



the Service Star

The Official Newsletter of the British Columbia Mounted Police Professional Association

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Supreme Court affirms that labour rights are human rights

Decision gives boost to RCMP Association legal challenge

On Friday June 8, 2007 the Supreme Court of Canada declared for the first time that the collective bargaining rights of workers are protected by the 1982 Charter of Rights and Freedoms and are also a fundamental aspect of Canadian society predating the Charter.

The 6-1 ruling arises from a 2002 case in which the Liberal government of British Columbia Premier Gordon Campbell arbitrarily cancelled the contracts of thousands of health care workers and allowed for mass layoffs outside the collective bargaining process.

The top court ruled that several sections of the B.C. legislation (Bill 29) violated Section 2 of the Charter, which protects freedom of association. The court also rejected earlier Supreme Court decisions that excluded collective bargaining from the Charter's protection saying those decisions do not withstand principled scrutiny.

"We conclude that Section 2(d) of the Charter protects the capacity of members of labour unions to engage, in association, in collective bargaining on fundamental workplace issues," Chief Justice Beverley McLachlin and Justice Louis Lebel wrote in the majority court decision.



The court further noted that collective bargaining complements, promotes and enhances fundamental Charter values such as equality and democracy: "Recognizing that workers have the right to bargain collectively as part of their freedom to associate reaffirms, enhances and promotes the values of dignity, personal autonomy, equality and democracy that are inherent in the Charter," it said. The ruling also made a notable link between Canadian rights protected by the Charter and those in international treaties signed by Canada as a member of the United Nations (UN) and International Labour Organization (ILO).

"The Charter should be presumed to provide at least as great a level of protection as is found in the international human

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Our Mission

The B.C. Mounted Police Professional Association is comprised of regular and civilian members of the Royal Canadian Mounted Police.

We provide a forum to identify, debate and reach consensus on professional and employment concerns.

We seek the right to engage in free collective bargaining with our employer, a right enjoyed by all police officers in Canada, except the RCMP. **We do not seek or support the right to strike.**

We strive for excellence in our conduct and obligations. We provide leadership, in affiliation with the Canadian Police Association, on justice issues which affect the quality of life of all Canadians.

Profile

The B.C. Mounted Police Professional Association used to be known as the "E" Division Members' Association.

We are a professional association looking out for the interests of employees of the Royal Canadian Mounted Police stationed in British Columbia ("E" Division).

LABOUR RIGHTS ARE HUMAN RIGHTS

Continued from page 1: SUPREME COURT

rights documents that Canada has ratified,” the justices declared.

James Clancy, president of the 340,000-member National Union of Public and General Employees (NUPGE), said the decision is one of the most important rulings for Canadian workers ever rendered by Canada’s top court.

“This landmark decision recognizes that collective bargaining is a human right for all workers, and it affirms that labour rights are human rights,” he said.

“It is a tremendous victory for workers across Canada because it applies not only to British Columbia but to all governments at all levels. As a result we now expect governments everywhere to abide by both the letter and spirit of this ruling.”

Clancy said the decision also validates the campaign that the National Union has waged for many years to have labour rights recognized as human rights and to force Canadian governments to live up to the international treaties Canada has signed over the years.

“This ruling should force all governments to reassess the cavalier manner in which they have violated international conventions and standards on labour rights and at long last to abide by them,” he added.

The case was launched by a group of B.C. labour organizations, including the B.C. Government and Service Employees Union (BCGEU/NUPGE).

Below is the opening paragraph of the decision summary:

Freedom of association guaranteed by s. 2(d) of the Charter includes a procedural right to collective bargaining. The grounds advanced in the earlier decisions

of this Court for the exclusion of collective bargaining from the s. 2(d)’s protection do not withstand principled scrutiny and should be rejected. The general purpose of the Charter guarantees and the broad language of s. 2(d) are consistent with a measure of protection for collective bargaining. Further, the right to collective bargaining is neither of recent origin nor merely a creature of statute. The history of collective bargaining in Canada reveals that long before the present statutory labour regimes were put in place, collective bargaining was recognized as a fundamental aspect of Canadian society, emerging as the most significant collective activity through which freedom of association is expressed in the labour context. Association for purposes of collective bargaining has long been recognized as a fundamental Canadian right which predated the Charter. The protection enshrined in s. 2(d) of the Charter may properly be seen as the culmination of a historical movement towards the recognition of a procedural right to collective bargaining. Canada’s adherence to international documents recognizing a right to collective bargaining also supports recognition of that right in s. 2(d). The Charter should be presumed to provide at least as great a level of protection as is found in the international human rights documents that Canada has ratified. Lastly, the protection of collective bargaining under s. 2(d) is consistent with and supportive of the values underlying the Charter and the purposes of the Charter as a whole. Recognizing that workers have the right to bargain collectively as part of their freedom to associate reaffirms the values of dignity, personal autonomy, equality and democracy that are inherent in the Charter.

“It is a tremendous victory for workers across Canada because it applies not only to British Columbia but to all governments at all levels. As a result we now expect governments everywhere to abide by both the letter and spirit of this ruling.”



President's Corner

by Pat Mebain

As you will notice from the first page article the Associations have made significant progress with the legal challenge regarding the right to unionize and the pension surplus grab. These are some interesting times. Furthermore, in my opinion the past few months have been one of the most tumultuous periods of the RCMP. From a labour relations perspective I would categorize these past few months as important as the formation of the SRR in the 1970s (due to pressure from the membership), the formation of the RCMP Associations and the boozing of the Commissioner in the 1990s after members failed to receive a pay raise for years. The pension scandal is one of the issues which should give us all an understanding how some Executives operate without scruples and with a sense of entitlement. Once again they are showing us why an independent Association is important to ensure the proper checks and balances are in place. In my editorial I will address couple of those issues that I think it will have a long lasting effect on our organization.

