

News from the Society of Energy Professionals

Massive complaint against Hydro One



More than a dozen Hamilton-Burlington area Society members marched in Hamilton's Labour Day parade on September 5th. Around 10,000 in total marched in celebration of the Canadian Labour Council's 50th anniversary.

The Society has taken action against Hydro One management, launching a massive complaint against the company's ongoing practice of committing "unfair labour practices."

"The filing of this complaint at the [Ontario Labour Relations] Board marks a significant step in defending our members' rights against Hydro One's continuing onslaught," said the Local's leadership in a communiqué to its members. "This

complaint will form a key component of our political and media campaign to educate Queen's Park and Ontarians generally about Hydro One's labour relations policy and its implications for the public interest."

The Society has charged Hydro One with an extensive "pattern of misconduct," including:

- ◆ Intimidating and discriminating against Society members
- ◆ Undermining the Society's authority and credibility in the eyes of its members
- ◆ Punishing the Society for its pursuit of legitimate collective bargaining objectives
- ◆ Reducing the size of the Society bargaining unit beyond levels supported by business reasons
- ◆ Chilling Society members from engaging in trade union activity protected under the Act, and
- ◆ Interfering with and undermining the administration of the Society and the representation of its members

On December 1st, 2005, the complaint says, Hydro One CEO Tom Parkinson made an extraordinary speech to around 800 Society members in a ballroom at the Toronto Hilton Hotel. Among other things, he said, "[Y]ou've proved you're a union, you proved you behaved like a union, and you want to be treated as a union. And we will honour that request."

And, he said, "'Some of you have commented to me that it's a different company since you came back. And that's true, that's deliberate, and it's not going to change. It's not going to go back..."

This complaint will form a key component of our political and media campaign to educate Queen's Park and Ontarians generally ... (Keith Rattai)

Among the "deliberate" changes were, the Society alleges:

- ◆ Refusing to hire Society-represented employees or to replace Society-represented employees who leave until management is able to get desired changes to the collective agreement
- ◆ Reclassifying positions or creating new excluded managerial positions which previously fell within the Society's jurisdiction ("top-end exclusions")
- ◆ Reclassifying positions or creating new PWU positions which previously fell within the Society's bargaining unit ("bottom end exclusions")
- ◆ Threatening and punishing individual members for their vocal support of the Society during the strike
- ◆ Removing Society members from their regular duties and assigning them to "special projects" that fall below their skills and experience with the effect of demoralizing and humiliating them
- ◆ Punishing Society members by refusing to approve payment of overtime and removing them from the on-call duty list
- ◆ Interfering with union representation by refusing paid release time for Society representatives (see article, page 4)

To resolve the complaint, the Society has asked the Labour Relations Board to declare that Hydro One is in breach of the Act; to order Hydro One to cease and desist from actions that violate the Act; to order Hydro One to retain an independent, neutral "labour relations monitor," with broad powers to monitor and manage labour relations activities in the Company; to return all Society positions to the bargaining unit; to send Hydro One executives and managers to such external labour relations training as may be appropriate; and more.

Hydro One has replied to the Society's complaint, denying all allegations and asking the Board to dismiss it.

As of yet, no formal hearings into the complaint have been scheduled.

Board highlights, August 1st and September 6th, 2006

The Society's Executive Board met on August 1st and September 6th. The September meeting marked the first in which **Paul Hnatiuk**, Local Vice President of the newest Society Local—the Society of Professional Engineers and Associates, of Atomic Energy of Canada, Ltd.—was in attendance. Upon being introduced by President **Andrew Müller**, he received a rousing ovation.

Budget/Workplan: The Board approved in August a budget and workplan for Fiscal Year 2006-7.

