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## CRIMES ABOARD AIRCRAFT IN AIR COMMERCE

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AUGUST 16, 1961.—Referred to the House Calendar and ordered to be printed

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Mr. HARRIS, from the Committee on Interstate and Foreign  
Commerce, submitted the following

### REPORT

[To accompany H.R. 8384]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 8384) to amend the Federal Aviation Act of 1958 to provide for the application of Federal criminal law to certain events occurring on board aircraft in air commerce, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert the following:

That section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472) is amended by adding at the end thereof the following new subsections:

#### "AIRCRAFT PIRACY

"(i)(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

"(A) by death if the verdict of the jury shall so recommend, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.

"(2) As used in this subsection, the term 'aircraft piracy' means any seizure or exercise of control, by force or violence or threat of force or violence and with wrongful intent, of an aircraft in flight in air commerce.

#### "INTERFERENCE WITH FLIGHT CREW MEMBERS OR FLIGHT ATTENDANTS

"(j) Whoever, while aboard an aircraft in flight in air commerce, assaults, intimidates, or threatens any flight crew member or flight attendant (including any steward or stewardess) of such aircraft, so as to interfere with the performance by such member or attendant of his duties or lessen the ability of such member or attendant to perform his duties, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be imprisoned for any term of years or for life.

## "CERTAIN CRIMES ABOARD AIRCRAFT IN FLIGHT

"(k)(1) Whoever, while aboard an aircraft in flight in air commerce, commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18, United States Code, would be in violation of section 113, 114, 661, 662, 1111, 1112, 1113, 2031, 2032, or 2111 of such title 18 shall be punished as provided therein.

"(2) Whoever, while aboard an aircraft in flight in air commerce, commits an act, which, if committed in the District of Columbia would be in violation of section 9 of the Act entitled 'An Act for the preservation of the public peace and the protection of property within the District of Columbia,' approved July 29, 1892, as amended (D.C. Code, sec. 22-1112), shall be punished as provided therein.

## "CARRYING WEAPONS ABOARD AIRCRAFT

"(1) Except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, and except for such other persons as may be so authorized under regulations issued by the Administrator, whoever, while aboard an aircraft being operated by an air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon, or whoever attempts to board such an aircraft while having on or about his person a concealed deadly or dangerous weapon, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

## "FALSE INFORMATION

"(m)(1) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

## "INVESTIGATIONS BY FEDERAL BUREAU OF INVESTIGATION

"(n) Violations of subsections (i) through (m), inclusive, of this section shall be investigated by the Federal Bureau of Investigation of the Department of Justice."

SEC. 2. Subsection (a) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473(a)) is amended to read as follows:

## "VENUE

"SEC. 903. (a) The trial of any offense under this Act shall be in the district in which such offense is committed; or, if the offense is committed out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender, or any one of two or more joint offenders, is arrested or is first brought. If such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia. Whenever the offense is begun in one jurisdiction and completed in another, or committed in more than one jurisdiction, it may be dealt with, inquired of, tried, determined, and punished in any jurisdiction in which such offense was begun, continued, or completed, in the same manner as if the offense had been actually and wholly committed therein."

SEC. 3. Paragraph (4) of section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301(4)) is amended by striking out "operation or navigation or aircraft within" and inserting in lieu thereof the following: "operation or navigation of aircraft within".

SEC. 4. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading "Sec. 902. Criminal penalties." is amended by adding at the end thereof the following:

- "(j) Aircraft piracy.
- "(j) Interference with flight crew members or flight attendants.
- "(k) Certain crimes aboard aircraft in flight.
- "(l) Carrying weapons aboard aircraft.
- "(m) False information.
- "(n) Investigations by Federal Bureau of Investigation."

The other committee amendment amends the title of the bill to read:

A bill to amend the Federal Aviation Act of 1958 to provide penalties for aircraft piracy, to apply certain Federal criminal laws to acts committed aboard aircraft in flight in air commerce, and for other purposes.

#### GENERAL STATEMENT

The primary purpose of this legislation is to amend the Federal Aviation Act of 1958 so as to extend Federal criminal laws to certain acts committed on board aircraft—in particular, such acts as aircraft "hijacking", murder, manslaughter, assault, maiming, carrying concealed deadly or dangerous weapons, and stealing personal property. The provisions of the bill are explained in detail later in this report.

Recent events have demonstrated the urgent need for stronger Federal laws applicable to criminal acts committed aboard commercial and private aircraft.

The provisions of this legislation, it will be noted, are based on the use of criminal sanctions as a deterrent to the commission of criminal acts. In the course of the hearings there were many references to other possible methods of dealing with the present situation, such as, for example, authorizing flight crew members to carry arms, locking cockpit doors, searching passengers for concealed firearms as they enter airplanes, and so on. The Administrator of the Federal Aviation Agency now has authority to act with respect to some of these matters. The President has put border patrol officers on some planes. It is understood that the certificated air carriers have taken some steps in an effort to screen passengers. This legislation, however, does not deal with any of these matters.

A series of acts of a criminal nature recently committed aboard aircraft has dramatically underscored the gaps in existing law which can operate to provide criminals with a haven from prosecution.

It is true that, in the case of crimes committed in the airspace over States of the United States, most of the acts with which this legislation deals would be violations of the laws of one or more of such States. However, crimes committed in the airspace over a State pose peculiar and extremely troublesome problems of enforcement which are not present when such crimes take place on the ground. When a criminal moves the scene of his activity to an aircraft in flight he is able to take advantage of practical and physical difficulties that may seriously impair effective apprehension and prosecution, particularly if the offense is one against the law of a State rather than against Federal law. Furthermore, in the case of offenses against State law, State officials are often faced with an insuperable task in trying to establish that a particular act occurred in the airspace over that State—and in some cases, under State law, it would be necessary to prove that the offense was committed over a particular county in the State. It is obvious that such proof may be very difficult and often impossible

if the offense is committed on a jet aircraft traveling at 600 miles per hour at an altitude of 30,000 feet.

The offenses punishable under this legislation would not replace any State jurisdiction but would, where both Federal and State law provided for punishment for the same act, be in addition to the State criminal law.

The language of this legislation, coupled with the definition of "air commerce" in the Federal Aviation Act of 1958, will operate to make certain of its provisions applicable not only to acts committed on American-flag aircraft in flight in air commerce over foreign countries but also to such acts committed on foreign aircraft in flight in air commerce over foreign countries, but only if such aircraft are engaged in flights originating at or destined to points in the United States. Most such flights carry large numbers of American citizens. The committee feels that it is necessary and appropriate for the legislation to have this broad coverage if it is to operate as an effective deterrent to crime and promote safety in air commerce. While the legislation is intended to be as broad in its coverage, geographic and otherwise, as its plain meaning indicates, it is not intended—and, of course, it cannot—extend beyond such limitations as may be imposed by the Constitution. Furthermore, it is not intended that it shall operate or be applied in such manner as to conflict with the law of nations, including international agreements.

The Federal Bureau of Investigation is given jurisdiction to investigate violations of the criminal provisions embodied in this legislation.

#### NEED FOR LEGISLATION

Although State criminal statutes generally cover crimes committed on board aircraft in flight over the State, the advent of high-speed, high-altitude flights of modern jet aircraft has complicated the problem of establishing venue for the purposes of prosecution. In some recent instances, serious offenses have gone unpunished because it was impossible to establish to any reasonable degree of accuracy the State over which the crime was committed.

