



NEWSLETTER

Carb Heat

Hot Air and Flying Rumours

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February 1998

Inside:

President's Page: by Gary Palmer
Tangled Up by Transport Canada by Charles Gregoire
Classifieds:

Next Meeting:

Thursday February 19, 1998 8:00 PM
Aviation Museum (Bush Theatre)

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I hope all of our members have survived the cruel joke mother nature played on us this last month. I was surprised to see a couple of our members from the area most severely hit by the ice storm make it into our January meeting. Hopefully the farmer's almanac is wrong, and we won't see a repeat of this freezing rain this winter.

Winter Flying

Ken Mackenzie has been busy as a beaver, trying to maintain runway access for those aircraft based at the chapter. He was particularly active keeping ice buildup to a minimum not only for his own aircraft, but also for many others on the flight line. A couple of other C-150 owners really owe Ken more than a simple thank you.

It really is great to be able to enjoy winter flying again. The weather last weekend was CAVU, with a huge high pressure system bringing pristine conditions. Makes the hours of snow blowing, and ice chopping worthwhile. Luke, Ken, and I each managed to enjoy this first weekend of February.

I would like to remind members to watch out when the meltdown comes, and keep off the apron areas and avoid the back road.

Young Eagles Coordinator

As you may recall, Lars Eif is stepping down as our Young Eagles coordinator after several years of sterling service. I would like to encourage one of our newer members to step forward to serve in this important capacity. One of the nice things about following in Lars' footsteps is it always turns out to be much easier than your initial fears would have you believe. Lars is one of those incredibly organized people who makes any task easy, and he has created a framework that will ease the transition for the new coordinator. So please step forward and volunteer, I am

sure you will find this position one of the most rewarding in the chapter.

January highlights

The January meeting was surprisingly well attended, particularly given the heavy snow fall that day. I suspect that the need to swap survival stories had a lot to do with it. The engine overhaul video provided some insight into the overhaul process, and is available from George Elliott for anyone wanting to view it in full.

GPS Web Info

I noticed a particularly interesting Canadian web site after following a posting in rec.aviation.homebuilt that I recommend hand held GPS users check into. This site contains a data base compiled from the Canadian Flight Supplement which can be used together with a Windows based download program to populate the waypoint memory of low cost GPS units.

This provides an effective backup to the more expensive units, and adds the smaller airports that don't make it into the data bases of the expensive units; i.e. all the smaller grass strips, and the hard surface ones shorter than 2500 ft.

The world wide web link is <http://ardsley.ivey.uwo.ca/cfs/>.

The following quote from the author of this site, should whet your appetite: "I uploaded the ont.txt into my Garmin 12. I went flying with both my Garmin 90 and Garmin 12 on the dash. The G90 had 4 satellites in view, the G12 had 10. Since Garmin only puts runways 2,000ft and greater in their database (and no HELI pads), my G12 showed more runways and points of reference when compared to the G90. I originally purchased the G12 as a backup unit in case the G90 went kaput, however I now feel that the G12 + the CFS database is a better deal for Canadian Flying (Personal opinion only - your mileage may vary)."

I also found another site with all kinds of good links for GPS information in general, try out "<ftp://vancouver-webpages.com/pub/peter/index.html#eagle>"

Jan. 15th Mtg. at NAM:

Our next meeting will feature **Maurice Simoneau**, a senior level Aviation Maintenance Inspector for Recreational Aircraft. Maurice has a wealth of experience, and will be updating us on the soon to be implemented Owner Maintenance category. I know there is a lot of interest amongst our flying members so come armed with all your questions. A special thanks to Bob Shuter for arranging this presentation.

I look forward to seeing you Thursday February 19th at the **National Aviation Museum**, 8:00 PM start.

Gary

TANGLED UP BY TRANSPORT CANADA

by Charles Gregoire

This is a report on my experience with the air regulation enforcement process that I hope will be helpful to other Pilots who may find themselves in similar circumstances.

It was a beautiful Sunday morning to fly to a nearby fly-in breakfast about 30 minutes away. Little did we know that the events of that day would culminate in a Civil Aviation Tribunal hearing 14 months later. The flight to/from the breakfast was uneventful relative to the many other fly-in breakfasts we had attended that summer. I was a new Pilot having received my license that spring. My wife was working on her recreational permit. We were new plane owners having owned our plane for approximately 2 months.

Being a new pilot, I was rather diligent in obtaining a weather briefing that morning and carefully going through all the cross country planning procedures required as per my training. All this despite the obvious clear weather and short flight ahead of approximately 43 nm. It would turn out that the information captured in the planning forms would serve as useful information in my defense. I also had submitted flight plans for the two flights. This would not be useful as evidence since the flight plan tapes are erased after a 3 month period.

