



Election adds new faces to 2003-2004 Council

by Sharon Van Ihinger

The results of PEO's 2003 Council election, which closed February 28, are as follows:

George R. Comrie, P.Eng., was elected President-elect; Robert (Bob) Dunn, P.Eng., was elected Vice President, and Richard W. Braddock, P.Eng., will serve as Past President. Members also elected the following to Council:

- ◆ Councillors-at-Large—Roydon A. Fraser, P.Eng., Denis Dixon, P.Eng.;
- ◆ Northern Regional Councillor—Seimer Tsang, P.Eng. (by acclamation);
- ◆ Eastern Regional Councillor—Allen K. Lucas, P.Eng. (by acclamation);
- ◆ East Central Regional Councillor—Santosh K. Gupta, P.Eng.;
- ◆ Western Regional Councillor—Diane L. Freeman, P.Eng.; and
- ◆ West Central Regional Councillor—E. Phil Maka, P.Eng.

About 18.5 per cent of members voted for candidates for President-elect, Vice President, and Councillor-at-Large, the only positions for which all members were eligible to vote, compared to about 18 per cent of members in 2002, and about 21 per cent in 2001.

At the first meeting of the new Council on April 26, 2003, Allen Lucas was re-elected by Council to a second-term as Vice President. Council elected Lieutenant Governor-in-Council Appointee David Sims, and Northern Regional Councillor Bruce Clarida, P.Eng., as Members of the Executive Committee.

How you cast your votes

President-elect (2003-2004)

George R. Comrie 6761
Kam Elguindi 5114

Vice President

Robert A. Dunn 7407
John E. Turner 4381

Councillors-at-Large

Roydon Fraser 7443
Denis Dixon 5117
Kenneth G. Lopez 4048
James S. McConnach 2970

Eastern Regional Councillor

Allen K. Lucas **acclaimed**

Western Regional Councillor

Diane L. Freeman 1443
Michael Crutchley 1096

Northern Regional Councillor

Seimer Tsang **acclaimed**

West Central Regional Councillor

Philip Maka 1359
Arhant Jain 400
Solomon Ko 734

East Central Regional Councillor

Santosh Gupta 1346
Nicholas Colucci 684
Derek D'Costa 717

PEO LEADERS HONOURED



PEO's Order of Honour was established to recognize professional engineers, and others, who have rendered conspicuous service to the profession in Ontario, primarily through participation in association affairs. Peter M. DeVita, P.Eng., centre, was awarded the rank of Companion, the Order's highest honour, for his progressive views about the profession and for his dedication to its advancement. Also shown, from left: Patrick J. Quinn, P.Eng., J. Don Chambers, P.Eng., Stephen Hong Tsui, P.Eng., and David C. Robinson, P.Eng., who were inducted as Members of the Order, recognizing their service to the operation and improvement of the profession. Paul Ballantyne, P. Eng., and Peter Schmidt, P. Eng., were also inducted as Members of the Order. The Order of Honour Awards were held on April 26, 2003 at the Delta Meadowvale Resort and Conference Centre in Mississauga.

Housing ministry grapples with Bill 124 insurance

by Dwight Hamilton

Concern over proposed Major Structural Defects (MSD) insurance relating to Bill 124 topped the agenda of a March 18 meeting between new Ontario Housing Minister David Young, and industry stakeholders. Included were representatives from Professional Engineers Ontario, the Ontario Society of Professional Engineers (the Society) and Consulting Engineers of Ontario (CEO). At the minister's direction, staff from the Ministry of Municipal Affairs and Housing (MMAH) held subsequent meetings with all stakeholder groups, including the engineering profession, in late March and early April to search for workable solutions to the insurance problem.

Also known as the *Building Code Statute Law Amendment Act*, Bill 124 received Royal Assent in 2001, but has yet to be proclaimed, pending finalization of its regulations. It calls for building practitioners (including engineers) to carry MSD insurance for seven years after project completion for jobs valued at more than \$50,000. Such insurance is available in France and Australia but not here, making it difficult for local insurers to determine potential premiums. The ministry has indicated that it is prepared to consider an extension to the 18-month period of implementation after the regulations are proclaimed to see the insurance issue settled. This would push the effective date for the Bill 124 changes to the *Ontario Building Code* to the beginning of 2005.