These conditions may have had some effect in influencing some individuals to believe that they could carry out, without fear of successful prosecution, such criminal acts as piracy of aircraft in flight.

Broad, stringent legislation such as is proposed here cannot, of course, prevent piracy of aircraft, but it is to be hoped that the enactment of laws providing stiff penalties for various crimes in air commerce will deter all except the hopelessly unbalanced from risking life and liberty in such undertakings.

The need for additional Federal legislation covering crimes committed aboard aircraft in flight has long been recognized by those familiar with the problems resulting from the rapid technological developments in the field of aviation.

This is not to say that there is a complete absence of applicable law, but in many instances inadequacies exist with regard to prosecutions for violation of existing laws. Few of our present laws were designed specifically to meet the unique problems involving unlawful acts committed aboard aircraft in flight. Laws which may apply are frequently inadequate to cover fully the magnitude of the crime, and,

often, do not impose a penalty in keeping with the seriousness of the offense. That is true especially of certain offenses which, if committed on the ground, might be minor, but when committed in a high-speed aircraft in flight jeopardizes the lives of a great many people.

As is well known, the Federal Government does not provide a general criminal code for all crimes committed in the United States. That is the province of the various States. However, criminal codes of the States are at times supplemented by Federal law in fields where the Federal Government has responsibilities.

We wish to emphasize that it is not our intent to divest the States of any jurisdiction they now have. This legislation merely seeks to give the Federal Government concurrent jurisdiction with the States in certain areas where it is felt that concurrent jurisdiction will contribute to the administration of justice and protect air commerce.

Federal criminal laws are applicable in many areas, such as those with respect to crimes committed on the high seas, and crimes involving interstate commerce, Federal reservations, crimes affecting Federal officers, and so on. The States also have laws in some of these areas, and frequently the same acts will constitute a crime under both Federal and State law. In other areas, where the States have no jurisdiction such as crimes committed on the high seas, the Federal law applies.

The present law relating to crimes aboard aircraft in flight follows the normal rule, which is that the offense is dealt with under the law of the State where the offense occurs.

One difficulty here is that the State above which the crime may have been committed is often not the State in which the aircraft lands. The second State has no jurisdiction, and cannot even arrest the criminal. If the State over whose territory the crime occurred is disposed to act, it first must collect the evidence necessary to establish that a crime has been committed within its jurisdiction. This evidence, however, is hard to gather when the witnesses on board the aircraft disperse after landing. Assuming that an indictment is returned in the first State, there is still the question of extradition and not all crimes are extraditable.

In contrast, if the crime also involved violation of a Federal law, the offender could be taken into custody by Federal law-enforcement agents when the aircraft lands and criminal prosecution instituted.

This, we want to make clear, does not preempt any State jurisdiction but would only supplement it. To emphasize that, it should be pointed out that the reported bill, except for the provision relating to concealed deadly or dangerous weapons, covers only offenses committed while an aircraft is in flight. In flight means from that point on the runway at the end of the takeoff roll where the aircraft leaves the ground to that point on the landing runway where the aircraft touches down, and does not apply to acts committed on an aircraft on the ground.

#### HISTORY OF LEGISLATION

The assault on an airline captain during a nonstop flight from Chicago to Los Angeles, July 8, which could not be prosecuted because of problems of jurisdiction, resulted in an acceleration of efforts to plug loopholes in existing laws affecting air commerce and in the introduction of legislation to extend Federal jurisdiction into areas

which are not satisfactorily covered by State laws due to the nature of modern aircraft flights.

On July 27, Representative John Bell Williams, chairman of the Subcommittee on Transportation and Aeronautics, introduced H.R. 8384, to provide for the application of Federal criminal law to certain acts of a criminal nature occurring on board aircraft in air commerce. This was a companion bill to S. 2268, introduced by Senator Engle.

On July 28, after the hijacking of a commercial airliner, Administrator Halaby, in a letter to Congressman McCormack, suggested additional amendments to the Federal Aviation Act to make it a Federal crime to assault, threaten, intimidate, or interfere with a flight crew member, to prohibit the carrying of concealed weapons on aircraft in air transportation, and to treat hijacking of aircraft as equivalent to piracy on the high seas. These suggestions were considered in detail by your committee in drafting the substitute amendment herewith reported. The letter to Mr. McCormack is included hereafter in this report.

Hearings were held August 7 and 8 by the Subcommittee on Transportation and Aeronautics on H.R. 8384 and related bills, including H.R. 8370 by Mr. Chelf, H. R. 8380 by Mr. Rogers of Colorado, H.R. 8428 by Mr. Dominick, H.R. 8488 by Mr. Blatnik, H.R. 8496 by Mr. Halpern, H.R. 8504 by Mr. Lindsay, and H.R. 8571 by Mr. Kornegay.

Testimony was received from the following: Hon. Peter H. Dominick; Hon. Frank Chelf; Hon. Byron G. Rogers; Hon. Seymour Halpern; Hon. August E. Johansen; Hon. John A. Blatnik; Mr. James T. Pyle, Deputy Administrator, Federal Aviation Agency; Mr. George C. Prill, Director, Flight Standards Service, Federal Aviation Agency; Mr. Daggett H. Howard, General Counsel, Federal Aviation Agency; Mr. Harold Koffsky, Criminal Division, Department of Justice; Mr. Stuart G. Tipton, president, Air Transport Association; Capt. John C. Carroll, first vice president, Air Line Pilots Association; and Mr. Francis A. O'Connell, Transport Workers Union.

#### SECTION-BY-SECTION EXPLANATION OF THE COMMITTEE AMENDMENT

The following is a section-by-section explanation of the substitute amendment reported by the committee. Unless otherwise indicated, existing law referred to is the Federal Aviation Act of 1958.

##### SECTION 1

The first section of the committee substitute would add six new subsections to section 902 of existing law, to be designated as (i), (j), (k), (l), (m), and (n).

##### *Aircraft piracy*

The proposed new subsection (i) would define the offense of "aircraft piracy" and provide penalties for anyone who commits or attempts to commit such offense. This is the provision of the bill which is aimed at the acts commonly referred to in the press as the "hijacking" of aircraft.

The definition of "aircraft piracy" is contained in paragraph (2) of subsection (i) and defines such term to mean any seizure or exercise

of control of an aircraft in flight in air commerce, with wrongful intent, which is accomplished by means of force or violence or by means of any threat of force or violence.

The term "piracy" is one which, in ordinary usage, is associated with acts committed on the high seas. In this sense it is an offense against the law of nations. There is no intention, however, that the meaning and interpretation of this subsection shall be influenced in any way by precedents or interpretations relating to "piracy on the high seas." In recent weeks, because of news reports in the press and on TV and radio, the term "piracy," along with the term "hijacking," has come to be associated with the incidents that have occurred in which individuals, by force or violence or threats thereof, have taken over the control of aircraft and forced the pilot and other flight crew members to do their bidding, often at risk of life to crew and passengers. Therefore, in defining this particular offense it seemed both convenient and desirable to use the term "piracy." Congress, for the purposes of legislation, can, of course, define any term to have any meaning which is desired, even though it differs from the commonly understood or dictionary definition. This has been done many times when it has seemed appropriate to do so. This is what is being done in this instance.

It is important to note that this definition of "aircraft piracy" is limited in its application, so that it will have legal effect and significance only for the purposes of this one subsection of the Federal Aviation Act of 1958.

Nothing in this legislation is to be taken to indicate that the United States is surrendering any part of its sovereignty over the airspace above its territory.

