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Chair

Mr. David Sweet

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•(1530)

[English]

The Chair (Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC)): Good afternoon, ladies and gentlemen. *Bonjour à tous*. Welcome to the 57th meeting of the Standing Committee on Industry, Science, and Technology.

We'll be dealing with Bill C-501 today in clause-by-clause consideration.

We have with us Mr. Rafferty, who is the sponsor of the bill and who I understand has some amendments as well.

We'll go directly to Mr. Rafferty and we'll be dealing with clause 1.

(On clause 1)

Mr. John Rafferty (Thunder Bay—Rainy River, NDP): Thank you very much, Chair, and happy new year to everyone. The last time we met was before Christmas.

If the chair will allow me, I want to make a couple of remarks before we begin.

First I would like to thank the committee, for their cooperation in particular. We added a few hours to discussion here of the bill, and I think they were full and fruitful. The members were very kind to me, being new to this committee and only being here for a short period of time, so I'd like to thank everyone on the committee for that consideration.

As we move forward to the first clause, I want to remind everyone that we had a discussion before Christmas from analysts and from the folks who were sitting here. I don't remember their names, unfortunately.

The Chair: Mr. Rafferty, if you don't mind my interrupting—I apologize—I should introduce our witnesses.

From the Department of Industry we have Colette Downie, director general, marketplace framework policy branch, and Matt Dooley, senior project leader, corporate and insolvency law policy and internal trade.

Please proceed, Mr. Rafferty. I'm sorry about that.

Mr. John Rafferty: Thank you, and thank you, everyone, for being here.

I'll just remind you that when we first talked about these amendments, it was pretty clear from the analysts who were here and from the folks who were sitting at the table, the policy people, that

these amendments, which they had all had a look at, were really a question of clarification. They're certainly not intended to cause any mischief; they're simply clarification of the bill. As everyone knows, when a bill is first written, it may or may not be 100% perfectly well written. Sometimes amendments are necessary to make some clarifications about the intent of the bill. So I thank everyone here for your indulgence on this, and I thank the analysts and others for that clarification back then.

I see that we don't have all the members here, Chair. I don't know what that means exactly, except to say that we may or may not see everybody here. I am concerned, of course, with at least two members being absent who.... Well, I thank Mr. Rota for being here, but the outcome of our discussions today on our clause-by-clause could be impacted greatly by the absence of a few members.

I'm not sure, Chair, how we can proceed in this particular situation. I suppose this is the time set aside for the clause-by-clause and I suppose we have quorum. So, Chair, is it your wish that we go ahead, or do we wait for a few moments to see whether the other members arrive?

The Chair: Mr. Rafferty, we have quorum. The meeting was published, and the members are well aware of the time of the meeting, so please proceed to move your first amendment.

Mr. John Rafferty: All right, I'll certainly move my first amendment.

Because it's in one clause and there are two amendments, do I move them both at once, Chair?

The Chair: Please move the first amendment. Then it will be up for debate in the committee, and then—

Mr. John Rafferty: I see. Okay.

So I guess...rather than the number, is it “NDP-1” that we're calling the first amendment there?

The Chair: That's correct.

Mr. John Rafferty: I would like to move that we accept this amendment.

The Chair: Okay. Does Mr. Rafferty need to read this amendment into the record? Does everybody have a copy?

Okay, great.

Mr. Lake, you wanted to make a comment?

Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC): We are ready to vote, sir.

The Chair: Seeing no debate, then....

Yes, Mr. Rota?

Mr. Anthony Rota (Nipissing—Timiskaming, Lib.): As a point of clarification—I know it's all housekeeping, Mr. Rafferty—could you maybe explain exactly what this does? I know it's just housekeeping, but it's not exactly clear. Could you just point out the highlights of it, if you don't mind?

Mr. John Rafferty: All right.

There are eight amendments, and each of the amendments adjusts the wording slightly. Would that be a fair thing to say?

It's just a slight amendment to some of the wording for clarification, and to clarify exactly what the intent of the bill is. As I said before, when these bills are presented, they're not always 100% perfectly well written, and we're happy that the analysts and others have seen that.