In fact, the insurance issue is sufficiently complicated that MMAH is considering re-convening the Building Regulatory Reform Advisory Group (BRRAG) to deal with it. However, the government has also indicated that a new bill to amend Bill 124 will not be introduced and any necessary modifications will be handled through the regulations.

For its part, the Association of Municipalities of Ontario is concerned that builders are not required to carry MSD insur-

ance, or satisfy provisions for the passing of examinations to demonstrate sufficient knowledge of the *Ontario Building Code*. The MSD concerns are echoed in a letter sent to the ministry by the Society and CEO.

In it, both associations argue for insurance coverage for all parties involved in building construction. If contractors are exempted, design professionals, along with municipalities, might become the "deep pockets" in potential lawsuits and could end up paying inflated premiums as a result, they say. The concept of a seven-year product covering major structural defects is unsupportable given the small margins in the consulting engineering industry, they argue. "The feedback we have received from both engineers and their insurers is that a sizable number of firms would either be unable to receive insurance for this requirement, or would see their premiums rise to unsustainable

levels to cover this new insurance product," their letter states.

Both the society and CEO want the MSD insurance requirement dropped, since they feel that existing professional liability products meet the requirement's intent. If the government insists upon a new insurance structure, the professional associations suggest striking a working group to examine scalable insurance requirements that would reduce the potential burden on smaller firms. Proof of insurance could be produced by design professionals when applying for building permits by either attaching a standard letter or prescribed form to the application, showing the policy number and carrier information, they suggest.

PEO Council has decided that the association will administer Bill 124's examination requirements for professional engineers intending to qualify as designers under the legislation. Once the regulations are developed, PEO will prepare changes to Regulation 941 that mirror the MMAH requirements and begin to administer the examinations and maintain the required registry.

Power industry seminar enables PEO outreach

by Dwight Hamilton

PEO is using the opportunity of an upcoming international electric industry conference in Toronto to foster a closer relationship with the world's largest technical society. The aim is to open a window into the areas of practice in this industry in which licensed professional engineers are involved, and increase awareness of PEO's role in licensing professional engineers and regulating engineering practice in Ontario.

To be held on July 16 in Toronto at the Sheraton Centre Hotel, "Power System Basics for Business Professionals," will be presented by the Institute of Electrical and Electronics Engineers (IEEE) Power Engineering Society (PES), supported by PEO. The PES provides the world's largest

forum for sharing the latest in technological trends in the industry, and develops standards that guide the development and construction of electrical equipment and systems. The course is part of its annual summer conference, hosted in Canada every 10 years.

The one-day course covers how electricity is generated, transmitted and distributed, as well as examining the key issues surrounding systems operation. Background on the important policy and restructuring initiatives affecting the newly de-regulated Ontario power industry will also be examined.

In fostering a closer relationship between PEO and technical societies like IEEE, PEO hopes to be better positioned to define the scopes of practice within the profession and write the needed practice

standards to establish the competencies expected of practitioners within each scope. According to Past President Richard Braddock, P.Eng., reaching out to the engineering community so that

PEO's practice standards can be "rigorous, current, and real" is a step toward halting the erosion of the value of the professional engineer licence in the eyes of the public and government.

Incorporated into the short course will be a presentation by a PEO representative on the principles of engineering governance. For program and registration information, visit PEO's website at www.peo.on.ca.

National Engineering Week in Ontario celebrates its 12th anniversary

by Judy Saurette

Ontario's Engineering Week, March 1 to 9, 2003, was the biggest ever with over 90 activities taking place in 35 communities. Thousands of children and parents participated through a wide range of activities organized by Ontario's engineering volunteers.

With its objectives of raising awareness of the contributions engineering makes to our everyday lives and encouraging young people to consider a career in engineering, many of the events were designed specifically for children or youth. Participants

worked on hands-on activities and learned how the subjects they study in school are used in the outside world.

Centrally organized activities highlighted civil engineering. A children's contest on TVO Kids invited young viewers to construct a castle for the show's hamster-mascot, "Tumbleweed." An eight-page special supplement appeared in the February 27 issues of the *National Post*, the *Ottawa Citizen*, *The Sudbury Star* and *The Kingston Whig-Standard*, while a full-colour poster was distributed to young people through event organizers. A special "Civil Engineering: Mission to the High Arctic" Teachers' Kit was distributed free-of-charge to teachers across the province, and K'NEX Construction workshops at the Ontario Science Centre in Toronto, the London Regional Children's Museum, the Canada Science and Technology Museum in Ottawa

and Science North in Sudbury focused on civil engineering.