The penalties which may be imposed upon anyone who commits "aircraft piracy" are contained in paragraph (1) of such subsection (i). The death penalty may be imposed only if the verdict of the jury affirmatively recommends such penalty. In the case of a plea of guilty, or a plea of not guilty where the accused has waived a jury trial, the court may impose the death penalty in its discretion. The provisions with respect to the death penalty follow closely the provisions of section 34 of chapter 2 of title 18, United States Code, relating to the imposition of such penalty in cases where death results from the commission of any offense punishable under such chapter 2. That chapter deals with destruction of aircraft and motor vehicles and related facilities. It was enacted in 1956 after the occurrence of a series of incidents involving explosions on aircraft.

If the death penalty is not imposed, the punishment imposed by the court shall be imprisonment for not less than 20 years.

Under other provisions of law contained in chapter 311 of title 18 of the United States Code, relating to parole of Federal prisoners, an individual sentenced to imprisonment for life or for any term of years in excess of 45 becomes eligible for parole after serving 15 years of the sentence imposed. An individual sentenced to a lesser term of years becomes eligible for parole after serving one-third of the sentence imposed. The Federal courts are also given discretion, in the case of sentences to imprisonment for more than 1 year, to specify a minimum term of imprisonment after which a Federal prisoner may be eligible for parole. This minimum term may be less than one-third

of the sentence imposed, but may not exceed one-third of such sentence.

In view of the discretion vested in the Federal courts in connection with the sentencing of individuals convicted of Federal crimes, under the various provisions of law relating to parole, probation, and young adult offenders, the committee is of the opinion that there is ample discretion vested in the courts to make the punishment fit the seriousness of the crime.

The term "air commerce" was used designedly in this proposed new subsection, and in the proposed new subsections (j) and (k), because of its broad scope. The term is defined in existing law to include not only interstate, overseas, and foreign air commerce and the transportation of mail by aircraft, but also any operation or navigation of aircraft in a Federal airway or any such operation or navigation which directly affects, or may endanger safety in, interstate, overseas, or foreign air commerce.

The committee considered and rejected the proposal which has been made, in an effort to meet the "hijacking" problem, to apply the concept of piracy on the high seas to offenses committed aboard aircraft in flight in air commerce.

This proposal, as embodied in bills before the committee, referred to piracy "as defined in section 1651 of title 18, United States Code." Section 1651 of title 18 provides:

Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life.

Section 1651 of title 18 thus requires a further reference to the "law of nations" to ascertain the meaning of the term "piracy." The following references will illustrate the difficulties which are encountered in trying to determine the precise meaning of "piracy as defined by the law of nations."

#### Definitions in Black's Law Dictionary (1951 Ed.)

**PIRACY.** In criminal law. A robbery or forcible depredation on the high seas, without lawful authority, done *animo furandi*, in the spirit and intention of universal hostility. *United States v. Palmer*, 3 Wheat. 610, 4 L. Ed. 471. This is the definition of this offense by the law of nations. 1 Kent, Comm. 183. And see *Talbot v. Janson*, 3 Dall. 152, 1 L. Ed. 540; *U.S. v. The Ambrose Light*, D.C.N.Y., 25 F. 408; *Davison v. Seal-skins*, 7 Fed. Cas. 192.

**ANIMO FURANDI.** With intention to steal.

**DEPREDAATION.** The act of plundering, robbing, or pillaging. *Deal v. U.S.*, 274 U.S. 277, 47 S. Ct. 613, 615, 71 L. Ed. 1045.

**PILLAGE.** Plunder; the forcible taking of private property by an invading or conquering army from the enemy's subjects. *American Ins. Co. v. Bryan*, 26 Wend. (N.Y.) 573, 37 Am. Dec. 278.

**PLUNDER, v.** To take property from persons or places by open force, and this may be in course of a lawful war, or by unlawful hostility, as in the case of pirates or banditti. The term is also used to express the idea of taking property from a



person or place, without just right, but not expressing the nature or quality of the wrong done. *Carter v. Andrews*, 16 Pick., Mass., 9; *U.S. v. Stone*, C.C. Tenn., 8 F. 246; *U.S. v. Pitman*, 27 Fed. Cas. 540.

Further uncertainty exists because the concept of piracy on the high seas is now in the process of codification and change through international agreement. A "Convention on the High Seas," formulated at the United Nations Conference on the Law of the Sea, held in Geneva in 1958, contains, in article 15 thereof, a proposed definition of "piracy". Although this convention has been ratified by the United States it has not yet become effective, since it has been ratified by only a few of the signatory nations. Article 15 of such convention reads as follows:

#### Convention on the High Seas

(Approved by the U.S. Senate on May 26, 1960)

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#### ARTICLE 15

Piracy consists of any of the following acts:

(1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(3) Any act of inciting or of intentionally facilitating an act described in subparagraph 1 or subparagraph 2 of this article.

\* \* \* \* \*

Because of the uncertainties involved in trying to apply the law of piracy on the high seas to aircraft in air commerce, no provision to do this is included in this bill. Instead, the committee has decided to deal with the problem of "hijacking" directly and in terms which, in the committee's opinion, describe the essential elements of the offense. The result of this decision is embodied in the proposed subsection (i).

The other proposed new subsections, explained below, deal with other acts which are made Federal offenses if committed aboard certain aircraft without regard to whether the aircraft involved is being hijacked.

#### *Interference with aircraft personnel*

Subsection (j) provides that—

Whoever, while aboard an aircraft in flight in air commerce, assaults, intimidates, or threatens any flight crew member or flight attendant (including any steward or stewardess) of such aircraft so as to interfere with the performance by such

member or attendant of his duties or lessen the ability of such member or attendant to perform his duties, shall be fined not more than \$10,000 or imprisoned not more than 20 years, or both.

The subsection further provides that whoever, in the commission of any such act, uses a deadly or dangerous weapon "shall be imprisoned for any term of years or for life."

While other provisions of this legislation provide punishment for various acts which, in some instances, may impair the ability of aircraft personnel to perform their duties, it is believed that this subsection relating specifically to this subject is desirable and necessary. On an aircraft in flight the ability of its personnel to function efficiently is vitally important to the operation of the aircraft and the safety of those on board the aircraft.

The heavier penalty provided for in cases where the unlawful act is committed with the use of a deadly or dangerous weapon is appropriate because of the special conditions which exist on an aircraft in flight. The use of deadly or dangerous weapons on such an aircraft, in connection with the commission of acts of the character referred to in the section, has great potentialities for injury not only to aircraft personnel involved but also to passengers and to the aircraft itself.

Consideration was given to attempting to define the term "deadly or dangerous weapon." However, this is not practicable. These terms have been used without definition in other provisions of title 18, United States Code, and in many State criminal laws. The courts will determine in each case, as it arises, whether the weapon in question was deadly or dangerous.

#### *Crimes on aircraft*

The proposed new subsection (k) of section 902 of existing law is divided into two paragraphs, designated (1) and (2).

Paragraph (1) would provide the same penalties for crimes such as assault, maiming, murder, manslaughter, rape, and robbery, when committed aboard an aircraft in flight in air commerce, as are provided for such crimes by specific provisions of title 18 of the United States Code, when committed within the "special maritime and territorial jurisdiction of the United States," as that term is defined by section 7 of such title 18.<sup>1</sup> The crimes referred to would be

<sup>1</sup> Sec. 7 of title 18, United States Code, provides:

**"§ 7. Special maritime and territorial jurisdiction of the United States defined.**

"The term 'special maritime and territorial jurisdiction of the United States', as used in this title, includes:

"(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

"(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

"(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

"(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

"(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(June 25, 1948, ch. 645, 62 Stat. 635; July 12, 1952, ch. 695, 66 Stat. 539.)"

punishable regardless of whether there was any connection between the specific crime and the offense of aircraft piracy.