Vice President Finance **Bill Jones** began the process for formulating the current fiscal year's budget and workplan in January. He reported to the Board at that time that approval of a budget for the new fiscal year (FY) would be delayed by the following factors:

- ◆ The Hydro One strike had complicated the process of auditing the expenditures of the then current year (2005-6)
- ◆ The requirement for external audits—both the audit called for by the October, 2005 Society Council and the one commissioned by IPFTE President Gregory Junemann—would mean that there would be some uncertainty around the elements to be included in the budget, and the resources available for support
- ◆ The Locals wanted to have substantial input into the processes involved in budgeting for Local needs, which would require extensive consultation
- ◆ Finally, the Board needed to conduct a strategic planning exercise, a recommendation arising out of the external audit that had been accepted

Jones reported that, in his view, dealing with these matters would take until at least July. (Budgets are normally set by the April Board meeting.)



Photo: David Smiley

More than 200 Society members, family, and friends joined the Toronto Labour Day march to the Canadian National Exhibition. Here they pause at Dufferin Gate. T-shirts read “Come out and vote,” in preparation for municipal elections in Ontario this fall. The OFL is asking union members to search out pro-labour candi-

Beginning in April, the Board operated through a series of interim budgets.

When the Locals reported on their needs for FY 2006-7, it was clear the Board would have a difficult time achieving a balanced budget. Three of the Society’s Locals expect significant conflicts with their Employers—Hydro One being the most obvious example—that will require extraordinary expenditures, and so the expected expenses were \$1.4 million over the expected revenues.

In July, the Board went through a process wherein all locals were required to justify their figures. All were able to do so, and the Board accepted each Local’s estimate. The Board determined that some of the expenses required were indeed extraordinary, and assigned them to extraordinary sources of revenue—in the Hydro One Local’s case, to the Collective Agreement Renewal Fund, and in others

to sources of “non-dues income” (primarily Bruce Equity distributions).

“It’s not the best thing,” said Jones, “but since the extraordinary expenses are dealt with in an extraordinary way, the Society’s reserve remains well above the 60 per cent level.” (Society bylaws require the Society to keep a “reserve fund” on hand equal to 50 per cent of budgeted Society expenditures in the current FY.)

The final budget, as passed in August, projects—in the operations side of things—a deficit of \$340,000 on \$6.5 million in expenditures. Even so, says Jones, the Society will be in pretty good shape by the end of the FY. “We expect the consolidated funds of the Society—**all** sources of revenue versus **all** expenditures—to grow from \$13 million as of last March to \$17 million by next.”

Biomass Project: The Board heard a presentation from Kinectrics research scientist Rene Mangal. Kinectrics has developed a research proposal for the Ontario Federation of Agriculture on the feasibility of replacing some of the coal burnt in OPG generators with biomass—waste corn, corn cobs, wheat shorts, and biomass feedstocks, such as wood waste and forest-harvest residues. The project needs \$550,000 to run, and the Society had been approached to participate.

Burning certain types of biomass will, say the project's advocates, reduce the amounts of SO₂, NO_x, and mercury emitted by generators such as Nanticoke and Atikokan, without switching to natural gas. Carbon dioxide will also be reduced, in proportion to the amount of biomass burned. In addition, they say, corn cobs provide four times more heat per dollar than natural gas.

Using a thermal power research facility in North Dakota, which has scrubbers similar to Nanticoke's, the project will explore the technical issues involved, model the results over different mixtures of coal and biomass, and conduct pilot tests. Funding has been pledged from OPG (\$100,000), Kinectrics (\$100,000), the Power Workers Union (\$50,000), and others.

Board members viewed the research to be an important contribution to cleaner coal technology, and to the longevity of the coal-fired stations run by our members. The Board voted to invest \$50,000 in the project from the Bruce Equity disbursements.

Elections, Principal Officers: Principal Officer elections will take place this fall (see article, page 6). Under Society rules, elections are carried out by a Chief Returning Officer (CRO), who is appointed by the Executive Board. The Executive Board is conducting a search for a CRO; until one is appointed, OPGI Local Vice President **Lanny Totton** has been appointed Acting CRO.