Other Ontario activities included classroom visits, robotics competitions, bridge- and tower-building competitions, mall displays and demonstrations, student design challenges, career talks, new technology presentations, a wooden model car rally and even a session on "engineering for mountaineering."

Engineers helped to organize multiple events in many major centres, including Guelph/Cambridge, Hamilton, London, Niagara, Ottawa, Timmins, Toronto and Windsor; Belleville, Blenheim, Caledon, Cornwall, Peterborough and Sault Ste. Marie joined the list of communities offering Engineering Week activities.

National Engineering Week 2004 will run from February 28 to March 7. For information about how you can get involved visit www.engineeringweek.on.ca. **Judy Saurette is National Engineering Week Ontario Steering Committee marketing director.**



Father and son team use K'NEX to build working model cars at the Canada Science and Technology Museum in Ottawa.



Above: The imposing test track for the 31st Scout Troop wooden model car rally at Galleria Mall, London.

Right: A team of students created an electromagnet as part of the 2003 National Engineering Week Challenge hosted by the PEO Lakehead Chapter and the Faculty of Engineering at Lakehead University, Thunder Bay.



Provinces mull over practice permits

by Sharon Van Ihinger

Corporations and partnerships that practise engineering in the Yukon will now require a Permit to Practice. The Association of Professional Engineers of Yukon (APEY)

Based on the sub-group's findings, a C of A Review Task Group was struck in February of 2000, chaired by Gina Cody, P.Eng. Council approved several recommendations from the task group's February 11, 2002 report, at its February 28, 2002 Council meeting.

Updates on progress in implementing the approved recommendations will appear in future issues of *Engineering Dimensions*.

The Association of Professional Engineers and Geoscientists of British Columbia has also formed a task force to look at new approaches to the C of A in that province.



Witness credibility an issue for discipline panels

by Joan Bailey

Deception is hard to detect because lying is a routine human activity and mistaken recollections are commonplace, said lawyer Alan Gold, who spoke at the Discipline Committee Annual General Meeting on

March 27. Discipline Committee hearings are open to the public (see *Engineering Dimensions*, March/April 2003, p. 10) and information about them can be found on the PEO website (www.peo.on.ca).

In his presentation, Gold told committee members: "Exaggeration and false-

says that the permit, required as of January 2003, is an instrument of quality control through which the APEY exercises its mandate under the *Engineering Professions Act* to regulate the practice of engineering for the protection of the public. The cost is \$165 plus GST, which is the same rate as APEY's annual membership fee. A Permit Holder may apply for an exemption from annual fees if the Permit Holder is the only professional engineer employee, regardless of revenues generated.

At PEO, a Certificate of Authorization Review Implementation task group has been appointed to provide the framework for implementing a list of recommendations approved by Council for changes to the C of A program, including a new fee structure. The task group was appointed by the Executive Committee on February 18, 2003. Chair James Dunsmuir, P.Eng., a Lieutenant Governor Appointee to PEO Council, is now reviewing the implementation requirements.

A general review of PEO's C of A process was initially tackled by a sub-group of PEO's Professional Practice Committee.



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hood is a human habit, and habits are hard to break." They are equally hard to detect, Gold said. Research data have shown that lie detection is a "50/50 proposition," essentially no better than chance.

In the past, interrogators were trained to look for certain cues of falsified testimony. The FBI, according to Gold, would teach that liars slouch, don't use contractions when they speak, and don't point a finger or emphasize with hand gestures. However, he said, these indicators have all proven to be unreliable. "There is no Pinocchio's nose," said Gold. "Would that there were, our lives would be much easier."

What research has found is that people can detect deception best with people they know very well, such as family members or long-time friends. The more investigators observe a person over time, the greater the probability of detecting deception. "But it never gets very reliable.... Few studies of all sorts of investigators, and even judges and lawyers, show little better than chance detection rates," he added later.

