

The Industrial Relations Bill..

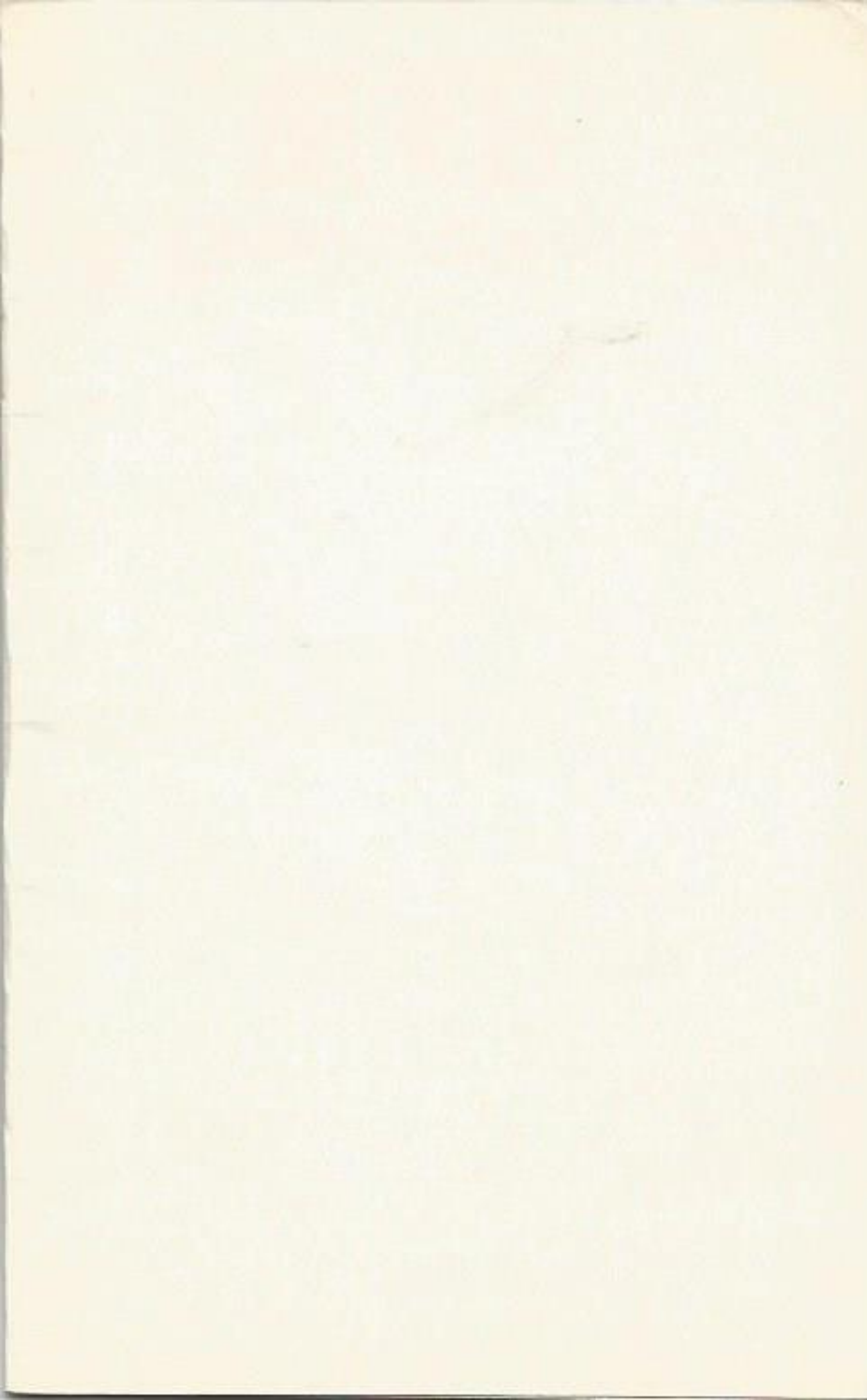


A Declaration of **WAR**

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**THE
INDUSTRIAL
RELATIONS BILL;**

A Declaration of War

Why anti-Trade Union laws?

