP seeks to play an active role in the creation of policy and legislation that impact older Canadians. CARP advocates on behalf of older Canadians at all levels of government and collaborates with other organizations on health, ageism, housing and financial issues, such as the issue we are on today.

CARP has been fighting for the protection of pensioners for over 20 years. When we created the Nova Scotia chapter of CARP, which I was involved in 20 years ago, one of the first planks in our policy platform was this issue. Our first board of directors had members of the Air Canada pensioners association, whose lives had been severely impacted by the Air Canada insolvency at that time. Pension protection continues to be one of CARP's seven advocacy priorities in 2022-23.

We have 330,000 paid members of CARP across Canada and we survey them on a regular basis. Their financial security continues to be their number one concern. They're all concerned about health, as all of us are, but certainly, their number one concern is whether or not they're going to have enough money to live on for the rest of

their lives. Seniors are anxious that they're just not going to be able to do that.

Frankly, our members can't believe that after 20 years of advocacy, the current legislation allows the assets of a bankrupt or insolvent company to be divided among other secured creditors such as banks, the CRA and others, but doesn't move pensioners closer to the front of the line to improve their likelihood of receiving their full pension—a pension they've earned and planned for throughout their working careers. These aren't gifts or unearned benefits, but deferred wages that are earned by Canadians while they work and payable to them when they retire.

The changes that were made in the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act back in 2018 weren't enough. The current law is still unfair to older Canadians.

Inflation is anywhere from 5% to 7%. Food prices alone are up as much as 30%. The inequities across the country have to be addressed, and they have to be addressed now. These are changes that should have been made 20 years ago. Older Canadians are demanding action now. You know, if you're 80 years old and people tell you you have to wait three or four years for something to happen, that just doesn't wash.

CARP recommends actions that would protect pension investments with insurance policies that insure 100% of pension liabilities, and would ensure protection of seniors by amending the act to give pensioners priority status.

I'm not going to take your time by repeating the content of the letter that we and the other pensioners and seniors organizations sent you on September 21. I have other, more expert people in finance who are going to speak later from our group. CARP does want to emphasize that changes in Canada's laws must give underfunded pensions priority over large predators and halt the payout of executive bonuses in bankruptcy and insolvency issues.

The cases of Air Canada, Sears in 2017 and Nortel in 2009 are strikingly unfortunate examples of how tens of thousands of retirees are treated in bankruptcy and insolvency proceedings compared to secured financial lenders such as banks, bondholders and other stakeholders.

Protection of the financial security of older Canadian workers should be the absolute priority of this committee and the Parliament of Canada.

Thank you on behalf of the thousands of CARP members across the country who are looking for action today.

• (1720)

The Chair: Thank you, Mr. VanGorder.

We just heard from a number of our witnesses virtually. It's great that we're able to do that. People can come to us from many different locales.

Before us, here in the House, we have the Canadian Chamber of Commerce. Mr. Alex Gray has opening remarks for his organization.

Mr. Alex Gray (Senior Director, Fiscal and Financial Services Policy, Canadian Chamber of Commerce): Good evening.

Thank you for having me here. I appreciate the opportunity to appear before this committee today.

Improving retirement security for pension plan members is a laudable goal, yet as Canadians continue to have concerns about their financial security in retirement, it is essential that Parliament not address this challenge in a manner that would negatively affect Canadian businesses, especially those that sponsor DB plans.

The legislative mechanisms proposed in Bill C-228 would impose material and adverse consequences on Canadian businesses of all sizes. I'll begin by discussing some of these unintended consequences. To end my remarks, I'll propose solutions that would protect retirement security without burdening the Canadian economy.

To start, Bill C-228 would increase the cost of credit for Canadian businesses that offer DB plans. Struggling companies would have greater difficulty securing loans, thereby undermining a core objective of insolvency legislation: to encourage successful restructurings that allow companies to continue employing Canadians, thereby mitigating the social and economic consequences of liquidations. Additionally, DB plan sponsors would reassess continuing to offer DB plans, thereby harming retirement security across the country.

As we prepare to enter unquestionably turbulent economic times, I must underscore that economic recovery depends on businesses' ability to access affordable credit so they can invest and grow. Bill C-228 would also force lenders to require more collateral and restrict companies' abilities to draw down credit facilities should a pension insolvency come into question. This is because financial institutions ensure systemic stability in part by accurately maintaining prudential regulatory requirements to prevent lending losses. At best, increasing the cost of doing business would impose a competitive disadvantage on Canadian companies that provide DB plans to their employees relative to their non-Canadian competitors. At worst, lenders could refuse to lend to said companies.

Additionally, Bill C-228 would increase the cost of doing business in Canada by imposing more stringent reporting requirements on companies maintaining DB plans. This is because creditors would face challenges in determining exposure to pension deficiencies. In the end, lenders would find themselves unable to make real-time credit decisions because solvency deficiencies are ultimately forecasts based on factors over which lenders have no control. I believe it would behoove the committee to hear from members of the lending community during this study.

I must also stress the consequences of imposing Bill C-228 on a timeline shorter than seven years. Minimizing the fallout for businesses would require considering the length of typical bargaining

periods, generally three to five years, and pension plan valuation cycles, generally three years, as well as relevant notice periods to plan members on plan reforms, generally two years.

Those businesses that would need to move to defined contribution pension plans as a result of this legislation would incur significant costs. In such a scenario, DB plan members who are close to retirement would also need a great deal of time to settle with their employers. Additionally, any coming into force date should consider the progress of insolvency proceedings cycles, rather than the current approach of being imposed on a particular calendar date.

By way of providing constructive solutions to providing retirement income that would not burden Canadian businesses, which already operate in a time of economic precarity, the Canadian Chamber of Commerce would encourage amending the BIA and CCAA to allow for the appointment of pension insolvency trustees to wind down insolvent employers' pension plans. Said trustees would have the authority to maximize available pension dollars. This model, as has previously been mentioned, has been successfully deployed in Stelco pension plan members' receipt of full pension payments.

Another solution the government could study is paving the way for large multi-employer pension plans to subsume smaller pension plans from insolvent companies in order to leverage economies of scale. A pension insolvency trustee could also be empowered to merge insolvent company plans where deemed appropriate.

Upsetting the order of priority in insolvencies would impose adverse and unintended economic consequences across the economy, especially absent a broader consideration of Canada's insolvency legislative framework. Ultimately, the best solution for pensioners and employees of a distressed company is to encourage successful restructuring so that it can keep paying salaries and making contributions to its pension plan. If passed, Bill C-228 would discourage this universally desirable outcome, despite its merits and despite its laudable intent.

Thank you. I look forward to your questions.

• (1725)

The Chair: Thank you, Mr. Gray.

Now we'll hear from the Canadian Federation of Pensioners and Mr. Michael Powell.

Mr. Michael Powell (President, Canadian Federation of Pensioners): Thank you.

We've submitted the specific changes we believe need to be made to Bill C-228, so I won't discuss those here.

I will be talking about some of the points included in the submission that we made supported by CFP and five other leading Canadians seniors' advocacy organizations.

The fundamental challenge for this committee is to choose between the status quo and extending superpriority in insolvency to the unfunded pension liability. We know the status quo, the intended consequences. We've heard of the personal stories and tragedies of those impacted. CFP estimates that since 1982, 250,000 vulnerable Canadian seniors have had their income reduced for the rest of their lives.

We've all heard the unintended consequences. Here is a quote that I have: "there could be a significant negative impact on Canadian productivity and employment since businesses...will have a tougher time getting financing, and their costs could rise dramatically." If true, those consequences would have a significant impact on the Canadian economy, a measurable impact. That's why I don't understand why we're having this discussion. That quote is from the 2005 committee review of Bill C-55, the Wage Earner Protection Program Act.

WEPP extended superpriority to unpaid wages and other items in insolvency and was passed in 2005. Note that WEPP impacts every insolvency; extending superpriority to the unfunded pension liability would only impact the relatively small and declining number of companies with defined benefit pensions. Where are the binders of evidence of Canada's poor economic performance versus competitors since 2005? If these charges were true, we should be towards the bottom in GDP growth, at the top in unemployment, at the top in companies filing for insolvency, and at the top in liquidations. Where is the data?

The reality is that superpriority would simply put a price on abandoning pensions in insolvency. Today, the minute a company files, the pension deficit disappears like a puff of smoke.

Be honest: Knowing there's no penalty for underfunding a pension and no obligation that survives insolvency, what CEO is going to fully fund their pension? Allocating funds to the pension instead of, for example, dividends, when not legally required, would get you fired. As Mr. Schaan said on Monday, companies only do what is required. Another comment from Monday said that federally regulated pensions are not required to be 100% solvency funded, at least not as I understand the term "required".

Statistics support this. From 2012 to 2020, on average, 73% of federally regulated plans were under 100% solvency; that's not required. As mentioned on Monday, the 2021 median funding was 109%, which means today is the time to act, because when that gap is small to get to full funding and many plans are fully funded, then companies can de-risk their pension and pose no threat to lenders going in the future.

We also know that companies are going to regulators and looking for contribution holidays, looking to reduce those solvency levels. Now is the time to step in and stop that. If you change the rules, corporate behaviour will change.

