
THE BOTTOM LINE

All the news for OPSEU Local 420

No. 17

FINAL EDITION!

Monday 27 March 2006

William Kaplan to Arbitrate

A Message from Harry Plummer

Brothers and sisters (and I'm sure you now know why we call each other that in the union), thank you all so very much for the steadfast support you have given me and the rest of the members of this bargaining team over the past several months and, in particular, over the last 18 days. Details about the settlement that was reached late last night will be made known to you in the next few days. It is a shame that management could not bring themselves to deal with our issues directly, but I am confident that William Kaplan, the chosen arbitrator, will sympathize with our position and will grant significant workload relief to us in his final award. The arbitration process will likely take 2 to 3 months and the results will almost certainly be effective by next September.

In solidarity,

Harry Plummer, Chief Steward OPSEU Local 420

25 March 2006

**Inside: Must-Read Return-to-Work Protocol by Pat Dockrill and Harry Plummer
(Don't See Your Dean Without It!); William Kaplan Biography**

Ontario College Strike Ends

Toronto — A strike by teachers at Ontario's 24 colleges is over. Training, Colleges and Universities Minister Chris Bentley says the colleges and about 9100 striking teachers have agreed to a mediation process. Mr. Bentley says this will pave the way for classes to resume Monday. The teachers' union and the colleges agreed earlier this week to arbitration, but not on what form it should take. The union wanted binding arbitration, but the colleges were insisting on "final offer selection," in which an arbitrator chooses between the two offers. Mr. Bentley says he did not have the details of the agreement, but says he is glad students can get back to classes. *Source: Globe and Mail, 24 March 2006, 10:21 pm*

Provincial Budget Reveals Significant Surplus for Colleges

Hi All:

Below is a section of the 2006 Provincial Budget. Note the 2005-06 colleges surplus of \$50 million and in 06-07, another \$38 million. And the management bargaining team insists that faculty demands are "unaffordable."

Here is the link to the OPSEU news release on the budget <http://www.opseu.org/news/Press2006/mar23c2006.htm>

Impact of Consolidation (\$ Millions)						
	2005-06 Interim			2006-07 Plan		
	Operating and Capital Grants	Sector Deficit/ Surplus) <u>1</u>	Sector Net Expense	Operating and Capital Grants	Sector Deficit/ Surplus) <u>1</u>	Sector Net Expense
Hospitals	13,979	82	14,061	14,733	(20)	14,713
School Boards	10,758	-	10,758	11,228	(46)	11,182
Colleges	1,308	(50)	1,258	1,397	(38)	1,359
<i>Total</i>		32			(104)	

1 Includes impact of depreciation of capital and consolidation accounting adjustments.

We'll update you as soon as we can about where things stand.

Ted Montgomery, for the Bargaining Team



THE LINE THAT BINDS

Although Loyalist is a fairly small community college, it is possible to walk down the halls, nodding at other faculty and support staff for years without actually engaging in a real conversation. One of the “side” benefits of walking the picket line during this strike of 2006 has been the opportunity to spend time with faculty and counsellors from different areas of the college and to get to know these “brothers” and “sisters” on a more personal basis.

Four hours of picketing along windy Wallbridge-Loyalist Road seems to loom before me as I arrive to begin each new shift, but I am soon caught up in the companionship that the picket line brings. In the beginning, our picketing conversations seemed to revolve around the weather (“Gee its cold today! Snow in the forecast for tomorrow? At least it is not raining....”) and then work (“What program do you teach for? How long have you worked here? How will your students be affected by this action?”). It is when these more superficial conversations have ended that really interesting ones have begun.

I have been simply astounded at the complicated nature of the lives of my fellow colleagues. I had no idea that so many faculty commute such distance to work at Loyalist College, or that so many continue to balance their work at Loyalist with other employment. My personal struggle this year to balance teaching and coordinating responsibilities with graduate studies appears to be more common than I thought. Is there any reason for me to feel so alone, when others are also experiencing what I have been going through?

I have been particularly impressed by the variety of work and life experience that faculty have shared with me, including amazing travel adventures and unique hobbies and interests. Together, as we log kilometer after kilometer, we have weighed in on every topic from current strike negotiations, to NHL hockey playoff positions, from parenting techniques and tricks for dealing with teenage children, to the merits of purchasing a hybrid car. And the ability of faculty to work together was revealed to me with the much discussed and debated selection of at least one song for an upcoming June wedding.

On several picket shifts, I have joked with my fellow picketers that “What is said on the line, stays on the line.....”, but I expect that this will not be true. When this job action is finally over, and when we all return to the extreme craziness and busy-ness that is the life of a college teacher, I hope to now have new contacts around the college who I can call on, whether it be regarding work related issues, or merely for an idea for an upcoming vacation. I anticipate some chuckles in the hall, as we recall bouncing Easter cream eggs, porta-potty humour, and a certain pair of special shoes that could not be worn off the picket line. My time on the picket line has passed more quickly, and

more amicably because of these conversations and I thank you all for this. It has been my privilege to walk with you, and I look forward to the opportunity to work with you on future Loyalist College committees or initiatives after the strike.