In 1971 there has been a tremendous increase in trade union struggle. The Post Office strike for example was the largest in terms of days lost of any strike since the war. There have also been large strikes of miners, dockers, car workers, council workers and many others since the election of the Tory government. Important as these struggles are what dominates the political situation is the fight against the Tory anti-union laws. The outcome of this fight will affect the course of the trade union and political struggle in Britain for many years to come. A defeat for the trade unions could demoralise the working class movement, a victory on the other hand would revitalise the entire labour movement, and could lead to a period of real political struggle against the employers and their governments. But because this struggle is so important it is necessary to understand why the Tories are introducing such laws and why they are introducing them at this particular time.

The Tory Party is the traditional enemy of the working class and of the trade unions. On that basis alone they would wish to attack the power of the trade unions. The fact that between them members of the Tory Cabinet have held over 40 company directorships, including those of 6 banks shows the section of society whose interests they represent. But Tory governments have always been like that, the simple nature of the government in that sense cannot explain why they have chosen this particular moment to introduce their laws. It does not explain why this government is introducing such laws and why for example the 1959-64 Tory government did not. Nor can it explain why it was not the Tories but the Labour government which introduced the first anti-union laws when in 1969 they tried to force through the "In Place of Strife" proposals. In order to see why the anti-union laws are being introduced at the present time we must look at the policy pursued by all governments since 1945.

All governments, whether Tory and Labour, since 1945 have in one way or another attacked the trade unions and the living standards of the working class. The 1945-51 government tried to introduce a wage freeze, the Tory governments pursued the "Stop-Go" policy of using unemployment in order to frighten the unions into keeping wage claims down, the Tory government of 1959-64 introduced an Incomes Policy, the Labour government of 1964-70 introduced first a wages policy, then a wage freeze, and then introduced laws against the trade unions.

The present Tory laws therefore do not come out of the blue, they are just one stage in a continuing attack on the trade unions and their ability to win

But is the attack on the power of the trade unions has gone on consistently in this way, what is it that forces both parties to attack the trade unions? The answer is that both parties accept that the problems of the economy of Britain must be solved without changing the system of ownership of industry. That is, they reject Socialism and instead set out to solve the economic problems not at the expense of the 1% of the population who own 81% of the industrial shares, but at the expense of the other 90% who own virtually none. They accept that one child in seven should live below the poverty line (28) while the ten largest firms alone last year made profits of £1,383,240,000 (29). They accept that the 12,000 workers sacked by GEC should have no say in whether they are dismissed or not, and they call the system of government that exists "democracy". The Labour government created an extra 300,000 unemployed between 1966 and 1970 and gave a knighthood to Arnold Weinstock, a man responsible for more of these sackings than any other individual. As long as governments accept that kind of logic they will always be forced by the employers to attack the trade unions and as the economic situation gets worse they will be forced to do this more viciously and more frequently. That is why the Tories are choosing this moment to introduce the laws against the trade unions.

What the Bill means

The Bill would change Britain from the country with the least legal interference in industrial relations, to the country with by far the most interference of any country in the world, except of course Fascist countries such as Spain and Greece. As Robert Carr recently spent two years in Spain and Greece studying the suppression of Trade Unions we can only assume this is where he got most of the ideas for the Bill and, his 'bashing' the unions experience comes from the fact that he is a Director of Securicor, the organisation that employs armoured cars, guards with coshes and vicious salation dogs to protect bosses' profits. No wonder Ray Gunter did not oppose the Tory Bill on the second reading (he is also a Director of Securicor and an ex-Minister of Labour)!!

Judges and the State.

The cornerstone of the Bill is the almost unlimited powers that the Tories intend to give to a newly created National Industrial Relations Court (N.I.R.C.).

The Court will be appointed by the Government and will consist of a Judge(s) and persons who according to the Lord Chancellor and the Sec. of State have 'special knowledge or experience of Industrial Relations' (Not a Judge, employer and a Trade Unionist as is the common belief⁽¹⁾).