So I guess, Mr. Rota, in response to your question, rather than go through each of those, I'd just like to give you sort of a general impression, a general feeling, that these amendments are in fact in all eight instances just very slight word changes, which will clarify the bill.

• (1535)

Mr. Anthony Rota: Just to clarify, we're voting on the first amendment right now.

Mr. John Rafferty: That's right. I think I've put forward the motion on amendment NDP-1.

Chair, I don't know whether there's any more discussion.

The Chair: I think it's abundantly clear to all the members here, but for the sake of the members who just arrived, Mr. Rafferty has just moved his first amendment. You have copies in front of you of all the amendments.

Hon. Dan McTeague (Pickering—Scarborough East, Lib.): Chair, I just wanted to point out for the benefit of those of us who got here on time that some of us received information that the meeting was in Room 237-C. We have that in writing. We did not receive an update.

Mr. John Rafferty: The agenda says Room 237-C, hence my discussion with Mr. Wallace right after question period.

Mr. Mike Wallace (Burlington, CPC): He tried to send me there.

Some hon. members: Oh, oh!

Mr. Mike Wallace: I point out to the honourable member that I'm calling his riding during an election and telling people where the polling stations are.

Mr. John Rafferty: Now, Mr. Wallace, you know—

The Chair: Order, order.

I understand that we would like to continue this, but I have been notified that notice was sent out, and yes, the venue was changed, and the notice was sent out for the correction of venue. We'll look into it, and see why you would not have received it, but certainly many of the offices did.

Let's proceed.

Is there any debate on amendment NDP-1?

(Amendment negated)

The Chair: Mr. Rafferty.

Mr. John Rafferty: This would be a fairly quick afternoon, I think, if this follows to form here.

I would like to move NDP-2, please.

The Chair: You've moved amendment NDP-2, is that correct, Mr. Rafferty?

Mr. John Rafferty: Yes.

The Chair: Okay.

(Amendment negated)

(Clauses 1 and 2 negated)

(Clause 3 agreed to)

(On clause 4)

The Chair: On clause 4, I have been notified of two possible NDP amendments.

Mr. Rafferty, do you want to move those?

Mr. John Rafferty: I would like to move NDP-3, please.

(Amendment negated)

The Chair: Can I assume you've moved NDP-4, Mr. Rafferty?

Mr. John Rafferty: Yes.

(Amendment negated)

(Clause 4 negated)

(On clause 5)

The Chair: I understand, Mr. Rafferty, you may want to move two amendments on clause 5.

• (1540)

Mr. John Rafferty: Can I do them both at the same time?

The Chair: No, sir. NDP-5 would be the first one.

Mr. John Rafferty: All right. I'd like to move NDP-5, please.

(Amendment negated)

The Chair: Can I assume NDP-6 has been moved, Mr. Rafferty?

Mr. John Rafferty: Yes.

(Amendment negated)

(Clause 5 negated)

The Chair: There are no amendments on clause 6, correct, Mr. Rafferty?

Mr. John Rafferty: Could I speak very briefly to this clause?

The Chair: Certainly.

Mr. John Rafferty: This clause is the cause for the Speaker's decision on the royal recommendation for this bill. Just as a reminder, this is not an amendment, this is a clause. And this is, I guess you could say, the offending clause for the Speaker. I'd like to ask the chair to go ahead, then.

The Chair: Thank you, Mr. Rafferty.

(Clauses 6 and 7 negated)

The Chair: Shall the title carry?

Yes, Mr. Bouchard.

[Translation]

Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ): Mr. Chair, I am aware that we don't usually go back on a vote, but I would like to know whether clause 2 was defeated or carried.

[English]

The Chair: Clause 2 was defeated.

[Translation]

Mr. Robert Bouchard: What was the count?

[English]

The Chair: Four yes, six no.

[Translation]

Mr. Robert Bouchard: Okay.

Everything happened really quickly. Will the committee allow me to vote again on clause 2, if possible?

[English]

The Chair: There would have to be unanimous consent. Do you have consent?

Mr. Garneau.