First off is the misuse of our pension funds – not to be confused with the theft of our pension surplus. I will refrain from commenting on the evidence because I have faith at the end of the day the truth will come to light and hopefully the persons responsible will be punished appropriately. However, I will throw in my two cents worth in regards to a couple of questionable actions. I would like to applaud Mr. Ron Lewis former SRR member for stepping up to the plate and providing evidence to the Committee looking into the misuse of our pension funds. Having said that I am also wonder-

ing why Mr. Lewis had not used the SRR system, touted as the best labour relations system by the SRRs, to bring this issue forward years ago? It would be safe to assume that not only Mr. Lewis knew about this but also his SRR colleagues. Why didn't they walk into Commissioner Zaccardelli's office demanding answers and action? Why wasn't the membership made aware of this from the onset? But like in the past, where a contentious issue came forward, the SRRs chose to watch from outside as opposed to getting their hands dirty. Still on the issue of the misuse of pension funds is the action of acting Commissioner Busson and the SRRs in regards to the suspension without pay of Madame George. Personally, I have been aware of a number of cases where a rank and file member has been accused of wrongdoing far less serious than the misuse of millions of our pension dollars to then be suspended without pay. To the best of my knowledge, suspension without pay has been applied in the most serious cases whereas by not suspending a member the Force would be brought into disrepute and cast in a negative light i.e. allegations of serious violent crimes, incarceration. A case comes to mind where a member was accused of taking a small amount of money from a suspect and suspended without pay. Following a lengthy year this member was later found not guilty and reinstated. In fact the sitting judge in the criminal trial lambasted the Sergeant who conducted this investigation. Compare this with Madame George who was suspended with pay in spite of very serious allegations made not only by Mr. Lewis but by Senior Executives. The SRRs and Acting Commissioner Busson should

have shown the membership at large that they are taking these allegations seriously. Instead the SRRs took the stance that Madame George is entitled to their representation and support. How is that for a labour relations system which helps management on an issue which affects the rank and file?

The second issue that I have found of interest is the negative media coverage surrounding the shooting of Mr. Bush by Cst. Koester. I do not know all the facts of the case aside from what I have read in the media and again I will not comment on the incident itself. What jumps to mind is another shooting where RCMP member Mike Ferguson ended up shooting a male following a violent struggle. What I see as similarities is the fact that both members Ferguson and Koester found themselves in violent struggles while they worked by themselves. For years the Association has been trying to bring to light the staffing issues to the front line members. As you know "we do more with less" seems to be management's mantra when it comes to staffing. Unfortunately, until the communities we police pay the real cost of policing especially in rural areas we may have other similar incidents like the Ferguson or Koester shooting.

Another ground breaking development is the appointment of our new Commissioner. William Elliott has been labeled a career bureaucrat and many are opposed. I would like to point out that the commissioner of the RCMP is a junior minister. Anyone who believes that officers involved with the commissioner's office are anything but politicians is mistaken. You do not become an officer of that rank by

being a cop's cop. After looking into his background I have found Mr. Elliott is not without experience. Although he is not a police officer, he has served as deputy commissioner of the Canadian Coast Guard, Fisheries and Oceans from 1998 to 2000. A different portfolio but not one without its problems. Mr. Elliott, or should I say, Commissioner Elliott, has a long hard road ahead of him. It is my hopes that he will be able to see through the murky waters in Ottawa and continue to clean house and rid the RCMP of the remaining inner circle. Once this is completed, with the continued support of the CPA I believe we finally have a Commissioner that may be willing to look at the possibility of allowing us to have a vote on unionization or full association status.

In May I attended the BC Federation of Police AGM in Parksville. All the locals presented their particular issues to the attending members. Here are the the other items of interest:

Regionalization

Still a hot topic. Although the AG has stated as long as he is in power it will not happen, there is a new avenue that is being pursued. The police board and powers that be are reviewing the Police Standards Act and are in the process of editing it to current/modern times. In the act it will outline levels of standards that all municipal police forces must meet. (range time, number of actual members employed, minimum resources, minimum support units such as PDS or Ident etc). If the standards are not met then the municipality is given 2 choices- either make the expenditures to meet the

I am also wondering why Mr. Lewis had not used the SRR system, touted as the best labour relations system by the SRRs, to bring this issue forward years ago?

PRESIDENT'S CORNER

This [specialty pay] was brought in to help prevent attrition to other forces and to encourage members to provide the expertise they gain in the field to other members of their police force.

requirements or amalgamate. It is felt that somehow this can be worked to effect the RCMP detachments as well and eventually 1 or 2 regional forces will develop from it. Nelson PD is currently worried as they only have 18 members and can not meet any further expenditure.

Ticket revenue

According to the government an audit was completed to see where the money generated from violation tickets was going. Originally the agreement was any money the municipality got was to go to policing initiatives. Results from the audit indicate that is exactly where the money has gone with a couple of exceptions. The exact criteria outlined in the audit was not available. No further action from the government is expected.

Abbotsford helicopter

As you may or may not know a civilian was providing Abbotsford PD with a helicopter, pilot and pilot training for members, at his cost. Recently the owner approached the Abbotsford Police Chief and asked if he could be authorized to carry a taser in case he needed to land to protect himself and or the member with him. The chief denied this request. The pilot has now pulled this resource from Abbotsford. New Westminster, Delta and Port Moody are now attempting to acquire his services. One department's loss is another gain.

Specialty pay

Another sign the RCMP is falling way behind the municipal departments when it comes to compensation. Abbotsford recently signed an agreement outside their contract that provides specialty pay to its

members. Essentially if you are in a specialized section (PDS, IDENT, expert in specific field) you receive the following bonuses: at 5yrs service you get an additional 5%, completion of specialized course from CPC etc you get an additional 5% bonus, and commencement of job in specialized section another 5% bonus for a potential bonus of 15%. This bonus was brought in to help prevent attrition to other forces and to encourage Abbotsford members to provide the expertise they gain in the field to other members of their police force. Vancouver PD was very interested in this as they are now in negotiations for a new contract.

VPD update

Due to the fact VPD is currently in talks for their new contract there are no solid numbers to go on; that being said, this is what they are looking for; a 2 year contract at 4% per year. City council wants a 39 month contract (to end at the end of the Olympics) and 3% in the last year. So, needless to say, there will be a lot of late nights going on there.

GVTAPS

GVTAPS is looking for their first contract. Numbers thrown out are 3% for 4 years. Right now they make \$37/hr for 1st class Cst. This contract would bring them to just over \$42/hr. We get \$34.75 currently.

Blood legislation

Continued discussions with top Provincial health authorities supports the position that this legislation is not needed. The bottom line is if you are ever in contact or exposed to body fluids/blood, you need to go on the cocktail to ensure your

health. Other provincial legislation appears to be “feel good” legislation and has not had any impact on the procedures currently in place in other provinces.

