

Air Traffic Control Dispute

who has continually been used as a mediator by the Department of Labour to intervene in many disputes, even in my time. He is looked upon as a person who has the experience to give wise judgment and be able to bring together both parties. He has been appointed by this government. Yet when he brings the most important part of his report, a strike vote having been taken and a date set, this government refutes his recommendation and throws it out of the window. They must tell us why they have done this.

Mr. Pickersgill: Would the hon. member permit me to ask him a question. Has the hon. gentleman read the order in council which appointed the judge? It was tabled in the house at the time.

Mr. Starr: I heard what was said by the President of the Treasury Board yesterday.

Mr. Diefenbaker: According to page 28 of the report, the judge said he had the power, so that answers all that nonsense.

Mr. Turner: He extended his own terms of reference.

Mr. Starr: Is the Minister without Portfolio (Mr. Turner) questioning the integrity or knowledge of the learned judge, who has a great deal more experience in this area than has the Minister without Portfolio? According to his report, he said he had all the power required. I do not think that this judge would ever overstep his jurisdiction at any time, whether on the bench or in the field of labour-management negotiations. There has never been any criticism of him; and then all of a sudden, when he brings in a report which for some unknown, mysterious reasons this government does not want to accept, the government are prepared to besmirch his character and say that he is wrong.

Mr. Diefenbaker: The judge interpreted the position at page 28.

● (4:50 p.m.)

Mr. Starr: It was even hinted yesterday that there was no rush for parliament to discuss this matter; that the strike date might not be set until the first of the year. That was intimated. But what did the strike vote bring? It brought about the date, for next Tuesday. Now, we shall have legislation, as part of our pre-collective bargaining process this government hides behind, to force people back to

work. This is through no fault of the employees but is because this autocratic, arrogant government is not prepared to give them what a renowned judge has recommended.

I will read from page 28 of the judge's report:

In the Direction by the Minister of Transport dated July 14th, 1966, that a Commission do issue appointing this Commissioner and at paragraph 4 thereof we find the following wording:

"4. . . . to report to the Minister of Transport . . . with such recommendations as he deems appropriate, including recommendations on the effective dates of any changes proposed"

Mr. Nielsen: Any recommendations he felt.

Mr. Starr: I continue to read:

This wording, in my opinion, supports the interpretation that rates of pay are included within the terms of reference because it would confer jurisdiction upon the Commissioner to recommend retroactive changes and, as a general rule, retroactivity is applied to pay rates as distinguished from other improvements in working conditions.

That is why he brought down the first report.

I might also refer to one additional consideration. If, as a result of a full and careful investigation, this Commissioner came to the conclusion that the present rates of pay, for this particular service, had not been determined upon a proper basis, due to the fact that the factors and considerations, which should be applied, had not been applied, then, surely, it would be an exercise in futility if, under such circumstances, the Commissioner had no jurisdiction to recommend appropriate changes designed to correct the situation.

Mr. Pickersgill: Would the hon. gentleman permit a question?

Mr. Starr: Let me finish reading from the Commissioner's report.

Indeed, in my view, if such a result were to ensue, the whole purpose of the inquiry might well be frustrated with a consequent aggravation of the rather sensitive situation, the existence of which gave rise to this investigation.

For the above reasons I have come to the conclusion that the terms of reference under this Commission do include jurisdiction enabling the Commissioner to make specific recommendations as to the rates of pay for Air Traffic Controllers, if, as a result of the investigation, it is determined that the present pay scales do not properly reflect the factors and considerations that should be taken into account in determining such rates of pay.

What could be more simple? The Minister of Transport says that he does not agree with this. He says the judge had no business writing these words into this report.

Mr. Pickersgill: That is not what I said.

Mr. Starr: That is the intimation he gave. Does the government say now, having read