Mr. Marc Garneau (Westmount—Ville-Marie, Lib.): I just wanted to say that I think things were going at blinding speed, so I think perhaps in the translation something might have been.... I think it's a perfectly reasonable request.

The Chair: Okay. Mr. Garneau, I made sure that everybody had copies and was very specific on my questions, but that might be the case.

Mr. John Rafferty: While they're consulting, Chair—

The Chair: Hang on, Mr. Rafferty. Actually Mr. Cardin had his hand up first for the floor.

Mr. Cardin.

[Translation]

Mr. Serge Cardin (Sherbrooke, BQ): I also don't think my vote was counted properly.

[English]

The Chair: There's consent then.

The best way to do that, since there is consent, is I'll just ask for clause 2 again.

(Clause 2 agreed to)

• (1545)

Mr. John Rafferty: Chair, could I just have one word, please?

It seems to me that if there was confusion over one clause, there may have been confusion over all the clauses.

Some hon. members: Oh, oh!

Mr. John Rafferty: I know that Mr. Wallace is smiling at this, but it's perfectly reasonable that all of the clauses might.... We might just quickly go through each of them again.

The Chair: I'm always at the behest of the committee, Mr. Rafferty, but I would still be reluctant to ask that question, particularly because it sounds like there is not consent. But the members were absolutely gracious and went back to clause 2.

Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended...?

Mr. Lake.

Mr. Mike Lake: Before we vote on that, I'd like to ask the officials maybe to comment, because we've got a brand-new piece of legislation here all of a sudden, with most of the clauses taken out.

Can you maybe speak to the impact of the two clauses that are left in? I'll give it some context. I know that a Liberal member who was on the committee for some time, Judy Sgro, said, for example: "Sadly, the bill is flawed, and there are some serious problems with it. It's not going to help the Nortel people, as you've indicated, which is very sad, because I believe many of us wanted it to."

Do these changes address that?

Mr. Matt Dooley (Senior Project Leader, Corporate and Insolvency Law Policy and Internal Trade, Department of Industry): No. To affect the Nortel proceedings, you would need to have either retroactive or retrospective legislation. This particular piece of legislation is only forward-looking. It will only affect cases that begin after the coming into force of this legislation. It will have no impact on the Nortel proceedings.

My colleague just suggested that I talk about the two provisions themselves.

Mr. Mike Lake: That's what I was going to ask.

Mr. Matt Dooley: These two provisions refer to the payment of severance and termination pay in the event of either the bankruptcy of a company or the company coming under a receivership.

As the bill now stands, it will put the severance and termination pay due to employees ahead of essentially all secured creditors. You will have the full amount of severance and termination owed now ranking ahead of secured creditors. I would point out at the same time that unpaid wages are given a super-priority as well, but up to a cap of \$2,000.

So here you'll see the full amount of severance and termination being paid ahead of secured creditors.

Mr. Mike Lake: To clarify, what does that change from the current situation under the legislation as it stands now?

Mr. Matt Dooley: Currently severance and termination is treated as an unsecured claim, so it would be paid after secured creditors and preferred creditors.

Under the insolvency legislation, bankruptcy legislation particularly, you have secured creditors, typically lenders, etc., who have taken a secured interest in the property of the debtor company when they have made a loan or when they're owed money by the debtor company. Preferred claimants are those who, by statute, are given a special claim in a bankruptcy. These include such people as the trustee who was doing the work of winding up the company, liquidating the company. Their payment is only preferred, so they would be paid after secured creditors. Some wages are also put at the preferred level.

The severance and termination had been paid at the unsecured level. So along with all creditors who are not either preferred or secured, now you will have this group jumping ahead of almost everyone.

The Chair: Mr. Wallace.

Mr. Mike Wallace: I need to get some clarification based on what's happened here.

Under the current legislation, which I understand, unpaid wages for those who are working at the time of bankruptcy or insolvency are entitled to unpaid wages up to a cap of \$2,000, or something like that. Is that before or after—and I hate to say this—taxes and other statutory requirements? I know it's ahead of secured, but where do the governments, municipal, provincial, and federal, play in this?