The identification of Judges as the legal arm of the ruling class is spelt out in detail in the Bill. It will be the Industrial Court that will make all final decisions that are referred to it and there will be no appeal (except on a point of Law). But Judges for the first time are now being asked to determine policy for the Government and the ruling class. For example, when the Government applies to the court for an order to stop a strike in a so called 'national emergency' it is the *court* that will decide if there is a national emergency and not the Government⁽²⁾.

It is also the court that will decide whether an order should be granted to the Government giving them powers to order a secret ballot⁽³⁾. This might seem surprising to some people, but when you consider that over 70% of Judges have either been, or stood as Tory M.P.s or have been to the best Public Schools (i.e. Eton, etc.) the Bill is merely identifying their role more explicitly with that of the ruling class⁽⁴⁾.

Procedure Agreements (State Imposed).

Sections 35-39 of the Bill refer to procedure agreements. They enable the Secretary of State, Employer or Trade Unions to refer any procedure agreement to the Industrial Court who in turn refer it to the C.I.R. who can decide the parties and the unit the procedure shall cover, and the terms of the procedure agreement, or they may leave the outdated, drawn out procedures that exist exactly as they are. In the Engineering Industry, the existing procedure agreement known as the York agreement, was imposed on the Unions in the early 1920s and has been hated by the Unions ever since. It takes an average of three months for disputes to go through this outdated procedure and then the result is usually 'failure to agree' and the rignarole starts all over again. The employers use this as a delaying tactic to keep wages down as long as possible. No worker in his right mind likes going through this outdated procedure, and most know that an employer will only take notice when tools are downed. The Industrial Court, however, could make procedures such as this legally enforceable, even if both parties wanted otherwise. This would be the first time ever in British law that an agreement has been imposed upon two parties, and made legally enforceable without their agreement. This would also make a Union's funds liable to damages unless they were to police the observance of procedure agreements. It is worth noting that the origins of this idea came from the Donovan Report in the note of dissent by Lord Tangleby on Page 285⁽⁵⁾. It is of course useless for unions to say not to worry as they will not sign any agreements, because all the employer has to do is to tell the N.I.C.R. that a procedure does not exist and one will be forced upon the unions. *And legally binding at that.* Even in countries such as Australia, Canada and the United States which are known for their massive amount of law in Industrial Relations, there is nothing like this proposal. The

Tories' passion for providing full employment to the legal profession is clearly shown in the next sections which aim at making all collective agreements legally binding.

All Collective Agreements - Legal and Binding.

Because of its nature and the continuous changing circumstances, collective bargaining in Britain has always been negotiated on the basis that any agreement which is reached is no more than a mere domestic arrangement and therefore *not* legally binding. For example, if a collective agreement has a clause stating that there will be a ten minute teabreak, it is not expected that the boss will sue the workers for one minutes damages if they take eleven minutes instead of ten.

Similarly, if you say to a workmate, 'I'll see you down the pub tonight and buy you a drink', you don't expect your mate to issue a writ against you the next day because you did not turn up and buy him a drink. Any agreement therefore, which is reached between a shop steward and a manager, or a T.U. official and a company, or a Trade Union(s) and an employers' association is nothing more than binding in honour only. It is only meant to be legal and binding if both parties expressly state so in the agreement.

Early in 1969, Fords attempted to force an agreement upon the Unions and workers, *and* declare all existing agreements legally enforceable. The Ford workers responded by striking and were supported officially by the T & G and A.E.F. Fords then reacted by taking legal action against the A.E.U and T & G. The final result was that the Judge declared the collective agreement *not* legally enforceable because the two parties did not expressly declare their intention that it should be.