This was the case with Air Canada. At the time of its insolvency in 2003, Air Canada had a \$1.3-billion pension deficit. Under ministry monitoring, by 2013 that deficit ballooned to \$4.2 billion. In 2013, the finance minister at the time, Jim Flaherty, agreed to further relief, subject to restrictions until the pension was fully funded. Executive compensation increases, special bonuses, and other incentive plans were curtailed. The airline was prevented from paying dividends and buying back stock. With those restrictions in place, that pension was fully funded by May 2015. Monitor, and companies do what is required; change the rules, and behaviour will change.

In Canada, we have two levels of legislation, and pensions get whipsawed between them. We have insolvency legislation, and underneath it 11 different pension benefit acts.

ACPM—they're not unique, but they're here so I'm going to use them as an example—argue that pensions shouldn't be protected in insolvency, that insolvency is not the place, yet they advocate for the removal of solvency requirements in pension regulations. The most recent one I know of was in Saskatchewan a couple of years ago. It's online and you can find it. We know that anything less than 100% solvency funding increases the risk to pensioners. It leaves pensioners as acceptable collateral damage in insolvency.

Since 2005, proposed solutions from governments and the greater pension industry have all been based on shifting risk from the companies that willingly accepted the obligation to the pensioners without obtaining the pensioners' informed consent. This is the very definition of elder financial abuse.

Superpriority would at least partly address the power imbalance in insolvency.

• (1730)

This committee will determine whether to continue the status quo or to protect vulnerable Canadian seniors.

Thank you.

The Chair: Thank you, Mr. Powell.

Now we will hear from the Canadian Labour Congress and Ms. Siobhán Vipond for five minutes, please.

Ms. Siobhan Vipond (Executive Vice-President, Canadian Labour Congress): Thank you, Mr. Chair. Hello to you and all the committee members. Thank you for this opportunity to appear in front of you.

My name is Siobhán Vipond, and I'm the executive vice-president of the Canadian Labour Congress, Canada's largest central labour body. We, as Canada's unions, advocate on national issues on behalf of all workers from coast to coast to coast.

Pensions are essential to the financial security and well-being of working people. Canadian research shows that income from an employer pension plan can make the difference between financial security in retirement and a decline in living standards, compared to pre-retirement levels. Next to their homes, pension savings are one of the most important pools of assets that workers accumulate over their lifetimes.

It's important to remember that workplace pensions are not gifts from employers. Pension benefits are deferred wages. Pensions are earned and paid for by workers, and workers depend on that money being there for them when they retire. Employers are legally obligated to provide those pensions when a worker retires. It is frustrating and unjust that this legal obligation can be torn up when a company enters insolvency.

When a company enters insolvency proceedings, workers and pensioners go to the back of the line. They are essentially treated like involuntary unsecured creditors of the firm, behind the banks and the secured creditors. No one asked workers and plan members if they would lend the value of their pension benefits to their employer. It's quite the opposite. Plan members trust that their employer will live up to the terms of the pension bargain.

Unlike commercial creditors, employees and pensioners are generally unable to protect themselves against the risk of their employer's insolvency. If their previous employer enters bankruptcy, pensioners cannot easily return to work and find new and additional sources of income.

In 2018, Sears Canada pensioners outside Ontario learned that their pension benefits would be reduced by 30%. One Sears retiree in Calgary—which happens to be my hometown—who had worked for 44 years took a monthly pension cut of \$800 a month. After a lifetime of work and a lifetime of pension contributions, his pension was slashed in retirement.

Another retiree, who had worked for 35 years, saw his pension drop by \$450. In anticipation of benefit reductions, this 72-year-old pensioner took a job at Home Depot as a greeter. For many others, taking a minimum-wage job to make up for pension reductions is not a realistic option, nor should it be an expectation.

The way pensions and benefits are treated in insolvency is outrageous and unfair. Despite this, the government has not taken steps to extend protections to pensioners and plan members.

The government's legislated changes in response to the Sears Canada debacle were woefully inadequate. In 2019, Bill C-97 made minor changes around the edges of the problem. None of these legislated changes would have prevented another Sears Canada, or the pain and suffering it caused for Sears pensioners.

This is especially frustrating since the evidence shows that many companies with underfunded pension plans could eliminate the solvency deficiencies of their plans by allocating just a portion of their shareholders' payouts to the pension plan. Studies show that many

firms consciously choose to reward shareholders and senior executives, boosting the stock prices, rather than fully funding their pension plans. This leaves pensioners and plan members at risk if the company becomes insolvent.

Over the years, we at the CLC have supported numerous NDP and Bloc members' bills. None of these bills have been allowed to proceed. For years, we have urged governments to put in place national mandatory pension insurance akin to the Ontario pension benefits guarantee fund. We have been unable to get traction on this idea.

The CLC supports the passage of the revised Bill C-228, and we support the bill's proposed changes to the CCAA and BIA. The proposed amendments to the Pension Benefits Standards Act are not well conceived and should be deleted from Bill C-228 in their entirety.

We will be very happy to answer any questions you may have. At the centre of this issue are the workers and pensioners across this country.

Thank you for your attention.

• (1735)

The Chair: Thank you, Ms. Vipond and the CLC for your opening remarks.

Now we will go to the United Steelworkers via video conference. I have Nicolas Lapierre, who is with us for five minutes.

[*Translation*]

Mr. Nicolas Lapierre (Area Coordinator, United Steelworkers): Thank you very much, Mr. Chair.

Good evening to all the members of the committee, and thank you for your attention.

The United Steelworkers union represents 225,000 workers across Canada, 60,000 in the province of Quebec alone.

In 2017, 2018 and 2019, the USW met with more than 250 members of Parliament and senators to raise awareness of the need to amend the Companies' Creditors Arrangement Act and the Bankruptcy and Insolvency Act. For six weeks, more than 30 activists were on the Hill to raise awareness. They discussed the discussions and problems that arise when a company declares bankruptcy or goes into receivership.

The most striking example was Cliffs Natural Resources, a North Shore-based mining company, which placed itself under creditor protection. As a result, 1,700 retired workers and surviving spouses have seen their pension benefits reduced by 21% to 25%. As a result of various legal actions, several million dollars were recovered. Nevertheless, pensioners and surviving spouses suffered a loss of 8% to 10%. For some, this represented about \$200 less per month, while for others, the loss was \$600 to \$700 per month. It is also important to understand that most private plans do not provide for cost-of-living adjustments. In the case of someone who retired in the 1980s, for example, because their benefits were not indexed, the impact of the reduction in 2015 was even greater.

During the six weeks of lobbying, we listened to you. I personally participated in the discussions. We were sensitive to some of the arguments, one of which was that it might prevent business recovery or prevent banks from granting loans to businesses. We were sensitive to that argument and we changed our position accordingly. Bill C-228 proposed by MP Marilyn Gladu provides for just such a change in the order of priority of creditor claims. We would come right after the banks. So the argument that we were going to prevent companies from recovering no longer holds water. We have responded to some political parties who had a concern in this regard. Now, Bill C-228 puts us behind the banks, but ahead of school boards and municipalities that want to collect taxes. So it's a significant leap for us and a very structuring gain for workers.

By the way, this would be a step forward not only for unionized workers, but also for non-unionized workers who have a defined benefit plan.

At the United Steelworkers, we believe that, as legislators, you have a role to protect Canadian citizens from a possible loss of income if a company seeks protection from its creditors.

I appeal to your sense of responsibility, your empathy, your concern for human beings, especially those in their 70s, 80s or 90s. These are human beings who are in distress. Canadian citizens voted for you because they had confidence in you to fulfil your role as legislator. It is now up to you to take advantage of this bill to say that enough is enough. This has been going on for decades. Several bills have been tabled. Moreover, Bill C-228 is the result of a consensus among all political parties.

In fact, I remind you that in 2021, there was consensus in the committee studying the previous bill. Unfortunately, an election was called, so we didn't get there, but we were very close. But there was a consensus and we did what you wanted. You were concerned that pensioners were coming before the banks. Now they come after the banks, but at least they are ahead of the municipalities. Bill C-228 reflects a difficult consensus that takes your concerns into account. Banks come before us and pensioners come after.

Currently, we are picking up the breadcrumbs, picking up what is left, and that is not acceptable. If pensioners were to make a significant jump in the order of creditors, it would be a giant step for all workers, for all Canadians. Please, for the sake of our seniors, be diligent and put some water in your wine. Bill C-228 is not perfect, but it is a very acceptable consensus as well as a giant step forward for workers.

• (1740)

I could name several situations, among them Cliffs Natural Resources, Sears in 2018, Mabe Canada, White Birch or Atlas Stainless Steel. How many similar situations will it take before we act?

I appeal to your sense of responsibility to citizens and your duty of care, and I ask you to endorse Bill C-228 quickly, so that we can say once and for all that we have helped the middle class.

Thank you very much.

The Chair: Thank you, Mr. Lapierre.

[English]

To all the witnesses, thank you for your opening remarks.

We are going to move to our rounds of questions. In our first round, witnesses and members, it will be equal time for all the parties, which is six minutes. We are starting with the Conservatives, and we do have with us today MP Gladu, who is the author of Bill C-228.

MP Gladu, go ahead.

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): Thank you, Mr. Chair.