Gold said that inaccurate testimony is not always intentional. Memory is suggestible. The answer you get depends on the question you ask. In spite of this, "in the courtroom human memory is our currency," said Gold. "We rely on human memory." But often that currency is unin-

tionally counterfeit. He said that until the 1970s there were few people actually studying memory and there were many misconceptions about how memory worked. What we now know about memory—that it is self-serving, will tell you what you want to know, and is subject to shaping by all sorts of external influences — "shocked" the legal community, he said.

Instructions that judges may have given in the past are no longer reliable as a means of detecting deception. For example, studying someone's demeanour, once often given as an instruction to detect falsity, has been shown to be the least satisfactory way to determine deception, making a judgment such as "the accused did not show the right amount of outrage at being charged" unfair. "In our multicultural society, people live lives that are completely different than ours with many different cultural norms and beliefs," said Gold. He said that it is "preposterous" to judge if a person is making the right amount of eye contact or showing the right amount of outrage because there are only the most subjective of standards to go by.

Instead, interviewers need to look for content consistency and confirmatory evidence. "How does the story being told comport with objective reasonableness and external evidence, such as records and memos and other independent witnesses?" And someone giving corroborating

testimony should be asked: "Did you always remember it this way? Did you have a conversation that might have influenced your recollection?" Gold added that interviewers need to be cautious of stories that grow in detail.

The common wisdom now is to listen to what is said rather than looking for verbal or non-verbal cues of deception. "Listen how the story comports with external evidence," said Gold. "The fact that people look you in the eye is irrelevant." The interviewer must question whether "the way people behave in the story is consistent with the way people reasonably and generally behave in our world. That is the proper measure."

Gold left the committee with some tips for assessing witness testimony:

- ◆ Don't be too confident in your ability to detect deception, much less inaccuracies.
- ◆ Don't conduct theory-driven interviews or assess evidence with a theory in place as opposed to assessing what theories or explanations the evidence throws up.
- ◆ Listen more than you look. Assess the evidence more than the witness.
- ◆ Use logic and reasonableness to analyze the story, being open to an appreciation of different norms and standards of conduct that may apply in the circumstances.

Architects develop licence for technologists, set up new insurance company

by Sharon Van Ihinger

The Ontario Association of Architects (OAA) and the Ontario Association of Certified Engineering Technicians and Technologists (OACETT) have formed the Ontario Association for Applied Architectural Sciences (OAAAS), they announced on April 16, 2003. OAA is the licensing and regulating body for architects in Ontario, with membership of about 2550 architects, 1100 intern architects and 650

associate architects. OACETT is the certifying body for over 20,000 engineering technology practitioners.

"Together, we have created a program which includes new levels of building design professionals to respond to market demands in Ontario," said OACETT President Felix Degan, C.E.T. "By working as a partner with the OAA, for the past four years, we are ensuring that standards and qualifications for these individuals are maintained. We chose to take a path that continues to protect the public interest."

"Over the past several years we've witnessed a convergence of some of the services offered by architects and technologists," OAA President Paul Mitchell, explained. "We wanted to acknowledge and structure this shift to realize the greatest benefit for the industry and the public. The program is being launched with the creation of a new association. This initiative will provide consumers with an increased number of options for architectural services, while also protecting their interests."



The Ontario Association of Architects (OAA) headquarters in Toronto: The OAA is now issuing architects' licences, with limitations, to technologists, as part of its launch with Ontario Association of Certified Engineering Technicians and Technologists of a new Ontario Association for Applied Architectural Sciences.

professional liability insurance, as will be the new OAA-licensed technologists.

The new Pro-Demnity Insurance Co. operates as a legally separate subsidiary, conducting the business previously performed by OAA under its Indemnity Plan. According to OAA, the transformation to an insurance company is a natural evolution of the Indemnity Plan, which was established in 1987. According to Pro-Demnity Chair Chris Fillingham, the plan recognized that "it should be the profession that determines who is qualified to practise as an architect, not an insurance company through its power to refuse or restrict coverage according to underwriting criteria into which the profession had no input."

The move to a new company, enabled by a change to the *Architects Act* at OAA's request, was prompted by predictions that professional liability insurance premiums will rise steadily due to claims caused by asbestos, certain curtain wall systems, toxic mold, ureaformaldehyde, etc.