Drivers License information

For whatever reason this issue has hit a roadblock at the ICBC level. I was advised that it is only a matter of time before this issue is resolved and that sooner than later, amendments will be made to allow police to display detachment addresses on their insurance and drivers licenses. Well, as it turns out ICBC has an issue with this and the BCACP (BC Association of Chiefs of Police) stated we should not be treated different from the public, and would not support this issue.

Telephone solicitation

There continues to be some complaints in regards to telephone soliciting where the caller states they are calling on behalf of the RCMP and or BC FED of Police.

Please be advised nobody solicits on behalf of the RCMP. They do solicit on behalf of the BC FED. If you receive any such complaints you can contact the BC FED or me and the issue can be addressed immediately. Please note the time of the call and exactly what was said and if it is found the person was calling on behalf the BC FED then actions can be taken to address this issue.

The BC FED once again pledged their support for us and continue to be a valuable resource. I want everyone to know that the BC FED that any comments made about the RCMP are not directed at the general membership but to the conduct of the internal workings of the RCMP.

As the summer season is in full swing I wish all of our members a great, safe summer. The next issue will be out sometime in October/November at which time we will post the date for the Annual General Meeting.

The bottom line is if you are ever in contact or exposed to body fluids/blood, you need to go on the cocktail to ensure your health.



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I was previously a police officer with the West Vancouver Police Dept. until an on-duty MVA led to a new career as a mortgage broker.

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Pension surplus balloons to \$42 billion: expert witness

Trial judge reserves decision

... pension accounts are “non-budgetary” Specified Purpose Accounts, meaning that the funds in the accounts could not be used to pay for government programs or any other purpose but for the pension benefits of plan members.

A former government auditor testified in Court that the surplus in the public service, RCMP and Canadian Forces pension accounts have now increased to \$42.7 billion. Scott Milne, an expert in public-sector accountancy and former auditor with the Office of the Auditor General, said that interest and actuarial evaluations have generated additional surplus in the former accounts. Although a total of about \$29.18 billion has been taken by the government from 2000 to 2006, about \$12.97 billion surplus is still left in the accounts. Contributions to these accounts ceased after April 1, 2000, and were channeled to the new Public Sector Pension Investment Board under Bill C-78. At that time, the surplus stood at about \$31.25 billion.

Four days of trial were spent on the testimonies of Milne and Don Lee, a pension analyst with particular expertise in attribution analysis. Their testimonies support the plaintiffs' claims that the three pension accounts have assets and that members have claims to a good portion of the surplus. Milne's work with the Office of the Auditor General included dealing with the Public Accounts of Canada and auditing the public service pension accounts. He explained in Court that the pension accounts are “non-budgetary” Specified Purpose Accounts, meaning that the funds in the accounts could not be used to pay for government programs or any other purpose but for the pension benefits of plan members. Specified Purpose Accounts were created under provisions in the Financial Admin-

istration Act. Milne further testified that the accounting of the pension plans was done on the basis that the plans were funded and that their accounts disclose contributions, investment earnings, actuarial surpluses as well as the portions of such surpluses retired by the government through amortization. He also said the funds in the accounts meet the definition of “assets,” as set by the Canadian Institute for Chartered Accountants, the body that sets accounting rules in Canada. “We don't make bookkeeping entries for fictional or notional transactions,” he said. “They represent real transactions, substantial events.”

Next in the witness box was Don Lee who presented his attribution analysis for the three pension plans. Lee's expertise in this area has been accepted by courts and pension tribunals. He first explained his method of analysis, which consisted of a review of the history of each plan, the factors that contributed to the surplus and a calculation of the extent to which the surplus grew out of employee contributions. In each case, his analysis showed that a significant portion of the surplus in each account can be attributed to plan members' contributions: 42.2% for the public service pension account, 32.1% for the RCMP account and 25.6% of the Canadian Forces account. His analysis also showed that, in each case, the employer has withdrawn more than its fair share of the surplus. The trial, which began on February 26, was in recess for March break and resumed on March 19.

Editor's Note: The trial was completed on Thursday May 2, 2007. Counsel for the Associations felt that things continued to go well during the argument phase of the trial. Counsel submitted very detailed written submissions and also a separate reply submission in response to the government's written argument. The oral argument was relatively brief having regard to the written submissions – approximately three days. The trial judge did not comment as has been the case

during the entire trial. However, the questions that he did ask indicated that he seemed to understand the arguments we are making – a good sign.

In the end Justice Panet reserved his decision. At this time it is difficult to predict how long it will take before a decision is rendered. In this case, since there is so much evidence and so many complicated legal issues, we suspect that we are in for a wait of several months if not more.

RCMP MEMBERS & STAFF

Hi. My name is Wayne Ryan. As a retired Member of the Force, I know all about moving, buying and selling!! I also know how expensive it is to live in the LMD. That's one of the reasons I'm pleased to be able to offer you an exclusive package which will provide full MLS service while saving you lots of money! I work extensively in the N. Delta, Surrey, Langley and Abbotsford areas. However, if you reside outside these areas or would simply prefer to use a more local realtor, give me a call anyway – I may be able to arrange the same package deal for you!

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- I work with Royal LePage, and am very familiar with the relocation policies of the Force.
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There's the law, and then there's the RCMP

By Michel Funicelli

In a nutshell the following case revolves around section 45.36(2) RCMP Act. This section provides immunity (criminal, civil or administrative) to a member who makes a statement during the informal disposition of a public complaint made under Part VII of the Act. The reasoning behind this immunity is simple. "Members of the RCMP must feel free to speak openly and frankly and to pursue their rights without fear of subsequent use of their statements or answers" (*Poland v. Maintland*, 1994).

Sometime during the Fall 2001, a neighbour living next door to the member in question began to harass the member and his family. The neighbour was repeatedly peeping-tomming into the member's residence from within his own residence. A distance of about eight feet just separated both residences. At times the neighbour was observed holding a camera, pointing it towards the member's residence, and appeared to take photographs. The neighbour's behaviour was disconcerting to the member's spouse, and was making the member's spouse very uncomfortable. At that time this type of incident was not covered by the Criminal Code.

During one peeping-tomming episode, the neighbour alleged that the member 'mooned' him from within the member's residence. The member was off duty at the time and never went outside the residence.