Thank you to all the witnesses who are here.

I want to assure Monsieur Lapierre that the priority that is assigned in Bill C-228 is exactly that which was put into Bill C-253 by my Bloc colleague, Marilène Gill. It is before banks, secured creditors, preferred creditors and unsecured creditors.

I only have six minutes, so I am going to ask some quick questions.

My first question is for Mr. VanGorder.

Do you agree with the priority that we've assigned to pensions in Bill C-228?

Mr. Bill VanGorder: Yes, we do. We've had some suggestions, as you've seen in our letter from our coalition of groups, but certainly that's the kind of direction that will take great strides to make this wrong a right.

Ms. Marilyn Gladu: Thank you.

Mr. Powell, we heard that the pension plan reform cycle is three years. We have suggested that instead of the five-year coming into force that's in my bill, maybe three years would be better.

Do you agree with the priority, and do you agree with the coming into force that's been suggested?

Mr. Michael Powell: Yes, I do, to both of those.

Again, I want to reiterate the point that pensions are very well funded right now, and if we act quickly, we can take advantage of that opportunity.

Ms. Marilyn Gladu: Yes, I noted that the DB plan impact for federal plans.... This is the first year that they've actually been funded above 100%, so now is a great time to act.

I have a question for Ms. Vipond.

There are several sections of the bill that I understand you don't like. One is proposed subsections 29(8.1) and 29(8.2), which allow a company in bankruptcy to change the type of defined pension it is. Is it correct that you would like to see that deleted?

Ms. Siobhan Vipond: Yes, we know that the strongest types of pensions are defined benefit pensions, so we think that's extremely important.

I can pass it to my colleague, Chris Roberts, who has joined me today, to get into the technical side of it. We do appreciate that this is being prioritized, but thank you for highlighting those changes.

Mr. Chris Roberts (Director, Social and Economic Policy, Canadian Labour Congress): I think the provisions in the bill that allow an administrator of a plan to apply to the superintendent for permission to transfer the liabilities and assets of a plan that is sponsored by a distressed company are just underdetailed. There need to be far more protections for DB plan members to ensure that those accrued DB benefits are not converted to DC or lesser benefits.

We would just argue to strike that entirely.

• (1745)

Ms. Marilyn Gladu: Yes, it was actually a drafting error on my part. That was a leftover from Bill C-405. We tried to get rid of that part of the phrasing. That will definitely need to go out.

The other thing I understand is that the Canadian Labour Congress has concerns about the suggestion of the insurance mechanism to get a third party to insure a pension.

Is it true that you'd like to see that part deleted as well?

Mr. Chris Roberts: Yes.

Again, there is just some confusion over the terms, the unspecified or undefined terms, in this portion of Bill C-228. For the purpose of clarity, and for the purposes of precision and simplicity, it is best to just eliminate those aspects, so yes, we'd agree.

Ms. Marilyn Gladu: Thank you.

Mr. Powell, you have undertaken quite an engagement with stakeholders across the country. Could you describe for the committee the efforts you undertook and what you heard?

Mr. Michael Powell: Yes, we actually got involved with the House of Commons committee petition that Ryan Turnbull sponsored. There were 12,332 Canadians who signed on, saying that pension protection was important to them.

We've also, at CFP, run some email campaigns, the most recent in support of Bill C-228. We had just under 7,000 Canadians from coast to coast sign that. What I found most impressive—and if you've tried to do email campaigns, so you'll understand

this—is that well over 50% of the people who used our email tool checked the box saying that they would like to be engaged further on this issue. To have a mailing list of 3,600 people who want to fight for your particular issue.... That is powerful.

Ms. Marilyn Gladu: Thank you.

Mr. Gray, we've had quite a rough time through the pandemic, so I wonder if you have any data on how many companies have gone bankrupt and how many would be in a position of having their pension funds being insolvent.

Mr. Alex Gray: Certainly Canadian businesses have had a difficult time throughout the pandemic. I don't have that data in front of me, but we could provide that in writing to the committee.

Ms. Marilyn Gladu: It would be terrific if you could provide that to us.

One of my colleagues was describing to me today how, if you have an insolvent pension fund, there is actually already a mechanism to transfer the risk to a third party. Do you think that is a mechanism that would address some of the concerns that banks would have about credit?

Mr. Alex Gray: It's possible that it could. As I mentioned before, there's a delicate balance in the insolvency framework and there's a delicate balance that's already been achieved in the bankruptcy framework as well.

My suggestion to you would be to hear from someone from the lending community on that.

Ms. Marilyn Gladu: I certainly did hear quite a bit from the lending community and tried to find some common ground or changes we could make to granularity in the bill, but at the end of the day, I think they have a concern that I'm not sure is truly founded. I think there are other ways. We know that the government has certainly stepped in and backfilled whenever anybody who had a large corporation in Canada got into trouble.

Thank you, Chair.

The Chair: Thank you, Ms. Gladu.

Now we go to the Liberals, with MP MacDonald for six minutes.

Mr. Heath MacDonald (Malpeque, Lib.): Thank you.

Thank you to the witnesses for being here. It's a great discussion and a very important topic for now and into the future, obviously.

I want to go to the Association of Canadian Pension Management and Ric Marrero and his team. Can you explain what could cause a DB plan liability?

Mr. Ross Dunlop: Do you mean having an unfunded position at the point when the company goes bankrupt?

Mr. Heath MacDonald: Yes.

Mr. Ross Dunlop: Typically what happens is that there's a stress event in the economy and the investment portfolio backing the liabilities has a mixture of fixed income and equities. The equities would lose their value by 15-20%, so the value of the assets would go down.

In addition, typically central banks move to lower interest rates. As you move the interest rates lower in a stress period when there's a recession, the liabilities go up. You get kind of whipsawed, such that the value of the assets goes down at that point in time and the liabilities go up.

Not every bankruptcy occurs when there's an economic recession or a troubling period, but many of them do, as a result of customers cutting back on purchases of their products.

• (1750)

Mr. Heath MacDonald: Do you think that making pension deficits a preferred claim or having a cap superiority would allow better balance?

Mr. Ross Dunlop: Our concern is the fact that... We're currently in a situation where we're a big believer in the defined benefit plan because of the value it provides to members of society. We're at 9% in the private sector, so we're trying to balance the various interests to stop that 9% going to zero. It has declined over the last 20 years from 20% to 9%.

We have some solutions. Maybe Andrea wants to add to the answer.

Ms. Andrea Bector: We are not in favour of a priority for pension deficits. We are in favour of helping retirees in insolvent company pension plans. If their benefit is going to be cut, traditionally the plan is wound up and annuities are bought from an insurance company, as has been alluded to.

There are mechanisms other than superpriority that we can use to improve their recovery and to get them—like the Stelco retirees—to 100% or, in an insolvency.... Air Canada has been mentioned, which was actually a great success story. Every Air Canada pensioner is getting a hundred cents of every pension dollar they were promised, because of the collaborative restructuring that took place in 2004—a file that I was deeply involved in.

There are other ways, and we are supportive of improving retirees' outcomes. These are sad stories. We all have a ton of sympathy for them, but we are very worried about throwing the baby out with the bathwater. That 9% represents 1.2 million Canadians who, if their DB plan winds up, will not have a retirement pension of the calibre they're expecting.

Mr. Heath MacDonald: That's interesting.

If this becomes law, what do you think could be a coming into force that would allow companies with DB plans to adjust and avoid possible bankruptcies? What's your opinion?

Ms. Andrea Bector: They will wind up their plans.

Mr. Ross Dunlop: I concur. I think many of them will use this as a catalyst to wind up their plans.

Mr. Heath MacDonald: All right.

As you've read many times, and we talk about evaluations done by creditors....

I'm not even sure whom to direct this to. Perhaps it should go to Alex from the chamber.

Can you give me any examples of cases where accurately assessing risk profiles...there were major mistakes in larger companies, or even smaller companies, for that matter, that may have had an effect on insolvencies and bankruptcies?

Mr. Alex Gray: I can't give you a specific example, but what I can do is illustrate the fundamental challenges of doing so. Examining a pension solvency is not like going onto your app and seeing how much money you have in your account. It's based on actuarial forecasts, which are essentially a snapshot in time. They can take weeks to prepare. It involves a fair bit of forecasting. That underscores the fundamental challenge that it's not necessarily a readily available number.

Mr. Heath MacDonald: Thank you.

How much time do I have, Mr. Chair?

The Chair: You have a minute.

Mr. Heath MacDonald: Thank you.

We're dealing with the situation, as I think everybody is, on the premise that this is a good bill, with possible modifications based on the conversations we're having here. It seems as though everybody is on the same page, which doesn't often happen.

Mr. Powell, how do we all come together and ensure that all sides are being looked after in this regard to ensure that we are going in the right direction? We all hear you. I don't think anybody is challenging the situation or the process. How do we get there, in your opinion?

Mr. Michael Powell: I have to confess that my undergrad is in engineering, so that's my view in life. I think you go to the data.

I would issue a challenge. WEPP was implemented in 2005. At that time, these same industries, these same groups, made the same claim that disaster was going to occur. They can provide no data of what bad things happened. I can't remember the ACPM person who talked about the cycle of business, when businesses are failing and pensions are in trouble. I agree with that. That's the textbook answer. But that doesn't answer why over 70%, on an annual basis, of federally regulated pensions were underfunded from 2012 to 2020. Those two things don't jive.