As of its launch on April 23, the program will recognize three categories of building designers: associate OAAAS, technologist OAAAS, and a technologist licensed by the OAA. The OAAAS will establish the education, experience and examination requirements, as well as the scopes of practice, for all three levels of technologist.

The first two categories are members of OAAAS, governed by OAAAS and OACETT, and must practise under the personal supervision and direction of an architect. The third category, a technologist licensed by the OAA, will be issued the same licence as an architect except with OAA-imposed conditions and limitations, under the authority of the *Architects Act*, and will be regulated by the OAA. This category is similar in effect to the licensed engineering technologist (L.E.T.) limited licence for engineering practice, which was recommended in the report of the Technologist Licensure Task Group and approved by PEO Council in September 2002.

A technologist licensed by OAA will be required to pass examinations in addition to having experience under the personal supervision and direction of an architect. A technologist licensed by the OAA will also carry mandatory professional liability insurance when providing services to the public. The OAA technologist will be permitted to perform certain architectural services on his/her own, including designing larger restaurants, taller houses, and taller low-rise apartment buildings.

Insurance company launched

Meanwhile, OAA has launched a new company to meet the requirements of its practitioners for professional liability insurance. All architectural practices in Ontario are required under the *Architects Act* to carry

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Results of a survey conducted by the National Society of Professional Engineers (NSPE), the American national member services and advocacy body for professional engineers, (*Engineering Times*, April 2003) see professional liability insurance premiums for engineers and architects working in the U.S. climbing steadily, perhaps by as much as 30 per cent in 2003. The premium increases are due largely to losses in the worldwide reinsurance market, ongoing concerns about terrorism, fears over a proliferation of toxic mold claims, and a decline in investment income, according to the survey results.

Pro-Demnity says that its mandatory insurance plan will not be affected by global issues, with premiums reflecting the claims experience of Ontario architects. Claim limits are \$250,000 for eligible insureds. Project limits and aggregate limits are higher, depending on specifics. Pro-Demnity's premiums are subject to reinsurance. Insurance products available to architects through Pro-

Demnity include annual practice insurance, single project insurance, retirement from practice, and increased limits of liability. Three new "exclusions" written into the policy are for terrorism, mold, and certain curtain walls. The exclusions are intended to limit the insurer's exposure to catastrophic losses such as those caused by British Columbia's "leaky condominium" situation, which caused the BC Home Warranty Program to file for bankruptcy.

In engineering, those who provide professional engineering services to the public are

required to carry professional liability insurance, unless they are covered by another insurance plan like the OAA's, insurance is unavailable for their work, or they disclose to each client that they are uninsured and obtain the client's written acknowledgment of the disclosure. The Ontario Society of Professional Engineers is investigating options in liability insurance plans, including an affinity partnership with a principal underwriter for liability insurance to provide a sponsored group insurance program for P.Engs and C of A holders.

PEO questions need for regulated interior design practice

by Sharon Van Ihinger

The Association of Registered Interior Designers of Ontario (ARIDO) has sub-

mitted draft legislation to create a regulated scope of practice for registered interior designers to the Ministry of the Attorney General. In preparing the draft, ARIDO consulted various stakeholders, including PEO, which provided comments both to ARIDO and directly to the attorney general.

At present, interior design is not a regulated profession in Ontario. *Private Members Bill PR6*, passed in 1999, authorizes ARIDO to award the protected title of "interior designer" to those who meet the standards for education, experience and examination it sets. Registered interior designers must carry professional liability insurance and participate in a continuing education program. An ARIDO complaints and discipline process can revoke the titles of those who are found to have failed to maintain the required standards or conducted themselves unprofessionally.

Initially, PEO noted to ARIDO that the proposed legislation's definitions of "design" and the "practice of interior design" overlapped with the definition of the practice of professional engineering in the *Professional Engineers Act*, which could potentially lead interior designers to practise in areas where they might be subject to PEO enforcement action. In a later draft, the definitions overlapped less and a clause to except professional engineers from the act's application was added. At a



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subsequent meeting between PEO and ARIDO representatives, the interior designers expressed a continued willingness to work with PEO to find language that would satisfy both parties.