The complainant filed a Public Complaint under Part VII. The NCO i/c in charge of the member decided that the matter could not be pursued under Part VII since the complaint did not relate to on-duty behaviour of the member, and

further decided that the matter did not warrant a disciplinary investigation. The NCO i/c wrote to the complainant and explained his decision. The member contended that the issue should have ended at that point.

The complainant was unsatisfied and requested that the CO of the division in question review the matter. The CO summonsed the member to discuss the matter. The CO gave the member an ultimatum: apologize or face a Code of Conduct investigation under Part IV of the Act. The member unwillingly decided to write a letter of apology to the complainant. The member wrote: "I regret if you believe you saw something, during one of your many harassing, privacy invading, and voyeuristic episodes of peering at my wife through the kitchen window of our residence, that caused you to feel uncomfortable."

The CO was unsatisfied with the letter and recommended to the officer in charge of the member to initiate a Part IV investigation. The officer in charge went ahead with the CO's recommendation. The member grieved the decision of the officer in charge as well as the recommendation of the CO to commence disciplinary proceedings within the 30-day statutory limit.

In the meantime an investigation over two allegations commenced. The first allegation was the observation made by the neighbour as he was peeping-tomming into the member's residence, and the second was the letter of apology the member sent to the complainant.

After several months, the investigation did not substantiate the first allegation. On the other hand the investigation found

the second allegation to be supported. The member was later found to have contravened the Code of Conduct and given counselling (verbal reprimand) within the one-year limitation of action pursuant to section 41(1)(a) RCMP Act. It is important to note that this kind of sanction cannot be appealed, and is left on the member's personnel file for a maximum period of 12 months.

The grievance carried on to Levels I & II. The member argued that the letter was sent under duress and not given freely and voluntarily; denied that the content of the letter was objectionable; raised the section 45.36 immunity; contended that the CO's decision to recommend an internal investigation was nullified by the member's NCO i/c who had already considered the matter of the Public complaint closed and that no Part IV investigation was warranted; raised the shoddy internal investigation where a key defence witness had not been interviewed; argued a prejudicial outcome by the CO who had reached a conclusion (by requesting that the member apologize) prior to receiving all the facts through an investigation; raised the issue of abuse of authority, and raised several other minor arguments.

The Level I adjudicator was silent on the immunity aspect, rejected the notion that the member was aggrieved by the recommendation of the CO, and affirmed that the member had no standing since the grievance system (Part III) could not be used to intervene in a disciplinary proceeding (Part IV).

In 2007, the Level II adjudicator delivered his ruling. He was silent on the

immunity aspect, supported the notion that the member could not be aggrieved by the CO's recommendation and affirmed that the member could not use the grievance system since another recourse was open to the member via section 42(1) RCMP Act (for simple disciplinary measures contained in 41(1)(e) to (g) RCMP Act) and via section 45.14(1) RCMP Act (for formal disciplinary measures). The Level II adjudicator disregarded the fact that the sanction fell under s. 41(1)(a), and therefore not subject to appeal. In conclusion, the Level II adjudicator rejected the grievance. The only recourse left for the member was to go to Federal Court.

The point here is neither the member's impugned behaviour nor the low-level scale of the sanction. Rather, it is the RCMP's blatant violation for many principles of natural justice, as well as the disregard for a legal immunity against any statement made during the informal disposition of a public complaint. The member made the mistake of trusting a senior ranking officer of the RCMP in the hopes to settle informally a public complaint. The RCMP Act clearly stipulates that members have immunity and that no statement will be admissible during the informal disposition process of a public complaint. After all, this immunity exists mainly to allow both parties to resolve a complaint by being able to speak freely. If the RCMP is abusing its authority over this immunity then informal dispositions may end up a thing of the past.

The RCMP Act clearly stipulates that members have immunity and that no statement will be admissible during the informal disposition process of a public complaint. After all, this immunity exists mainly to allow both parties to resolve a complaint by being able to speak freely.

The Veterans Bill of Rights

Al Roy, BCMPPA Director

DVA announces creation of Veterans Bill of Rights

The Veterans Bill of Rights is an expression of the rights Veterans have long identified as important. It is a comprehensive declaration of rights for all war-service Veterans, Veterans and serving members of the Canadian Forces (Regular and Reserve), **members and former members of the Royal Canadian Mounted Police, spouses, common-law partners, survivors and primary care-givers, other eligible dependants and family members, and other eligible clients.**

The Veterans Bill of Rights was developed in consultation with Veterans' organizations to strengthen our ability to respond quickly and fairly to the concerns of Veterans. It sets out the rights of Veterans and clients in accessing Veterans Affairs' programs and services. It is a clear and concise statement that Veterans Affairs will continue to make sure every one of its clients is treated with respect, with dignity and with fairness.

Application

The Veterans Bill of Rights applies to all clients of Veterans Affairs. They include:

- Veterans with war service
- Veterans and serving members of the Canadian Forces (Regular and Reserve)
- Members and former members of the Royal Canadian Mounted Police
- Spouses, common-law partners, survivors and primary caregivers
- Other eligible dependants and family members
- Other eligible clients

Rights

You have the right to:

- Be treated with respect, dignity, fairness and courtesy.
- Take part in discussions that involve you and your family.
- Have someone with you for support when you deal with Veterans Affairs.
- Receive clear, easy-to-understand information about our programs and services, in English or French, as set out in the *Official Languages Act*.
- Have your privacy protected as set out in the *Privacy Act*.
- Receive benefits and services as set out in our published service standards and to know your appeal rights. You have the right to make a complaint and have the matter looked into if you feel that any of your rights have not been upheld.

Veterans Ombudsman

DVA announced on April 3, 2007, a Veterans Ombudsman position will also be created. The Veterans Ombudsman is an impartial, arms-length and independent officer with the responsibility to assist Veterans to pursue their concerns and advance their issues.

The Veterans Ombudsman will be effective and play an important role in raising the awareness of the needs and concerns of Veterans and will enhance the confidence of Veterans that their views are important.

The Ombudsman will uphold the Veterans Bill of Rights and will review individual and systemic issues arising from it.

Once operational, the Veterans Ombudsman Office will launch its own Web site which will provide additional information on its services and how to access the office.