The companies are playing, and I'm sorry to say it, a game. They don't have to fully fund their pension. It's in their interest not to. It's a cash flow gain for them. So I really struggle with how you give them the cash flow they want and protect pensioners. I think that's the other thing.

I do want to clarify one thing as well. Stelco is one of my members. The reason Stelco succeeded wasn't that they were given a trustee over on the side. The reason they succeeded was that there was a revenue flow built into that pension. Money went into that pension and is still going into that pension. The purchaser of the company didn't take over full responsibility, but they put some money in. There are all sorts of technical complexities—

• (1755)

The Chair: Thank you, Mr. Powell, and thank you, MP MacDonald.

Now we will have questions from the Bloc.

MP Ste-Marie, you have six minutes.

[*Translation*]

Mr. Gabriel Ste-Marie: Thank you, Mr. Chair.

I welcome all the witnesses and thank them for their presence. Their testimony and the arguments they raise are very interesting.

My questions will be for Mr. Lapierre.

Mr. Lapierre, do you have any comments on what Mr. Powell just said?

Mr. Nicolas Lapierre: The current laws allow companies not to fund pension plans, and everyone accepts that. We wish that wasn't the case, but that's the current situation. We know from the start that there is a shortage of money in the pension scheme. When there is a bankruptcy, it's hard to tell pensioners that, under current laws, it's okay not to pay them what they are owed.

It's important to understand that a defined benefit plan guarantees an annuity, from retirement until death. The benefits will even go to the surviving spouse. As my colleague from the Canadian Labour Congress said, it is a deferred wage. When collective agreements are negotiated, choices are made. For example, we invest less in salary and more in retirement.

The retirees or the workers who will become retirees have no idea that, 10 or 15 years later, they will not get everything they were promised. This situation cannot be tolerated. At the very least, they must be given more of a chance and elevated to the rank of creditors, so that dramas like the ones we have experienced do not occur again.

Mr. Gabriel Ste-Marie: Thank you very much, that's very clear.

Basically, when workers negotiate their collective agreement, they either ask for a bigger hourly or annual wage, or they take a pay cut to get a better pension. If the company goes bankrupt and they have decided to take higher wages, they may not get their final paycheques; if they have made the trade-off of taking lower wages to get a better pension, the pension will be underfunded by the company, because the current law allows it. The company will tell their employees that it's legal and it's okay for them to lose 20% to 30% of their pension, as you were saying earlier.

What are your comments on the current situation, and on what Bill C-228 does in fact solve, concretely, for pensioners?

Mr. Nicolas Lapierre: Your understanding of the situation is perfect. At least, with this bill, we will improve the chances of re-

tirees, their surviving spouses and active workers to get more money in the event of a wind-up process. This is not a guarantee, because in some cases the pension plan deficit may be greater than the company's assets, but let me repeat that we are at least greatly improving the chances of recovery for retired workers and their surviving spouses.

In 2015, 2016, 2017 and 2018, people in their 70s, 80s and 90s came to my office in tears after Cliffs went bankrupt because they had to make a choice between food and their medication. Not only had their pension plan been cut by 25%, but they had also lost their group insurance coverage. It's not acceptable to do that to our seniors, the people who built our society.

Mr. Gabriel Ste-Marie: Let's hope that this time will be the right time and that my colleague Ms. Marilyn Gladu's bill will turn the situation around.

Everything you have just said touches me very much. In your testimony, you recalled that pensions were not indexed to inflation. So, in addition to losing 10% or 30% of their pension, pensioners see their purchasing power eroded over the years and decades. It is therefore not surprising that they have to choose between food and medicine. These are unacceptable situations, especially when, as in the case you mention, it is a large company that has not paid what it should by underfunding its pension scheme.

Do I have any time left, Mr. Chair?

• (1800)

[*English*]

The Chair: You have two and a half minutes.

[*Translation*]

Mr. Gabriel Ste-Marie: That's excellent, thank you.

In your presentation, you explained the importance of letting banks, because they can refinance, come before pension schemes in the order of priority of creditors. Can you say something about that?

I just saw my colleague Ms. Gladu arrive. She doesn't want to ask questions, but she says hello. She was at an event to commemorate Louis Riel and she has just joined us.

I am listening, Mr. Lapierre.

Mr. Nicolas Lapierre: As I said, Bill C-228 is the result of work and consensus. This was also the case last year for the one presented by Ms. Gill, but I will focus on this one. We spent three years meeting with you in Ottawa. I won't name them, but some parties were extremely concerned that we were initially going to come before the banks. The number one argument from all the members who saw this as a problem was that it would prevent business recovery and investment. We have listened to you and we agree with you. It was difficult to reach a consensus on this bill, but we have reached it and we are satisfied with the bill. The work is done, there has been ample debate and we have all the ingredients to quickly resolve the situation and show Canadians that we care about their financial health.

Mr. Gabriel Ste-Marie: Thank you very much.

The Chair: Thank you, Mr. Ste-Marie.

[English]

Now we're going to hear from the NDP, and this will close off the first round.

We have MP Angus joining us.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you, Chair. It's an honour to be at this committee.

If I were just reading the business press about bankruptcies, it would seem to me to be sad: markets and tragedy, and everyone trying to do their best. But I come from mining country, and we've seen how it plays out. We've seen how the Pamour gold mine, an extraordinary gold operation, was taken over by Peggy Witte and Royal Oak, how it was stripped of assets and how she paid out bonuses to all the members of the board of directors.

They left that mine till it fell into the ground, and then they all gave themselves golden parachutes and they walked away. That wasn't considered criminal behaviour. She was mining woman of the year, and the Pamour miners—many who were injured, who had illnesses—were left with nothing.

I want to ask the Canadian Labour Congress, is this something that just happens in my region among working-class people, or is this how corporate Canada has treated workers and their pension obligations time and time again?

Ms. Siobhan Vipond: Thank you for that question.

I think almost every witness here has said that there are lots of examples, so it isn't just in one region. Quite honestly, there's the example you gave, but also, when we look at Sears Canada, everything that happened was legal. Everything that happened was allowed, so we sit here looking at you and we're asking you to do something, because nobody hears the stories of these pensioners and thinks they're just, they're fair and that's what should be happening.

We know that people should have a good job and get a retirement, but we have a system set up that is not serving them well, because these rules are such that it can just be ripped out from under them. We know these rules have to change so that we are protecting pensioners. As Mr. Lapierre said, they can't be making that impossible choice between whether it's food or this.

I also think it's false to say that this means it's not helping the economy. We know that the best way we can build our economy is to put money in people's pockets, people who are consumers. Guess what? That means giving workers enough money so they can make choices.

I appreciate your framing. You're absolutely right. It is heart-breaking to hear from retirees and pensioners with their stories, but it also is a call to action for us to make changes.

● (1805)

Mr. Charlie Angus: I want to follow up on the call to action, because when the Pamour mine went down and the Kerr-Addison gold mine, one of the richest mines in the country, was stripped of

its assets and the pensioners were left with nothing, the pensioners believed that they had savings, but they were lied to, and then they found that they were at the back of the line.

When I hear people say how unfair it is that we move these people, who spent their lives and literally gave the health of their lives to the company, and that somehow we're going to affect business if we give them any priority.... What happened at Pamour happened 30 years ago. I would have thought that it would have changed, but then I look at Sears. Then we are told "Oh well, it's a bricks-and-mortar business and they can't compete", blah, blah, blah. Sears was a damn good business. It was taken over by a hedge fund bandit, Eddie Lampert, who stripped it. Again, it was perfectly legal.

We had legislation brought in that was supposed to protect those Sears workers. What lessons have we learned? Did Bill C-97 do the job it was supposed to do, or are we just continually letting these bandits rob pension funds and strip assets out of good, valuable companies?

Ms. Siobhan Vipond: That's exactly what is happening. We are prioritizing the shareholders and the CEOs over those promises and those deferred benefits and deferred wages that workers have had.

We need to see those changes. I absolutely agree with you. We will be having these same conversations in 30 years if we don't take action that's actually going to mean that these pensions and these promises are protected from these arbitrary kinds of profits being pulled out. They're not being pulled out of nowhere. They're being pulled out of the pockets of these pensioners, and that's a completely unfair scenario that is happening.

It's different when you take pension money from a pensioner versus a bank having to deal with a little bit of loss, so why are we coming after that? One means you can lose your house and not buy prescriptions and not be able to put food on the table. The other one means that maybe your profits are a little bit of a percentage lower. I think we really need to examine whom we're protecting in the current system.

Mr. Charlie Angus: Some of the concerns we had with this bill were on some of the drafting language, and I understand from talking with my colleague from Elmwood—Transcona and with other colleagues about changing it to improve it.... One of the questions for the New Democrats has always been the issue of protection for termination and severance pay. When Peggy Witte walked from Pamour mine, everybody was left high and dry. They showed up to work and there was no work. Termination, severance pay, pensions, these are all tied up.

How important is it to have in language, in law, that protection?

Ms. Siobhan Vipond: I'm going to ask my colleague, Chris, to jump in on this one. The reason why there are lots of amendments happening for this is that this is a complex issue and there's a lot of history, but we're glad you're attending to it.