ARIDO President Victoria Horobin says ARIDO is not interested in certifying or regulating members of other professional associations who may choose to practise interior design. "Rather, we aim to work with these associations so that these individuals meet the standards, and are regulated only by their own associations," she says.

However, in an April 17, 2003 letter to Attorney General Norm Sterling, P.Eng., PEO finally came to the conclusion that the public interest case for introducing the legislation is weak, with few, if any, areas in the purview of interior design not adequately regulated through regulation of engineering and architecture. "In coming to this position," the letter states, "PEO has been guided by the words of the Honourable Roy McMurtry, a former Attorney General, who said the following in 1983 in introducing the first reading

of the *Professional Engineers and Architects* acts: 'It is by now axiomatic that self-governing licensing bodies exist only to serve the public interest.'"

PEO has recommended addressing any deficiencies in the Ontario Building and Fire codes in areas related to interior design, rather than introducing additional regulatory burden through a new licensing regime, which could drive up costs to consumers of interior design services "by preventing unlicensed but otherwise competent interior designers from practising."

PEO comments on brownfields QP definition

by Dwight Hamilton

According to Professional Engineers Ontario, the central issue to be addressed in any definition of "Qualified Person" (QP) in the *Brownfields Draft Regulation—Relating to the Filing of a Record of Site Condition* is who should be accountable to the public by law for contaminated site assessment and remediation, rather than who has the ability to conduct the work in this sector. PEO made the statement in its comments in response to the Environmental Bill of Rights (EBR) Registry posting of the draft regulation.

PEO's submission points out that the QP definitions as drafted are likely to undermine the Ministry of the Environment's stated aim of strengthening public accountability in this sector, because it equates licensed professionals with certified practitioners. The proposed regulation defines two kinds of QP, one permitted to sign the Record of Site Condition, the other to complete risk assessments. For the former category, the QP can be a professional engineer, a professional geoscientist, a certified engineering technologist, or an applied science technologist. The draft regulation defines education and experience criteria for the QP completing risk assessments, but does not require either licensure or certification and is unclear as to how the credentials of a risk assessment QP will be validated.

PEO's submission makes clear that environmental assessment and remedia-

tion is multidisciplinary and that certain technologists may have the education and experience to work in this sector. However, it states, "the necessary public accountability to enable certified practitioners to sign Records of Site Condition can only be provided by having their education and experience validated through a regulatory body established by statute in the public interest and accountable to the people of Ontario." PEO's comments also point out that non-licensed practitioners have no legal requirement to carry professional liability insurance, while professional engineers offering services to the public are required to be insured or disclose to each client that they are not and receive client confirmation of the disclosure.

PEO also notes that in as much as the QP definitions as drafted may weaken PEO's ability to regulate professional engineers should there be problems with an RSC they have signed, the public may have no recourse except to the government directly. The government's exposure is especially pronounced in relation to the QP completing a risk assessment, PEO says, because these QPs do "not appear to be publicly accountable for their work except through MOE, since there is no requirement for these QPs to be licensed." PEO recommends that the separate QP for completing a risk assessment be eliminated from the regulation and that the onus be placed on the QP signing the RSC to ensure that those completing risk assessments be qualified as MOE specifies.

PEO's concern with the proposed QP definitions is echoed in submissions of the Association of Professional Geoscientists of Ontario (APGO) and the Canadian Bankers Association (CBA). "There seems to be no consideration of the significant difference in the accountability to the public that comes with professional licensure as opposed to technical certification," the APGO states. "We do not feel that the banking industry or the general public interest will be properly served by allowing a technologist to be classified as a 'qualified person' (and thus equivalent to a professional engineer or geoscientist under the definition proposed in the regulations)," the CBA concurs. "It is the industry's view that professional geoscientists or engineers have more comprehensive codes of ethics and disciplinary standards than technologists and, therefore, will provide greater assurance for reliance on environmental assessments."

An Environment Committee Brownfields Subgroup, comprising representatives of PEO, APGO and other stakeholders, has been working with MOE staff concerning a suitable QP definition for more than two years. To bolster its EBR comments, which were submitted on April 25, PEO met with Attorney General Norm Sterling, P.Eng., on April 24, and a meeting with Environment Minister Chris Stockwell has been scheduled for May 13. To view the history of PEO involvement and updates, visit the Brownfields page on PEO's website (www.peo.on.ca).