The first sign of trouble came approximately two months later in a letter asking me to submit our Journey log for inspection. At this point I felt somewhat apprehensive wondering what might be up. There was some indication that they needed to know about all flights conducted after June 1. I brought the log to my AME to make sure that all the latest maintenance that had been performed on the A/C had been properly entered etc. after which the log was submitted. I kept thinking about what it might be.

The answer came one month later when I received a note indicating that an investigation regarding a possible violation of the Air Regulations regarding low flying over a built up area was being investigated and that it was alleged to occur on or about the day of the fly-in breakfast. I was invited but not obliged to respond with a statement or evidence to submit.

The first thing I had to do was to figure out what had happened on the day of the allegation approximately three months after the fact. Luckily I was in the habit of recording each flight in the journey log (i.e. including precise take-off and landing times). It was easily determined that there had been three flights that day. The first two flights were to/from the breakfast and there was a solo training flight by my wife that evening.

With that seed of recollection we started to piece all the events that had occurred that day. Fortunately there had been a visitor plane at our local airport that everyone had recalled because it was amphibious and they needed help to make some minor repairs to the landing gear. It turned out that this was an important point of recollection for one of my witnesses at the tribunal. (i.e. that recollection coupled with the visitor's journey log indicating the date and time of their visit).

Both my wife and I had concluded, that the low flying reported was likely to have occurred during her solo training flight since we were able to determine that she had indeed been instructed to practice some precautionary landing procedures. There was a chance that an observer may have perceived the plane to be flying low during this procedure. After some consultation with a few experienced flying acquaintances I drafted a typed statement which I submitted to the investigator. I later contacted them by phone to confirm that they had received the statement. In retrospect it would have helped if the approximate time of day of the allegation had been clarified in the TC letter since we would only find out 6 months later that I as PIC of our aircraft was being charged. One month after this I was able to determine that the infraction was presumably alleged to occur during the return flight from the breakfast.

Prior to receiving the formal charge, (i.e. around 5 months after submitting our statement) I had been contacted by the investigator to discuss the case. After all the discussions I had with acquaintances regarding investigator tactics, which in retrospect, were exaggerated, I was hesitant to return the voice mail. Looking back I think I should have freely discussed the case with the investigator. There is a chance that having done this, I could have perhaps averted the need to go to a tribunal although my perception at the time was that this investigator was out for a score. I could have taken the opportunity to ascertain the details of the case being put together against me with a few simple questions like "when, what time of day, what flight, # of witnesses etc.". I could have clarified my position at that point and the investigator might have reconsidered. Of course I didn't and a month later the charge came in the mail.

As I'm sure some reading this article can relate, it is not a pleasant situation to be accused of something one did not do. I could have averted the stress of having to go through the Civil Aviation Tribunal (abbreviated CAT) hearing by simply paying the \$250 fine. Of course this would have been the least expensive way to proceed but a sense of the "unfairness of it all" as well as the thought of a "needless black mark on my flying record" prompted me to go ahead with defending myself.

But now what should I do? How does one go about defending one's self in a CAT hearing? What a hassle this whole aviation pass time has turned into (so I thought in frustration).

As part of the formal charge, an offer is made to discuss the case in light of circumstances surrounding the incident for the purposes of negotiating a relaxed penalty. I had no use for this opportunity since I knew I was innocent and I would fight the charge.

So what to do now? The answer was to simply wait. Wait for the time limit on the fine to run out and then wait for the follow-up call to schedule a CAT hearing. A pleasant thing to look forward (i.e. have in the back of one's mind) as you try and enjoy the beautiful flying weather over the summer. I was informed that I would receive an information package regarding the CAT process and rules. I would also receive a disclosure of the evidence that Transport Canada (TC) had compiled against me two weeks prior to the CAT hearing.

The final arrangements for the hearing were agreed upon in August to occur in September. The process of negotiating the date seemed to be a rather relaxed and flexible affair with due consideration to one's availability (i.e. in terms of vacation plans etc.).

The first time I decided to contact COPA for help and advice was after I had received the call 5 months after I had submitted my statement. I was put in contact with Glenn Priestley, an ex TC inspector, who was intimately knowledgeable regarding the whole enforcement process. Glenn turned out to be an instrumental mentor in guiding me through the rest of this enforcement ordeal.

After receiving TC's disclosure package the case against me became clear. Despite the fact that I knew I was innocent of the charge, seeing the evidence they had was rather intimidating. How does one prove one did not do a certain thing which occurred while airborne more than a year later? I was rather discouraged about the whole thing. Part of this feeling came from my lack of experience with this kind of confrontation. I did not receive many words of encouragement from some of my acquaintances. Many were rather negative about my chances of succeeding in this situation.

