Ontario won't abide by its pension guarantees to auto workers

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Ontario Premier Dalton McGuinty warned Wednesday that in the event General Motors or Chrysler declare bankruptcy his Liberal government will not honor a provincial guarantee to make up pension shortfalls, threatening tens of thousands of retired auto workers with impoverishment.

McGuinty made his statement as expectations grow in financial circles that one or both of the troubled auto makers will seek bankruptcy protection. Moody's Investor Services, for example, puts the odds of at least one bankruptcy among the Detroit Three auto companies at 70 percent, whilst Reuters has reported that GM is in "intense and earnest" bankruptcy discussions with the United States government.

On Tuesday, federal Industry Minister Tony Clement bluntly declared, "there used to be a phrase in the auto sector, 'too big to fail.' I don't think that phrase exists anymore.... We have to ready ourselves for...Chapter 11 in the United States and bankruptcy protection here in Canada."

In rejecting General Motors' and Chrysler's restructuring plans late last month, the Obama administration and Canada's Conservative government openly raised the possibility of bankruptcy as a potential means for the automakers to make themselves "viable"—i.e., a lucrative source of enrichment for investors. Under this scenario the sweeping powers of the bankruptcy courts to set aside contracts and reapportion debts and obligations would be used to impose still steeper wage concessions on auto workers and shed "legacy" costs such as pensions and medical benefits.

Under Canadian law the workers and retirees of companies that file for bankruptcy are treated as "unsecured" or lesser creditors by the courts, meaning their claims are only addressed after those of the banks and other secured creditors are satisfied. The potential therefore is that little or nothing will be left for pensioners. At the very least, bankruptcy would be used to impose steep pension cuts on GM and Chrysler workers.

Under a program set up by the Ontario government in 1980, the Pension Benefits Guarantee Fund, retirees whose pension benefits are cut because of plan underfunding or employer insolvency are entitled to receive up to a $1,000 per month in government compensation. The program is funded by premiums paid by all companies with defined pension benefit plans, i.e., stipulated pension levels.

But on Wednesday, McGuinty made clear that Ontario has no intention of honoring its guarantee to back the pensions of retired auto workers, announcing that the Pension Benefits Guarantee Fund currently has just $100 million.

Said McGuinty, "The money available is very, very modest. (It) comes nowhere near meeting any liabilities...for the auto sector alone, to say nothing of all the other sectors. We would never have all the money that would be needed to top it up to meet all the demands for all Ontarians who are experiencing troubles with their pension plans."

Indeed, it is not just auto retirees who have cause to fear for their accrued pensions. The former telecommunications colossus Nortel is presently under protection from its creditors with thousands of employees facing at the very least a 40 percent reduction in their pensions. The company has even failed to make good on its severance pay responsibilities. Pension plans at Air Canada, AbitiBowater, Dupont Invista and (once again) Stelco (now owned by US Steel) are also poised precariously at cliff's edge.

According to a pension lawyer at a leading Toronto law firm cited by the *Globe and Mail*, "The government is basically saying, 'If we have a whole series of bankruptcies, we're not going to be there to backstop the fund, let's make that very clear'".

"All you need," said Mitch Frazer of Torys LLP, "is one large bankruptcy, and you wipe out all the money in the fund."

McGuinty, a long-time favorite of the Canadian Auto Workers (CAW) leadership, claims the government has no money when it comes to protecting the pensions of tens of thousands of workers who have spent their entire working lives churning out dividends for the corporate magnates and their shareholders. Yet this same premier is perfectly able, as his recent provincial budget demonstrated, to slash corporate and business taxes across the board to record low levels.

Further, through the legislation enacting that same budget, the Liberals have inserted language in the Pensions Benefits Act asserting that the Pension Benefits Guarantee Fund must be self-sustaining, with the government not required to make either grants or loans to the fund to keep it solvent. In years past, the Ontario government has provided loans to insolvent pension plans at Massey Ferguson, Algoma Steel and at Stelco in Hamilton.

According to financial analysts, there is currently an estimated shortfall of $6 billion in General Motors of Canada's two pension plans. (There is one for union and another for salaried employees.) At the end of November 2007, i.e., long before the stock market crash, the shortfall was set by financial actuaries at more than $4.5 billion.

A key reason for the massive shortfall is that in 1992, the Ontario New Democratic Party government amended the Pension Benefits Act so as to allow GM to fund its plan to a lower standard than other companies. Even in years when GM was making massive profits it underfunded its pension plan.