Secondly, if this passes, which it may, this would not have a cap on it. Would this put them ahead of those who are currently working and subject to the cap at this point?

Those are my first two questions.

• (1550)

Mr. Matt Dooley: First, with respect to the position of governments, there is a deemed trust, essentially a super-priority that ranks ahead of almost all creditors, for the Canada Revenue Agency. That is limited to amounts that have been taken from an employee's pay for employment insurance, Canada Pension Plan contributions, and the income tax payable by the employee that the employer has taken from their paycheque but has not given to CRA. That amount gets paid ahead of almost all other creditors.

The next level is for property taxes, which is a municipal tax. Property taxes are ranked at a preferred level, so they are below secured creditors. They are actually low on the preferred list, so they come after wage earners, etc., on the preferred rankings.

For the amounts owed to governments—for example, if the corporation owes taxes, or anything else—the government typically is treated as an unsecured creditor. So any corporate taxes payable are at the unsecured level.

Mr. Mike Wallace: All right.

Mr. Matt Dooley: Your second question was whether this would put the severed and terminated employees ahead of employees who continued to work.

In my opinion, yes, that is what this will do. We have the wage earner protection program here in Canada, which pays employees up to roughly \$3,100. People who are working but who did not receive their pay for the pre-insolvency period get paid up to \$3,100. And in

the insolvency proceeding, the government can recoup up to \$2,000 through the super-priority for unpaid wages; or if the employee isn't eligible under the wage earner protection program, the employee gets the \$2,000.

This bill, as it now stands, will put severance and termination—which are typically much more significant amounts—ahead of the unpaid workers for anything they're owed in excess of the \$2,000.

Mr. Mike Wallace: My final question, to follow up on that, just so I understand, because I haven't had the experience.... If I'm a terminated employee, are there laws around what those maximums are? Because we have a maximum in the legislation for unpaid work—the \$2,000 that the government can recoup and give to the employee—but are there maximums...? If I've worked there 25 years and I'm being severed, is there a severance formula that we respect?

Mr. Matt Dooley: In the provincial employment standards acts, or if they're a federally regulated employer under federal labour laws, there are actually minimum standards. For example, in Ontario, if more than 500 employees are laid off at the same time, they are entitled to 16 weeks' salary. That's the minimum they're entitled to be paid.

Mr. Mike Wallace: That's the minimum, not a maximum.

Mr. Matt Dooley: It's the minimum, not a maximum. The severance and termination can be negotiated between the parties, so no maximum is set by statute.

Mr. Mike Wallace: Does the statute set minimums?

Mr. Matt Dooley: Yes, the employment standards acts of the provincial and federal governments would set minimums. Typically, it's at least a week per year worked, but then there are different rules, depending on.... In the case of mass layoffs, as I've mentioned, the number of weeks you are owed is put at a higher amount, simply because.... The thought is that if 500 people are laid off at once, it's going to be difficult to find a job, so you're entitled to more.

• (1555)

Mr. Mike Wallace: You don't have to comment whether it's fair or not, but from a legislative point of view, we could.... If the committee decides this is what they want left in this bill, would it be reasonable to say we changed the wording to confirm it's the minimum as per the provincial legislation, so that somebody doesn't negotiate a \$300,000 severance package, and then that's coming out of the system?

I'm a little nervous that they're ahead of the people who have been working there, and they're only guaranteed \$2,000. I'm not necessarily in favour of this, but if the committee decides if they want to go this route, maybe it should be “up to the minimum, by the provincial standards”.

If that wording went in there, would that work?

Mr. Matt Dooley: In legislation, we can draft wording that will reflect the intent that is wanted by Parliament. We can find wording or the justice department drafters can find wording to refer to another piece of legislation and state that the amount that is under sections 81.3 and 81.4 that were referred to in clause 2 and clause 3 are limited by the amounts set out in the relevant provincial employment standards act.

Certainly we've done that. In this bill we talk about the amounts owed to a pension plan and we refer to other legislation. Something similar could be worked out.

Mr. Mike Wallace: Thank you.