Chris, do you want to go into detail about that?

Mr. Chris Roberts: Sure, I'll answer as well as I can.

The wage earner protection program has been expanded to cover more termination benefits. That's very important for vulnerable workers. It would be great to have that in this legislation so that those owed payments are also protected.

Also, OPEBs, the other pension and related employee benefits in retirement, are extremely important to retirees. Those aren't featured in this legislation.

There's still more work to be done. In response to the member who asked how we can come together around some of the proposals, I would even say that some of the proposals that ACPM has forwarded about allowing plans to temporize, instead of winding them up at the worst possible moment, make a lot of sense.

There are many steps we can take to fully protect pensioners and plan members, but I think it does start with moving them up the queue and not leaving them at the back of the bus in insolvency—

The Chair: Thank you, MP Angus.

Members and witnesses, we're moving to the second round. In this round, we start off with the Conservatives. I have MP Lawrence for five minutes.

Mr. Philip Lawrence: Thank you, Mr. Chair. Thank you to all the panellists who are here today.

I would like to say a kind word for those companies that are putting in a DB pension and are taking that risk. They are helping Canadians by being part of the 9%, not the 91% of private companies that don't have a DB. I think that needs to be stated on the record.

That being said, Mr. Gray and Mr. Dunlop, I've heard you say over and over that these pensions are going to be wound up, yet I haven't heard one shred of evidence, not one bit of data, as Mr. Powell has pointed out.

Would you stake your professional reputation that 50% of these DBs are going to be wrapped up if this bill passes, or 25%, 10%, 5%? Would either of you be willing to stake your professional reputation on this?

• (1810)

Mr. Ross Dunlop: I'll go first.

I don't know what, specifically, the numbers will be. I can tell you that when I interact with clients, they're concerned.

Now, DB in the private sector has gone from 20% down to 9% over the last 20 years. Businesses are concerned about the availability of credit and the increased cost of credit. It's going to be some number. I would say you're going to see some companies wind up—

Mr. Philip Lawrence: I apologize, but my time is short. With respect, Mr. Dunlop, being “concerned” or “some number” isn't good enough when I'm talking to folks who are going to potentially lose their pension. When I look at this from a greater perspective, I see that you guys are all in the business of risk. One of the things we look at is this: What is the equity, and who's in the better position to absorb it?

Clearly, Mr. Gray and Mr. Dunlop, we have to agree that secured creditors, who are often transnational, multi-billion dollar corporations, are in a better position to absorb that risk than a 74-year-old senior trying to pay her rent or her mortgage, or to eat.

Ms. Andrea Bector: Mr. Lawrence, maybe I could answer on behalf of the ACPM.

We did poll our members. Some of Canada's largest defined benefit pension plan sponsors are included in that group. We asked them this: If Bill C-228 made their access to capital more expensive, what would they do? Over 40% of them said they would wind up their defined benefit pension plan. That is based on our membership. Anecdotally, I can tell you that it is backed up with the conversations I'm having. I cannot think of a more direct way of killing defined benefit pension plans in the private sector.

Mr. Philip Lawrence: I understand what you're saying, but quite frankly, they're biased. What are they going to say? Are they going to say that this is great, when it will inhibit their ability to have cash flows? There's been talk about it. Talk is cheap. Quite frankly, your suggestion that there's a free lunch, that simply by changing the investment formula we'll be able to save more on these, doesn't make sense. If you're increasing return, you are increasing the risk. Who's going to bear that risk? Ultimately, it's going to be the pensioners.

Ms. Andrea Bector: That's right. I suppose there's a difference between investing in risk-free, or very nearly risk-free, assets and moderately risky assets to improve the outcome over the long term—

Mr. Philip Lawrence: That's not a solution. Putting great risk on the pensioners is not a reasonable solution.

Ms. Andrea Bector: It has been a solution for Stelco retirees and for all of the pension fund—

Mr. Philip Lawrence: At a casino, sometimes I'm going to win and sometimes I'm going to lose. For those individuals who lose, it's not fair to them. We have billion-dollar corporations that are in a position to absorb this loss, so it shouldn't be on the backs of pensioners.

Ms. Andrea Bector: I guess I would put to you whether or not it's fair to those active employees that they will no longer have a defined benefit pension plan. That's the choice. You're choosing between—

Mr. Philip Lawrence: Here's the thing. I'll challenge you on that as well.

I used to do due diligence when I practised law. If, in fact, there's no risk, then there's no cost. That means that if these companies are managing their pensions appropriately and diligently as they're supposed to, there's not going to be an additional cost. The lender is going to look and say that the company has a beautiful pension—it's all annuitized, they have no risk, it's going to be paid for and they're doing all the right things—so they won't add a dime of interest. It's only for those companies that are investing it inappropriately and short-funding the employees that there will be additional costs, and maybe there should be.

Ms. Andrea Bector: I think studies have been done showing that the cost of capital will increase for companies that are investment-grade and have defined benefit pension plans. We can provide those to you.

I would also say that a well-funded pension plan at a point in time is not necessarily an indication that the pension plan will always be well funded. Banks assess risk. They will assess this risk. It will add costs to the capital for defined benefit sponsors.

Let me just repeat that ACPM is for helping pensioners—just not in this way. The superpriority is the issue. We have suggested in our materials three concrete ways that parliamentarians can help pensioners. We urge the committee—because of the 1.2 million Canadians in defined benefit pension plans whose pensions should be valued as well—to study this issue further so that you can say with authority that there's no risk, or that in fact you're okay for five million...of this 1.2 million to lose their DB pension, and that's fine because it's the cost of this bill that you're accepting.

I don't think the studies have been done to assess that.

• (1815)

The Chair: Thank you, MP Lawrence.

Now we're going to the Liberals and MP Dzerowicz for five minutes, please.

Ms. Julie Dzerowicz: Thank you so much, Mr. Chair.

For a number of years, I've been paying very close attention to this issue because a number of people in my riding were really impacted by Sears and its bankruptcy. They're still very traumatized by it.

I've also been very blessed that before politics I had about 20 years of experience in the business sector, particularly in biotech and in the banking industry. Again, I do quite a bit of reading and I do believe that companies know ahead of time whether they're going to be filing for bankruptcy and whether they're planning on restructuring. Often, I have found that employees are the last to learn, so I do believe that pensioners need some additional protection—far more than what exists right now. I do believe it needs to be 100% protected.

I do want to thank all the witnesses for being here. All of your presentations and answers are very important today, so thank you for being here and thank you for your patience.

My first question is for the Association of Canadian Pension Management.

I have a note from our Library of Parliament and it's very similar to what you were saying. It says:

Statistics Canada data shows that the percentage of paid workers covered by defined benefit pension plans in the private sector decreased from 21.3% in 2000 to 9.6% in 2020. During that period, many employers have been abandoning their defined benefit pension plans in part because of the volatile and onerous funding requirements associated with such plans.

I guess my question for you is this: Is that the way it's going anyway, in terms of defined benefit plans being converted into defined contribution plans? I would like to hear your thoughts on that because I think you've made an argument that if this piece of legislation moves forward, it would actually accelerate defined benefits being cancelled.

Ms. Andrea Boctor: Sure, I'll start, and then Ross can feel free to jump in.

The decline of the defined benefit pension plan in the private sector is a known issue. It is one that provincial legislatures across the country have tried to reverse by tweaking funding obligations and, in a lot of cases, revamping funding obligations so that pension plans can be maintained on a going-concern basis and so that there is more of an incentive to maintain defined benefit pension plans.

This bill works in opposition to all of those initiatives.

I'll turn it over to Ross to respond as well.

Mr. Ross Dunlop: I would reiterate that we're big believers in the value of a defined benefit plan for plan members. We see the value of that, which is why we're trying to find a solution and maybe—

Ms. Julie Dzerowicz: I'm sorry to interrupt. I totally agree with that. I think all of us would love defined benefits plans—

Mr. Ross Dunlop: Yes.

Ms. Julie Dzerowicz: —but what I'm trying to say is that you're already seeing companies that are starting to transition out of that as well.

Are you looking at the numbers?

Mr. Ross Dunlop: Our belief is that this would accelerate that to significantly below the 9%. This, then, leaves the active group that's accruing that benefit with less of a benefit.

That's the concern we have.

Ms. Julie Dzerowicz: I think my colleague partially asked this. I want to be very clear. If this bill were to go through, there are a number of different proposals on the table for implementation, whether it's a year, three years or five years.

What would be your opinion on how many years are needed for implementation, if this bill were to move forward?

Mr. Ross Dunlop: Typically, longer would be better for them to react and to look at their loans and their collective agreements, so five years would seem reasonable to us.

Ms. Julie Dzerowicz: I'll go over to Mr. Gray.

You've outlined a number of risks. I think you were talking about interim loans and the impact on interest rates. I think you mentioned a number of risks.

What would be your opinion on how long the delay should be in the implementation or coming into force, so as to help mitigate some of the concerns you have raised?

• (1820)

Mr. Alex Gray: I agree with Mr. Dunlop that longer would be better. Taking into account pension plan valuation cycles and required notice to members, as I outlined in my statement...seven years.

