

*Criminal Code*

comes to rest in Winnipeg then its flight, for the purposes of this clause, is terminated in Winnipeg, and that therefore an offence committed on that aircraft while in flight to Winnipeg could be dealt with under this clause. But of course that has no relation to the situation that my hon. friend referred to in introducing his remarks. There was no question of an offence having been committed on that occasion.

**Mr. Pickersgill:** I have a question I should like to ask the minister in relation to his reply. I remember this case quite well. The minister was in charge of the Department of Immigration and Citizenship at that time, as he will no doubt recall.

**Mr. Fulton:** That case has nothing to do with the bill.

**Mr. Pickersgill:** I am going to suggest to the minister that unless we have absolute assurance that the flight terminated in Winnipeg then it does have relationship to this bill, because this man was a passenger on a flight which terminated, in the ordinary sense of the word, in Los Angeles. He got off and went into the airport building.

**Mr. Fulton:** That case had nothing to do with the clause we are now discussing.

**Mr. Pickersgill:** If the minister has something to say perhaps he might rise and raise a point of order and not just mumble from his seat.

**Mr. Fulton:** Very well; I will respond to that courteous invitation by raising the point of order that the situation in Winnipeg which is now being discussed has no relationship to this clause because there was no question there of any offence having been committed, and we are not seeking under this bill to change the laws applicable to the situation my hon. friend is discussing.

**Mr. Pickersgill:** I might point out that the hon. member for Winnipeg North Centre was allowed to discuss this matter, and I am relating it directly to the word "terminate" which is in the legislation itself. I believe the ordinary person—I am not a lawyer—would think a flight ending at Los Angeles terminated at Los Angeles and although the aircraft was not in the air, that while he was on that aircraft it was in flight. I do not know on what basis this man could have been detained, unless it was by order of the pilot because the pilot had asked to have him apprehended.

I should like to ask the minister whether it would be possible for the pilot of such an aircraft, when passengers are not allowed to land although they are Canadian citizens and have a right under the citizenship act to come

into Canada without let or hindrance from anybody, in any circumstances to detain a Canadian citizen and prevent him from landing in Canada at one of these refueling places.

**Mr. Fulton:** It does not seem to me to be very realistic to suggest that if an aircraft is at rest on the ground anyone would say the aircraft is in flight. It seems to me it follows automatically from the point of view of logic and common sense, as well as the ordinary definition of words, that an aircraft is not in flight if it is at rest on the ground at Winnipeg. I think my hon. friend would agree with that interpretation. The key words are found in section 5a (1) (a) of the act:

- everyone who
  - (a) on an aircraft registered in Canada under regulations made under the Aeronautics Act, while the aircraft is in flight, or
  - (b) on any aircraft, while the aircraft is in flight if the flight terminated in Canada—

As I say, the aircraft is certainly not in flight if the aircraft is sitting on the ground stationary at the airport at Winnipeg or anywhere else.

**Mr. Pickersgill:** But would the minister look at subsection 4, the last few words?

**Mr. Fulton:** Yes; the aircraft would be deemed to be in flight from the moment it first moved under its own power for the purpose of taking off until the moment it came to rest at the end of its flight. It seems to me the courts, and we drew this section accordingly, would say that if it stops at Winnipeg it would have come to rest.

**Mr. Pickersgill:** But "at the end of its flight"; those are the words that bother me.

**Mr. Fulton:** We are not talking about the end of the trip for which it is scheduled; we are talking about the flight. Since we have said that when it comes to rest on the ground it shall not be deemed to be in flight, putting the two together the courts will have a clear indication of what parliament intended.

**Mr. Pickersgill:** The minister is satisfied that even if a pilot had the power we are seeking to give him here he could not arrest a Canadian citizen once the aircraft had come down at a Canadian airport, even though that air line had no authority to land passengers in Canada?

**Mr. Fulton:** Yes; he could not arrest him unless there had been an offence committed by that Canadian citizen while the aircraft was in flight on its way to Winnipeg, and he could not arrest him after the flight came to an end, after the passengers got off the aircraft. It is my view that the pilot could