For Your Information



RCMP to continue policing City of Moncton

In the last issue we reported that the New Brunswick Police Association had offered to pay for a study using an independent consultant of City of Moncton's own choosing to show whether policing costs under a municipal police force would be cheaper than under the RCMP. The Moncton City Council had since rejected the offer by the New Brunswick Police Association. The motion gives as a key reason that the "City of Moncton has committed to a regional RCMP force." Councillor Doug Robertson clarified that statement to mean that the city has a policing agreement with the RCMP that expires in 2012. Councillors Kathryn Barnes and Brian Hicks argued before council by saying that if hiring such a consultant was the way to go, then it made sense to let someone besides the taxpayers of Moncton pick up the costs. Other councillors rejected the argument, insisting that any such study would forever carry the taint of being funded by an organization with a vested interest, however pure its intentions and no matter how transparent the process.

(Source: Brent Mazerolle, *Times and Transcript*, Feb. 06, 2007)

Supreme Court of Canada to hear appeal of former Mountie Mike Ferguson's manslaughter sentence

The Supreme Court of Canada has agreed to hear former Mountie Mike Ferguson's appeal of the sentence he got for a manslaughter conviction after fatally shooting a prisoner in a southern Alberta jail. After two hung juries, Ferguson was convicted of manslaughter in a third trial in Alberta. He was released from jail in December on full parole. His lawyer, Noel O'Brien, said that even though Ferguson is out on parole, he wants to fight for a principle. During the trials, the defence had argued that since Ferguson was required to carry a gun on the job, the mandatory four-year prison term for manslaughter involving a gun would be cruel and unusual punishment. The trial judge in 2004 agreed and used a rare constitutional exemption to sentence Ferguson to two years less a day, to be served in the community. But the Alberta Court of Appeal then overturned the exemption, sending Ferguson to jail with credit for the time he served under house-arrest.

"What happened here is, the court has now put an end to the constitutional exemption provisions, which allow a person to establish that in his unique case, a mandatory punishment is a cruel and unusual punishment," O'Brien said. "This case takes on a broad spectrum particularly as it relates to police officers or customs officials or anyone who is required to carry a gun in the performance of their duties."

(Source: CBC, Feb. 01, 2007, with files from the *Canadian Press*)

During the trials, the defence had argued that since Ferguson was required to carry a gun on the job, the mandatory four-year prison term for manslaughter involving a gun would be cruel and unusual punishment.

An Ontario Human Rights Tribunal decision suggests there is mounting proof racial profiling is a “systemic” practice in police forces, a contention rejected by senior police officers.



Police Force profiling part of “systemic bias” Ontario tribunal: landmark ruling

An Ontario Human Rights Tribunal decision suggests there is mounting proof racial profiling is a “systemic” practice in police forces, a contention rejected by senior police officers. The tribunal’s comments were part of a landmark ruling in favour of a Mississauga woman who was subjected to “a more intensive, suspicious and prolonged investigation because she is black.”

Dave Wilson, president of the Toronto Police Association, called the sweeping statement about racial profiling “disturbing.” “I think that racial profiling, somewhere out there, probably has occurred,” he said. “But it is absolutely not systemic and it is absolutely unacceptable that people would view this as a given within the policing community.”

(Source: National Post, Fri., May 18, 2007)

Royal Newfoundland Constabulary wins arbitration award

The RNCA wage offer included raising the first class constable designation from 4 to 5 years of service and an increase in base salary from \$52,205 to \$64,902. The RNCA offer included service pay at 10, 15, 20 and 25 year increments. As of April 1, 2007 a 25 year constable will earn \$72,690.

Call for more police officers

In March the presidents of the Canadian Association of Police Boards (CAPB), Canadian Association of Chiefs of Police (CACP), and Canadian Police Association (CPA) issued a letter asking Public Safety Minister Stockwell Day to immediately convene a roundtable meeting of the Federal, Provincial, and Territorial Ministers, along with representative of the CAPB, CACP, and CPA, to commence discussions on developing a long-term sustainable cost-sharing arrangement for additional police officers.

During the 2006 Federal Election, the Conservative Party committed to negotiate with the provinces to put at least 2500 more police officers on the streets of our communities. This promise recognized the growing pressures on front-line police and the urgent need for additional police resources in our communities. Despite many attempts to move this issue forward with Federal Public Safety Minister Stockwell Day, a formal process has yet to be engaged. The letter calls upon Minister Day to adopt a leadership role in delivering upon this commitment, as quickly as possible.

Montreal Police bargains for higher pension accrual rate

As you recall due to lobbying on the part of the CPA the Income Tax regulations had changed allowing for higher pension accrual rates of 2.33% for police amongst all the other public safety occupations. Currently many police departments including the RCMP have an accrual rate of 2%. The BC police departments currently get a higher rate due to a Special Agreement. Montreal Police Association has

successfully bargained for their pension fund with an equivalent of 2.7% accrual rate and a very high approval rate from their members. They are now beginning the collective agreement negotiations.

A higher accrual rate will mean hundreds of dollars on your monthly pension cheque.

CPA seeks major Corrections reform

On Wednesday June 27, the CPA appeared before the **Correctional Service Canada Review Panel** in Ottawa. President Cannavino and Executive Officer Griffin presented the CPA's submissions for significant reforms to Canada's system of sentencing, corrections and parole. The CPA and our member associations have been urging governments for many years to address deficiencies in Canada's current system, and we welcomed the opportunity to participate in this process.

The Panel was appointed last month by Public Safety Minister Stockwell Day, fulfilling a 2005 election pledge by the Conservatives to review Canada's correctional system.

CPA submissions described how the profile of Canada's prison population has changed, with an increased and significant proportion of violent and sexual offenders who require increased supervision and intervention. At the same time Courts are imposing shorter sentences, further reduced by the increased application of credit for "dead time"; time spent in remand custody awaiting trial. While there is an increased emphasis on community supervision and rehabilitation, shorter in-custody terms reduces the opportunity for rehabilitation. 50% of

offenders refuse to participate in rehabilitation programs, and 40% of those who do so are not successful. CSC has serious capacity gaps between stated policy objectives and actual practices relative to significant security issues such as suppression of criminal gang organizations, drug tolerance, and the monitoring of offenders released into the community. Current legislative and policy frameworks for Corrections and Parole were designed for a less violent prison population are no longer consistent with current realities and public expectations.