Lisa Monsma, DSW

DISTINGUISHING FORMS OF BINDING ARBITRATION

Voluntary versus Final Offer Selection

Portions of the article cited below were used to relay the differences between the two forms of arbitration - Wally

..."At the heart of the dispute are two different types of conflict resolution – final offer selection and voluntary binding arbitration.

Binding arbitration is very common in Canadian workplaces and functions in similar ways across the country. It's used regularly in public sector workplaces, such as hospitals, fire and police negotiations.

Last August, it was used to settle a strike by container truck drivers at the Port of Vancouver, after the truckers and their brokers agreed to a temporary two-year deal aimed at getting goods moving again while the more complex problems at the port were resolved.

In binding arbitration, also known as interest-based bargaining, both sides put forward their best case for an arbitrator, who then works to create a compromise. The parties agree to be

bound by the decision, before knowing what it will be.

"What happens then is you lose control," [said Kevin] Coon [a labour relations lawyer and partner at Baker & McKenzie LLP], adding that an arbitrator may decide that, for instance, higher wages are required.

"The arbitrator walks away and the colleges are stuck with it," he said. "Where are they going to get the money?"

In final offer selection, each party puts forward their best final offer, provides arguments to support it, and the arbitrator selects one or the other, creating a winner and a loser.

That type of arbitration forces both sides to be reasonable, because whoever is not runs the risk of not being picked. Final offer selection is much less common, and more risky, than interest-based bargaining.

"It's a little bit like a game of chicken," said Sara Slinn, a law professor at Queen's University and a member of the

Centre for Industrial Relations at the University of Toronto.

"The idea is that each side will submit a proposed collective agreement that, not only are they willing to live with, but they think the arbitrator will choose."

Unions sometimes prefer binding arbitration, she added, because they see it as providing more of an opportunity to make an appeal to the arbitrator about the fairness of their case.

"I actually suspect that the college [felt] pretty comfortable about their bargaining position," observed Paul Boniferro, a partner at law firm McCarthy Tetrault in Toronto.

"They must believe strongly ... that in fact, if it went to final offer selection, they'd have a very good chance of their offer being picked."

Source: "Arbitration may signal strike's end: experts", Toronto Star, Mar. 24, 2006, 4:47 PM

Just Who Is William Kaplan, You Ask?

The following biography was retrieved from the website of the Grievance Settlement Board of Ontario, www.psab.gov.on.ca/english/GSB - Wallace

Educated at the University of Toronto, Osgoode Hall and Stanford University, William Kaplan is an arbitrator and mediator practising primarily in the Province of Ontario. In 1989 he began his arbitration and mediation practice. William Kaplan is one of the founding co-editors of the Labour Arbitration Yearbook and the Canadian Journal of Labour and Employment Law. A Vice-Chair of the Ontario Crown Employees Grievance Settlement Board, William Kaplan is also a named arbitrator in many collective agreements. In 1999 he was awarded the Law Society Medal for his contributions to the legal profession, and in 2002 he was given an honorary doctor of laws degree from the Law Society of Upper Canada. In 2004, he mediated a salary dispute between the Nova Scotia Government and General Employees Union (NSGEU/NUPGE) and the Capital District Health Authority.



RETURN-TO-WORK PROTOCOL

Two Members Weigh In On Your Coming Workload, Compensation, and SWFs

Pat Dockrill — President Piercy's announcement that programs would end as stated in the calendar provokes many questions, but most basic is HOW? In the 1989 strike, faculty worked with their deans to determine what to do after the strike. As a result we had two groups of faculty: those who tried to teach their entire courses in the remaining time and those who insisted the hours be rescheduled so the students received the contact hours on the outline. The problem for the second group was that they were doing work they had not been paid for. So, members of that group grieved.

Teplitski, the arbitrator in 1989, eventually came up with four responses to these grievances across the province: no compensation and three levels of financial compensation. *Every* grievour at Loyalist College received the *highest* award based on the argument that we were not paid for the work while on strike, but did do the work! My point here is that if we are asked to do the work we have missed, we should be compensated and not just for the hours in the classroom. Our preparation, evaluation and complementary functions will also carry over when we return. To not demand compensation for this work undermines our position on workload and negates all we have been through during the strike.