The strongest piece of evidence I knew I possessed in my favor was my wife's testimony whom had been with me on the flight. I was advised by many that she would lack credibility because she was my wife. This was the single most discouraging comment I received. The thing to remember here is to not put too much emphasis on negative opinions especially when received from well meaning acquaintances that are not well-versed in legal matters. One must filter the positive, constructive ideas from the negative discouraging ones.

My first refuge from all this dread was from COPA. Glenn, who by now, being very familiar with all the details leading up to this situation, was eager to help and advise me. He offered to look at the disclosure package, which I faxed to him. A few days later, after he had had a chance to study the information he called me back and encouraged me that my chance of success was good and

assured me that there was nothing wrong with the credibility of my Wife's testimony.

I also received a boost in morale from two other sources. I called my lawyer who gave me about 15 minutes of his time. He also reassured me that there should be no issue with my Wife's credibility and that I should not be disadvantaged because I was not in the habit of flying with strangers!

Perhaps my most comforting boost in morale came from a very spiritual flying friend who assured me to relax and think positively about the whole situation, even towards the people involved in bringing this charge against me. He told me if I was really innocent this would pass and that his meditation group as well as he and his wife would channel some energy my way during the ordeal. I was amazed that after talking with this individual, much of the dread feeling simply evaporated and I was able to focus on taking the actions necessary to prepare my defense.

Glenn advised me to put together a dossier of documents, which would include. a) All correspondence from TC leading up to this CAT hearing. b) A description of the sequence of events, in my own words, leading up to the hearing. c) Other miscellaneous documents which would back-up my story.

I proceeded to call on my friends, with whom I had had contact with on the alleged day to obtain signed statements from them to back up my story concerning my whereabouts at various times. At first it was difficult for these people to remember a date, since it was over a year ago. I was fortunate however in that most of them remembered the visiting plane (i.e. the amphibious plane)

After having received most of the statements I called the CAT office to find out how these statements should be submitted. To my horror I was told that these statements were virtually useless! My lawyer also confirmed this. What I needed were real witnesses willing to testify under oath etc..

On such a minor charge it would be difficult to ask someone to take time out of their day to come to this CAT hearing. Of course I could always subpoena them but this would mean I would need to submit advance evidence that they were duly compensated (i.e. at my expense!) to come to the proceedings. I was not going to ask anyone to come in this manner. I selected one witness whom I felt was the most important (i.e. besides my wife) and asked them if they could please attend. Luckily the individual graciously accepted because, being a Pilot, they understood and wanted to help out. This individual would need to be excused from work in order to attend and asked me to send them the subpoena anyway so they could show their supervisor that they had to attend.

My first draft dossier was completed and faxed to Glenn for review. I received a lot of very helpful feedback and tips. I was advised to prepare a list of questions for TC's witness and also the investigator. I was also advised

to put together a script, in point form, of all my key statements as well as a list of questions for my two witnesses. This was probably the most crucial preparation since I ended up just reading this at the hearing. It would have been very difficult, for myself personally, to pull-off my defense without this preparation since with the stress of the situation, I probably would have left out (i.e. or forgotten) many of the key thoughts and questions. So after many hours of preparation my final dossier, for better or worse, was completed the evening before the trial.

The big day was upon us. My wife and I arrived early and ended up meeting the TC participants, which included the investigator. The chatter was friendly and informal. Despite this I had been advised prior to this day, that from TC's point of view, there would be no mistake that they were in it to win. This was definitely an adversarial situation. There is no jury but a person referred to as the "Member" whose role is to act as a judge and at the same time advise the defendant, on their rights during the proceedings (i.e. sort of a judge and defense advisor all in one). This is an important part of the Member's role since the process is meant to be informal and to not require a lawyer. Be that as it may, this is not a casual process and I am convinced that it will devour the innocent pilot who is not mindful of being well prepared.

The proceedings were audio taped and open to the public. The room was about the size of a medium sized board room with a set of small desks arranged in a square. TC sat on one side and I on the opposite with the Member in between. Opposite to the member was a row of chair for the public.