Ms. Julie Dzerowicz: Okay.

I want to say a huge thanks to the Association of Canadian Pension Management for putting three proposals on the table.

Mr. Gray, would you have any additional proposals on the table, if there were going to be adjustments to this bill, that would keep the pensioners' pensions whole, but also be able to address some of the concerns that you have raised around companies?

Mr. Alex Gray: We jointly signed a letter with them on the proposals. Feel free to take a look on the committee website.

Ms. Julie Dzerowicz: Thank you.

The Chair: Thank you, Ms. Dzerowicz.

Now we'll go to the Bloc and MP Ste-Marie for two and a half minutes.

[*Translation*]

Mr. Gabriel Ste-Marie: Thank you, Mr. Chair.

I'd like to hear from Mr. Lapierre first and then, if there's time, from Mr. Powell.

There was just a lot of talk about the risks that companies and pension fund managers would have to manage if this bill were to pass.

In your view, are these risks insurmountable? Is it worth the risk? Are they able to live with these risks?

Mr. Nicolas Lapierre: I just want to make sure I understand your question, Mr. Ste-Marie.

Are you talking about the possibility of companies converting their pension fund to a defined contribution plan?

Mr. Gabriel Ste-Marie: If you like. In fact, take whatever angle you want to answer my question. This is one of the risks raised if the bill were to pass.

Mr. Nicolas Lapierre: For my part, I don't think this risk is that great. The majority of defined benefit plans are found in large, highly unionized companies. We know that just over 9% of paid workers are covered by a defined benefit pension plan.

If a company wanted to migrate to a defined contribution plan, this would therefore need to be done through a formal negotiation process. If the parties agree to that change based on their right to free bargaining, that's okay and we'll let them make that decision.

However, I don't see why companies would suddenly decide to migrate to a defined contribution plan, because there are risks. If the risks scare them, they just have to fund the pension plan. However, it's not that simple and they won't want to fund that pension plan, invest money in it. They will assume, by analogy, that they can live with that risk just fine.

You can't not invest money without it raising risks later on. At some point, you have to be consistent. If a company doesn't want to take risks, it has to fund its pension plan. However, the legislation allows pension plans not to be funded. So let's accept the current state of the law and the legislation.

Mr. Gabriel Ste-Marie: I like your analysis.

Mr. Powell, do you have a comment to add on this subject?

[*English*]

Mr. Michael Powell: Again, when we talk about risk, the companies have a lot of resources to manage the risk. I will go back to

the data. When you look at the percentage of companies that routinely and normally underfund their pensions, it's a matter of choice. It's not because they have to; it's because it gives them cash flow.

The Chair: Thank you, Mr. Ste-Marie.

[*Translation*]

Mr. Gabriel Ste-Marie: Noted, thank you.

The Chair: Thank you, Mr. Ste-Marie.

[*English*]

We go now to MP Angus for the NDP for two and a half minutes.

Mr. Charlie Angus: Thank you very much.

Mr. Lapierre, my grandfather, Charlie Angus, was a steelworker. He died at the mine—he was almost 70 years old—because in those days, you worked until you died. I was underground recently at a gold mine in Timmins, and I met a 70-year-old man working the drills. You work the drills when you're young. He was working the drills because he said his pension had completely failed him.

We're told here by some of our witnesses and the business community that we need to wait longer and we need to think more about this because this might affect capital. What effect from this do you see on steelworkers, particularly those who are working in underfunded pensions?

[*Translation*]

Mr. Nicolas Lapierre: This will certainly reassure them. In my opinion, it will above all demonstrate the importance of the work of parliamentarians, who are elected in particular to defend the common good and the middle class and to strike a fair balance.

We want companies and workers to make money. We want workers to live well. That being said, when they are promised a pension through a defined benefit plan, we should try to honour that promise. At the very least, there should be a process in place to minimize the negative impact on workers.

I repeat that the future legislation obviously does not guarantee that workers will get back all the money promised. However, it does increase their chances.

I give you the example of Cliffs Natural Resources, a mining company that had a plant in Sept-Îles and declared bankruptcy. The City of Sept-Îles recovered \$10 million in unpaid taxes. At the same time, the pension fund was \$10 million short of 100% funding.

Citizens are all taxpayers, but a municipality can mutualize its losses. In this case, the city could very well have borrowed money and paid it back over a period of 20, 30 or 40 years. Thus, the consequences for citizens would have been minimal.

A city does not die, but a pensioner does. At 70, 80 or 90, the surviving spouse is alone at bat, alone in the face of adversity. We can't leave her alone. We can't leave people in distress and anxiety. We can't leave them in a state of incomprehension.

By passing this bill, parliamentarians from the opposition and ruling parties would send a message that they are capable of making a difference.

• (1825)

Mr. Charlie Angus: All right. Thank you.

The Chair: Thank you, Mr. Angus.

[English]

We go now to the Conservatives for five minutes.

MP Morantz, go ahead.

Mr. Marty Morantz: Thank you, Mr. Chair.

I've been listening intently. It's been a very interesting conversation.

I want to seek some clarification on a few things that have been said. I think I'll start with Mr. Powell.

One of the concerns I share with Mr. Gray and the business community is the idea that when you put a pension plan in priority to secured creditors, secured creditors are going to look at whatever the deal is that they have before them and they're going to assess the risk. They're going to want to know exactly what they're subordinate to. Just like property taxes or any other items that may be payable under the current legislation in priority to a lender, they will look at that and make that assessment.

One of the questions that have come up is what evidence the business community has to say that lenders are going to back off, that lenders are going to decide not to lend in a particular sector or, if they do lend in a particular sector, that they're going to have to charge more because of the perceived inherent risk.

I want to go back to your opening statement, because you said something that I wasn't quite following. You talked about something that happened in 2005, and I'm not aware of it. You said that if this was going to be an aftermarket effect on risk for lenders, where is the evidence? I'm wondering if you could explain that argument to me again, because I want to make sure that I understand it. Was that legislation you were talking about something that put pensions in some sort of position *pari passu* or in priority to secured creditors?

Mr. Michael Powell: I'm sorry. I had a lot to go through, so I was speaking quickly.

In 2005, the Wage Earner Protection Program Act was passed, and the wage earner protection program gave superpriority to unpaid wages, unpaid expenses and some other things. The issue is that.... If you make something a superpriority, what happens? The quote I had was from the Insolvency Institute of Canada, but you can find quotes from other similar organizations. Their quote was, "there could be a significant negative impact on Canadian productivity and employment since businesses...will have a tougher time getting financing, and their costs could rise dramatically."

We've heard that today about Bill C-228, but nobody has provided any data that anything bad happened after WEPP. If it was that draconian, if the financial armageddon was going to occur, we should have data. These are things that people monitor.

Mr. Marty Morantz: Was that federal legislation?

Mr. Michael Powell: Yes. It was Bill C-55. It was debated in 2005 and passed. I don't have the date in front of me, but it was passed in 2005.

Mr. Marty Morantz: What did the Wage Earner Protection Program Act do that would be different from what this legislation is contemplating?

Mr. Michael Powell: It covered different things. Because it's about wage earners, and every company going through insolvency has employees, it has impacted every insolvency since its implementation.

When we look at this, we're talking about the 9%. You're only looking at those companies that become insolvent, have a defined benefit plan and haven't fully funded that plan. MP Blaikie was making that point on Monday, that the number keeps getting smaller.

• (1830)

Mr. Marty Morantz: I have limited time here, so I'll go on to Ms. Bector for a moment.

Ms. Bector, when it comes to putting pension plans in superpriority, wouldn't it be fair to say that one of the reasons there is no evidence that lenders might factor in the extra credit risk or refuse to lend is that currently pension plans don't have superpriority, so there's no ability to test that theory?

Ms. Andrea Bector: I think there is the ability to test that theory based on the prior restructurings that have occurred. For example, we can see in a case in Sault Ste. Marie, Ontario, which I assume Mr. Lapierre knows quite well, that the legislation that was passed in order for the lenders to lend into the company once it restructured included an exemption from the deemed trust provisions in the Ontario act. Lenders refused to lend unless the Pension Benefits Act in Ontario was amended to eliminate the deemed trust. The unionized members of that steel company agreed to that change. It was the only condition under which that company was going to get financing—

Mr. Marty Morantz: I'm sorry. I have only 15 seconds left, and I want to ask you one more quick question.

Your survey said that 40% of your members said that they would close down their defined benefit pension plans. Of the 9% that still exist, how many Canadians would be adversely affected, if your survey is accurate?

Ms. Andrea Bector: The 9% represents 1.2 million working Canadians accruing a defined benefit pension. Assuming that's equally distributed, that's 40% of them.

The Chair: Thank you, MP Morantz.

We will now move to the Liberals for questions.

MP Chatel, you have five minutes.

[Translation]

Mrs. Sophie Chatel (Pontiac, Lib.): Thank you, Mr. Chair.

We almost all agree that pension funds and pensions need to be protected. We feel very strongly about that. The government is there to ensure that the rights of workers and pensioners are respected.

In my view, we have a problem, not with all pensions, but rather with defined benefit pension plans. I note that there is already a decline in these kinds of schemes, except for the civil service, and I think that this decline is inevitable because of the risks that these schemes pose. However, that is another topic.