McGuinty's statement repudiating the government's obligations toward retired auto workers is but the latest step in an ongoing drive by the ruling class to use the auto industry crisis as a means to destroy the living standards and rights won by generations of auto workers. The concessions extorted from autoworkers, traditionally among the most militant sections of the working class, will then be used as a bludgeon to drive down the wages and working conditions of all workers.

That is why, in Canada as in the US, the government has been ready to lavish hundreds of billions in aid on the banks with no strings attached, but when it comes to the auto industry, any and all aid is made conditional on the imposition of massive job and wage and benefit cuts on rank-and-file workers.

No sooner had US President Barack Obama rejected the restructuring plans that GM and Chrysler had submitted and declared that much greater sacrifices are required from auto workers if the companies are to be eligible for government assistance, than representatives of Canada's Conservative and the Ontario Liberal governments proclaimed Obama's stance their own. For good measure, they announced that the concessions the Canadian Auto Workers (CAW) had just made to GM were inadequate and that the GM-CAW contract should be reopened up again.

The CAW has been instrumental in all of this. Under President Ken Lewenza the CAW negotiated a white flag deal with GM in early March that called for a wage and cost-of-living allowance freeze until 2012, the give-back of a week of holidays and a previously negotiated $1,700 annual bonus, and increased health care premiums. Retirees will lose cost-of-living protection and face increased co-pays for health and other benefits. Overall, the new agreement surrenders considerably more in wages and benefits than did the 2008 contract that provided GM with $400 million in savings.

That 2008 pact also acquiesced in the imminent closure of GM's transmission plant in Windsor and, shortly thereafter, GM announced the shuttering of its truck assembly operation in Oshawa. Of the 10,000 GM workers currently employed, only 7,000 will be left by 2010. Just four years ago, GM employed 20,000 workers in Canada.

But even these draconian give-backs were not enough for Chrysler CEO Tom LaSorda, who rejected Lewenza's erstwhile "pattern contract" and demanded a further $20 per hour in labor cost savings. The CAW-Chrysler negotiations were suspended by LaSorda after Washington and Ottawa ordered new restructuring plans from GM and Chrysler and gave Chrysler an ultimatum to merge with Fiat.

Government officials, financial analysts and auto company negotiators have all targeted the "legacy costs" that are on the books of the Detroit Three as a major stumbling block to their profitability. Due to the older "worker demographics" associated with the Detroit Three companies, as opposed to the "younger" Asian trans-plant workforces, they have much larger health care and pension benefit commitments—commitments they are keen to reduce, if not extinguish altogether.

According to Ontario pension laws, companies cannot negotiate reductions to benefits that have already been accrued. Only by filing for bankruptcy can a corporation open the way to reduce or shed outright its pension responsibilities. Lewenza has not been shy in noting that "legacy cost" reductions cannot be achieved at the negotiating table: "Legacy costs are contractual entitlements that workers earn through their sweat and toil, and we can't take those entitlements away from them, and we have no legal right to take those entitlements away from them."

However, there is more than one way for a bureaucrat to skin a cat. The entire policy of the CAW is based on ensuring the profitability of the automakers and ensuring that they maintain a "Canadian competitive advantage" over the UAW-organized plants south of the border.

Thus Lewenza has left the door open for reductions via other means. He has announced that the union is willing to participate in tri-partite discussions between the CAW, the government and the auto companies to address the "legacy" costs issue. At the same time, he is openly considering emulating the United Auto Workers by having the CAW assume responsibility for the automakers' health care liabilities through a stand-alone Voluntary Employee Benefit Association (VEBA), funded by a large initial company payment. Under this scheme, union officials manage the private fund, directly benefiting from further health care cuts and increased co-payments from recipients.

Lewenza made his position crystal clear in a March 31st statement. "We will continue," said the CAW president, "to engage in discussions with the companies and governments over how to control and manage legacy costs. Innovations like our generics drug plan. Innovations like a Canadian VEBA plan to pre-fund retiree health benefits that we have proposed. The CAW is willing to engage in wide-open tripartite discussions with the companies and the governments over how to address those legacy cost issues."

Following up on McGuinty's statement of Wednesday, Ontario Finance Minister Dwight Duncan announced yesterday that the government will meet with the CAW next week to discuss the pension issue and restoring the auto companies to profitability.