

from the Press Office

Summary of "P.M."

A letter from a Deputy President of the Arbitration Commission, Mr Justice Staples, which was distributed to his colleagues in the Commission, has angered the Federal Government which is seeking legal advice from Senator Durack on Mr Justice Staples position. The letter was highly critical of the Government's amendments to the Conciliation and Arbitration Act, likening some of the provisions to laws in pre-war Germany. Mr Street commented this morning on the letter:

Mr Street: I have given a copy to the Attorney-General and no doubt he will be giving me his comments in due course.

Question: Have you seen Sir John Moore about this letter you received?

Mr Street: No, as you know Sir John is not well. I rang him last night merely to say that this document was in the hands of the press.

Question: Are you astounded by the tone of it?

Mr Street: I am astounded at the document coming from somebody with the title of Judge.

Question: It would be extremely difficult to move anybody. It would require a vote of both Houses of Parliament. That would seem rather difficult in the Senate. Could there be any plans to move Mr Justice Staples sideways?

Mr Street: We haven't even considered anything of that kind whatever.

Question: Would you like to see him off the Commission Sir?

Mr Street: No comment at all.

Question: Mr Street, you have had it for some time. When did you decide to seek legal advice on it?

Mr Street: Seek legal advice? That is rather a strange expression. As soon as I got it, which was a day or two ago, I gave it to the Attorney-General because he is a man with the title of Judge in a Federal jurisdiction.

Question: Is a Judge not entitled to make any comment at all on proposed legislation?

Mr Street: I would think it is unusual.

Question: Why do you think he sent you a copy deliberately?

Mr Street: You would have to ask him.

Question: Mr Street, has Cabinet considered this issue?

Mr Street: No.

Question: So what is the position as it stands at the moment?

Mr Street: The position as it stands at the moment is that, as I mentioned, I am astounded at the language of the document coming from someone with a title of Judge, that I have given a copy of the document to the Attorney-General, and that no doubt in due course he will be giving me his comments.

Question: Mr Street does the Government find it embarrassing at all that a Federal Justice has described the legislation as comparable with pre-war Nazi Germany?

Mr Street: I think that is a comment on the author.

Question: Mr Street let's be frank. Mr Justice Staples has been a bit of a thorn in the side of the Government for some time now. Are you going to do anything about this? Would you like to do something about it, or in fact are your hands tied?

Mr Street: No, I have no comment to make on that at all. As I say I have given the document to the Attorney-General. There is nothing further to be said at the present time.

Question: ...precondition of future appointments that might prevent that sort of thing happening. Could you possibly restrict a Justice's duties, Sir?

Mr Street: I wouldn't comment on that at all.

Question: Sir you haven't said anything about his criticisms themselves. Do you agree with them? Are they valid criticisms?

Mr Street: I haven't commented on them, and I won't comment on them until I have the comments back to me from the Attorney-General.

Question: But you will pursue the legislation?

Mr. Street: Of course.

Question: Are you convinced at this stage that it would stand up to a constitutional challenge?

Mr. Street: That is our official advice.

Mr. Justice Staples was appointed to the Arbitration Commission by the Whitlam Government in 1975. Interview with Mr. Bowen, Deputy Leader of the Opposition.

Question : Mr. Bowen, do you agree with the criticisms which Mr. Justice Staples has made of the proposed legislation.

Mr. Bowen: Yes we do. The legislation deserves the greatest criticism. We have been opposing it in the Parliament and it is on the basis of the law - that is, that what the Government is trying to do it has no constitutional power so to do and accordingly what Mr. Justice Staples has also said in writing to his fellow commissioners - that it is virtually beyond the powers of a Government so to act.

Question: Do you think, in your opinion, that he is acting within his rights as a Judge of the Commission?

Mr. Bowen: I think so, because judges don't forfeit their individual views of individual rights. He is entitled to talk to his fellow commissioners, he is entitled to write to them. He has a point of view and as he is a qualified judicial officer I think it is most valuable to think he can express a view which I would hope the Government would take notice of.

Question: It would appear from what Mr. Street said, and I quote him, that he says: "I am astounded at the language of the document coming from someone with the title of a Judge".