Mr. Chair, if the committee decides to move forward on these two and pass these—I still think we have an opportunity to decide whether we're going to pass the bill or not, as amended—I would recommend they look at adding those types of wording so it doesn't leave an open-ended \$300,000 or \$400,000 severance package to somebody ahead of those who are working who can only get \$2,000.

I'm going to say one other thing. This is why I'm not a big fan of private members' bills, because you can ask for what you want: the Library of Parliament will provide it. It doesn't go through the rigour of policy and legal review that other bills do. And I'm not blaming the private member for this. So that's why it's dangerous, in my view, to have in this case a two-clause bill making some significant changes to the employment processes we have in this country. I don't think it's been properly vetted. That's why simple things, like what we've heard now, can make a significant impact without the proper wording.

At this point, unless I'm convinced otherwise, I will not be supporting the bill as it's been amended.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Wallace.

Mr. Rafferty.

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

I appreciate Mr. Wallace's comments. I have a couple of comments to make myself.

In fact, I just want to clarify essentially what has just happened here. There were always two parts to this bill. There was the pension part of it, and there was termination and severance. Am I to understand that anything to do with pensions has now been removed from this bill?

Mr. Matt Dooley: That's my understanding.

Mr. John Rafferty: And the two clauses that remain only deal with severance and termination?

Mr. Matt Dooley: That's right.

Mr. John Rafferty: That being said—and I understand what Mr. Wallace is saying—I think he's maybe crying wolf a little here, because almost every case is going to be a case of a company or a corporation going bankrupt that either has a plan or a collective agreement in place or that does not have a collective agreement in place. In either case, exactly what the minimum requirement for that company to pay severance or termination is set out, whether or not there's a collective agreement.

If there is not a collective agreement, the standards in the territories and the provinces would apply in that particular case. There always have been minimums set out. In Ontario, I believe it's one week for every year that has been served. I don't think anybody in this room disagrees with that as a very bare, minimum standard.

If there are collective agreements that call for more, of course they would supercede the standards in the provinces and in the territories, and the collective agreement would kick into place.

But I can tell you, Mr. Wallace, that in my experience collective agreements are not that much richer than whatever the minimum standards are in the provinces and territories. When you see \$300,000 severance packages, or \$1.7 million severance packages or more, they are out of the realm of this sort of bill; it's not dealing with those. That would be the case of someone like Ms. Clitheroe and Hydro One, and those sorts of things, which this doesn't really deal with. So I would suggest, Mr. Wallace, that you're being overly concerned about this.

That being said, I believe that we have gone through a rigorous process. I can tell you that I certainly have been through a rigorous process with this bill, as has everybody who's been watching this bill and everybody in this committee. So we have reached a point at which we are ready to wrap it up. Mr. Chair, I'm quite happy to do so at this point.

• (1600)

The Chair: Thank you, Mr. Rafferty.

I have other people, however, on the speakers list.

We will go to Mr. Lake now, and then to Mr. Wallace.

Mr. Mike Lake: I have just a couple of comments.

First, this changes the bill substantially. I don't remember a lot of witness testimony on these particular two clauses.

This creates an interesting kind of circumstance. At this point, I'm inclined to abstain on the bill. It looks as though it's going to pass anyway, as it is. That's the point I am at.

I'll take the opportunity, because it may be the last time I speak—although it may not be, depending on what else is said—to express my appreciation to the bill's sponsor for the spirit in which he has conducted himself as we have gone through the hearings and having meetings. In preparation for these, we have had the opportunity to meet on a few occasions. We haven't agreed on everything, obviously, as we've gone through, but I appreciate the spirit in which he has conducted himself, both in drafting the bill with good intentions, which we may not come to agreement on, but also in the collegial way he has carried himself as we have gone through the hearings.

Thank you for that.

The Chair: Thank you, Mr. Lake.

Just to inform the committee, I have Mr. Wallace, Mr. Cardin, and Mr. Rafferty on the speakers list.

Mr. Wallace.

Mr. Mike Wallace: Thank you.

Just as a clarification, I think Mr. Rafferty is wrong in a couple of spots. First, the bill does not say that we will cover off the minimum based on the wording that's there now, based on provincial standards that have been set by provincial legislation. It's quiet, it seems, on it, so it doesn't say that.