As has been heretofore pointed out in this report, these crimes normally involve acts which are offenses under State law, but the difficulties of prosecution under State law make it desirable to provide that these crimes also shall be offenses under Federal law when committed aboard aircraft in flight in air commerce.

The specific provisions of title 18 referred to in the proposed new subsection (k) are set forth below.

Sections 113, 114, 661, 662, 1111, 1112, 1113, 2031, 2032, and 2111 of title 18, United States Code, are as follows:

CHAPTER 7.—ASSAULT

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§ 113. Assaults within maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(a) Assault with intent to commit murder or rape, by imprisonment for not more than twenty years.

(b) Assault with intent to commit any felony, except murder or rape, by fine of not more than \$3,000 or imprisonment for not more than ten years, or both.

(c) Assault with a dangerous weapon, with intent to do bodily harm, and without just cause or excuse, by fine of not more than \$1,000 or imprisonment for not more than five years, or both.

(d) Assault by striking, beating, or wounding, by fine of not more than \$500 or imprisonment for not more than six months, or both.

(e) Simple assault, by fine of not more than \$300 or imprisonment for not more than three months, or both. (June 25, 1948, ch. 645, 62 Stat. 689.)

§ 114. Maiming within maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, and with intent to maim or disfigure, cuts, bites, or slits the nose, ear, or lip, or cuts out or disables the tongue, or puts out or destroys an eye, or cuts off or disables a limb or any member of another person; or

Whoever, within the special maritime and territorial jurisdiction of the United States, and with like intent, throws or pours upon another person, any scalding water, corrosive acid, or caustic substance—

Shall be fined not more than \$1,000 or imprisoned not more than seven years, or both. (June 25, 1948, ch. 645, 62 Stat. 689; May 24, 1949, ch. 139, § 3, 63 Stat. 90.)

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## CHAPTER 31.—EMBEZZLEMENT AND THEFT

\* \* \* \* \*

§ 661. Within special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, takes and carries away, with intent to steal or purloin, any personal property of another shall be punished as follows:

If the property taken is of a value exceeding \$100, or is taken from the person of another, by a fine of not more than \$5,000, or imprisonment for not more than five years, or both; in all other cases, by a fine of not more than \$1,000 or by imprisonment not more than one year, or both.

If the property stolen consists of any evidence of debt, or other written instrument, the amount of money due thereon, or secured to be paid thereby and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property the title to which is shown thereby, or the sum which might be recovered in the absence thereof, shall be the value of the property stolen. (June 25, 1948, ch. 645, 62 Stat. 731.)

§ 662. Receiving stolen property within special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, buys, receives, or conceals any money, goods, bank notes, or other thing which may be the subject of larceny, which has been feloniously taken, stolen, or embezzled, from any other person, knowing the same to have been so taken, stolen, or embezzled, shall be fined not more than \$1,000 or imprisoned not more than three years, or both; but if the amount or value of thing so taken, stolen or embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 731.)

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CHAPTER 51.—HOMICIDE

\* \* \* \* \*

§ 1111. Murder.

(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, rape, burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

(b) Within the special maritime and territorial jurisdiction of the United States,

Whoever is guilty of murder in the first degree, shall suffer death unless the jury qualifies its verdict by adding thereto "without capital punishment", in which event he shall be sentenced to imprisonment for life;

Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life. (June 25, 1948, ch. 645, 62 Stat. 756.)

§ 1112. Manslaughter.

(a) Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

Voluntary—Upon a sudden quarrel or heat of passion.

Involuntary—In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

(b) Within the special maritime and territorial jurisdiction of the United States.

Whoever is guilty of voluntary manslaughter, shall be imprisoned not more than ten years;

Whoever is guilty of involuntary manslaughter, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, 62 Stat. 756.)

§ 1113. Attempt to commit murder or manslaughter.

Except as provided in section 113 of this title, whoever, within the special maritime and territorial jurisdiction of the United States, attempts to commit murder or manslaughter, shall be fined not more than \$1,000 or imprisoned not more than three years or both. (June 25, 1948, ch. 645, 62 Stat. 756.)

\* \* \* \* \*

CHAPTER 99.—RAPE

\* \* \* \* \*

§ 2031. Special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, commits rape shall suffer death, or imprisonment for any term of years or for life. (June 25, 1948, ch. 645, 62 Stat. 795.)

§ 2032. Carnal knowledge of female under 16.

Whoever, within the special maritime and territorial jurisdiction of the United States, carnally knows any female, not his wife, who has not attained the age of sixteen years, shall, for a first offense, be imprisoned not more than fifteen years, and for a subsequent offense, be imprisoned not more than thirty years. (June 25, 1948, ch. 645, 62 Stat. 795.)

\* \* \* \* \*

## CHAPTER 103.—ROBBERY AND BURGLARY

\* \* \* \* \*  
§ 2111. Special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes from the person or presence of another anything of value, shall be imprisoned not more than fifteen years. (June 25, 1948, ch. 645, 62 Stat. 796.)

Paragraph (2) of the proposed new subsection (k) of section 902 would provide that whoever, while aboard an aircraft in flight in air commerce, commits any act which, if committed in the District of Columbia, would be in violation of section 9 of the Act entitled "An Act for the preservation of the public peace and the protection of property within the District of Columbia", approved July 29, 1892, as amended (D.C. Code, sec. 22-1112), shall be punished as provided in such section 9. Such section 9, as it appears in the D.C. Code, reads as follows:

## § 22-1112 [6: 292]. Indecent exposure.

(a) It shall not be lawful for any person or persons to make any obscene or indecent exposure of his or her person, or to make any lewd, obscene, or indecent sexual proposal, or to commit any other lewd, obscene, or indecent act in the District of Columbia, under penalty of not more than \$300 fine, or imprisonment of not more than ninety days, or both, for each and every such offense.

(b) Any person or persons who shall commit an offense described in subsection (a), knowing he or she or they are in the presence of a child under the age of sixteen years, shall be punished by imprisonment of not more than one year, or fined in an amount not to exceed \$1,000, or both, for each and every such offense. (July 29, 1892, 27 Stat. 324, ch. 320, § 9; July 8, 1898, 30 Stat. 724, ch. 638; Apr. 21, 1906, 34 Stat. 127, ch. 1647; Sept. 26, 1942, 56 Stat. 760, ch. 565; June 9, 1948, 62 Stat. 346, ch. 428, title I, § 101; June 29, 1953, 67 Stat. 92, ch. 159, § 202.)

*Carrying weapons aboard aircraft*

Subsection (l) would make it unlawful, with certain exceptions stated below, for any person, while aboard an aircraft being operated by an air carrier in air transportation, to have on or about his person a concealed deadly or dangerous weapon. It would likewise make it unlawful, with the same exceptions, for any person to attempt to board any such aircraft while having on or about his person a concealed deadly or dangerous weapon. The penalty provided for any such violation is a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

This subsection will not apply, however, to law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, nor will it apply to such other persons as are authorized to carry arms under regulations issued by the Administrator of the Federal Aviation Agency.

