

*Canadian Aviation Safety Board*

The principal activities of the Board will be as defined in the Bill; first, to identify safety deficiencies as evidenced by aviation accidents and incidents, or by situations or conditions which, if left unattended, could induce accidents or incidents; second, to conduct independent investigations and, if necessary, public inquiries by itself or by other individuals, into aviation occurrences—and the word “occurrences” is the generic word which encompasses accidents, incidents, and situational conditions or hazards—in order to make findings as to their contributing factors and causes; third, to report publicly on its investigations and inquiries and to make general recommendations. These are the three objectives of the Board to be created.

Structurally the CASB will consist of three members, one of whom must be a full-time member appointed by the Governor in Council, as usual, for a term not exceeding seven years for full-time members and five years for part-time members. The Board will be required to report annually to Parliament, to ensure its independence, through a responsible Minister who will be designated by the Governor in Council. Presumably in the committee this afternoon there will be some generous views expressed on this as to who should be the Minister responsible for the Board. There are arguments on all sides.

● (1120)

Under its mandate set out in Clause 12 of the Bill, the Board will be able to investigate, as I already said, any accident, incident or situation associated with the operation of aircraft.

You will have noticed, Mr. Speaker, that the Board's mandate is restricted to aviation occurrences. It is a unimodal board and consequently excludes occurrences in the other transportation modes, rail, road or water. There is no dispute that conflict of interest between regulators and investigators can equally be alleged to occur with respect to the other modes as recognized by a former Bill, C-40, and brilliantly by the Private Members' Bills introduced by the Hon. Member for Dartmouth-Halifax East (Mr. Forrestall) in past years. However, a unimodal board can be established more quickly—I am being very practical—and it is easier for the investigation of air occurrences than for those in the marine and rail modes, partly because of the proselytizing work done by Justice Dubin and others.

We also know that different procedures and practices have been developed in each mode. There is not the same degree of dissatisfaction in the other modes, rail and marine, as on the air side. Consequently, there is more urgency, I suggest, to do it now on the air side than on the other modes. Attempts to move to uniform procedures for consistency could meet with resistance at the present time.

Mr. Justice Dubin has recommended the establishment of a unimodal air board. I do not know if he meant first, but that was his recommendation. Let me emphasize that the establishment of the CASB in no way precludes the future establishment of a multimodal board, or unimodal boards, with jurisdiction in the other transportation modes. To that effect, the experience with the CASB will be a valuable guide.

You will also notice, Mr. Speaker, that I am not being theoretical in this matter. I am being purely practical. Work is now being done in the other modes, on the marine side for example. This is an exercise that will last some time, although not too long, and in due course this exercise will come to a conclusion as to the other modes.

Let me enumerate some of the powers and duties of the Board. Investigators will be given a wide array of powers, including the right to enter, inspect, and seize. The powers are limited, however, to those necessary to enable the investigator to obtain all the information required to carry out the purposes of the Act. In keeping with the Charter of Rights and Freedoms, appropriate safeguards have been laid down, including the requirement for the investigator to obtain a search warrant before entering a private dwelling.

The Board will be required to prepare a report on its findings in every investigation and that report will, whenever possible, include general recommendations, as I said before, on its findings. All reports will be made available to the public.

The Board will be required to give other parties opportunities for comment during and after the preparation of reports. For example, before a report is issued, parties with a direct interest must be provided with a draft of that report to comment on. The Board will also be required to provide its report to any Minister whose area of responsibility is affected by the recommendation. That Minister will, in turn, be required to reply in writing within 90 days as to his intentions regarding the implementation of the recommendations. As the Minister's reply must also be made available to the public, the entire sequence of events, including the Government's response, can be examined by the public.

● (1125)

I would like to stress the fact that all of these things were recommended by Dubin. In some cases we have partially amended the recommendations, but never have we gone against what Dubin had recommended.

What about privileged information? The Board in its investigation will obtain evidence of various sorts. For some of those documents there is a good reason to claim privilege from disclosure. The reason is to encourage the evidence to be made available by persons involved. Again the purpose of the inquiry would be to advance aviation safety, not to assign guilt.

Let me give you three examples of this, Mr. Speaker. First, the Board might receive in evidence a cockpit voice recording. Under the terms of this Bill, that document will be privileged and the Board will be prevented from releasing it to anyone or producing it in any proceedings other than as specifically set out in the Bill. There are some provisions in the Bill for cockpit voice recordings to be made available to other parties.

Second, the use of air traffic control recordings obtained by the Board will be prohibited, but only for use against air crew and controllers in criminal or disciplinary proceedings. In