Second, not all companies that go bankrupt are unionized, so they don't all have collective agreements. Even in some collective agreements, there are negotiated severance packages based on what might happen. But for argument's sake, let's say this company that's gone bankrupt is not unionized and the employees are entitled to the minimums but others could have negotiated, as has been indicated by staff, that severances will be at x dollars, which could be well above the minimum required by the province.

So what happens in a bankruptcy? Assuming there's no cash, because that's possibly part of the reason why they're bankrupt, all assets are sold, generating cash. The cash then gets divvied up. And as it works now, it will get divvied up by the taxes owed for employees. The employees who are working there at present get paid based on this. Ahead of that will be severance packages that had been pre-negotiated, and based on the wordings there, there are no criteria, there is no framework for that.

So if a company wants to negotiate huge severance packages, assuming it's never going to be bankrupt, they can do that. And they can do that with regular employees. They don't have to be unionized. The assets that are sold in that bankruptcy ahead of secured creditors would go to those people based on that. Frankly, I think there is potential for some fraudulent.... I wouldn't call it fraud, but misuse of that opportunity in the marketplace, if someone writes up severance packages, the company then goes bankrupt, they sell their assets, and they get their severance packages ahead of workers. It's a dangerous piece without some criteria around it, in my view.

Based on the wording that's there now, I'm asking my colleagues on the other side who are interested in moving forward to look at that, and at least put in some language that protects everybody involved in the bankruptcy, because everybody's affected, not just the severed or the terminated, but those who are working there now. I'm not sure whether it's fair that somebody who's working at the company on the day it goes bankrupt gets their wages covered up to \$2,000, but others who have been terminated or severed a month later, or whenever that happens to be, get a different amount. I don't think that's necessarily right. I think it's a dangerous precedent and something that needs to be looked at.

I don't have the legal labour law expertise to be able to tell you what the ramifications are. We're making law here, ladies and gentlemen, and not just moving motions that the government should look at things. We're actually changing laws, and I think we have to be very cautious, because I don't think we have the appropriate information to make an appropriate decision.

Thank you, Mr. Chair.

• (1605)

[*Translation*]

The Chair: Thank you, Mr. Wallace.

Mr. Cardin, the floor is now yours.

Mr. Serge Cardin: I'm not going to say anything dreadful.

We voted on the title, and I was wondering if things were done properly. We are talking about An Act to amend the Bankruptcy and Insolvency Act and other acts. There was the Canada Business Corporations Act and the Companies' Creditors Arrangement Act,

but since we are left only with the Bankruptcy and Insolvency Act, I am wondering if keeping the words "and other acts" is still relevant. I'm just talking about the title. It refers to other acts, but it actually strictly deals with the Bankruptcy and Insolvency Act. It is a detail, but...

[*English*]

The Chair: Monsieur Cardin, would you like Mr. Dooley to comment on that?

[*Translation*]

Mr. Serge Cardin: Yes.

[*English*]

Mr. Matt Dooley: I would agree that by removing the rest of the provisions it is strictly dealing with the Bankruptcy and Insolvency Act. And it refers to pension protection in the title, which the bill no longer does. So I would think anything after "Bankruptcy and Insolvency Act" would be irrelevant to the bill as it now stands.

The Chair: Then I may entertain an amendment after that, to the title.

Did you have something else, Mr. Cardin?

[*Translation*]

Mr. Serge Cardin: Are we going to keep the words "pension protection", which are in parentheses? No? In short, just keeping the Bankruptcy and Insolvency Act would be closer to reality.

[*English*]

The Chair: Okay. Monsieur Cardin, I have two other speakers on the list. We already voted on the title, so we would have to seek unanimous consent to reopen that and amend the title. I'll do that after I exhaust the speakers list and we'll come back to that, if that's okay.

Mr. Rafferty.

Mr. John Rafferty: I just want to say that I'm a little disappointed that this is the direction we're going in here right now, because I'll remind you what was said a little while ago, in the last meeting. Mr. McTeague was speaking to Roger Charland, I believe. He said, when we were talking about the amendments that I had put forth and set up, "I'm just wondering how this is now transforming the intent of the original bill". And Mr. Charland's response was "No, it clarifies the language and makes it even more clear". So I just wanted to register my disappointment with what's happened with these amendments, first of all.

