

*Criminal Code*

not follow him out of the aircraft on to the airport and place him under arrest.

**Mr. Pickersgill:** Could he arrest him in the aircraft—

**The Chairman:** The hon. member for Nickel Belt.

**Mr. Pickersgill:** I am continuing a discussion with the minister, Mr. Chairman. I was asking, could the pilot arrest him in the aircraft after the aircraft came to rest? My point is that the aircraft—

**The Chairman:** Order; the hon. member for Nickel Belt got up before the hon. member for Bonavista-Twillingate, and I gave him the floor.

**Mr. Godin:** I should like to hear a continuation of the argument put forward by the hon. member for Bonavista-Twillingate, since my question of the minister is related to the same subject. I hope the hon. member for Bonavista-Twillingate will not lose track of the argument he was putting forward to the minister. It seems to me that this section brings to light problems which could become grave. I am just wondering at this time if the minister has any opinion on the meaning of the word "rest" in subsection 4 of section 5A of the act? This subsection indicates precisely that as soon as the aircraft is in motion the flight begins and therefore the authority of the pilot to arrest a person begins, but the word "rest" as used in that section I would think is open to several interpretations.

Suppose a plane left Germany and came to rest in Canada. It could be argued that if a crime were committed at the time the aircraft touched Canadian soil but before it stopped, the crime was committed on Canadian soil and therefore the pilot had power of arrest and the case could be prosecuted in Canada.

Possibly the minister could enlighten the committee by indicating what the position would be under Canadian law if a crime were committed after a foreign plane had stopped in Winnipeg and before it got in motion again. Let us assume the plane is stopped for 20 minutes for refueling purposes, and a theft is committed in a German aircraft or whatever aircraft it may be; what is the position? Who has authority? Is it only a Canadian constable in Winnipeg who can make the arrest while the aircraft is stopped for 20 minutes? Is the pilot authorized to make the arrest while a foreign aircraft is stopped in Canada? Suppose an Italian person committed a theft while the plane was stopped for 20 minutes; could the pilot make the arrest?

[Mr. Fulton.]

**Mr. Fulton:** I am afraid there are a number of questions asked and I shall have to separate them in order to answer them. If there is a crime committed while the aircraft is at rest at a Canadian airport for a 20-minute refueling stop, the pilot has no authority to arrest because his authority to arrest is confined to the period while the aircraft is in flight, and "flight" is defined in the act. If there were a crime committed while the aircraft was at rest in Canada there would be no question of jurisdiction, because that would be a crime committed on Canadian soil. All that would happen there would be that the air line officials would get in touch with the nearest peace officer who would arrest the man. Our courts would have jurisdiction to try the case because that would be a crime committed on Canadian soil.

As I understood the hon. member, the next question he asked me was what happens if the crime is committed after the aircraft's wheels have touched the ground and while the aircraft is taxiing up to the airport. This would be covered in two ways. This would be deemed to have occurred while the aircraft is in flight because the aircraft has not come to rest. We have it in flight, according to the definition, and therefore the pilot would have authority to make the arrest, but not to try or dispose of the case; only to make the arrest of the person who committed the crime before the aircraft had come to rest. In addition, it would be my view that this crime would also be a crime committed on Canadian soil and therefore in addition to the power of arrest of the pilot there would be jurisdiction for arrest by Canadian peace officers and jurisdiction of Canadian courts to try the case.

Similarly, if a crime were committed after the aircraft doors were closed and the aircraft had commenced to taxi, prior to its take-off, that by definition would be a crime committed in flight and once again therefore the pilot of the aircraft would have the power of arrest under this section, if it is an aircraft registered in Canada.

**Mr. Pickersgill:** I wonder if I might now put the question I attempted to put to the minister before. If an aircraft arrives at a Canadian airport and comes to rest, and before the doors are opened a Canadian citizen on that aircraft owned by an air line that is not allowed to land passengers in Canada, seeks to get out of the aircraft, has the pilot any power under this legislation to detain him?

**Mr. Fulton:** No, Mr. Chairman; because the attempt to get out of an aircraft is not an