The defendant, TC and all witnesses were first sworn in. The defendant's witnesses were then escorted to a waiting room. TC presented their case and witness that I then got to cross-examine. Having a list of prepared questions was crucial to me at this point. Taking my time and asking for clarifications on any point that was not clear helped. The member and I received a copy of all documents and exhibits submitted as evidence. Following TC's presentation I was allowed to present my evidence. I started with my statement which included my version (i.e. story) of all the events leading up to the trial. As one might imagine, this was rather time consuming process. Following my statement TC was allowed to cross-examine me. I tried to submit my whole dossier to the member and TC, which had all of 30 numbered pages. This was not accepted and I had to submit documents as I gave my statement one at a time. Each document was subject to scrutiny by TC and the member in terms of its relevance to the case. During this process the member addressed TC's arguments as both judge and on my behalf. The member lead and advised me at each juncture of the process (i.e. what I could or couldn't do etc.). It was important to stay relaxed and take my time. Another important tip was to try

to occasionally reiterate the basic theme of my defense (i.e. wasn't there, didn't do it etc.).

By the time I finished my statement it was almost lunch time and the member moved for a lunch break. Thinking about my two witnesses who basically wasted much of their morning waiting, I asked if we could proceed with my witnesses in the interest in them being able to return to their work. The member, who had been most gracious, fair and encouragingly helpful agreed.

Having a list of prepared questions for my own witnesses was crucial. I remembered that what might seem obvious to me wasn't for the member so I asked questions which highlighted the basic facts that I wanted to reinforce. TC cross examined each witness and of course tried to trip them up. After the questioning was completed we broke for Lunch. After lunch we would make our final closing arguments.

As you can imagine lunchtime was a rather crucial time to sit and think about those arguments. To my great fortune, Glenn Priestley of COPA had been able to attend the trial and I had lunch with him, my Wife and a flying buddy from EAA who had come along for support. Glenn provided some good points for me to hit on. I feel this was of tremendous help to me. After lunch I wrote out a point form summary. I thought it was important to jot down my arguments before hand in the interest of being well prepared for a stressful situation.

TC presented their points followed by myself. I reiterated my innocence and basic theme. I touched on some points that suggested the weakness in TC's case and their single witness's statements.

TC followed this with a statement to the member that they had exercised due diligence in the investigation before issuing the charge against me. TC also reviewed the penalty options with the member and suggested an option based on the circumstances of a first offence. The member assured me that accepting this last point in no way should be interpreted as a sentence of guilt; it was just a formality of the process.

With the process now completed the member advised us that the judgement would most probably be available in about 2 to 3 weeks and closed the proceedings.

Glenn and I had a short chat afterwards. We noted that the Tribunal member had done a very good job representing my interest and that, from a process point of view, we were both pleased with how it had gone. We predicted that the review would weigh in my favor. I was so tremendously relieved!! Not so much because it seemed to weigh in my favor, but that the CAT ordeal was finally over and that I had given it my best shot. Glenn and I agreed that I should try and write an article about this ordeal for the benefit of other pilots who may find themselves in a similar circumstance.

Approximately one month later I received registered mail that indicated that I did not contravene the

air regulation and that the fine had been cancelled. (i.e. I was found to be innocent of the charge!).

In hindsight what do I have say about this ordeal? First I was very fortunate to have the support of COPA. COPA demonstrated there interest in helping the little guy, the private pilot, who has the privilege of enjoying aviation as a recreational activity in Canada.

An awful lot of effort and money went into this investigation which, in all fairness, was flawed. My attitude regarding TC remains one of respect with a touch of healthy skepticism towards their policies and how they affect the little guy. I acknowledge the need for TC to be there to protect the public against unsafe operations. Intentionally flying low over a built up area is an unsafe practice that requires vigilant enforcement. Care needs to be exercised, however in these investigations, to make sure that ample evidence is there to support the charges. I would suggest that someone who reports such an incident exercise diligence in identifying the registration and also the precise time of the incident. The correct time frame is very important in the interest of protecting the rights of pilots who may share a common aircraft. It is also easy to mis-read a registration (e.g. confusing certain letters such as E and F, U and V etc.). For this reason due diligence should be exercised in trying to obtain more than one witness (i.e. as circumstances allow) who can corroborate both the time and registration.

In my case I believe that there was not enough effort put into interviewing the witness to ensure the certainty regarding the time of the occurrence.

Students training in their own aircraft should make sure that low altitude maneuvers such as forced and precautionary landing practice take place in well known, designated training areas where there can be no question regarding the fact that that the location is NOT a "built up area".

In my case, having a log, which had each flight and the exact time of day it took place recorded, was beneficial. It is also evident that it pays to fly with someone if you can. They could be your only credible witness. You may even want to take the time to explain to them where the altimeter is located etc.. even better if the other person is also a pilot.

Let us hope that the investigations by Transport Canada are conducted with all due diligence and that it is not at the expense of needless harassment of conscientious pilots.

Classifieds

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Deadline is first of the month.
Ads will run for three months with a renewal option of two more months.

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