

Criminal Code

Canadian law having to do with aviation. Therefore it strikes me, sir, that we should get from the minister an explanation of what is meant by:

On an aircraft registered in Canada under regulations made under the Aeronautics Act—

Also why does he make a distinction between a ship and an aircraft, because evidently the aircraft must be one registered in Canada, according to the amending clause; whereas the ship need not be one registered in Canada although the master of the vessel, to use the minister's words or paraphrasing them, will have the same powers as the pilot of the aircraft. Then perhaps he might go a little bit further into the question of the stop gap, interim measure. How long is it expected that this will be an interim measure until legislation which can apply to all countries becomes operative?

Mr. Fulton: Mr. Chairman, I think perhaps there is a small misunderstanding between myself and the hon. member which I shall clarify now. Clauses 2 and 3 of this legislation are not something which has been recommended to us by ICAO. The fact is that ICAO is studying, through committees of lawyers, this whole problem of international aviation law, and we are participating as members in that study. But it is obvious that it will be some considerable time before these studies result in recommendations from ICAO to its member nations. We have felt that in the meantime, to plug these very substantial and far-reaching gaps, we should act to amend our own domestic law.

It was in that sense that I used the words that this was an interim or stop gap measure, because it would be our intention, as soon as we have the recommendations from ICAO, to study it and if, as I anticipate would be the case normally, we find them appropriate, then we shall recommend to parliament the adoption of such portions as are applicable to Canada and they will become then, if parliament agrees, the law of Canada and this present provision will be repealed.

Therefore the answer to the question as to what will be the duration of this stop gap or interim legislation must be, I think, at least until such time as we receive recommendations from the international organization and are in a position to recommend them to parliament in substitution of or in addition to what we are asking parliament to enact here.

Mr. Chevrier: May I ask the minister a question before he passes on to another subject. If ICAO does make recommendations having to do with matters of this kind, or other matters affecting aviation generally,

must there not be an international agreement by all members of ICAO before it can become law?

Mr. Fulton: I understand it could be done in either one of two ways, either by having ICAO make a recommendation to the member nations but those nations to adopt the recommendation on their own; or, alternatively, by following the procedure of trying to work out an international convention to which the member nations would subscribe; and if we subscribed then, of course, the rules of this convention would become part of our law.

Mr. Chevrier: May I have the answer to the other question?

Mr. Fulton: The other question was why is it that we are confining clause 2 to aircraft registered in Canada.

Mr. Chevrier: What is the meaning of the phrase, "on an aircraft registered in Canada under regulations made under the Aeronautics Act"?

Mr. Fulton: I think, Mr. Chairman, it is that the provisions regarding registration of aircraft in Canada are contained in these regulations under the Aeronautics Act. We wanted to describe or refer to the type of aircraft to which this clause would be applicable and we therefore made reference to the statute under which the regulations governing registration are made. The reason we have confined it to aircraft registered in Canada is really that this is an interim measure, and we felt that during this interim period we should not seek to extend Canadian law to any aircraft not registered in Canada. We felt that to make a general extension would perhaps be asserting a degree of Canadian sovereignty that does not in fact exist, whereas we are quite confident that we are on sound ground in extending this to aircraft registered in Canada.

Mr. Chevrier: May I ask another question. I perhaps knew this at one time but I do not at the moment. Under the regulations passed under the Aeronautics Act is there provision for the registration of foreign aircraft in this country?

Mr. Fulton: I am not thoroughly familiar with these matters; therefore my answers may be a little inaccurate. If I find they are I will try to correct them as I go along. I find that part 2 of the regulations in paragraph 200 provides that no person shall fly an aircraft in Canada unless it is registered under this part or under the laws of a contracting state or a state that is a party to an agreement entered into with Canada relating to interstate flying.