Society Council: Society Council will meet on Monday, October 30th. Among the items Council will discuss are:

- ◆ Audit Action Plan, a plan for governance reform that arose out of the audit Society Council mandated in October, 2005
- ◆ Approval of changes to the Constitution recommended by Society Council, but that failed to reach quorum in the required membership referendum
- ◆ Policies on strike pay, release time for Society representatives, and nuclear power
- ◆ Audited financial statements (2005-6), the Society workplan (2006-7), and a financial report covering April to August, 2006
- ◆ Appointment of a Constitutional Interpretation Committee (see Constitution, Article 15.6)
- ◆ Revisions to the Collective Agreement Renewal Fund, as recommended by the Executive Board
- ◆ Principal Officer elections—speeches of the candidates
- ◆ Creation of a Chief Financial Officer position (tabled from the April, 2006 Society Council)

Audit Facilitator: President Müller reported that a proposal had been received from one of the two potential external governance auditors (see *Newscast* 2006:03, page 6), and that the other was expected to submit a proposal in September. The Board will consider the proposals in its October meeting.

Fazzari audit: President Müller reported to the Executive Board that the Society had received a letter from IFPTE President **Gregory Junemann** setting out the final costs of the external audit conducted on behalf of the IFPTE by Fazzari & Partners. The bill totalled \$94,900, and President Junemann had requested that the Society pay half. The Executive Board approved the expenditure.

Society gets back Hydro One release time

Hydro One is not justified in refusing to pay Society representatives' release time, says Arbitrator Robert J. Herman.

Hydro One management informed the Society earlier this year that they would only pay for release time involving joint labour-management processes specifically prescribed in the Collective Agreement and those “initiated by or approved by Management.” Management then required Society representatives to report on their activities, presumably so that they could be adjudged as approved or not.

Drastically cutting back on paying for release time, said the Hydro One Local, was “a blatant attempt to cripple our ability to effectively represent our members.” Said Local VP **Keith Rattai**, “They don’t want to be on the hook for our members’ representation.”

Hydro One’s justification? A part of the Preamble of the Collective Agreement that referred to the desirability of joint decision-making had been removed. Since Article 39—the article that sets out when Management is obliged to pay for release time—referred to the principles set out in the preamble, Hydro One said, most of the release time article had been negated.

Not so, said the Society, and filed an immediate grievance. Removing part of the preamble, said the Society, in no way authorized Hydro One Management to alter a practice that had been “clear, consistent, and longstanding,” a practice that is set out in its entirety in Article 39. Indeed, the Society added, the matter of release time had not arisen in bargaining—even around discussions of the preamble.

Arbitrator Herman agreed with the Society on every point. He said:

One must still give meaning to the provisions of the Collective Agreement that remain, particularly when they have not been amended in any way and when there was not even discussion about changing their meaning and impact. Hydro One effectively urges me to read Article 39.2.2 out of the Collective Agreement, but it is extremely unlikely that the parties intended such a result...

He ruled that the Collective Agreement requires Hydro One to “pay for the same types of release time for Society representatives that it paid under the previous collective agreement...”

At issue was the paid release time of the four Society unit directors, and a smaller amount of release time accrued by Society delegates in the performance of their duties. Under protest, the Society has been reimbursing Hydro One for what they refused to pay for. “We expect to be compensated,” Rattai said.

Weaver elected NSS Local Head

Senior Technical Expert **Keith Weaver** has been elected Local Vice President of the Nuclear Safety Solutions Local.

An election was made necessary by the resignation of previous VP **Bojan Popovic**. Weaver prevailed by a vote of 78-69 over challenger **Camber Muir**, who served as NSS Local VP in 2003-4.

Weaver’s campaign stressed the record of the NSS Local Committee over the last two years, which he said “put our dealings with NSS onto a solid footing.” He has been a delegate during that time, and pledged to build on those achievements.