It is to be noted that this section applies in the case of an aircraft being operated "by an air carrier in air transportation" in contrast to certain other subsections being added to section 902 by this legislation, which apply in the case of "aircraft in flight in air commerce." Thus, this subsection would be limited to aircraft being used in air carrier commercial operations, whereas these other subsections would apply also in the case of private aircraft. On the other hand, while these other subsections will apply only while the aircraft is "in flight," subsection (l) will apply to an aircraft if it is "being operated by an air carrier in air transportation," even though the aircraft is not "in flight."

For the reasons stated in the discussion of subsection (j) it has not been considered feasible or necessary to define the term "deadly or dangerous weapon" as used in this subsection.

It is intended that a person shall be considered to have a weapon "about his person" if the weapon is in a bag or other container which he is holding or which will be readily accessible to him while he is on the aircraft. However, if the weapon is in a piece of luggage stored at a place on the aircraft so located that he will not have access to it during the flight, it is not to be deemed to be "about his person."

#### *False information*

Subsection (m), which the bill proposes to add to section 902, reads as follows:

#### FALSE INFORMATION

(m)(1) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(2) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

The Deputy Administrator of the Federal Aviation Agency, when testifying before the subcommittee on this legislation, requested that there be included a provision to make it unlawful to make false reports with respect to alleged hijackings of aircraft. He told the committee that recently, probably because of the great amount of publicity involving the hijacking of aircraft, many such false reports had been received.

He reminded the subcommittee that there were many similar occurrences of false reports a few years ago when there was much publicity in connection with the placing of bombs or other explosives on aircraft. Legislation was then enacted (Public Law 709, 84th Cong., approved July 14, 1956) which added a new chapter 2 to title 18 of the United States Code, providing punishment for willfully damaging

or destroying aircraft. Included therein is section 35, which provides penalties for imparting or conveying false information regarding any attempt or alleged attempt to commit offenses punishable under such chapter 2.

During the present session of the Congress the House passed a bill (H.R. 6834) proposing to amend such section 35 of title 18, to make it more effective.

Such subsection (m), as in the bill, follows closely the provisions of section 35 of title 18, as it is proposed to be amended by H.R. 6834, referred to above, with appropriate modifications in the light of the provisions of the legislation here under consideration. An important change, both in the bill (H.R. 6834) and such subsection (m), is that the offense is divided into two parts, with the penalties for the lesser offense available where false information is conveyed with knowledge that it is false, but with penalties for the greater offense available for those cases where the information is conveyed with knowledge that it is false and, in addition, is conveyed willfully and maliciously.

#### *Investigations of offenses*

The proposed new subsection (n) of section 902 would provide that the investigation of any offense committed in violation of the proposed new subsections (i), (j), (k), (l), and (m) shall be conducted by the Federal Bureau of Investigation of the Department of Justice. This would include offenses relating to aircraft piracy, interference with flight crewmembers or flight attendants, carrying weapons aboard aircraft, false information, and those crimes listed in the explanation of the proposed new subsection (k).

There are two points to be emphasized in connection with this amendment. First, it would place investigatory authority in the hands of a Federal agency which has personnel especially trained in the detection of crime and the apprehension of criminals. Second, it would not deprive the Administrator of the Federal Aviation Agency or the Civil Aeronautics Board of the investigatory authority already vested in them by existing law.

#### SECTION 2

Section 903(a) of the Federal Aviation Act of 1958 is the venue provision governing the place of trial for any offense under that act. The present language of this venue provision provides, in effect, that the trial of any offense under the act shall be in the Federal judicial district in which such offense is committed, or, if committed on the high seas or out of the jurisdiction of any particular State or Federal judicial district, the trial shall be in the Federal judicial district where the offender is found or into which he is first brought. With respect to any offense "begun in one jurisdiction and completed in another," such section 903(a) presently provides for trial in "either jurisdiction."

The specific amendment proposed by this section would amend this venue provision to accomplish three major purposes, as follows:

(1) To permit the indictment and trial of an offender or joint offenders who commit offenses abroad, in the Federal judicial district



where the offender, or any one of two or more joint offenders, is arrested or is first brought.

Under the present language of this venue provision (sec. 903(a)), where joint offenders commit an offense abroad they must be tried in the judicial district in which they are found or into which they are first brought. In most cases, the term "found" means "arrested," and the term "arrested" is used in the proposed amendment in lieu of the term "found." If two or more joint offenders are arrested in, or first brought into, separate judicial districts they must be tried in such separate judicial districts. One purpose of the amendment proposed by this section is to provide for one trial in one judicial district for two or more joint offenders who commit an offense outside the United States, and the one judicial district may be where any one or more of such joint offenders is arrested or is first brought into the United States.

(2) To permit the United States to file an indictment or information in the last known residence in the United States of any offender, or of any one of two or more joint offenders, or in the District of Columbia if no such residence is known, in order to prevent the running of the statute of limitations applicable to the offense committed outside the United States.

This part of the amendment proposed by this section is designed to reach the case of an offender who commits an offense outside the United States and remains abroad, making it impossible for the United States to institute criminal proceedings under existing law. This is true under the present venue provision (sec. 903(a)) because venue is not established until the offender is either brought into the United States or found in the United States. Further, unless the United States could prove that such offender was a fugitive, that is, a person fleeing from justice, the applicable statute of limitations may run before criminal proceedings could be instituted. Section 3290 of title 18 of the United States Code provides, in effect, that no statute of limitations will run in the case of a person fleeing from justice. There are technical difficulties involved in proving whether an offender is, in fact, a person fleeing from justice. If the offender is not a fugitive, the applicable statute of limitations will continue to run. This amendment would correct this situation by making it possible, in the case of such an offender, to file an indictment or information in the district of his last known residence in the United States, or in the District of Columbia if no such residence is known, and prevent the running of any statute of limitations. In the case of a capital offense against the United States (an offense punishable by death), an indictment may be filed at any time, without limitation (18 U.S.C. 3281). In the case of a lesser offense, the indictment or information must be filed within 5 years after the offense is committed (18 U.S.C. 3282), except as may be otherwise expressly provided by law.

(3) To permit the trial of an offense committed in the United States in the judicial district where the offense was continued, in addition to the judicial districts where such offense was begun or completed.

This change would conform with the first paragraph of the general venue provision contained in section 3237(a) of title 18, United States Code, which applies to all offenses against the United States except

those where there is a special venue provision such as section 903(a).<sup>2</sup>

The changes in the venue provisions of such section 903(a) proposed by this section would make such section a more useful tool in prosecuting any offense created by the committee substitute and any other offense already specified under the Federal Aviation Act of 1958.

The changes in such section 903(a) discussed under paragraphs (1) and (2) above are, in substance, the same changes recommended by the Department of Justice with respect to the general venue provision contained in section 3238 of title 18, United States Code, which recommended changes passed the House of Representatives during the 86th Congress on March 16, 1959, as H.R. 4154, 86th Congress, but did not receive consideration by the Senate prior to the expiration of the 86th Congress. The changes in such section 3238 proposed in H.R. 4154, 86th Congress, are presently pending before the Committee on the Judiciary of the House of Representatives in the bill H.R. 7037, 87th Congress.

The changes proposed by this section would not, however, solve the difficulties involved in establishing jurisdiction which may exist in the case of an offense committed in only one jurisdiction. In such cases, under the constitutional provisions set forth below, the place where the crime was committed must still be determined in order to assure a trial in the State or district in which the crime was committed.