Mr. Bowen: Well, Mr. Street has always been very loyal to Mr. Fraser. I think it's Mr. Fraser's legislation that they are trying to push through the Parliament. The point we must realise in this country is Mr. Fraser's law is not always the law of the country, and so whilst Mr. Street says he is astounded, we are equally astounded, particularly those who have legal training, to think that the Government would attempt to dictate to a court how it should act. I think that's got no precedent for that at all.

Question: Why do you think it had to be up to a judge of the Commission to make the first moves in severe criticism of the proposed legislation?

Mr. Bowen: I would think it is because it is of a technical nature. You would have to read the fine print to realise that what the Government was attempting to do was to tell a court for the first time what it shall or shall not do in the course of what is called justice. Now, justice knows no bounds of a Parliament. It knows the bounds of rights of people, and in this case I think it is meant that it would have to require a skilled lawyer to really say what was being done in the legislation.

Question: Why do you so strongly support Mr Justice Staples? What in particular of his criticisms to you strongly agree with.

Mr Bowen: Well, the invalidity of the legislation. It is not a matter of supporting Mr Justice Staples, that we are happy to do. But if Mr Justice Staples had remained silent we still would have been opposing this legislation. In fact we were opposing it quite strenuously in the Parliament all this week. We have been gagged in the divisions on the basis that the Government has no power to do what it is attempting to do. At that stage we ignorant of Mr Justice Staples letter to his fellow commissioners.

Question: With Mr Justice Staples speaking out, do you see the future of the Arbitration Commission being in some kind of jeopardy over a rather crucial situation?

Mr Bowen: I think it will strengthen it because the problem we have in Democracy, unless people speak out, state what is happening, you can get a weak democracy. Where you get people who are able to stand up and express their views as individuals but nevertheless ones which should be taken notice of you get a much stronger democracy. I think full marks to Mr Justice Staples for doing what he has done, because by so doing this legislation ought to be withdrawn.

Question: You don't see this speaking out as setting a precedent which may have perhaps unfortunate results?

Mr Bowen: The way the world is going the more that people speak up and indicate what should be done, the better. You don't get democracy by silence. Whilst it can be said that perhaps Judges shouldn't be speaking out on all issues, that we can understand. But in issues of legislation what is the difference between a Judge making a statement on the law as against a Member of Parliament making the same statement.

Interview with Mr David Plowman, lecturer in Industrial Relations at the University of NSW, who says he agrees with Mr Street that it is unusual for Judges to make such comments, but his sympathies are with Mr Justice Staples, because it is the Arbitration Commission which must suffer the consequences of any changes in the Conciliation & Arbitration Act. He said the area was a very technical one.

Making the trains run on time has become a major headache for the Wran Government in NSW. Whilst the new Eastern Suburbs railway is booming, commuters from Sydney's western suburbs not only have to put up with slow, old and uncomfortable transport, but far too often the trains just don't arrive. According to the State's Public Transport Commission there aren't enough drivers and too many get sick.

Mr Bjelke-Petersen indicated today that he might be prepared to soften his stand on his contribution to the Kampuchean appeal. His objection to participation in the appeal and in other foreign aid appeals has been that he didn't know where the money was going. Interviewed, he said he was convinced, and he knew aid was going on the black market in Kampuchea. He said it was a matter of doing the right thing by the people concerned, and Mr Peacock should take a plane right to the people and give them the aid, rather than just send it by sea so that they never get it. The people for whom the aid was meant never received it.

A group of Adelaide Catholic priests have offered to provide accommodation for 80 Kampuchean refugees, but the Federal Government has turned them down because the number would put the intake of Indochinese refugees over the quota. The superior of the group has strongly criticised the Government's stand, and said he was bitterly disappointed.

The Minister for Post and Telecommunications, Mr Staley, flew into Perth today, reluctant to speak about a report that Cabinet will discuss a submission by him on Monday that will exclude Telecom from operating a new domestic satellite communications system for Australia. The Minister took pains to emphasise that there were inaccuracies in the report, but would not say what they were. Interview with Mr Staley, who said he would not comment on the precise timings of things before Cabinet, or on any of the specifics. He said he expects to be able to make a statement to Parliament within the next few weeks.

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