Keith has worked in both the private and public sectors, including for Atomic Energy of Canada, Ltd., the International Atomic Energy Agency in Vienna, and for twelve years in the 1980s and 90s, in a company of his own whose major client was Ontario Hydro. In 1994 he took a position with Ontario Hydro, and moved to NSS in 2002. His major work area is in safety analysis related to containment.

He became active in the Society in 2004, at a time when, he says, “negotiations went very badly that year, to the extent that our Local VP and NSS management almost couldn’t speak to each other ... so I decided I’d get involved.” Things have settled down since, he says. When



Keith Weaver, new Local VP, Nuclear Safety Solutions

Popovic felt he had to resign to see more of his family, "I said, 'Well, in for a penny, in for a pound.'"

"I've had a lot of experience in a lot of organizations, and I've dealt with people at different levels," he says, in explaining his particular qualifications for the position. "I don't have a lot of difficulty in talking to senior people, junior people, people who don't think like me, people who do think like me... But I think mainly I've always stressed the view that the best way to tackle problems is together."

He says the NSS Local has a number of advantages right now: "a fairly sympathetic management, a company that's healthy and growing, a very young workforce ... It's

time for positive outlooks, a time to capitalize on where we think we can go with NSS."

Principal Officer elections this fall

Elections will be held this fall to decide who will be the Society's Principal Officers from 2007 to 2010. The terms of the current Principal Officers will end next April.

Nominations for all positions—Society President, and the three Executive Vice Presidents—opened on Monday, September 18th, and will close on Monday, October 16th. For a nomination to be valid, it must be accompanied by the signatures of five per cent of all Society elected representatives (or 14 signatures) or one per cent of all Society members (66 signatures).

Balloting will be conducted by mail, with balloting materials to be sent out the first week of November, to be returned by November 30th.

Bruce Power, OPG seek permission to prepare for new nuclear

Bruce Power and OPG have separately applied to the Canadian Nuclear Safety Commission (CNSC) for the go-ahead to prepare a new site for nuclear generation.

Bruce Power publicized its application in mid-August. Bruce Power Local VP **Rob Stanley** welcomed the news, saying:

The Society of Energy Professionals applauds and fully supports Bruce Power's long term operating strategy of both refurbishment of the existing asset, as well as exploring new build opportunities, and will actively participate to assist and encourage the process wherever possible.

Bruce Power currently operates six units at its Tiverton, Ontario site, and is in the process of restarting two more.

Its nuclear generators are currently the source of more than 20 per cent of Ontario's electricity.

The four units in the Bruce B complex, and one in Bruce A, will need to be refurbished between 2015 and 2020. One object of the process will be to determine whether replacing or augmenting them with new generation would make the best business case. The Bruce site can support at least three multi-generator stations.

"Since more than 4,700 MW ... comes from the Bruce Power site, and more than 6,200 MW will come from us following the restart of Units 1 and 2, it's entirely reasonable for us to consider all options to meet that requirement," said Bruce Power President and CEO Duncan Hawthorne.

OPG made its application public last Friday, announcing that it had chosen the site of Darlington NGS as "best suited [OPG property] for new nuclear development." While Darlington currently contains four nuclear generators, there is room for at least eight more.

"These applications are good news" said Society President **Andrew Müller**. "We've been waiting a long time to see progress on new construction. With the uncertain future of the Pickering units, new build may well make the best business case. Given the time it takes to build a new station, OPG and Bruce Power are going to need to move fast to keep the lights on."

The reactors at Pickering B are due for shut-down or refurbishment between 2012 and 2016. An environmental screening of that project is currently underway.

Energy Minister Dwight Duncan has said the Province will reduce its dependence on nuclear power, keeping installed capacity at around 14,000MW, but not all industry experts agree that objective is achievable. "Reduce dependence on both coal and nuclear?" said Müller. "I don't think that's going to happen."

Unlike in the Bruce Power case, OPG CEO Jim Hankinson was careful to note that OPG's application was under

"direction by the Ontario Minister of Energy."