The constitutional provisions referred to above are the following:

1. The Constitution of the United States, article III, section 2, clause 3, provides—

The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

2. The sixth amendment to the Constitution of the United States provides, in part—

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law \* \* \*

#### SECTION 3

This section is a technical amendment to correct a typographical error in the definition of the term "air commerce" contained in paragraph (4) of section 101 of the Federal Aviation Act of 1958.

#### SECTION 4

This section is a technical amendment to conform the table of contents contained in the first section of existing law with the changes made by the committee substitute.

<sup>2</sup> Subsection (a) of section 3237 of title 18 of the United States Code provides:

"(a) Except as otherwise expressly provided by enactment of the Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed.

"Any offense involving the use of the mails, or transportation in interstate or foreign commerce, is a continuing offense and, except as otherwise expressly provided by enactment of Congress, may be inquired of and prosecuted in any district from, through, or into which such commerce or mail matter moves."

## CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## SECTION 902 OF THE FEDERAL AVIATION ACT OF 1958

## CRIMINAL PENALTIES

## GENERAL

SEC. 902. (a) Any person who knowingly and willfully violates any provisions of this Act (except titles III, V, VI, VII, and XII), or any order, rule, or regulation issued under any such provision or any term, condition, or limitation of any certificate or permit issued under title IV, for which no penalty is otherwise herein provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than \$500, and for any subsequent offense to a fine of not more than \$2,000. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

## FORGERY OF CERTIFICATES AND FALSE MARKING OF AIRCRAFT

(b) Any person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under this Act, or knowingly uses or attempts to use any such fraudulent certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft, any marks that are false or misleading as to the nationality or registration of the aircraft, shall be subject to a fine of not exceeding \$1,000 or to imprisonment not exceeding three years, or to both such fine and imprisonment.

## INTERFERENCE WITH AIR NAVIGATION

(c) A person shall be subject to a fine of not exceeding \$5,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment, who—

(1) with intent to interfere with air navigation within the United States, exhibits within the United States any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility; or

(2) after due warning by the Administrator, continues to maintain any misleading light or signal; or

(3) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

## GRANTING REBATES

(d) Any air carrier, foreign air carrier, or ticket agent, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, offer, grant, or give, or cause to be offered, granted,

or given, any rebate or other concession in violation of the provisions of this Act, or who, by any device or means, shall, knowingly and willfully, assist, or shall willingly suffer or permit, any person to obtain transportation or services subject to this Act at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

#### FAILURE TO FILE REPORTS; FALSIFICATION OF RECORDS

(e) Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Board or Administrator as required by this Act, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board or Administrator, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

#### DIVULGING INFORMATION

(f) If the Administrator or any member of the Board, or any officer or employee of either, shall knowingly and willfully divulge any fact or information which may come to his knowledge during the course of an examination of the accounts, records, and memoranda of any air carrier, or which is withheld from public disclosure under section 1104, except as he may be directed by the Administrator or the Board in the case of information ordered to be withheld by either, or by a court of competent jurisdiction or a judge thereof, he shall upon conviction thereof be subject for each offense to a fine of not more than \$5,000 or imprisonment for not more than two years, or both: *Provided*, That nothing in this section shall authorize the withholding of information by the Administrator or Board from the duly authorized committees of the Congress.

#### REFUSAL TO TESTIFY

(g) Any person who shall neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Board or Administrator, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$100 nor more than \$5,000, or imprisonment for not more than one year, or both.

## TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

(h)(1) Any person who knowingly delivers or causes to be delivered to an air carrier or to the operator of any civil aircraft for transportation in air commerce, or who causes the transportation in air commerce of, any shipment, baggage, or property, the transportation of which would be prohibited by any rule, regulation, or requirement prescribed by the Administrator under title VI of this Act, relating to the transportation, packing, marking, or description of explosives or other dangerous articles shall, upon conviction thereof for each such offense, be subject to a fine of not more than \$1,000, or to imprisonment not exceeding one year, or to both such fine and imprisonment: *Provided*, That when death or bodily injury of any person results from an offense punishable under this subsection, the person or persons convicted thereof shall, in lieu of the foregoing penalty, be subject to a fine of not more than \$10,000 or to imprisonment not exceeding ten years, or to both such fine and imprisonment.

(2) In the exercise of his authority under title VI of this Act, the Administrator may provide by regulation for the application in whole or in part of the rules or regulations of the Interstate Commerce Commission (including future amendments and additions thereto) relating to the transportation, packing, marking, or description of explosives or other dangerous articles for surface transportation, to the shipment and carriage by air of such articles. Such applicability may be terminated by the Administrator at any time. While so made applicable, any such rule or regulation, or part thereof, of the Interstate Commerce Commission shall for the purposes of this Act be deemed to be a regulation of the Administrator prescribed under title VI.

## CRIMES ABOARD AIRCRAFT IN FLIGHT IN AIR COMMERCE

(i) *Whoever, while on board an aircraft in flight in air commerce, commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, would be in violation of sections 113, 114, 1111, 1112, 1113, or 2111 of title 18, United States Code, shall be punished as provided therein.*

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED TO THE HOUSE

For the information of the Members of the House, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is shown in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## FEDERAL AVIATION ACT OF 1958

\* \* \* \* \*  
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\* \* \* \* \*

## TITLE IX—PENALTIES

## Sec. 901. Civil penalties.

- (a) Safety and postal offenses.
- (b) Liens.

## Sec. 902. Criminal penalties.

- (a) General.
- (b) Forgery of certificates and false marking of aircraft.
- (c) Interference with air navigation.
- (d) Granting rebates.
- (e) Failure to file reports; falsification of records.
- (f) Divulging information.
- (g) Refusal to testify.
- (h) Transportation of explosives and other dangerous articles.
- (i) *Aircraft piracy.*
- (j) *Interference with flight crew members or flight attendants.*
- (k) *Certain crimes aboard aircraft in flight.*
- (l) *Carrying weapons aboard aircraft.*
- (m) *False information.*
- (n) *Investigations by Federal Bureau of Investigation.*

\* \* \* \* \*  
TITLE I—GENERAL PROVISIONS

## DEFINITIONS

SEC. 101. As used in this Act, unless the context otherwise requires—

(1) \* \* \*

\* \* \* \* \*

(4) "Air commerce" means interstate, overseas, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation [or] of aircraft within the limits of any Federal airway or any operation or navigation of aircraft which directly affects, or which may endanger safety in, interstate, overseas, or foreign air commerce.

\* \* \* \* \*  
CRIMINAL PENALTIES

## GENERAL

SEC. 902. (a) Any person who knowingly and willfully violates any provisions of this Act (except titles III, V, VI, VII, and XII), or any order, rule, or regulation issued under any such provision or any term, condition, or limitation of any certificate or permit issued under title IV, for which no penalty is otherwise herein provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than \$500, and for any subsequent offense to a fine of not more than \$2,000. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

## FORGERY OF CERTIFICATES AND FALSE MARKING OF AIRCRAFT

(b) Any person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under this Act, or knowingly uses or attempts to use any such fraudulent certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft, any marks that are false or misleading as to the nationality or registration of the aircraft, shall be subject to a fine of not exceeding \$1,000 or to imprisonment not exceeding three years, or to both such fine and imprisonment.