The Tories intend to turn this position completely on its head. Clause 32 creates the presumption that any written collective agreement entered into after the commencement of the Act is legally enforceable unless it contains an express provision to the contrary. This means *any* agreement or arrangement (whether written or oral) agreed by a shop steward, convenor, full time official or Trade Union. So a shop steward who is constantly negotiating settlements all day long, every day of the week must commence every discussion by telling the employer that he wants a clause saying this settlement is not intended to be legally enforceable. If the boss *refuses*, or if on any occasion the steward happens to forget - *that settlement will be a legally binding contract*. Bosses are already rubbing their hands with glee at the thought of this, and are starting to dig their heels in. For example, discussions have been going on now for about two years between the unions and the employers in the engineering industry to change the outdated, much hated York agreement. But there is one point in which agreement has not yet been reached. The Unions want a clause inserted

saying this is not a legally binding agreement, and the employers are just sitting back and saying 'no'. If the Unions then say that they are not signing the agreement, all the bosses have to do is ask the state to approve it, and it will be *imposed* upon the Unions - *and legally binding*. But it doesn't end there. Clause 34(2) in the Bill states: Where a collective agreement, or part of a collective agreement, is a legally enforceable contract, it shall be an unfair industrial practice for any party to the agreement not to take all such steps as are reasonably practicable for the purposes -

- a) of preventing persons acting or purporting to act on behalf of that party from taking any actions in breach of the Collective agreement or of that part of the agreement, as the case may be;
- b) where the party in question is an organisation, of preventing members of the organisation from taking any such action; and
- c) where any action has been taken as mentioned in paragraph a) or paragraph b) of this subsection, of securing that the action is not continued and that further action as mentioned in those paragraphs does not occur.

This means that a shop steward, full time official or a Trade Union must police the observance of an agreement that might have been imposed upon them. This could mean for example, in the case of a Trade Union, that unless they threatened strikers with expulsions, unless they went back to work, or even expelled them, the court would decide that the unions had not 'taken all such steps as are reasonably practicable'. The same would apply to a shop steward or convenor, unless he instructed his members on every occasion they took industrial action, to go back to work, *no matter how justified the grievance*, he would be guilty of an 'unfair industrial practice'. How long the members would tolerate their elected stewards or convenors telling them to go back to work on every occasion is anybody's guess. One thing is clear - the steward is placed in the position that he either does his job on behalf of his members and is therefore *outlawed*, or he acts as an employer's police agent.

Paragraph a) above merely tells us who must be prevented from taking any action. This may even include non members of the union. Paragraph b) is designed to prevent shop stewards' committees giving instructions to members to take part in any industrial action (i.e. the Union(s) should discipline the committee). Paragraph c) aims at covering not only industrial action that has already taken place, but any industrial action that might take place *in the future*.

Finally, to show that the Tories mean business they have allowed that in all the above mentioned circumstances, the Union could be fined. The idea being that if a militant shop steward refused to instruct his members to go back to work (therefore making his Union liable) the Union is expected to expel him to avoid liability. Given this situation, it would not be long before the Trade Union movement was *crippled* - and *this* is the ultimate intention of the Tories.

Pickets Now Become Criminals.

It has also been stated that nothing in the bill will directly send a person to prison. This is a lie, and the lie is neatly tucked away in Clause 121. The circumstances in which a person can directly be sent to jail will be in 'picketing'.

The legal position relating to picketing is very unclear. Judges were making decisions against workers, left, right and centre up until the Trades Disputes Act 1906, which made it 'lawful for one or more persons, acting on their own behalf or on behalf of a Trade Union or of an individual employer or firm in contemplation or furtherance of a trade dispute, to attend *at or near a house or place where a person resides* or works or carries on business or happens to be, if they so attend merely for the purposes of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working' Sec. 2(1). The Tories in Clause 121 have now removed 'picketing at a persons house' and made it illegal. The position is thus returned to 1875 which made picketing a person's house a punishable crime and the penalty still exists today - 'Imprisonment for a term not exceeding three months'⁽⁶⁾. So if workers now want to picket a 'Scab' or 'Blackleg's' home, you can be nicked and sent to prison for three months for a *criminal* offence.

Indirectly any person who refuses to pay a fine or obey a Court order will be guilty of contempt of court and this means prison. On the other hand, if a shop steward was made to pay damages for inducing breaches of contract, the court could instruct that the collection of the debt be subject to *attachment of earnings*. This would mean when a worker changed his job and the new employer asked what the attachment of earnings was for, the worker would reply 'Oh I led a strike at the last factory I was at'. It does not need spelling out what the employer's reaction would be. One thing is clear, the Tories now intend to back employers with an official *blacklist* on militant workers.

