

Criminal Code

Canada, boast of his deed with impunity. This is a situation which in my view cannot be allowed to continue.

The Canadian Bar Association recognized the situation and asked that appropriate steps be taken. We in the Department of Justice, after studying the matter, concluded that it could be dealt with on an interim basis in the manner set out in clause 3. We worked out a project which we referred to the criminal law section of the uniformity of laws conference. That body made some suggestions which we have adopted in clause 3. We have also made subsequent modifications as a result of our own studies.

What we are proposing in clause 3 may not solve all the problems, and it is admittedly not the fruit of the application of generally accepted principles of private international law. There is none as yet. I do think, however, that it fills in a practical way the most obvious gaps in our law without creating intolerable problems of proof and unbearable burdens of expense.

With reference to clause 2, the international lawyers to whom I have referred are also studying the legal position of the aircraft commander; that is, the whole problem of what duties and powers should be attached to his position. In the meantime, until international agreement is reached as to what those duties and powers should be, it seems clear that the law should, so far as Canada is concerned at least, confer on him the minimum status necessary to enable him to cope in a practical way with the problems he is liable to encounter while in flight. This is in line with the recommendations of the Canadian pilots' association, which had asked that the authority of a pilot should be defined.

The criminal law section of the uniformity of laws conference was consulted on this problem also, and made the recommendation that the commander of an aircraft should have the powers of a peace officer during a flight. Clause 2 is designed to implement that recommendation.

Finally, I wish to repeat for emphasis that these two proposals are put forward as interim, stop gap measures on the understanding that as soon as the nations have agreed on uniform rules to deal with these and other problems, we shall then give the most careful consideration to adopting such rules as part of the domestic law of Canada.

Mr. Chevrier: Mr. Chairman, I think the committee will welcome the statement the minister has made this morning, arising perhaps out of the discussion which took place last night. It is unfortunate that the minister did not see fit to make a similar statement earlier in the debate, which perhaps

would have avoided some of the apparent misunderstanding which did take place.

There are a number of questions which come to my mind, arising not only out of the statement the minister has made but also out of the two clauses which are now before the committee. In the first place, a point was made by the minister and by certain hon. members yesterday that the position here is like that of a ship, and the question which immediately comes to my mind is this. There are many ships in which the master has the powers which are given to the pilot here, but the ship is not registered in Canada. There are many ships operating between our shores and foreign lands which are not of Canadian registry, and therefore it seems to me there is a distinction to be established between a ship and an aircraft which, apparently from the definition, must be one which is registered in Canada. Therefore I ask the minister immediately what is meant by the words:

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

That has not been made clear from the discussion which took place last evening and again in the statement which the minister made earlier. I welcome the statement from the minister that much of this is brought about because of recommendations or decisions made by ICAO, the international civil aviation organization. That is clearly different from the attitude taken by the minister last night.

Mr. Fulton: Not at all; I said that last night.

Mr. Chevrier: But the minister also said that we had been in office for 22 years and we had not done a thing with reference to this matter. In other words we were lazy in not bringing this forward; we were inept, and the like, thereby injecting a purely political note in a matter which is not at all political, but a matter which should be dealt with on its merits and I propose to deal with it on its merits now and not from any political aspect at all. After all, I think if we had been in office the first thing we would have done following a recommendation of ICAO would have been to ask a committee of this house to bring a matter of this importance into operation by way of legislation.

Then the minister says that this is an interim, stop gap measure. I invite him to define that a little more clearly. I realize there is no law which is more uncertain than that of aviation, and that is simply because of the fact that there is little or no jurisprudence on that matter in this country. That being the case, it is not surprising that there should be a number of gaps in the

[Mr. Fulton.]