The CNSC will conduct extensive environmental assessments during the process of reviewing these applications, working with the Canadian Environmental Assessment Agency and other federal and provincial agencies, and following the requirements of the Canadian Environmental Assessment Act. Public participation is an integral part of the process. The Commission's object will be to satisfy itself that it is feasible to design, construct, and operate a reactor on the proposed site while meeting health, safety, security, and environmental requirements.

Duelling arbitration decisions for commuted-value pensioners

The Society has received a decision in a Hydro One pension case that is the opposite of a decision received in an OPG case just last year.

The question regarded persons who retire directly from Hydro One, or who terminate from Hydro One with a minimum of 25 years of continuous service, who elect to receive the full commuted value of their pension, and leave nothing in the Hydro One pension plan. The Society argued before Arbitrator Janet Devlin that such persons were "pensioners" within the meaning of the Hydro One health and dental plan, and therefore eligible for post-retirement health and dental benefits on retirement.

In 2005, the Society had made the same argument for OPG before Arbitrator Owen Shime, who had agreed; recently OPG and the Society signed a memorandum of agreement setting out OPG's acceptance, and implementation, of that award.

Arbitrator Devlin, however, was not swayed by Arbitrator Shime's acquiescence. The difference? In the Hydro One case, management had provided "extrinsic evidence"—documents other than the wording of the plans (pension and health and dental) themselves. It's clear that Arbitra-

tor Devlin thought Arbitrator Shime would have ruled differently, had he seen the same evidence.

Concluded Devlin: a person who elects the full commuted value option on termination or retirement from Hydro One is **not** a Hydro One pensioner, and is **not** eligible for post-retirement benefits.

The ruling means that such individuals who leave OPG and take the full commuted value option **are** eligible for post-retirement health and dental benefits, while those who elect this option on termination or retirement from Hydro One are **not**. An appeal is unlikely.

The Society's case was ably argued by Society lawyer David Bloom, assisted by Society Staff Officer **Jim Bell**.

Kinectrics bought by Vision Capital

Kinectrics has been bought by Vision Capital, a U.K. investment fund.

Initially announced in August, Kinectrics CEO David Harris said on September 15th that the sale was final.

The new commitment by Vision Capital enables Kinectrics to move forward aggressively, and in view of recent Ontario government announcements on expansion plans for power generation throughout the province, means Kinectrics is now ideally positioned for major growth in the future.

"I'm cautiously optimistic," said Kinectrics Local Vice President **Dave Young**. "Vision Capital's coverage in various public and specialized databases is positive, and it's said they play a regenerative role in industries going through shake-outs," like Ontario's electricity industry.

Kinectrics, the former research division of Ontario Hydro, was owned by AEA Technology Group of the U.K. from 2001. An international environmental consultancy and technology company, AEA is undertaking to re-focus its business on Environment as its "single mission," and has

sold a portfolio of non-environment businesses, including Kinectrics and their U.K. railway service division.

"The [AEA] Board believes this deal is in the best interest of our shareholders," said Bernard Bulkin, AEA Chairman.

Vision Capital, a U.K. investment fund, has a mission of "creat[ing] value, by growing businesses." The purchase of the AEA businesses, they say, marks their "entry into the nuclear and rail consultancy sectors, both of which offer significant growth prospects."

Society gets \$15k to participate in IPSP

The Society has been awarded funding to participate in the process by which Ontario's Integrated Power Supply Plan will be drafted.