The CPA submitted over 40 recommendations to the panel for changes to Canada's system of sentencing, corrections and parole. A copy of the CPA submissions can be found on our web site at www.cpa-acp.ca

CPA reacts to the pension-fund scandal report

The government-appointed investigator into the Mounties' pension-fund scandal, David Brown, concluded in a report issued Friday, June 15th, 2007 that the management of the force is "horribly broken" and needs to be restructured. The CPA was pleased with Mr. Brown's report and the recommendations he made to the government.



While there is an increased emphasis on community supervision and rehabilitation, shorter in-custody terms reduces the opportunity for rehabilitation.

FOR YOUR INFORMATION

“Let’s say there’s obstruction, or a grievance, or harassment, or sexual harassment ... it’s the association that represents the members, so that that person is protected.”

Mr. Brown’s report harshly criticized former commissioner Giuliano Zaccardelli – who resigned in December over contradictory testimony on the Maher Arar affair – as an autocratic leader who punished whistle-blowers.

Prior to Public Safety Minister Stockwell Day’s response on Monday, June 18th, 2007, CPA President Tony Cannavino spoke with Minister Day about Mr. Brown’s report reinforcing the need for an Independent Association for the RCMP. President Cannavino is scheduled to meet with Minister Day this week and will be seeking CPA representation on the Task Force.

Mr. Day responded to Mr. Brown’s report by agreeing with all his investigators’ recommendations, including adding oversight mechanisms and making changes to the law that governs the force. The government intends to proceed with a task force of police officers and experts to

recommend on how to best implement change. Minister Day mentioned in his news conference that he would be consulting with stakeholders, including police associations, on this issue.

President Cannavino said in a media interview that a task force can do the job properly if the right people are appointed. But he argued that whistle-blowers will never be comfortable coming forward until rank-and-file officers have an association as exists in all municipal and provincial forces in Canada.

“If we’re talking about a modern structure, it is imperative that they also have an independent association,” Mr. Cannavino said. “Let’s say there’s obstruction, or a grievance, or harassment, or sexual harassment ... it’s the association that represents the members, so that that person is protected.”

(Source: Globe and Mail, Tue 19 Jun 2007)



In Memoriam

CST. DANIEL TESSIER, a 17-year veteran of the Laval Police, was shot and killed during a raid in the suburb of Brossard, where Laval Police were executing search warrants on a drug house.

He leaves behind his wife, who is also a police officer and two young daughters.

Know Your Labour Relations System!

What self-respecting labour relations system that calls itself modern and unique and:

- a) Punishes dissent by banning dissenting voices and is intolerant of public debate?
- b) Calls itself a democratic body when it was Commissioner Nadon who imposed it on the RCMP membership in 1974 to quell a revolt over payment of overtime, and was never endorsed by a membership wide vote?
- c) Has never challenged in court a decision by management in the past 33 years of its existence? Could it be that all labour related decisions ever taken by the thousands of supervisors and managers have always pleased the tens of thousands of members affected by those decisions in the past 33 years?
- d) Does not comprehend the notion that you don't bite the hand that feeds you, if it was to launch a judicial challenge (The annual budget to run the labour program is \$3M and is provided by the employer)
- e) Has allowed an internal grievance system to develop into an impotent and wasteful mechanism permitting an average of 2,000 grievances annually, at a cost of approx \$8 to \$10 K each (for a total sum of around \$20 Million annually), for a membership of approx 17,000 (regular & civilian members) when other major police services in Canada only have a few dozen. When disparity is taken into account the ratio works out to be 1:100 to 1:200 in major police services versus 1:8 or 1:9 for the RCMP?
- f) Has allowed a grievance system where the final decision maker is management when it is the very same management whose decision, act or omission caused a member to be aggrieved in the first place?
- g) Has allowed a grievance system where an external body (the External Review Committee) can only review a very narrow scope of grievances in the first place, can only review the grievances that management believes should be reviewed by it (the same management that made the decision causing a member to be aggrieved in the first place), and can only make recommendations and not binding decisions?
- h) Allows itself to be a tool of management to mete out sanctions on dissenting voices, rather than be truly independent.
- i) Has allowed a grievance system where it is the manager at the source of the grievance who decides what document are ruled pertinent for disclosure when an aggrieved member files a grievance.
- j) Does not keep an electronic databank of decision outcomes for grievances when the same exists for disciplinary matters? (Perhaps it's because management handles all administrative aspects of grievances).
- k) Fails to understand the notion that decision makers in grievances are in conflict of interests or at the very least have the appearance to be in conflict (i.e. what manager would decide in favour of an aggrieved member when the outcome could mean additional expense to management)?
- l) Allows a situation where managers faced with a grievance can seek legal advice but not aggrieved members?

We all know the answers to all of the above: The Staff Relations System!

From the Mailbox

Editor's Note: *By now you may have heard about or read Commissioner Busson's letter dated May 4th addressed to CPA President Tony Cannavino. The letter was posted on the internal RCMP website. Mr. Cannavino then found himself in the peculiar situation of responding to a letter that the CPA Office had yet to receive. On May 14th, he began his response with "I am surprised to find myself responding to a letter addressed to me, dated May 4, 2007, that you have broadcast across the RCMP, which for some reason has yet to be delivered to my office. I can only hope that you will have the courtesy to broadcast my response to your letter through the same communications channels".*

Finally, on May 31st, the CPA Office received the RCMP Commissioner's letter which was dated May 4th, but postmarked May 30th.

To the best of the BCMPPA's knowledge the RCMP had failed to inform its members of Mr. Cannavino's previous letters. As such we had taken the liberty to show our members the CPA's previous letter to Minister Day and the response to Commissioner Busson.

March 29, 2007

The Honourable Stockwell Day
Minister Public Safety Canada
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Dear Minister:

RE: Equality for RCMP Members – Accountability for RCMP Management

Revelations at the Public Accounts Committee on March 28th have, once again, focused on the lack of accountability and lack of transparency of senior management within the RCMP. Once again, we find ourselves pleading with you to address the systemic and long-standing issues of inequality within the RCMP. Accountability for RCMP senior managers begins with granting RCMP members the right to form and participate in an independent, representative police association; a right bestowed to all other police officers in Canada.

