

Status as at December 4, 2002

Great news - On November 22, 2002 the Ontario Court of Appeal released its long-awaited decision in the "Monsanto Case", at which AFTER had intervenor status. The result was a unanimous 3-0 decision in our favour.

As reported in the November update, the Ontario Provincial Government introduced proposed amendments to the Ontario Pension Benefits Act (PBA), which, if passed would, retroactively to 1988 (15 years), wipe out rights of thousands of members of defined benefit pension plans. The changes were embedded in a huge omnibus bill, Bill 198 "Keeping the Promise for a Strong Economy (Budget Measures) 2002", affecting 25 different Provincial Acts.

A groundswell of opposition to these changes was led by MPP for Toronto Centre-Rosedale, George Smitherman, Liberal Financial Institutions Critic, with support from the NDP caucus. Finance Minister Janet Ecker, and/or Premier Ernie Eves, were questioned daily in the Legislature and the media became very interested. As the tide of criticism grew the Government realized the bill must be revisited. On November 28th, 2002 Janet Ecker's Ministry of Finance issued a press release with the headline. "PENSION AMENDMENTS IN BILL 198 WILL NEVER BE PROCLAIMED".

Two of your negotiating committee members had an informal meeting with Finance Minister Janet Ecker on November 27th and we have her personal commitment that she will formally meet with us and our lawyer(s) to hear our concerns. The Government plans to put the PBA amendments out for further consultation before re-introducing them to the House for full debate.

You may have recently read newspaper articles quoting the Association of Canadian Pension Management (ACPM) as initially being supportive and "applauding the Government's bravery in making new surplus-sharing rules retroactive to 1988". We point out that this is the only group, aside from Scotiabank and Monsanto Canada Inc., aligned against AFTER and FSCO throughout the Monsanto court proceedings.

The ACPM is a national association apparently speaking for over "750 members representing plan sponsors, trustees and administrators, pension industry professionals and service providers". They claim to work on behalf of over 3 million pension plan members across Canada, but we question this statement. We believe they work for the employers of those plan members and the interests of those employers. We base our belief on the ACPM's reaction to the Monsanto decision in which their spokesperson stated she "was angered by the Monsanto ruling".