## INTERFERENCE WITH AIR NAVIGATION

(c) A person shall be subject to a fine of not exceeding \$5,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment, who—

(1) with intent to interfere with air navigation within the United States, exhibits within the United States any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility; or

(2) after due warning by the Administrator, continues to maintain any misleading light or signal; or

(3) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

## GRANTING REBATES

(d) Any air carrier, foreign air carrier, or ticket agent, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, offer, grant, or give, or cause to be offered, granted, or given, any rebate or other concession in violation of the provisions of this Act, or who, by any device or means, shall, knowingly and willfully, assist, or shall willingly suffer or permit, any person to obtain transportation or services subject to this Act at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

## FAILURE TO FILE REPORTS; FALSIFICATION OF RECORDS

(e) Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Board or Administrator as required by this Act, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board or Administrator, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

## DIVULGING INFORMATION

(f) If the Administrator or any member of the Board, or any officer or employee of either, shall knowingly and willfully divulge any fact or information which may come to his knowledge during the course of an examination of the accounts, records, and memoranda of any air carrier, or which is withheld from public disclosure under section 1104, except as he may be directed by the Administrator or the Board in the case of information ordered to be withheld by either, or by a court of competent jurisdiction or a judge thereof, he shall upon conviction thereof be subject for each offense to a fine of not more than \$5,000 or imprisonment for not more than two years, or both: *Provided*, That nothing in this section shall authorize the withholding of information by the Administrator or Board from the duly authorized committees of the Congress.

## REFUSAL TO TESTIFY

(g) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Board or Administrator, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$100 nor more than \$5,000, or imprisonment for not more than one year, or both.

## TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

(h)(1) Any person who knowingly delivers or causes to be delivered to an air carrier or to the operator of any civil aircraft for transportation in air commerce, or who causes the transportation in air commerce of, any shipment, baggage, or property, the transportation of which would be prohibited by any rule, regulation, or requirement prescribed by the Administrator under title VI of this Act, relating to the transportation, packing, marking, or description of explosives or other dangerous articles shall, upon conviction thereof for each such offense, be subject to a fine of not more than \$1,000, or to imprisonment not exceeding one year, or to both such fine and imprisonment: *Provided*, That when death or bodily injury of any person results from an offense punishable under this subsection, the person or persons convicted thereof shall, in lieu of the foregoing penalty, be subject to a fine of not more than \$10,000 or to imprisonment not exceeding ten years, or to both such fine and imprisonment.

(2) In the exercise of his authority under title VI of this Act, the Administrator may provide by regulation for the application in whole or in part of the rules or regulations of the Interstate Commerce Commission (including future amendments and additions thereto) relating to the transportation, packing, marking, or description of explosives or other dangerous articles for surface transportation, to the shipment and carriage by air of such articles. Such applicability may be terminated by the Administrator at any time. While so made applicable, any such rule or regulation, or part thereof, of the Interstate Commerce Commission shall for the purposes of this Act be deemed to be a regulation of the Administrator prescribed under title VI.



## AIRCRAFT PIRACY

(i)(1) *Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—*

(A) *by death if the verdict of the jury shall so recommend, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order;*

*or*

(B) *by imprisonment for not less than twenty years, if the death penalty is not imposed.*

(2) *As used in this subsection, the term "aircraft piracy" means any seizure or exercise of control, by force or violence or threat of force or violence and with wrongful intent, of an aircraft in flight in air commerce.*

INTERFERENCE WITH FLIGHT CREW MEMBERS  
OR FLIGHT ATTENDANTS

(j) *Whoever, while aboard an aircraft in flight in air commerce, assaults, intimidates, or threatens any flight crew member or flight attendant (including any steward or stewardess) of such aircraft, so as to interfere with the performance by such member or attendant of his duties or lessen the ability of such member or attendant to perform his duties, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be imprisoned for any term of years or for life.*

## CERTAIN CRIMES ABOARD AIRCRAFT IN FLIGHT

(k) (1) *Whoever, while aboard an aircraft in flight in air commerce, commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18, United States Code, would be in violation of section 113, 114, 661, 662, 1111, 1112, 1113, 2031, 2032, or 2111 of such title 18 shall be punished as provided therein.*

(2) *Whoever, while aboard an aircraft in flight in air commerce, commits an act, which, if committed in the District of Columbia would be in violation of section 9 of the Act entitled "An Act for the preservation of the public peace and the protection of property within the District of Columbia", approved July 29, 1892, as amended (D.C. Code, sec. 22-1112), shall be punished as provided therein.*

## CARRYING WEAPONS ABOARD AIRCRAFT

(l) *Except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, and except for such other persons as may be so authorized under regulations issued by the Administrator, whoever, while aboard an aircraft being operated by an air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon, or whoever attempts to board such an aircraft while having on or about his person a concealed deadly or dangerous weapon, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.*

## FALSE INFORMATION

(m) (1) *Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.*

(2) *Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.*

## INVESTIGATIONS BY FEDERAL BUREAU OF INVESTIGATION

(n) *Violations of subsections (i) through (m), inclusive, of this section shall be investigated by the Federal Bureau of Investigation of the Department of Justice.*

## VENUE AND PROSECUTION OF OFFENSES

## VENUE

SEC. 903. (a) The trial of any offense under this Act shall be in the district in which such offense is committed; [or if] *or, if* the offense is committed [upon the high seas, or] out of the jurisdiction of any particular State or district, the trial shall be in the district [where the offender may be found or into which he shall be first brought] *where the offender, or any one of two or more joint offenders, is arrested or is first brought. If such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia.* Whenever the offense is begun in one jurisdiction and completed in another, or committed in more than one jurisdiction, it may be dealt with, inquired of, tried, determined, and punished in [either] *any jurisdiction in which such offense was begun, continued, or completed,* in the same manner as if the offense had been actually and wholly committed therein.

## AGENCY REPORTS

The committee received and considered the following agency reports:

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
*Washington, D.C., August 7, 1961.*

HON. OREN HARRIS,  
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, New House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your requests of August 2 and 3, 1961, for reports on H.R. 8384 and H.R. 8428, bills to amend the Federal Aviation Act of 1958 to provide for the application of Federal criminal law to certain events occurring on board aircraft in air commerce.

The provisions of H.R. 8384 have been incorporated in H.R. 8428. Our remarks will therefore be directed to the latter bill. We understand that the primary purpose of the bill is to provide a method for dealing with instances such as the recent seizures of airplanes in flight. The Bureau of the Budget favors the enactment of legislation necessary to accomplish this purpose.

In a separate report to your committee, the Department of Justice is suggesting amendments to the bill to assure that it will accomplish its purpose. In addition, the Department of State in a report to the Senate Commerce Committee on a similar bill has suggested some amendments. A copy of that report is enclosed for your consideration.

Sincerely yours,

PHILLIP S. HUGHES,  
*Assistant Director for Legislative Reference.*

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DEPARTMENT OF STATE,  
*Washington, August 7, 1961.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce, U.S. Senate.*

DEAR MR. CHAIRMAN: In response to your letter of July 19, 1961, the Department of State has reviewed S. 2268, to amend the Federal Aviation Act of 1958 to provide for the application of Federal criminal law to certain events occurring on board aircraft in air commerce. The Department of State has no objection to the purpose of the proposed bill, but wishes to call attention to one difficulty which might be created by the bill as presently worded and to certain existing provisions of law which appear to already cover at least part of the objectives of the proposed bill.

