

Feb 2, 2012

Jean Laporte, COO, Transport Canada

Dear sir;

Let me apologize for the tone of my email last week, I was upset but the apparent attempt by my Government to brush me off.

As suggested, I did contact Mr Neil Hughes the head investigator from British Columbia who conducted Investigation A09P0156, to understand why a Government investigation would include statements like;

The number of amateur-built, owner-maintained, and ultra-light aircraft is growing. The onus is on the owners of these aircraft to ensure airworthiness. Without additional system safeguards, there is a greater risk that these aircraft will not be properly built and maintained. These aircraft often operate in the vicinity of populated areas, thereby increasing the risk to the public and to property. and;

The population of amateur-built, owner-maintained, and ultra-light aircraft is growing. This increases the risk to the public and to property if they are not properly designed, produced, and maintained.

mixed in among technical statements like “.....hydrogen embrittlement was found in the crankshaft....”? There was no apparent connect between these opinions and facts included in the Report.

My concern is based on the fact that for over 30 years I was employed as a Peace Officer and investigator with all levels of Government, doing Criminal and Regulatory Investigations and prosecutions. (Ironically I even hold certification issued by Transport Canada that I have been trained by them to enforce the Canadian Air Regulations.) Over that whole period I was convinced that there was only one system of jurisprudence in Canada and that it guided and governed the activities of Public Officers in the performance of their duties. One of our guiding principles was that we would remain objective and unbiased through out the process, a precept I am proud to say governed me through a whole career. Apparently I wasn't as competent as I believed.

Mr. Hughes confirmed that he not only made the statements included in TSB's Aviation Investigation Report A09P0156, but he stands by them, as did the rest of his department. I have to admit, I sincerely admire Mr. Hughes, his honesty and conviction are commendable.

But, the Head Investigator also confirmed that his job is to collect facts, draw conclusions and opinion from those facts, and go on to suggest solutions. He has no legal education but does have experience in the industry and years of experience in the Government. He maintains that his opinions are facts based his observations.

He went on to confirm that not only does he stand by the comments I objected to, but that his department Regionally and Nationally have adopted them and even strengthened them when

published. By way of demonstration of this, he informed me that as recently as this weekend Mr. Fipps (Ottawa?) has announced restrictions on all “Non-Certified aircraft, home-built, owner maintained and all the others, that are dramatic and include the requirement for AME’s to do Annual and 100 hour inspections and a lot more...”.

As I explain, prior to my discussion with Mr. Hughes I was under the impression that there was only one Canadian system of jurisprudence that applied to all of us in Canada, especially those that have authority from the Crown and investigate and enforce the Laws. In our discussions I was corrected; “...because TSB reports directly to Privy Council they don’t need to comply with the law like other departments do...”. The Chief Inspector went on to say he is not concerned about Charter Rights, they have lawyers like Ms. Savros who concern themselves with that.

While discussing how to improve the process both I and Mr. Hughes offered situations where ludicrous decisions and requirements were made by Government in the process of regulating the industry. We agreed there was a lack of legal understanding in Government and major inconsistencies in the application of the rules on the industry.

As you can imagine this all goes a long way to resolving my concerns.

I recognize that Mr Hughes, and others at the TSB (and at TC) are sincere and dedicated. But, I also know that a long standing system of quasi-legal procedures have resulted in a system of hypocrisy and absurdity. Mr. Hughes offers that the issue is one of incapacity to enforce the rules.

That’s simply not true. I maintain that those with more experience recognize that a convoluted Act and Regulations, applied by apparently well meaning Civil Servants for the past 40 plus years, in inconsistent manner, has created the problem. I offer that the solution might be as simple, and as inexpensive, as re-writing the Act and Air Regulations to make them understandable by the public and even by the legal profession.

Compliance would rise dramatically if we, the flying public, could understand the law, and could consult with a Government who apply them in consistent way.

Sincerely

J George Balmer

cc Minister TC

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