Registration (or The State Dog Licence).

Whether a Trade Union registers now or not, is only a matter of minor importance. The advantages are mostly in the administration of the Unions. The present conditions for registration are such that it is accepted that a

Trade Union is a voluntary organisation and the members of the Union should determine the rules in the light of needs and circumstances. The Tories' bill will smash any democracy that may exist in Trade Unions at the moment by, *not the members* deciding what the rules should be, but *the registrar*. The so-called benefits for registration under the Tories' bill will mean that if you belong to the T & G, A.E.W.U., G & M, E.E.T.U., P.T.U., N.U.M., N.U.R., U.S.D.A.W. or any other Union with more than 100,000 members the maximum fine for the Union will be £100,000⁽⁸⁾, whereas if you don't register the maximum fine will be unlimited. So if a Union has funds of say £1 million only ten disputes with fines and you're out of business.

In Clause 61 the Bill sets out so many rules that the Union must meet for registration that to accept the rules would turn what we know to be a Trade Union into a useless ineffective puppet of the state, operating with the kind permission of a state licence. The register for example would tell the Union who they must *admit* into membership. A skilled workers Trade Union therefore could be refused registration for not accepting individuals who do not have traditional apprenticeship qualifications.

The registrar will also decide who shall be eligible for nomination in Union elections. At one time some Communist Party members were taking this to mean that their members could not be discriminated against in any Union election, but the Bill in Clause 61(4) makes it quite clear that the only discrimination that can take place is 'reasonable' discrimination and the registrar will decide what is reasonable. Clause 61(5) states: 'The voting in any ballot of member of the organisation or of a Branch or section of the organisation shall be kept secret'. The registrar will therefore be determining how all Unions should vote in all elections. Clause 61(7) deals with discipline and it is the registrar as the agents of the Tories who decide how and when you discipline a member. For example, as a sympathy strike will automatically be illegal under the Bill together with all unofficial strikes; official strikes that are in breach of procedure; strikes for the reinstatement of a victimised worker; strikes for recognition and numerous other strikes - a Blackleg or Scab will not be able to be disciplined by his Union in any way because the registrar won't allow it.

All these measures mentioned above are designed to make Unions mere puppets of the state and alter the role of the Trade Union leadership into a state police agent that will protect Scabs and Blacklegs against the membership.

Any democracy that does exist in any Union at the moment will be smashed or exiled. For example, if the Union's rule decision making body (e.g. the National Committee of the A.E.W.U.) put forward to the Registrar rules that they did not like and the Registrar told them to go back and

change them, and the membership refused to change the rule, the Union would be deregistered⁽⁹⁾.

Secret Ballots.

The Tories, as already stated, will dictate to the Unions how they should run their organisations, but they are not satisfied with this, they also intend to tell Unions, that the Secretary of State has a much better knowledge of the rank and file feeling than the elected representatives of the Unions. In Clause 127 the Secretary of State can apply to the Industrial Court for an order requiring a ballot to be taken where:

'There are reasons for doubting whether the workers who are taking part or are expected to take part in a *strike or other industrial action* are or would be taking part in it in accordance with their wishes, and whether they have had an adequate opportunity of indicating their wishes in this respect.'⁽¹⁰⁾

'The condition that the effects of the industrial action in question on a particular industry are, or likely to be, such as to be seriously injurious to the livelihood of a substantial number of workers employed in that industry.'⁽¹¹⁾

This means that firstly the Secretary of State can stop any action whether official or unofficial, including a strike, work to rule, go slow or working without enthusiasm and secondly can swoop on any action, no matter how large or small that action may be. This means if any action is taken by any group, and the employers decide to lay people off - in jumps Robert Carr with his order.

We might think that the Tories would let up at this stage, but no, once they get their hungry teeth into a workers' organisation, like a hungry rat they won't let go. They further intend to decide what area the ballot will cover; the question on which the ballot is to be taken; and the period in which the result of the ballot is to be reported to the industrial court.