Secondly, I think Mr. Wallace is unfortunately trying to muddy the waters here, because one of two things will happen when a company goes bankrupt. And we're not talking about management people here, because they make their own deals when they sign their own contracts with companies. It doesn't matter if it's a Bell Canada or if it's a small corporation or small company in small-town Canada. They make their own deals. But for the folks who by and large work for fixed salaries or for hourly rates, again I just want to emphasize that there's one of two situations. One is that they belong to a collective agreement or they don't have a collective agreement. It's clearly laid out in every collective agreement what happens in the case of termination and severance, and in the case of not having that kind of contract, that kind of protection, as I say, again, the minimum in the provinces and territories of what is required by the Canada Labour Code will kick in. And those minimums are there for a reason.

What this bill now does—and correct me if I'm wrong, Mr. Dooley—is get rid of all the pension elements entirely in this bill that we were talking about. It leaves us with termination and severance, and simply indicates that rather than companies going bankrupt and nobody getting anything, at least severance and termination will be part of what happens in that bankruptcy. And I certainly think that's more than fair.

Mr. Chair, if I can, I would take 30 seconds to give a brief overview of what's recently happened in my riding with Buchanan Forest Products. Buchanan Forest Products just went bankrupt, and there are thousands of workers we're talking about here. The only secured creditor is Mr. Buchanan himself, through a holding company. Those workers, some of whom worked there for 40-plus years, received no termination pay, no benefit for having worked there for all those years, aside from the pension, which they also lose. So they come out of that with absolutely nothing. And to make matters worse, WEPP, which we mentioned there, the workers' protection, are saying that they don't qualify because they're past the time limit because they were in protection first, that's when they say the WEPP timing started, and by the time they went bankrupt, they were past that time. So they actually get nothing at all.

I don't think it's unreasonable, given what's happened to the bill here now, with the termination and severance, which is now remaining in there.... I don't think we should have any difficulty in this committee saying that's the least that people should get. If there are regulations to be written, they will be written, if it gets to that point. And there may be some changes and the clarifications that Mr. Wallace is talking about will happen.

If we're going to move ahead with this as it is, I just take us back full circle again to my comments at the beginning, that this committee has worked very hard to come up with something. We heard witness after witness come before us and say that something needs to be done. Everyone—it doesn't matter if they were from AbitibiBowater or anybody else.

•(1610)

Now, it appears to me, we have an opportunity to do something—not what I had originally intended with the bill, but an opportunity to do something—that will have not a great impact in bankruptcy proceedings and will allow people who work for that company at

least the opportunity to receive \$2,000, or \$3,500, or whatever the case may be. I know that in the case of Buchanan Forest Products, the longest-serving employee there should, as part of their collective agreement, be getting \$13,500. I don't think that's too much to ask for 40 years of work for a company. But now they get nothing.

We have an opportunity here to really do at least something good—not what was intended, but something.

I leave it at that.

The Chair: Thank you, Mr. Rafferty.

Mr. McTeague.

Hon. Dan McTeague: Chair, I want to thank the sponsor of the bill, Mr. Rafferty, for the good work he has done here, and all committee members for having worked together. Goodness knows that every effort has been made to try to do something.

I don't necessarily agree always with my colleague Mr. Wallace on why he doesn't support private members' bills. I happen to believe they work very well. Today we're celebrating the anniversary of our flag. That too was a private member's bill, as was the Air Canada Act, as were several that I've passed.

I'm thinking that we cannot dismiss a couple of very important facts. The sponsor of the bill, Mr. Rafferty, recognized that there were some shortcomings in the bill, and that's why he moved a motion of instruction to correct, to clarify, and to provide better framework legislation, recognizing the faults of his own legislation—through no fault of his own, and certainly not intentionally. That motion of instruction was denied and blocked in the House of Commons by the government. It was very clear at the time that this is something we would have certainly—

•(1615)

The Chair: Yes, Mr. Lake.

