

*Criminal Code*

offence was actually committed while the aircraft was in touch with the ground in another country. But it is clear that if the pilot of the aircraft, becoming aware of the fact that an offence had been committed, instead of continuing his flight and landing in Canada turned around and had the man arrested and dealt with according to the laws of France, there would be no attempt on the part of Canada to assert any jurisdiction.

We have to make this law as far-reaching as we do in this amendment because of two possibilities; first, that the pilot may not find out that the offence has been committed until he is well on his way, and then decide to continue to Canada. And if we did not take responsibility for jurisdiction there would be nobody able to arrest or try the person concerned when the aircraft landed; he would be able to walk off scot free. That is one reason we have made the law extend so far back as the moment the aircraft begins to be in flight.

The other difficulty is the problem of knowing or establishing exactly where an offence takes place. If it is committed over the Atlantic, or at any time in flight, who is to say whether in fact the aircraft had passed the boundaries of France, or was perhaps crossing over Spain, or whether it had passed the coast of France and was crossing over open sea? For these reasons we extended our jurisdiction right back to the point where the aircraft commenced to move under its own power for the purpose of take-off. The important thing to remember is that if the aircraft returns to the point from which it took off and if the man is arrested and there is a law under which he can be dealt with, Canada would not quarrel with the right of the foreign country to bring him to trial. But we have to take some action along the lines I have indicated.

**Mr. Aiken:** I have no quarrel with this effort to take unilateral action, because I think in many cases it is necessary to take unilateral action. My only concern with regard to this matter is whether it may become a source of international difficulty if we are to avoid actually determining where an offence took place. I admit that it is difficult, especially if an offence was not discovered until the aircraft was about to land, to determine whether at the time in question the aircraft was over, say, France or over the high seas. What I am worried about is whether there may be consequences to Canadian citizens from this effort to invade the confines of foreign countries with our criminal legislation.

**Mr. Fulton:** I think I have to admit that there may be complications of the nature described by my hon. friend, but we think the

risk of these difficulties is worth while taking. First, we do not think it is a very great risk and, second, we think it is worth while taking in order to block this serious gap. Moreover, I would point out that we have taken steps to minimize the danger of difficulties by the provision made in clause 5a (3), which says:

No proceedings shall be instituted under this section where the accused is not a Canadian citizen without the consent of the Attorney General of Canada.

Thus if a situation arises where a foreign country wishes to exercise jurisdiction over an offence, and has a law under which the person can be tried, and the person concerned is a citizen of that country, then we can take steps to return him to his own country for the purpose of having his case disposed of there.

**Mr. Spencer:** I do not wish to delay the passage of this legislation but I do think that when enacted it should be clear and free from doubt. I think there is a good deal to be said for the views expressed by some of the hon. members who have addressed themselves to this clause. As I understand it, the intention is to give the courts of Canada jurisdiction in the case of aircraft which are not registered in Canada under the Aeronautics Act where an offence is committed on such aircraft while in flight, those flights terminating in Canada.

Now if we wish to interpret the words "flight terminated in Canada" I think we should all agree at once that if a flight is not scheduled to terminate in Canada it would not come within the meaning of that clause; because if we look at the schedules of air line flights we will see that the flights are numbered and that flight No. so and so will originate at a certain place and end at a certain place. In between those two places there may be stops. But when you board a plane numbered, say, flight 46, that flight runs from point A to point C, stopping at stop point B, and in my opinion that flight does not end until the plane reaches point C.

As I understood the minister he was of the opinion that the flight was considered to be terminated when the aircraft came to rest, whether at the end of the scheduled flight or not. The intention of subsection 4 seems to be to put an interpretation upon the words "termination of flight" which one might not gather from the ordinary use of those words, and when we come to read this provision we find that the aircraft is in flight from the time it first moves under its own power for the purpose of taking off until the moment it comes to rest.

I point out that what I think leads to doubt and ambiguity is the addition of the words "at the end of its flight". Why not