Finally, the order can instruct the Union, or officials or shop stewards or any other person to withdraw a previous instruction - if they don't - Contempt of Court. A very dangerous and deliberate omission from the bill is what majority will be needed to satisfy the Government? The Tories have already indicated that they consider the N.U.M. and E.E.P.T.U. have adequate rules for this purpose (2/3 majority needed to call strike). Remember the miners only a few months ago? It is quite clear that the Tories have created another hurdle for the Unions so as to protect the bosses' profits. Of course, this passion for concern over Trade Union members' feelings

is conveniently forgotten when it comes to calling a strike off - nothing is mentioned. The bosses can also do what they like in the case of a lockout; no mention that the Managing Director of a firm must ballot all his shareholders to see if they agree. And lockouts are beginning to rear their heads again, only last December, B.O.A.C. and B.U.A. were threatening workers with lockouts (no doubt with Tory approval).

And these requirements are in addition to the 'National Emergency' order. So the Tories could impose two sets of 60 day orders into workers concurrently. This would make it absolutely meaningless if, for example, Dockers were in dispute over a cargo that was leaving port in a few days, or exhibition workers demanding a wage increase and the exhibition was opening in a fortnight. The bosses could fall off the back of their chairs laughing at the fact that *their* Government had made the discussions abortive. All negotiators know that you choose the right moment when the cards are on your side to demand better wages and conditions. The Tories intend that there will be *no* right moments for stewards and convenors, all the right moments will be given to the bosses (backed by Judges and the Government) to resist any encroachment upon their authority.

End of the Closed Shop.

About 4 million workers are covered by closed shop agreements of one kind or another. The Tories intend to turn all these agreements into a 'scabs' and parasites' paradise. Clause 7(1) makes all closed shop agreements illegal and to enforce this, places an obligation upon the employer to inform all workers that it is not compulsory to belong to a trade union if they don't wish to.⁽¹²⁾ This measure is, of course, an attempt to smash organisation that have been built up over many struggles in the past and now don't obey every order given by the employer.

It is an attempt to break the solidarity in a particular place of work, so that when they are divided the only person to benefit will be the employer. As there is nothing in the Bill that says, when 'nons' drop out of the Union they must forfeit all wage increases negotiated by the stewards, it is therefore an excuse for parasites to opt out of contributions to the Union, but still receive the benefits. If the Tories think they can break the solidarity of the Print worker, Dockers or Car workers who have closed shop agreements - they know nothing of history! Clause 7(2) makes it an unfair industrial practice for *any person* to take any action whatsoever to put pressure on the employer whether it be a strike, work to rule, overtime ban or even to whisper in a mate's ear, 'let's get rid of that non'. But the non can go round the factory saying and doing what he likes against the Unions. The bosses will therefore be able to back a scabs' propaganda campaign.

'Dummy' Agency Shops.

A lot of people at first glance think there is no difference between a 'closed shop' and an 'agency shop'. Nothing could be further from the truth. The first point to establish is that an 'agency shop' is *not* a 'closed shop', and under the Tories' bill it is not even 100% organisation. The Tories will allow any worker, even under an 'agency shop' agreement not to continue being a member of a Union, but to pay the appropriate contribution to the Union in lieu, or to any charity⁽¹³⁾.

Whereas under a 'closed shop' agreement, it is the strength of the organisation that determines the position, under this bill it will be the Industrial Court that will decide what workers and what unions, that is, after a majority of the workers *eligible to vote* have voted in favour. If there is a majority of *those eligible to vote* in favour⁽¹⁴⁾, then the 'agency shop' agreement continues for two years, if a majority is not successful, then the 'agency shop' is outlawed for two years and it will be an unfair industrial action during that period for the employer to introduce an 'agency shop' or for the Union or any person to call any action to force him to do so.

