

*Criminal Code*

offence of the type that we are dealing with under these two sections. This refers to indictable offences.

**Mr. Pickersgill:** So that in no way could this legislation give the pilot any power to detain a Canadian citizen within the aircraft because the air line was not allowed to land passengers at that place?

**Mr. Fulton:** The answer is no, it does not.

**Mr. Crestohl:** As the minister properly pointed out, this is a new field of law. A new form of legislation is being created, and new jurisprudence will be created. As the minister quite properly indicated, this whole field is now being explored.

I think we should pay very close attention to the definition of the terms that we are now applying. I agree with the hon. member for Winnipeg North Centre who finds a problem in the words "termination of flight". In section (b), for example, of 5a we find the words "while the aircraft is in flight if the flight terminated in Canada". Does the minister not think that instead of the words "terminated in Canada" it might be better to use the words "if it lands in Canada"? You would thereby eliminate the difficulty with regard to "termination of flight". It is en route going from one place to another. If there is a forced landing, for example, you do not say that is the termination of flight in Canada. But if you use language such as "where the aircraft lands in Canada", we do not have to interpret as to whether it is a forced landing or a landing for refueling.

Suppose a pilot has difficulty with a passenger while they are in the air over the Atlantic and he finds that he must get rid of this passenger because he is interfering with the flight. The pilot does not have to wait until he terminates his flight. He should set down at the very first airport he comes to in Canada. He therefore has landed his aircraft. I therefore think it is necessary to have this matter cleared up.

**Mr. Fulton:** He would therefore terminate his flight. If he put the aircraft down and it came to rest, he would terminate his flight.

**Mr. Crestohl:** I see no objection to using the language "if he lands in Canada" because the words "terminate his flight" do create some confusion in interpretation. I do not think the minister can give a definition here that a flight is terminated when an aircraft stops after a forced landing.

**Mr. Fulton:** Oh, yes.

**Mr. Crestohl:** When the international interpretation of these terms is given I think the minister will find that a flight is terminated when the aircraft goes from one destination to

its other destination. Otherwise it is still en route; it is still in flight. Otherwise I see no difficulty in just changing these words to "if the aircraft lands in Canada".

I have another question to ask the minister in connection with subsection 3 of section 5a, which reads as follows:

(3) No proceedings shall be instituted under this section where the accused is not a Canadian citizen—

And so on. I point out to the minister that we have jurisdiction over people in Canada once they are landed here. Even though they are not yet citizens of Canada we have jurisdiction over them. You may have a man travelling on a certificate of identity. He may be, for example, a stateless person and be travelling from Europe and back on a certificate of identity. He is not a citizen, but if he commits an offence in Canada we have jurisdiction over him. Why should we not have jurisdiction over him in the same way that we have jurisdiction over a Canadian citizen in flight?

**Mr. Fulton:** We have, but we have put in as a precaution that the consent of the Attorney General of Canada must be obtained. We do not say that we have no jurisdiction in section 5A. We are merely saying that it shall not be exercised without the consent of the Attorney General of Canada so questions of dual jurisdiction can be resolved. We are not abandoning jurisdiction.

**Mr. Crestohl:** I interpreted this legislation as seeking to take jurisdiction over someone over whom we have no jurisdiction in Canada at all. We have jurisdiction over a person who has landed. Supposing in flight there is a foreigner on that plane. We have no jurisdiction over him.

**Mr. Fulton:** We will have with respect to offences committed on the aircraft if the flight terminates in Canada and if this bill carries.

**Mr. Crestohl:** Then we have to apply to the Attorney General of Canada for permission to prosecute him, because otherwise we have no jurisdiction over him. But we have jurisdiction over a person who has landed.

**Mr. Fulton:** That is not correct, Mr. Chairman. If this bill passes we will have jurisdiction over him with respect to trial for an offence he has committed. It is only in order to proceed to trial that you require consent of the Attorney General of Canada if he is not a Canadian citizen; but that does not alter the fact that if the bill carries we will have established jurisdiction to try him for an offence.