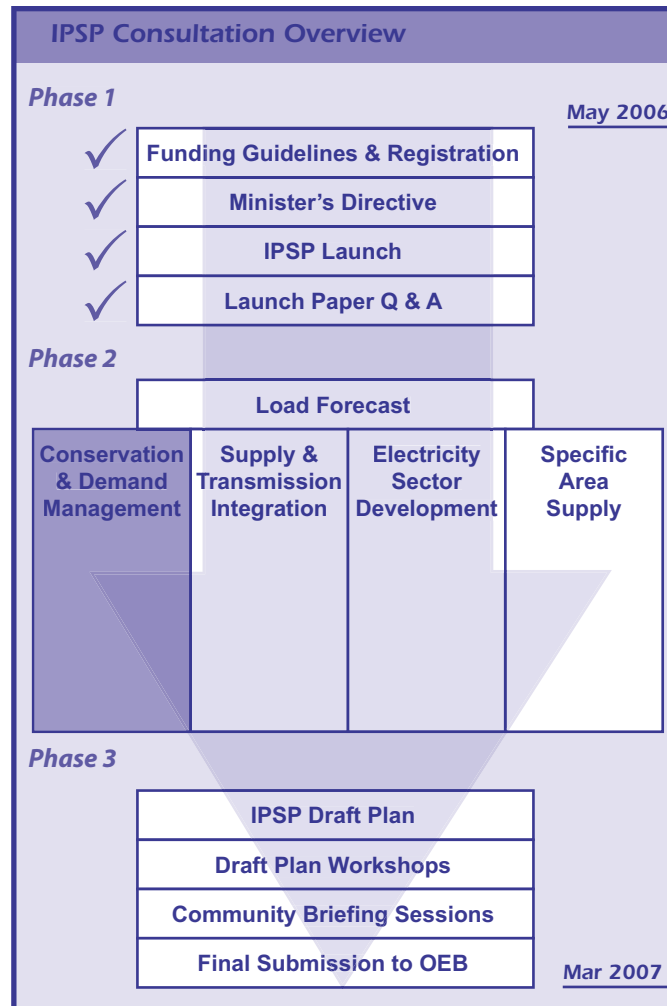
The IPSP is being developed by the Ontario Power Authority, the organization created by the current government to "identify the ... investments that are needed to ensure a reliable, sustainable power supply." The drafting process is designed to engage stakeholders, and is open to the public. Only 28 groups have been awarded funding, including the Society and the Power Workers Union. The Society will receive up to \$15,000.

The procedure deals with four technical areas:

- ◆ Conservation and demand management
- ◆ Supply and transmission integration
- ◆ Electricity sector development
- ◆ Specific area supply

The Society has identified a number of areas that will be of interest to, and have an impact on, Society-represented employees and their careers, including:

- ◆ What will be the commercial terms for nuclear new-build?
- ◆ What is the future of the coal stations? Closed? Converted to biomass? Kept as "strategic reserve?"



The application for funding was prepared by Society Staff Officer **Matthew Kellway**.

Bruce Power, UWO in hydrogen study

Bruce Power and the University of Western Ontario will partner in a hydrogen commercialization study.

The company has ponied up \$75,000 to start the study, which will examine as its first focus off-peak hydrogen production from nuclear power and distributive electricity generation.

"It is our view that hydrogen will be the fuel of the future and it makes perfect sense that some of our future leaders will help its development," said Duncan Hawthorne, President and Chief Executive Officer, Bruce Power.

Beginning in January, 2007, UWO graduate students will "analyze a wide array of key technical and policy areas required to move Ontario's hydrogen economy forward."

The Canadian Hydrogen Association (CHA) and Hydrogen Village of Toronto have also joined as strategic partners of the new program. Bruce Power is a member of both organizations.

Proud to be an Energy Professional? Why not put it in the mail?

E-mail auto-signatures are a good way to show your pride.

Leading up to the Hydro One strike in 2005, many members of that local adopted the practice of putting the phrase "proud energy professional" in their e-mail auto-signature.

The Society's Executive Board has encouraged all Society members to adopt the practice. "It's a good way to show

- ◆ What will be the role of OPG?
- ◆ What part will renewables play, and who will be the players?
- ◆ What kinds of demand management programs will be favoured: prescriptive (housing standards, load control requirements for air conditioning, etc.) or market-based?
- ◆ What will be the roles of generation and transmission in the alleviation of supply problems?

you care about your professionalism and your career,” said **Andrew Müller**, Society President, “and also that you support your brothers and sisters in Hydro One.”