The Tories have now introduced a completely new idea into any voting situation in as much as the majority 'eligible to vote'. This means, for example, that if 550 voted in favour and 300 against, with 250 abstentions - no agency shop. The hypocritical side of the Tories is clearly shown for if *they* needed a majority of *those eligible to vote* in a general election, they would not be in power today (less than 38% of the electorate voted Tory at the last general election, with over 11 million abstainers, but these were not counted as votes against the Tories). This idea is also used in the 'Bargaining Unit' situation which is the next item to be dealt with.

'Bargaining Agent' (or United They Stand, Divided They Fall).

The Tories' idea of granting a 'sole bargaining agent' is supposed to bring about a situation that once a 'sole bargaining agent' has been established in a particular factory, area or even industry, no other Union(s) will dare to encroach upon that decision. The fact is that the Tories by deciding *who* the sole bargaining agent should be, and what area the 'bargaining unit' should cover intend to impose a streamlining of the Trade Union Movement (at the expense of exterminating small unions) and get the Trade Unions fighting against one another. Secondly, as the Tories' agents (C.I.R.) will decide the bargaining unit, they can assist employers who will want existing units broken down so as to identify weak units. For example, there have been times when employers have attempted to introduce Productivity Bargaining or Measured Day Work into a weak factory that was one of a number of factories owned by the same company. The strong factories in the past have been able to prevent this, but if the 'bargaining unit' were in future to be a particular weak

factory, this would be an attempt to divide workers and the only people to profit would be the bosses.

What about the position of minority and small Unions? In a multi-union plant the C.I.R. might recommend that the Union with over 50% of the work force be the 'sole bargaining agent', and as under the Bill workers would be free to join any Union they like, it would be an attempt to force workers into another Union. The idea being that Unions will start fighting among themselves (the big ones to increase their membership, the small ones to hold their existing membership). Some small Unions that have a minority of members in every factory could disappear overnight!

The procedure for applying for any agency shop is in Clause 11(2) where either a Trade Union, or a joint negotiating panel⁽¹⁵⁾ or an employer may make an application to the Industrial Court, who will then conduct the C.I.R. to take a ballot on the question. The C.I.R. can decide who shall vote in the ballot⁽¹⁶⁾, who will organise it⁽¹⁷⁾, and what Unions should be covered⁽¹⁸⁾. If the ballot results in a majority of *those eligible to vote* voting in favour, then the employer must enter into an agency shop agreement. If any person takes any action to prevent this (such as a small Union left out), it will be an unfair industrial action. If the result of the ballot is that a majority of the workers eligible to vote do *not* vote in favour, then there is no agency shop for two years and no further application can be made for at least two years. After two years only 20% of the workforce have to apply for the discontinuation of the agency shop and the rigmorole starts all over again. So a small minority can continue to try to disrupt the organisation inside the factory and wait until the correct moment when there may be dissatisfaction with the Union to ask for a ballot for the discontinuation of the agency shop. On union recognition the position under the bill is even more ridiculous as we shall now see.

Union Recognition (or Procedures to Prevent It).

Under Clause 42(1) of the Bill, one or more Trade Unions, an employer or the Secretary of State can apply to the Industrial Court for recognition or under Clause 42(2)b for a bargaining unit. The procedure is similar to that for an agency shop, except that the Tories' intention as stated in the previous section is more explicit. For example, why should an *employer* have to ask judges' permission to grant union recognition? All he has to do is contact the Union and grant it. The trick is that if an employer can apply to the court he will wait until some militants begin to build up Union membership, and ask for a ballot well before they have achieved the 50% knowing that at that stage the ballot will be defeated and the militants effectively stopped for two years. On the 'bargaining unit issue', the employer will obviously suggest units that are relatively weak as a means of weakening the whole organisation - remember he can suggest a department, section, factory, plant or even industry, whatever

suits him best. And if any person or Union tries to put any pressure upon the employer once this elaborate machinery has started or for the period of the two years stated above, it would be an unfair industrial action. Even this understates the position because if any action was taken, even if the procedure had not started - it would be a breach of contract. So they intend to get us all ways!

All Sympathetic Action Outlawed.

