

give Canada a registry of this kind, thus ending a very complex situation, since in order to guarantee claims encumbering an aircraft, it is now necessary to register them in the various districts of each province, and in all the countries to which the aircraft may travel.

That leads me to another very important aspect of this new act, its international implications. On June 19, 1948, twenty-five years ago, a convention was signed at Geneva, but to which, for several reasons, Canada was not a signatory and did not adhere. It was the Convention on the International Recognition of Rights in Aircraft. The new Aircraft Registry Act will give effect, through legislation, in Canada to the principles of that 1948 International Convention. Canada will thus be empowered to adhere to that convention and join the other 33 countries who have already signed that convention, or ratified it.

The act will enable Canadian builders of aircraft, as well as their partners and other persons who hold financial interest in those aircraft to put forward the claims they have on aircraft sold abroad or leaving Canada.

New provisions are becoming increasingly necessary in that field with the advent of larger and more expensive aircraft which travel regularly from one territorial jurisdiction to another. The existing legislation has proved inadequate and difficult to apply.

● (2110)

[*English*]

There are several aspects to Bill S-9 and, purely for the purpose of explanation, I will divide them into eight general provisions. First of all, the bill provides for a central aircraft registry in which a notice of interest in aircraft may be recorded. Notice of interest means ownership, leases of not less than six months, security for a financial debt and/or security for equipment or services provided the aircraft. To avoid complications, the bill allows notice of interest to be filed against an aircraft's components and avionics, but not against its spare parts. This first provision of the bill does away with the present requirement for registering a security or a lien against an aircraft in the several counties or districts in each province in which that aircraft may be operated. It will assist Canadian air carriers in financing the purchase of aircraft and it reduces the serious problems faced by aircraft buyers in searching titles.

Secondly, the bill provides for priority of claims according to the date on which the notice of interest is filed. A transitional clause does not allow this provision to change any priority of claims recorded under any act of Parliament or of any province before the coming into force of this bill.

Thirdly, the bill says that a creditor cannot sell an aircraft in which he has an interest, without obtaining an order of a superior court providing six weeks' notice, specifying time and place of sale and distribution of proceeds, and giving one month's notice to others who have recorded in the registry an interest in the aircraft. This will prevent situations wherein an aircraft owner could be caught by surprise when one of his creditors suddenly and unexpectedly decides to enforce his particular claim through sale.

[Hon. Miss Lapointe.]

Fourthly—and this is very significant—the new system is a voluntary system. However, the individual who does not ensure that notice of his interest in an aircraft is duly recorded in the federal registry does not maintain a claim under law against that aircraft. The benefits of the act respecting priority of interest are lost and no action can be taken to obtain seizure of the aircraft from subsequent purchasers.

Fifthly, the bill provides for the consent of each person who has registered a notice of interest in an aircraft before the registration can be cancelled for purposes of export. This gives much greater security to the creditor or financier. But a qualifying point which should be understood here is that the central aircraft registry is strictly an information system, in so far as it does not legally establish or guarantee clear title to an aircraft.

[*Translation*]

The sixth provision of the bill concerns passenger safety. The bill forbids the seizure of an aircraft operating on a domestic or international scheduled commercial air service. Thus the aircraft and its fare-paying passengers are guaranteed to be able to complete their flight without it being possible to resort to the Aircraft Registry Act to have this aircraft land en route. Anyone seeking seizure of the aircraft must lodge an application to the Federal Court of Canada which will decide the date and place of seizure of the aircraft but only after the scheduled commercial flight is completed whether it be in Canada or elsewhere.

Seventh, the bill provides for a notice of interest which, unless it has been cancelled or extended, shall be deemed expired five years after its date of registry.

The bill provides for regulations concerning the methods, the form and contents of the notice of interest, as well as the relevant procedures, the nature of the duties required, the authentication of duplicates, et cetera. Moreover, penalties are provided for the supply of fallacious information.

Finally, the last but not the least of the main provisions of this bill should supply the necessary judiciary basis which would enable Canada to adhere to the Geneva Convention on the International Recognition of Rights in Aircraft. To date, 33 countries have ratified this convention or requested to do so, including the United States, France, West Germany, Italy and Scandinavian countries. The United Kingdom is one of the signatory countries to this convention and has recently adopted provisions similar to ours under its 1972 Mortgage of Aircraft Order.

In brief, the aeronautical law branch of the Canadian Bar Association has been studying and advocating for a number of years the establishment of a central aircraft registry. The clauses have been reviewed and approved by representatives of the Canadian Bar Association, and some of their suggestions have been retained. The bill is also supported by Canadian aircraft builders, Canadian financial institutions and the Canadian Air Transport Association.

I hope that it will also be supported by the honourable senators.