In view of the broad definition of "aircraft" and "air commerce" contained in the Federal Aviation Act of 1958, the proposed bill might be interpreted to have the effect of making the designated sections of the U.S. Criminal Code applicable not only to aircraft registered in the United States but also to aircraft registered in foreign countries, even when the crimes in question were committed on such foreign aircraft in the airspace of a foreign country or over the high seas. So interpreted, the proposed bill might well be considered by the

foreign countries of registry to be an improper exercise of jurisdiction by the United States and give rise to foreign relations difficulties. If the bill is intended to apply only to aircraft of U.S. registry, at least insofar as the application of the statute outside the territorial limits of the United States is concerned, the word "aircraft" should be deleted and the words "civil aircraft of the United States" be substituted in its place.

However, if the above change, which the Department of State considers necessary if the proposed bill is intended to apply outside the territorial limits of the United States, is made, it would appear that the bill in large part duplicates the provisions of existing law, at least as concern its application to crimes over the high seas or outside the United States, since section 7(5) of title 18 of the United States Code already defines "the special maritime and territorial jurisdiction of the United States" as including "Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or in any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State," and the designated sections of the proposed bill are already applicable to crimes within that "special maritime and territorial jurisdiction."

If the purpose of the bill is to make such acts crimes solely when committed in the territorial airspace of the United States, it would appear desirable to add the phrase "within the territorial airspace of the United States" after the word "act." In such case, there would appear no particular objection for using the present word "aircraft," for in effect it would make the proposed bill applicable to crimes committed aboard foreign-registered aircraft only while in the territorial airspace of the United States.

In sum, the Department believes that the alternatives are either that the proposed bill should be applicable only to United States-registered aircraft if it is to be applicable outside the territorial jurisdiction of the United States or if it is to apply to all aircraft irrespective of registry, then it should be applicable only while such aircraft are within the territorial limits of the United States.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary.*

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CIVIL AERONAUTICS BOARD,  
Washington, D.C., August 4, 1961.

HON. OREN HARRIS,  
*Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the Board's comments with regard to H.R. 8370, H.R. 8380, H.R. 8384, and H.R. 8428.

H.R. 8370, a bill to prevent hijacking of aircraft, would amend section 601 of the Federal Aviation Act and require the Administrator

to issue regulations requiring pilots to carry firearms, that doors to the flight deck be locked, that viewing devices be provided to permit recognition of persons seeking entry to the flight deck, and that secret codes and signals be provided for crew members in emergency situations.

Inasmuch as the function of safety rule making has now been transferred to the Administrator, the Board has no comment to make on H.R. 8370.

H.R. 8380 and H.R. 8384, identical bills which have been amended by H.R. 8428, would modify section 902 of the Federal Aviation Act to extend the penalties now provided in title 18, United States Code, for assaults (sec. 113), maiming (sec. 114), murder (sec. 1111), manslaughter (sec. 1112), attempts to commit murder or manslaughter (sec. 1113) and robbery (sec. 2111) to these same acts when committed aboard an aircraft in flight in air commerce. These acts are now violations of the United States Code when committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18, United States Code.

The bill would also make it a criminal offense for any person to assault, intimidate, threaten, or interfere with flight crew members while engaged in the performance of their duties. Violations of this provision would be subject to fine of \$10,000 and imprisonment for 20 years. If a deadly or dangerous weapon is used the punishment is increased to imprisonment for life.

Except for certain Government employees and officials, and persons authorized by the air carrier, it is provided that no person, while a passenger aboard an aircraft may carry on or about his person a concealed deadly or dangerous weapon. The penalty for violation of this provision is a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

The bill also provides that whoever while on board an aircraft in flight in air commerce commits an act which if committed aboard a vessel on the high seas would constitute piracy as defined in the United States Code shall be imprisoned as provided therein.

The Board believes that legislation of this kind is highly desirable. Under present conditions of high speed air transportation, State criminal laws are no longer adequate as a deterrent to crimes on board aircraft, not because of a deficiency in the laws themselves, but because of the jurisdictional problems created by reason of the swift transit of aircraft from one State to another and consequent doubts as to the situs of the aircraft at the time of the commission of the crime. Under these circumstances excessive delays and difficulties in prosecuting the wrongdoer are almost inevitable. If provision could be made that offenses committed on aircraft while in flight in air commerce are Federal crimes, these jurisdictional problems and difficulties would be eliminated.

The Board strongly concurs in the purpose and objectives of H.R. 8428 and recommends that the legislation proposed therein, or such similar legislation as may be favorably considered by the committee, be enacted.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

ALAN S. BOYD, *Chairman.*

FEDERAL AVIATION AGENCY,  
Washington, D.C., July 28, 1961.

Hon. JOHN W. McCORMACK,  
House of Representatives,  
Washington, D.C.

DEAR MR. McCORMACK: In response to your telephonic inquiry concerning the recent hijacking of the Eastern Airlines Electra by a Castro supporter, our examination of the present laws indicates a need for additional legislation which would make such activity a criminal offense. We feel very strongly that safety considerations as well as national security require such action.

As you know, Senator Engle recently introduced a bill in the Senate, S. 2268, which would amend the Federal Aviation Act by making it a crime to commit assaults and certain other crimes of violence aboard aircraft in flight in air commerce. This bill was introduced following the incident involving an intoxicated passenger who threatened crew members and passengers while aboard a domestic flight. It was not aimed at incidents like the Electra affair. We have been requested by Senator Engle to furnish him with additional suggestions for amending his bill to make it applicable to this hijacking occurrence.

I am enclosing a suggested amendment which we have furnished Senator Engle. It would add three additional sections to the Federal Aviation Act making it a crime to assault, threaten, intimidate, or interfere with flight crew members of aircraft in air commerce; would prohibit the carrying of concealed weapons on aircraft in air transportation; and would make the hijacking of an aircraft equivalent to piracy.

Your interest in this matter is greatly appreciated and I know you share my great concern with this outrageous act. It would certainly help a great deal if you could lend your support in the House of Representatives to the effort being made to prevent future action of this kind.

In the absence of criminal statute, we are taking such measures as are available to us to deter possible additional hijacking efforts. We have requested the air carriers to take all possible precautions to prevent passengers from having access to flight crew members. In addition, we intend to adopt a regulation which will prohibit carrying concealed weapons aboard an air carrier and will also prohibit a passenger from interfering with the flight crew. This will at least provide some regulatory basis for making the limited penalties now provided for by the Federal Aviation Act available in such cases.

Sincerely,

N. E. HALABY, *Administrator.*

## SUGGESTED AMENDMENTS TO FAA ACT

Amend section 902 of the Federal Aviation Act of 1958 by adding new subsections as follows:

“(j) Whoever, while on board an aircraft in flight in air commerce assaults, intimidates, threatens, or interferes with any flight crew member of such aircraft while engaged in the performance of his duties or in any way lessens the ability of such flight crew member to perform his duties, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both. Whoever in the commission of any such acts uses a deadly or dangerous weapon shall be imprisoned for life.

“(k) Except for employees or officials of municipal, State, or Federal Governments who are authorized or required to carry arms, and except for such other persons as may be authorized by the air carrier involved, whoever while a passenger aboard an aircraft being operated by an air carrier in air transportation, carries on or about his person a concealed deadly or dangerous weapon shall be fined not more than \$1,000 or imprisoned not more than one year or both.

“(l) Whoever while on board an aircraft in flight in air commerce commits an act which if committed aboard a vessel on the high seas would constitute piracy as defined by section 1651 of Title 18, United States Code, shall be imprisoned as provided therein.”

These are in addition to subsection (i) which would be added by Senator Engle's proposed bill, S. 2268.