Currently, RCMP members are not entitled to the same fundamental workplace equality and labour rights as other police officers, and RCMP Management is not held to the same standard of accountability as other police managers. The internal discipline and grievance systems end with the Commissioner of the RCMP as the final level of appeal. That, coupled with the fact that the internal representation program is not independent from management, leaves many members of the RCMP vulnerable and exposed on workplace management issues. The RCMP approach has been to deny, minimize, ignore, or cover up these concerns. A system of democratic representation for RCMP members will significantly increase the efficiency, accountability and transparency of Canada's national police service. Despite numerous efforts by our association, and our members within the RCMP to achieve these changes, you have steadfastly refused to address these concerns. The time has come to grant RCMP members the same fundamental rights and freedoms enjoyed by their peers across Canada. We urge you to reconsider your stance, and introduce legislation that will afford members of the RCMP the same fundamental equality and labour rights as all other police officers in Canada.

Sincerely,

Tony Cannavino, President
c.c. Prime Minister Stephen Harper, P.C.
All Members of Parliament
National Press Gallery

May 14, 2007

Commissioner Busson
RCMP Headquarters
1200 Vanier Parkway
Ottawa, ON K1A 0R2

Dear Commissioner Busson:

I am surprised to find myself responding to a letter addressed to me, dated May 4, 2007, that you have broadcast across the RCMP, which for some reason has yet to be delivered to my office. I can only hope that you will have the courtesy to broadcast my response to your letter through the same communications channels.

I would like to begin by making it clear that we continue to hold the rank and file members of the RCMP in the highest esteem and respect; we continue to be impressed by their ability to discharge their duties with professionalism and dedication, despite the obstacles that they continue to face within the RCMP. The recent loss of public confidence in the RCMP due to the actions of high-ranking RCMP officials, including your predecessor, must shake their confidence in one of Canada's most important public institutions. We would welcome the opportunity to engage in more productive discourse with you. Perhaps you will be able to explain to me why senior managers within the RCMP continue to oppose efforts to afford RCMP members the same fundamental rights of association and access to third party dispute resolution that are available to provincial and municipal police officers across Canada. Why is it that so many RCMP members have chosen to voluntarily form their own associations to seek these rights, and do so with fear of reprisal and retaliation from the RCMP? Why is it that the members who choose to hold office in these Associations have been ostracized by the internal staff relations program and senior officials within the RCMP? Why have members of the RCMP who have been victims of sexual harassment, racial discrimination, obstructing investigations, or surreptitious and unlawful surveillance found it necessary to bypass the RCMP representative system and seek redress through the Courts?

Why is it that the RCMP will vigorously defend, right up to the Supreme Court of Canada, any efforts to provide fundamental workplace protections to RCMP members?

The Canadian Police Association is committed to working with our RCMP members to afford them the same fundamental human rights and protections in the workplace that have been available to all other Canadian police officers for decades. I would welcome the opportunity to meet with you to discuss this important initiative at your earliest convenience.

Sincerely,

Tony Cannavino, President
c.c.: The Honourable Stockwell Day

Bursary Requirements

**The BCMPPA will be awarding the 9th Annual Bursary.
Due to the delay in mailing out the newsletter,
the deadline of July 31, 2007 will be moved to September 1, 2007.**

The bursaries consist of:

- 1 (one) member bursary of \$500,
- 1 (one) dependent bursary for \$1000 and
- 1 (one) dependent bursary for \$500.



The dependent requirements:

- application letter.
- certified transcript from high school or post secondary institution.
- letter of acceptance from an approved post secondary education.
- any letters of support and/or recommendation from participating in volunteer work/after school programs/coaching.
- a passport size photo.

Member bursary requirements:

- application letter.
- letter of acceptance from an approved post secondary institution.
- a passport size photo.

Note: Only applications postmarked by September 1, 2007 will be accepted.
The cheques will be mailed out to the recipients' institution
to be deposited in their student account.

Const. Andrea Cuthill decided to fight an Ottawa Police Employee Policy that forced pregnant women to give up positions they would have otherwise kept



When Ottawa police Const. Andrea Cuthill was told she wouldn't be returning to her job as court liaison officer and coroner's constable after becoming pregnant with her first child, she decided it wasn't right and fought back.

The result was a precedent-setting ruling that found the Ottawa police transfer policy violated Ontario's Human Rights Code, discriminating against pregnant officers by denying them the right to return to their previous job postings.

According to the transfer policy, officers who leave their positions for longer than six months are subject to being permanently transferred. Despite a clause in the policy that allowed the police department to extend the amount of time an officer can be on leave when there are "extenuating circumstances," the department elected to transfer Const. Cuthill anyway.

Const. Cuthill and the police association say the policy wasn't being applied fairly across the board. Many male officers, who took leaves of longer than six months for medical reasons or because they were seconded to other sections, departments or on peacekeeping missions abroad, retained their positions, they claimed.

During the arbitration process, the police department unsuccessfully argued that officers are only entitled to return at the same rank, pay and benefits. However, the arbitrator's decision is expected to have wider implications.

Police officers, who are bound by collective agreements and the Police Services Act and not subject to the Ontario Employment Standards Act — which protects a woman's right to return to the same or comparable position following a maternity leave — now have a legally binding decision protecting their job positions, he said.

Ontario Police Association president Bob Baltin calls the decision "significant," adding it "is going to assist employees in all manner across the province where they may have a similar policy," he says. "It's not restricted to Ottawa officers."

Ottawa police association president Charles Momy says he believes the decision has highlighted the need for more training, particularly when it comes to the Ontario Human Rights Code and labour law, for senior officers responsible for transfers at the superintendent and inspector rank.

"It seems like if there is a policy in place, some inspectors and superintendents just follow the policy. They don't care if it is right or wrong, they just follow it. You would think that in this case here, someone would have raised the red flag and said 'this doesn't sound right to me.' And no one raised those red flags."

(Source: Ottawa Citizen, Monday, June 18, 2007)

According to the transfer policy, officers who leave their positions for longer than six months are subject to being permanently transferred.

Mounties win right to sue superiors

Chris Morris, *The Canadian Press* Published Friday July 6th, 2007

"The RCMP scheme is incapable of dealing with the difficult cases, and this is a difficult one," Robertson said in a decision released Thursday, July 5.

In a judgment that casts more doubt on RCMP management, the New Brunswick Court of Appeal has cleared the way for two Mounties in the province to sue their superior officers.

In a decision written by Justice J.A. Robertson, RCMP Staff Sgt. Ken Smith and his wife, Cpl. Paulette Delaney-Smith, have been told they can proceed with their civil suit rather than rely on the RCMP's flawed internal grievance system. "The RCMP scheme is incapable of dealing with the difficult cases, and this is a difficult one," Robertson said in a decision released Thursday, July 5.