The other strategy, to teach all of a course in the reduced hours, is also problematic. We have had our courses cut to the bone over the years. There is no "nice to know" content left to be eliminated. We are striking because we need *more time* in class and with the students. Imagine the loss of quality if we try to teach everything we missed in the time remaining in the semester. We cannot return and accept worse conditions than we left! To do so negates the value of our courses, makes the strike meaningless and cheats the students. They have paid for their courses and deserve to have the content covered. As faculty, we have determined over the years that the content of our courses is essential, and the strike does not make it any less so. I suggest that if we are asked to complete courses *without* additional hours, students will receive an "incomplete" as their grade. Otherwise my courses and I will have no integrity or value. If I can teach it in 12 or 10 weeks this semester, why not every semester? This is a dangerous message to send management, the students, and the public. Our course content is important and the students need time *with us* to cover it!

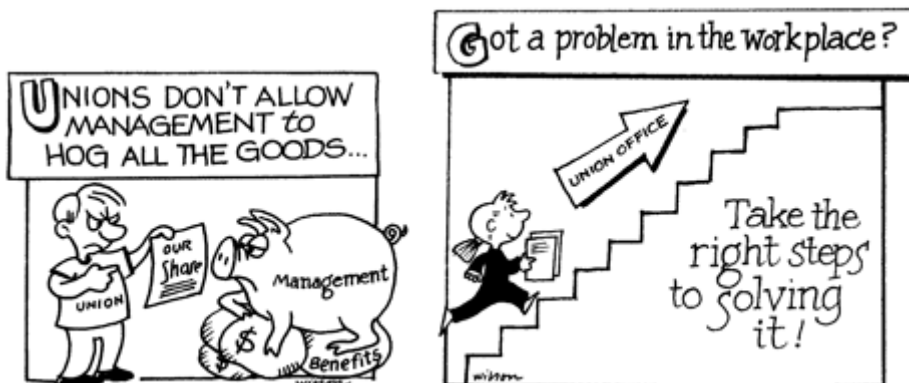
We will have to wait until we return to hear what the college has planned for our return-to-work protocol, but we need to be thinking about it NOW and devise a strategy that keeps us as united as we are now on the heels of the strike.

RETURN-TO-WORK PROTOCOL

continued...


Harry Plummer — The return to work protocol grants the college permission to extend the teaching period into what would otherwise have been the non-teaching period but does not grant permission to exceed the weekly workload limits. It further states that rescheduled work must be *in lieu* of work that would otherwise have been done in the non-teaching period. This is confusing to all of us but it seems to say that there is a good chance that there will be extra pay for the make-up work as there was under Teplitsky [1989 arbitrator]. The major concern would be documenting what you had to do and what you were excused from doing in order to do the make-up. **Every faculty member should begin right now to keep a log of all the work from now until the end of the make-up work.** [Faculty] should ask for a declaration from their dean identifying the non-teaching period work that the make-up work replaces. President Piercy's reference to not changing the semester end could mean additional teaching hours being added to our SWF's. There would be overtime entitlements if the revised SWF puts you over 44 hours. There is no provision in the return to work protocol that allows them to exceed the 47, nor assign overtime to probationary teachers.

Editor's Note — Bit high and mighty to say "Editor", but anyway...On behalf of the Strike Committee, I want to thank all those who helped produce **THE BOTTOM LINE** daily during the strike, and all those who contributed photos and letters. We at the Strike Office could not have done it without you. I hope you found **THE BOTTOM LINE** a sound vehicle of information and a suitable diversion on the line and online. With this experience, we'll do a better job next time. Good Night and Good Luck! — *Wally*



Source:
www.calm.ca

Solidarity Rally Picks

WHAT'S INSIDE?		 <p>Source: www.calm.ca</p>
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Solidarity Rally Picks

All photos by Frank O'Connor



LABOUR PAINS

Courtesy Carol Simpson © Productions. Reprinted with permission of the artists. Visit their website for more workplace cartoons, www.cartoonwork.com. Source: www.calm.ca



"We're not asking you to sell your soul to the company.
We'd just like to rent it for a while."

Su Doku

A puzzle is complete and correct when: each row and column have the numbers 1-9, and each demarked box has the same. No number may be used more than once in any row, column, or demarked box. Good luck! Source: www.free-sudokus.com

2		5	3	6				
								4
	4		5		1	3		
	1		8	2	3	5		7
			7		9			
3		7	6	4	5		8	
		1	4		6		3	
4								
				7	8	4		6

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\$44,000,000* to Ensure
System-wide Quality
Improvements to Education
in Ontario Colleges!**

College Managers Encouraged to
Match This Donation

Together We Will Build A
Stronger Foundation for
Future Students!

** Assuming: 1) average faculty salary = \$76,000 (Source: Toronto Star), 2) each faculty member works 220 days per year, and 3) there are 9100 faculty province-wide in Ontario [i.e., 9100 striking faculty x \$345 salary per day x 14 day strike ≈ \$44,000,000.*