I'm sorry, Mr. McTeague; there is a point of order.

Mr. Mike Lake: I don't think there's a record of who opposed it. I have no idea who opposed it. I certainly wasn't there. I don't know who was there at the time.

Hon. Dan McTeague: Of course you don't.

Maybe I can be clearer. The Liberal Party did not oppose it; we felt it would be the right way to fix this legislation. But the fact that it has not been fixed and that we are here today with a piece of legislation that is going to require us to deliver something that is at least an attempt.... It's not the best attempt; it's certainly not something that we would have cobbled together. We have several points that we would put together, as far as pension reform is concerned.

But considering the history of the circumstances, we all want the best both for business and for the pensioners. This bill regrettably, sadly, misses that point—the author recognizes that—and through circumstances that occurred in the House of Commons, where it did not receive support for the motion of instruction, we are here today having to pass judgment on a very difficult bill.

So I would say, in conclusion for our position, anyway, that this is the best we can do. We support the spirit and the intent. We have supported several of the clauses here. We weren't successful, with the combination of the other parties. The chair did not ask for a recorded vote, and I did not ask for one. But let's be very clear: the Liberal Party stands foursquare for this kind of reform.

The Chair: Okay, there's no other debate now.

Monsieur Cardin brought up a point that he wanted to go back to the title and amend the title to simply say "An Act to amend the Bankruptcy and Insolvency Act" and remove any other reference.

Do I have unanimous consent to go back to the vote on the title?

Mr. John Rafferty: I just have a question, Mr. Chair.

Is the chair entertaining any other sort of title? If it's clearly now about severance and termination, perhaps the title should become the Severance and Termination Act, or something; I don't know. Perhaps there could be some comments on that.

The Chair: It's an act to amend an existing act, Mr. Rafferty, so I think it's quite specific.

Mr. John Rafferty: Could we say, as Mr. Cardin says...and then in brackets "severance and termination", or something? I don't know. A lot of people, quite frankly, just look at that. It will clarify for people what this bill now is.

I don't know that it needs a lot of discussion, but it's a thought.

The Chair: Well, it looks as though there certainly is some discussion.

Mr. Mike Lake: Have we voted on the unanimous consent?

The Chair: No, we haven't returned to the title, no.

Mr. Mike Lake: Seriously, I don't think the title is really going to make that much difference one way or another. If you want to take away, just to make it more correct, the reference to other acts, I understand that argument. But if we're going to have an hour-long debate over a title....

An hon. member: It has happened before.

Mr. Mike Lake: It has, actually; I know. That's why I'm disinclined to give unanimous consent to even open it up.

The Chair: I suspect Mr. Lake is saying that the members of the government are prepared to give unanimous consent as long as we keep the amendment to the specific title at hand and making it more accurate.

Is there unanimous consent to go back to the title, then?

Some hon. members: Agreed.

The Chair: Monsieur Cardin, I don't want to put words in your mouth, so please correct me if I'm wrong, but you want to amend the title to say "An Act to amend the Bankruptcy and Insolvency Act". Is that correct?

[*Translation*]

Mr. Serge Cardin: Mr. Chair, I don't have a problem with adding "(Termination and Severance Pay)" to the title of the bill. The purpose of "(pension protection)" was in part to summarize what the bill was about.

● (1620)

[*English*]

The Chair: Well, wanting to be as efficient as I can, let's see if there's some agreement. To repeat for clarity, you'd like it to be "An Act to amend the Bankruptcy and Insolvency Act", and then in brackets "Termination and Severance Pay".

Is that agreed?

Some hon. members: Agreed.

The Chair: Shall the title pass as amended?

Some hon. members: Agreed.

[*Translation*]

Mr. Robert Bouchard: I think it's "indemnités" in French.

[*English*]

The Chair: So the title has been passed.

Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: Shall I report the bill, as amended, to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill?

Some hon. members: Agreed.

The Chair: Okay, thank you very much, gentlemen.

Members, please remember to send to the clerk your witnesses for Bill C-568, please.

Seeing no other business, this meeting is adjourned.

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