The ruling was another victory for the married Mounties who have spent the past five years locked in a bitter dispute with the RCMP over Smith's removal from his position as head of the drug unit in Saint John. "Incredible, incredible," Smith told the *New Brunswick Telegraph-Journal*. "This ruling is the biggest thing that's happened to us." Smith won a promotion to head the drug unit over a candidate favoured by his superiors. He then had to endure a campaign of "character assassination," the court said, that included being put under physical and electronic surveillance. He was eventually demoted and transferred to a position more suitable to a rookie in the force.

The Smiths recently won the right to pursue an unusual private prosecution against their bosses for criminal conspiracy, but the New Brunswick government stepped in and stayed the charges. The Smiths allege in the lawsuit that they have been subjected to "wrongful and

tortuous conduct" by the police force. They are seeking general and punitive damages against numerous defendants, including nine officers who were either directly or indirectly involved in Smith's demotion and the handling of his subsequent harassment complaints. During the course of their internal feud with the force, Smith's superiors tagged his patrol car with a tracking device to follow his movements — a device that wasn't authorized by the courts.

Robertson noted in his decision that while the two principal wrongdoers in the case, Supt. Daniel LeFebvre and Chief Supt. James Payne, have been found guilty of harassment and breach of the RCMP code of conduct, their careers remain intact. However, the judge said that the Smiths' careers have been on hold for years. "No apology has ever been issued nor has the employee (Smith) been reinstated to the position which, according to the appeal record, he should never have lost," Robertson wrote in his frequently blunt decision. The judge said the Smiths are not to blame for the five years it has taken them to try and find justice within the RCMP grievance system. "The Smiths spent that time pursuing the administrative scheme in good faith when those responsible for its administration were allegedly acting in bad faith," he wrote.

The Appeal Court ruling upholds a lower court decision that the couple did have the right to sue, rather than leave the matter to the RCMP's internal complaints board.

Calibre Press Street Survival Seminar

A reminder to our members that the BCMPPA Professional Development Fund allots five \$200 awards / year to members to attend job related courses / seminars.

The above noted course is coming to Seattle / Tacoma, Washington on September 13-14.

The cost of the course is \$200 USD.

If you are interested in attending, check their website www.calibrepress.com for more information.

If you would like to be reimbursed under the BCMPPA Professional Development Fund please contact the Executive.

We are pleased to announce our new partnership with BCAA.



Now you and your family can access Travel, Insurance and Membership at BCAA through the MPPA Group Plan.

This means valuable benefits and savings.

HERE ARE SOME OF THE OFFERS AVAILABLE TO MPPA MEMBERS:

- Discount on new BCAA memberships – waived enrollment fee for savings of \$18
- Discount on new associate memberships – up to \$20 in savings!
- Discount on Home Insurance*
- Excellent monthly payment offer for Travel Medical Insurance* – save money plus you only buy the coverage you need
- A full range of auto insurance* products to suit your needs
- Watch for exclusive cruises, vacation packages and offers on travel - designed for our industry and members - in fact our first offer is included in this issue – CHECK OUT THE FLYER!

And don't forget, BCAA members also get up to 50% off at Show Your Card and Save Partners - glasses, paint, shoes, hotels and more. See enclosed brochure for details.

HOW TO GET STARTED:

MPPA members must register with BCAA. This is free, and you don't have to be a BCAA member to register, but registration ensures that our offers are available to you. Even if you are already a BCAA member, you have to call in and identify yourself as a MPPA member so you can take advantage of these extra special savings. Take a few minutes and call **1-888-268-5154**.

P.S. Want to go to the movies? If you sign up for a new BCAA membership and refer a friend who signs up too, BCAA will send you 2 movie passes. It's that easy! Don't wait though – this is a limited time offer.

**Insurance is sold by BCAA Insurance Agency and underwritten by various underwriters*



BCMPPA Membership Application/ Amendment Form

Check All Boxes That Apply

- New Application** **Renewal** (\$108/year)
 Interdivisional Membership (\$15/year)
 Pre-approved payment request Cheque attached
 Male Female Change of address
 Change of posting/duties Change of bank/account

Referred by _____
(Referring member 3 months no dues)

Regimental # _____

Surname _____

Given Names _____

Address (Street, City, Province, Postal Code) _____

E-mail Address _____

Telephone # _____

Current Posting & Duties _____

PRE-APPROVED PAYMENT REQUEST

This application constitutes authorization for the B.C. Mounted Police Professional Association (BCMPPA) to withdraw the sum of \$9 per month from:

Financial Institution _____

Address _____

Account # _____

Please attach a void/blank cheque to initiate your Pre-approved Payment.

Visa MasterCard (credit card payments through PayPal only)

Card # _____

Expiry _____

The said withdrawal will be debited on the 14th day of each month. These authorized deductions will commence on _____ 20____, and will continue until such time as the undersigned advises the BCMPPA to cease said withdrawals in writing.

Date _____

Signed _____

Mail to: BCMPPA, PO Box 76004, Langley, BC V1M 4B7
or Fax to: (604) 460-6403 / Toll free fax: 1-866-530-4738

This form is also available on the BCMPPA website: www.mppac-acpmp.com

Contact Numbers

The following provides contact information for our members wishing to reach the executive of the BCMPPA or *The Service Star* editor. This list was accurate at the time of printing. In the event some of this information becomes dated, up-to-date information can always be obtained from our website at www.mppac-acpmp.com

Association Executive

President

Pat Mehain 778-838-5508 cell.

Vice President

Rob Creasser 250-371-1071 cell.

Treasurer

Kimberly Russell 250-319-8528 cell.

Secretary

Vacant

Directors

BC Interior

Alain Roy 250-545-7141

Dan Sandhar 778-772-9690

BC North

Brendan McKenna 250-638-7400 work

Service Star Editor

Dan Petre 604-601-0358 pgr.

Change of Address

Members with access to the Internet can communicate via e-mail their change of address or any other data pertaining to their membership.

Mrs. Linda Bauchman, BCMPPA bookkeeper, is online at the following address: lin@telus.net.

Other members can still submit those changes by mail or fax. You will find the details on the inside cover of *The Service Star*, or at the Association's website, www.mppac-acpmp.com