Mr. Lapierre, as you said, a pension is a negotiated and deferred salary. It is therefore important for the government to take the necessary measures to support the pension funds.

However, it is equally important not to accidentally create a situation that could be worse for workers and pensioners. I don't think anyone around the table wants that. I am concerned about one element of this bill. It could prevent the restructuring of certain companies. A company that is heading for bankruptcy can choose to restructure and thereby save current jobs and the pension fund. However, I have heard from witnesses this week that the bill could be problematic in that regard.

Mr. Lapierre, I think you have provided a solution and I want to make sure I understand it. I'm very concerned about the obstacles that might prevent a restructuring from going ahead. You are proposing to keep bank loans in the order of priority, just ahead of the pension funds. In this way, not only would the pensioners move up in the order of priority, but it would also ensure the continued survival of the companies, while also giving priority to the banks. Have I got that right?

Mr. Nicolas Lapierre: You have understood very well, Ms. Chatel.

Mrs. Sophie Chatel: Thank you, that is reassuring.

Ms. Vipond, my next question is for you.

[English]

That the banks should have priority over pensions and allow the restructuring and save jobs and save pensions, would you agree with that priority?

Ms. Siobhan Vipond: Obviously, saving jobs is a really important factor, and that needs to happen, but we don't think the super-priority or the discussion we're having is going to have as big of an impact as is being put on the table.

Chris can add more detail.

• (1835)

Mr. Chris Roberts: It's important to remember that in CCAA proceedings, the creditors and the sponsors could use the fear of losing everything in liquidation to extract devastating cuts for plan members. Pensioners and other plan members, to the extent that they even know this is happening, are in a very difficult position. They have no bargaining power. We saw this in Laurentian University, which is a great example. The fear of being at the end of the

queue in a bankruptcy and liquidation situation gives them no ability to resist truly draconian cuts to their pension benefits.

What we're asking here is to give plan members a bit of bargaining power in the restructuring process so that, yes, companies can restructure as a growing concern, but not solely or primarily on the backs of plan members.

Mrs. Sophie Chatel: To be clear, you do agree with Mr. Lapierre that this would be a way to save the ability of businesses to restructure.

Mr. Chris Roberts: I just said the opposite. If the plan members are still behind the secured creditors in the bankruptcy act priority of claims, then they won't have the bargaining clout or position in restructuring to have better outcomes.

It's easy to talk about a good restructuring process, but there are enormous costs in that process as well. To give plan members and workers and pensioners a bit more of a position in the restructuring process, they should go ahead of secured creditors.

Mrs. Sophie Chatel: Ms. Boctor, I would like to hear about your position. Is there a way to give banks priority over pensions to allow companies to restructure and save jobs? Would that be a solution?

Ms. Andrea Boctor: To give banks a priority over pensions...? I'm not sure I understand the question.

Mrs. Sophie Chatel: Mr. Lapierre mentioned earlier that one of the key problems was the restructuring of companies faced with bankruptcy. If pensioners have superpriority, then it doesn't allow the restructuring. Do you think that having banks first in the order of priority, and then pensions, would allow the restructuring of the company?

Ms. Andrea Boctor: You're asking whether, if the pension deficit had a spot perhaps behind secured creditors but ahead of unsecured creditors, that would be a good compromise.

I would say it could be a good compromise in some situations. CCAA insolvencies can be very complicated and nuanced. It depends on the liquidation value of the company. It depends on the position of all these creditors and how much there is to go around. It could be that your secured creditors are going to recover everything and there will be nothing left for pensioners. It could be that it is sufficient for payouts to unsecured creditors even after the pension deficit. It really depends on the CCAA—

The Chair: Thank you. We have gone over time.

We are at our third round, members and witnesses; we just don't have enough time for a full third round. As we do, we'll break out the time equally. It will be about five minutes and a bit for each of the parties.

I have Ms. Gladu for the Conservatives for her five-plus minutes.

Ms. Marilyn Gladu: Thank you, Chair.

Thank you again to our witnesses.

Mr. Powell, one of the mechanisms in Bill C-228 is the ability for a company that has an insolvent fund to transfer money into it without any tax implication, so they can basically top it up and fix it. You mentioned the Stelco situation and that what actually helped there to get the pensioners their pension was a revenue flow into their funds. Can you describe what happened there?

Mr. Michael Powell: It's really complicated.

For simplification, the new purchaser wouldn't take over the entire responsibility. They agreed to put a stream of funding into it. If Stelco made over a certain percentage of profit, the pensions were given a stream out of that. They were also given a percentage of the land and facilities. All of that went in.

This allowed the people running the plan to keep it fairly stable, but they had this new money coming in to build it up. If you don't have a source for that money, as with the Sears situation, then you have the risk of.... Who is going to handle the risk and be responsible for it? The person running the plans can say, "I have no money coming in, so I can't take any risk", and it's not going to grow. That's where you run into....

I also want to make the point that, at least as of last week, one of the Stelco pensions has not been annuitized and it's still under that program. That's the Stelco salary plan in the Lake Erie Works. Again, that's a member of my organization.

● (1840)

Ms. Marilyn Gladu: Did the Stelco organization see any impact in terms of banks not wanting to lend them credit or any impact like that?

Mr. Michael Powell: I don't know.

Ms. Marilyn Gladu: Let me talk a bit about the calendar date for coming into force.

For the benefit of committee members and those who weren't here the other day, we heard there's a problem with the legislation in terms of picking a calendar day for the coming into force of Bill C-228. There was concern that, if there were companies going through bankruptcy proceedings, they would have to switch measures halfway through. I've consulted with the legislative clerk and she has verified that this is not the case. The coming into force means.... Only bankruptcy proceedings that start after the coming into force would be under the new measures. I just wanted the committee members to know that.

We also heard department officials say that federally managed pensions had five years to get solvent. Mr. Powell, you had some data that suggested they've been insolvent for more than five years. Can you comment?

Mr. Michael Powell: This is one of the great misunderstandings of federally regulated pensions. When they say they have five years to pay back the deficit, everybody leaps to the conclusion that, five years after that deficit, the pension is fully funded. That's not what happens. They have five years to pay off that particular deficit.

In the federal program, if there's a deficit next year, they take what's owed from the first year and add it to the second year and get five more years. With the third year and the fourth year....

There's a great incentive. I have actually called the CRA and they won't let me do that with my taxes.

Voices: Oh, oh!

Ms. Marilyn Gladu: Yes, well, we don't have enough time tonight to get into all the issues with the CRA.

My understanding of the situation we are facing today is that there have been 10 years of discussions on these bills. Certainly, we came very close, in the former Parliament before the election, to agreeing that the priority suggested here—before secured creditors, preferred creditors and unsecured creditors—is a good one. Right now, defined benefit plans are 109% funded, on average, in the federal government. That's a good situation.

People have come through a pandemic, where they have been extended huge amounts of credit by banks to help them out of their situation or keep them going. It seems to me that, with this, we are in a very good time in history to finally protect workers and their pensions, and strike that correct balance.

I want to thank everybody again for all their input and ideas.

I turn the time back to you, Mr. Chair.

The Chair: Thank you, MP Gladu.

Now, we are moving to the Liberals.

We have PS Fillmore for five minutes.

Mr. Andy Fillmore (Halifax, Lib.): Thanks very much, Chair.

Thanks again to the witnesses for joining in person and virtually.

I don't think there's a person in the room or on the call who disagrees with the notion that we need to do better for Canada's pensioners, and that the money or equity they've put into these companies is their own to withdraw in their retirement. Of course, the money they pull out is not just the money they put in; it's also the money being earned by current employees and by the ongoing work of the company while the pensioners are in their retirement.

What we're hearing—fairly clearly, I think—is that pensions are a superpriority for pensioners, but despite how morally connected pensioners might feel to that, or how right it is that they get their full pension, or how much bargaining clout it might give them if they're in a superpriority position, that doesn't change the cold hard math of what happens when a company has to pack up entirely and is not able to restructure because of a pension superpriority. There's what we feel is right, and then there's the math. This is the space we're in right now.

The picture that emerges in our conversation today is that we're hearing from two sides of this. There's the side, perhaps, of the Association of Canadian Pension Management, which is speaking on behalf of the employers—the companies and the people who are manufacturing and producing goods—and then there's the side of the people who are speaking on behalf of the pensioners at the other end of that machine, receiving what is rightfully theirs. What we're hearing from the first group is that the machine is put at risk by pension superpriority.

I'd like to go to Andrea Bector and Ross Dunlop, if I could, to bring it back to practicalities. We'll go back to the cold math, if you will.

Right now, the bill puts pensioners in a superpriority position over secured and unsecured creditors. Can I ask for your opinion on making an amendment to the bill that introduces a capped superpriority? We've seen this in other jurisdictions. It would still put the pensioners ahead of secured and unsecured creditors and so forth, but it would be capped and it would increase the chances and the runway for companies to restructure.

Can I get an opinion on that?

• (1845)

Ms. Andrea Bector: Implementing a superpriority, similar to the WEPPA, of a couple of thousand dollars per pensioner or per member, or something of that magnitude that can be calculated and reserved by banks would very likely deal with the risk associated with access to capital that we see. Certainly, in our materials, we are supportive of a WEPPA-like priority on a per-member basis that is not volatile, that is calculable and that is understandable.