IFPTE intervenes to secure passage of U.S. pension reform bill

IFPTE President **Gregory Junemann** wrote members of the U.S. Senate in late July, urging them to pass a massive pension reform bill.

Members of IFPTE Local 150, the Aircraft Technical Support Association, employees of Northwest Airlines, visited senators’ offices in the week of July 24th to stump for the bill. Locked in bankruptcy proceedings, Northwest had threatened to liquidate their employees’ pension plans entirely if Congress failed to pass the bill, which contains

rules giving airline operators more time than others to fund fully their pension plans.

The IFPTE members were accompanied by **Matthew Biggs**, the IFPTE’s Legislative Director.

Known as H.R. 4, *The Pension Protection Act of 2006*, the bill addresses the chaotic state of pension plans in the U.S. In the past five years, more than 700 underfunded U.S. pension plans have collapsed, with US\$8 billion in workers’ pension contributions going up in smoke. Many unions are particularly enraged that pensions have been disappearing at the same time as company executives are diverting company funds into their **own** generous pensions.

The Pension Benefit Guaranty Corporation (PBGC), the “insurer of last resort for the defined benefit system,” was also underfunded, with a deficit as of July of US\$23 billion, and climbing.

Called the first significant pension reform bill in 30 years, H.R. 4 requires defined-benefit pension plans to be fully funded within seven years (though there are a myriad of exceptions). It has new funding requirements for defined-benefit pension plans that its proponents say will allow companies to meet targets without contribution requirements or new tax obligations. Also, it makes a variety of changes to the PBGC designed to improve its financial condition.

Most significantly for the IFPTE members employed by Northwest Airlines, given the turmoil in the airline industry, it gives airline companies 17 years to meet funding requirements.

As is common in U.S. legislatures, Republicans saddled the bill with unrelated measures, including an increase in the federal minimum wage accompanied by reductions in estate taxes, hoping that Democrats would bite on the chance for a minimum wage increase and pension reform, while holding their noses over the estate taxes. IFPTE President **Gregory Junemann** decried the move, calling it



IFPTE Local 150 President Allan Goldstein (centre, on right) and IFPTE Legislative Director Matt Biggs (to Goldstein’s left) join other Local 150 activists in the office of Minnesota senator Mark Dayton (top left).

“government-sanctioned theft.” In the end, the manoeuvre failed, and the bill passed without the amendments.

“It isn’t a good bill,” said Biggs, “but it’s a start, and it was very important to our members at Northwest.”

Society staff officer/author book launch set for October 11th

Staff Officer **Blaine Donais**’s new book, *Workplaces that Work*, will be launched on October 11th.

Holder of a Master of Laws degree from Osgoode Hall Law School, and member of the Law Society of Upper Canada, Blaine has been a Society Staff Officer for more than ten years. Not content to rest on those laurels, he is a Chartered Mediator (C.MED.), as accredited by the ADR Institute of Canada; is a Registered Practitioner of Dispute Resolution (RPDR) through the Canadian International Institute of Applied Negotiations (CIAN); and is a Roster Mediator through the Ministry of the Attorney General for Toronto, Ottawa, and Windsor. He also sits on the executives for the Ontario Bar Association Labour and ADR Sections and is Board Member of the ADR Institute.

The full title of his book is *Workplaces That Work: A Guide to Conflict Management Systems in Union and Non-Union Workplaces*, and it’s published by Canada Law Book. It sets out a quantifiable system by which workplace managers can ensure fairness in their workplaces, leading to better results and more satisfied employees.

The launch will take place from 5:30 p.m. to 7:30 p.m. at the Imperial Pub, second floor, 54 Dundas Street East (one block east of Yonge Street), Toronto.



Blaine Donais, Society Staff Officer, author

Society Newscast 2006:05

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