

Criminal Code

flight, or on any aircraft while the aircraft is in flight if the flight terminated in Canada, commits an offence. Then they will come down to subclause 4 and say, "Now, we find that 'in flight' is defined". How is it defined? It is defined as follows:

For purposes of this section and paragraph (30) of section 2 an aircraft shall be deemed in flight from the moment the aircraft first moves under its own power for the purpose of taking off until the moment it comes to rest—

Now, how anything could be clearer than that I do not know. "Comes to rest" has the ordinary meaning of "stops". An aircraft moving is not at rest; therefore the flight is not terminated until the aircraft comes to rest. And "being in flight" is defined as covering the period from the time the aircraft first moves under its own power for the purpose of taking off until it comes to rest. I see no difficulty with these words at all. I am quite certain that I am on safe ground in assuring my hon. friend that the courts will have no difficulty with these words.

Mr. Godin: Let us take this example. A plane from Mexico comes to Canada on a scheduled flight. The plane has to fly over Kinross, Michigan, and as it passes near Detroit a crime is committed. It stops for fueling in Kinross and it lands at Montreal or at some other Canadian spot. Where is the jurisdiction granted by this code? Let us say that both the accused and the person aggrieved are Canadians and they would like to benefit from this amendment to the Criminal Code; where are the rights of the parties?

Mr. Fulton: The crime is clearly committed in the United States and the United States has jurisdiction. In those circumstances we are not trying to assert that Canada has jurisdiction; we are not making that attempt at all.

Mr. Godin: The United States may not have such a law and they may not have jurisdiction to try the case at Kinross, but still the crime would have been committed and certainly it is the kind of thing that should be covered.

Mr. Fulton: Surely my hon. friend knows that each state has jurisdiction to try persons for crimes committed within its territorial limits. The hon. gentleman has just pointed out to me an example of a crime clearly committed within the United States. The plane stops in the United States after the crime has been committed. We would not attempt to assert any jurisdiction.

Mr. Carter: The use of the word "first" there complicates things because it does not

describe what actually happens when a plane takes off. A plane will be drawn up near the airport. It will take on its passengers and then it will move. That is the time it first moves. It will move down the runway and come to rest and wait for orders to take off. From the time it first moves to the time it comes to rest is when it is moving from the passenger terminal down to the runway in preparation for take-off. That is the point. According to this definition—

Mr. Fulton: That is exactly what we intend.

Mr. Carter: Then it would apply only to what happens from the time it first moves, but it is still on the ground from the time it first moves from the terminal down to the runway.

Mr. Fulton: That is correct, and that is what we intended to cover.

Mr. Carter: Not when it is in the air?

Mr. Fulton: Oh, yes, a crime committed while in the air.

Mr. Carter: The flight is terminated. The plane is still on the ground. If you are going to insist on keeping the word "first", then it will apply while the plane is on the ground.

Mr. Fulton: The point my hon. friend raises would not have been of importance had we not agreed to take out the words "at the end of its flight". I think that is why we put those words in; therefore we had drafted better than we realized when we agreed to take them out.

Mr. Chevrier: You had better put them back in.

Mr. Fulton: I suggest that this clause stand until we can reconsider it to see if we find any better or clearer drafting, or if there is any need to take out those words, and I will report back to the house later on.

The Chairman: Clauses 2 and 3 will stand.

On clause 4—*Bail*.

Mr. Woolliams: I should like to speak on clause 4 because I believe that freedom and liberty are the most important civil rights in our democratic way of life. I thank the minister for bringing in this amendment. I would like to give an illustration of why I think this new clause should be added to the Criminal Code. As the minister knows, there is a distinction between a judicial act and an administrative act. Last fall I had occasion to have some correspondence with the minister about some farmers in Saskatchewan who were charged under the Saskatchewan liquor act. They were arrested on