Mr. Ross Dunlop: I agree with that.

If there was a defined cap of a dollar amount per member, at least the lender would know and would be able to assess that risk. The challenge they have now is that they're trying to assess both the assets of the plan and the liabilities of the plan, which are subject to a lot of variation due to yield curve changes.

This would be most helpful for them to assess it, and it would be a good compromise.

Mr. Andy Fillmore: If you were asked to choose between—I don't mean to put you on the spot like that—this option and an option that we heard discussed earlier today, which was to put the pension liability just below the secured creditors and the banks, is there a preference, in terms of the math and the potential positive outcomes?

Mr. Ric Marrero: For some of the options that we're proposing, it's not putting one ahead of the other. It's simply keeping that pension fund alive and managing it to a better outcome.

Our main point here is that we represent people who manage pension plans on a daily basis. They deal with millions of plan members on an annual basis. Quite honestly, we have complete sympathy for the retiree and we agree that more needs to be done there, but we don't think that a superpriority is the right approach. It's an approach that is used hardly anywhere in the world because of its disruption to the investment and financial regimes.

We're simply giving you an alternate option that the government can easily implement without disruption.

Mr. Andy Fillmore: Okay.

The bill is calling for a three-year coming into force. We've heard that seven years would be a better number. I've heard five banded about. What do you suppose would be the coming into force term that would have the most positive outcome?

Ms. Andrea Bector: I think we are supportive of five to seven years, and the reasons are these: It's about two valuation cycles for a pension plan. It would allow for pension sponsors to renegotiate whatever lending agreements they have, renegotiate collective agreements to the extent they have to in order to be able to continue to access capital on a seamless basis, and then to do the windup, if they need to. It takes 18 to 24 months to wind up a pension plan, for a variety of reasons.

With all of these things taken together, we think five to seven years would give an appropriate amount of time to adjust.

The Chair: Thank you.

That's the time, PS Fillmore.

We are going to the Bloc and MP Ste-Marie for five-plus minutes.

[*Translation*]

Mr. Gabriel Ste-Marie: Thank you, Mr. Chair.

Before I ask my question, I would like to make a comment. I think the House has been debating bills similar to this one, aimed at better protecting pension funds, for about 20 years.

As was mentioned earlier in this meeting, the problem is that in order to have more money or cash flow, which allows them to generate more profits, the company voluntarily chooses to underfund their pension fund. This problem needs to be corrected. Company profits are made on the backs of workers' future incomes, resulting in a great inequity. As mentioned, these are big companies, with strong backs and very clever finances.

This is not the case with pensioners. When workers lose 10% of their pension fund, they can find themselves in a bad situation, since it can be a few decades since their pension has been indexed. We need to intervene.

I find it amusing that we say something needs to be done, but not what the bill before us proposes. Yet the latter is tangible. In my opinion, it is a bit too late to go back. I like the foundation and the principle of this bill. Again, I commend the member who introduced it.

As my colleague Sophie Chatel said, we do not want a bill to create more harm than good. That is why all bills are studied in committee. That is also why the Standing Committee on Industry and Technology studied a similar bill introduced by my colleague Marilène Gill.

The people around the table have given us good solutions and that is reassuring. Risk management will not be as complicated as some would have us believe and, as we have heard, it may force companies to properly fund their defined benefit pension funds.

Mr. Lapierre, you said earlier that under the current law, retirees of a bankrupt company lose not only part of their pension fund, but also their drug coverage, which is very serious. As my colleague Ms. Gill said, it is difficult for someone in their 80s to find a new insurer or a new drug plan, and to pay for it on a lower income.

I would like you to give me more details as to this reality. On a day-to-day basis, what does this mean for retirees and surviving spouses?

• (1850)

Mr. Nicolas Lapierre: Thank you for your question, Mr. Ste-Marie.

Many collective agreements do provide for retirees to retain some of their group insurance, including life insurance and drug insurance. These coverages are very important since the older you get, the more at risk you are and the less insurable you become.

The example was given of the Cliffs Natural Resources mining bankruptcy, after which retirees lost their life and drug insurance. As has been said, it is impossible for a person of 80 years or older to buy new life insurance. This causes them great distress, as they wonder what they will be able to leave to their spouse and children. This is in addition to the great stress caused by the loss of income due to the reduction of the pension fund. These people are experiencing drama and anxiety, and this human distress must be addressed.

Mr. Gabriel Ste-Marie: Thank you for your reply.

Let's hope that this bill moves forward and provides more fairness for workers and retirees.

Personally, I think it's very serious to no longer have access to life insurance or drug coverage. That's another argument for passing the bill.

As you said in your statement, we are legislators.

Colleagues, it is therefore time to legislate.

The Chair: Thank you, Mr. Ste-Marie.

[English]

Now we're going to move to our final questioner. It will be the NDP.

We have MP Angus to finish off this round in this session.

Mr. Charlie Angus: Thank you so much, Chair. Thank you for chairing and inviting me and letting me sit in on this fascinating discussion.

I remember when the Nortel workers came here to Ottawa after they were robbed of their pension—in the United States, the pension shortfall of \$514 million was covered by the Pension Benefit Guaranty Corporation—and I remember members of every party coming out. They all went up and they said they were so sorry.

We're not talking about somebody's funeral here; we're talking about a policy failure. We're here to talk about whether or not we are going to change policy to protect pensions.

My Liberal colleagues have suggested an amendment to this bill where we put a cap on what the pensioners get in order not to unfairly leave behind the hedge fund operators or the banks.

Mr. Powell, do you think a cap on what pensioners should be allowed to get would be fair? Would you suggest it for this bill? Would a cap on what pensioners get—pensioners who are not getting what they deserve out of what they paid—be a reasonable option for us?

• (1855)

Mr. Michael Powell: It's just another attempt to take the risk that the employer has agreed to take on, willingly and freely, and shift it to the pensioners.

It would make the math easier, but the elephant in the room on the math is that these same claims that have been made today were made in 2005 on WEPP. If you can't provide data that shows some armageddon occurred because of WEPP, then I don't know how you can accept there will be a problem with this. That's math.

Mr. Charlie Angus: I'd like to ask this of the Canadian Labour Congress. From your experience with your workers.... There have been two suggestions that the Liberals offer. One is a cap, and the other is that maybe we find out where we put the pensioner's rights—for example, the 70-year-old man I know who went back to work on the drills underground—compared to the bank's.

What would be a reasonable thing? The banks made \$49.7 billion in Canada last year. Should the pensioner be ahead of the bank or behind the bank? Would that be a reasonable amendment?

Ms. Siobhan Vipond: We're here to say that this needs to be a superpriority. If you put a cap or a partial superpriority.... The reality is that when you're investing in your pension, you're not investing in your pension with the hope that you get most of it. You're investing in your pension expecting your pension to be at that level.

Let's just talk about the impact that's going to have. Supposedly, nobody is going to be able to borrow money ever again. Banks take into consideration so many...in terms of the risk that is associated with that. The ability for pensioners to demand the full value of their pension may absolutely be part of that discussion, but it's not going to be the only factor.

Commercial creditors, like banks and financial institutions, can take steps to protect their investment against the risk of default. They can expect companies to fully fund their pension benefit plans; I think that's not a bad thing. They can require increased disclosure about the funded status of their pension plans, and that's not a bad thing.

The reality is that when we look at interest rates over time, lenders still keep lending because they're in the business of lending. That's how they make their profit. There's no evidence to show that they're suddenly going to pull all of that, because the reality is that they need to stay in business as well.

Workers need to be at the top of that list so that they are not the ones taking on the risk when others are better able to take that risk.

Mr. Charlie Angus: Mr. Powell, I want to end with you.

You talked about the armageddon scenario that's been brought forward. My God, I was so shocked when I learned our discussion might cause all these defined pension plans to just wind up and disappear.

I've watched defined pension plans disappear in my region for years. I've never seen one of those corporations go under; they just didn't want to pay into it anymore.

Do you think that us protecting pensions for people who had their pensions lost...? Is it a possibility that even us discussing this is going to make them all run out and wind up the pensions so this generation of workers is going to be left high and dry? Is that a reasonable scenario that's being put forward here?

Mr. Michael Powell: Again, I don't know, but if you use the term "wind up"... To wind up a pension if you're an ongoing busi-

ness, you have to fully fund it before you wind it up, which is not necessarily a bad thing.

The other thing is that when you talk about the 1.4 million or whatever it is, those are the active employees. There are probably four to five million already retired people depending on these benefits who are losing out.

I can say from my experience—I worked for General Motors of Canada—in the last AV we had, there were 600 to 700 actives in the pension plan and 6,000 to 7,000 retirees. When you look at that 1.2 million or 1.3 million, those are just the people who are actively working. This is another ageism thing in government. Nobody keeps track of pensioners. Statistics Canada doesn't. Nobody does.

The armageddon, in my mind, has never been proven. It's been threatened and forecast, but it's never happened.

● (1900)

The Chair: Thank you, Mr. Powell, and thank you, MP Angus.

To our expert witnesses, I want to thank you, on behalf of the finance committee, for your testimony and for the many questions you answered.

That will conclude our meeting.

We're adjourned, members.

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