One of the most effective weapons a union has at the moment is that if a relatively weak section wants to go on strike, the union invariably threatens the boss that sympathy strikes will take place elsewhere, or that the goods will not be handled by any other members of the Union. The Tories in their passion to safeguard their paymasters profits intend to make all sympathy and blacking strikes illegal. But bosses combining to defeat a strike will be allowed. The legal position at present regarding sympathetic strikes is very unclear. The type of legal points that are raised at the moment in a court of law when legal action is taken against sympathetic strikers can include, a) Is the particular sympathetic strike a 'trade dispute' within the meaning of the 1906 act (i.e. a dispute between workers and an employer)? b) Is the sympathetic strike breaking a *commercial contract* and therefore unlawful? c) Has the appropriate notice of strike action been given to make the strike lawful? As stated, *at present* these questions raise very complex legal problems which cannot be dealt with here. But! the Tories' Bill firstly completely repeals the 1906 Act⁽¹⁹⁾ and the 1965 Trades Dispute Act (which reversed Rookes & Barnard), and, secondly, just to make the position exactly clear for judges, makes *all* sympathetic action an unfair industrial practice⁽²⁰⁾. This makes no difference whether the strike is unofficial, official, unconstitutional or even constitutional - they are all in the same boat - illegal. The Tories have therefore taken the law right back to before the 1906 Act and associated themselves with the decisions that Judges were making in the nineteenth century.⁽²¹⁾ The repealing of the 1965 Act means also that the Tories have revived the tort of *intimidation* which the Judges in the House of Lords decision invented in *Rookes v Barnard* - 1964.

The extent to which the Tories are attempting to smash the organised working class is shown in Clause 86. Having listed in the Bill all the unfair industrial practices (which covers almost everything), they now turn on *anybody* that might support an unfair industrial action. Any person who takes the following steps will be guilty of an offence under the Bill⁽²²⁾:

- a) Calling, organising, procuring or financing a strike;
- b) Organising, procuring or financing any irregular industrial action short of a strike.

The first point you will note is that *any* action is completely covered and

secondly any sympathetic action that might contribute to the success of the original dispute is outlawed. Let us think of a few examples. If any shop stewards' committee or trade union or any other person financially assists (e.g. collection or a loan from the union) any dispute it will be illegal. If any person writes an article supporting the workers in the dispute or any newspaper supports the workers in the dispute - it will be illegal. But if any person writes an article attacking the workers - it will be okay. The object then is quite clear. It is aimed at silencing Socialist newspapers like the 'Red Mole' that always writes, and accepts, any article supporting workers in a struggle. If the papers won't be silenced, then take them to court and sue them. The sole object, to make them bankrupt and finish the paper for good. The Daily Express, Daily Mail and Telegraph however can continue blanket attacks on workers.

Unfair Dismissal (or Charter for Victimisation).

The Tories in their usual hypocritical manner have stated that there are some measures in the Bill which will increase the rights of workers. For example, they give the impression that the Bill will in future stop 'unfair dismissals'. They even have the effrontery to include in the Bill⁽²³⁾ that 'every employee shall have the right not to be unfairly dismissed by his employer'. But, upon closer examination of the Bill we find the workers' rights are in fact no better than at present, and in many respects worse. The present legal position regarding dismissal is as follows. If a worker feels he has been 'wrongfully dismissed' he can take an action against the firm for damages. If he wins his case then the court will award damages based upon common law principles. What this means is that a worker, once he is dismissed, must make all reasonable attempts to find alternative employment. So if he finds another job after one week, the damages will be one week's wages. If he stays at home and does not attempt to find a job he would get nothing - *even if his case were proved*. Finally, the courts cannot compel an employer to reinstate a worker. Because workers know that the law is biased against them and the only remedy for obtaining a reinstatement is collective action, they invariably successfully secure a reinstatement after a strike, or after threatening the boss with a strike. A report published by the Ministry of Labour in 1967⁽²⁴⁾ showed that an average of 211 disputes occurred for the three years between 1964-66. This represented about 9% of all stoppages recorded. The type of excuses that bosses trumped up to try and get rid of these workers included: Trade Union activities; refusal to undertake a particular job; refusal of a foreman's or supervisor's order; bad timekeeping; alleged incompetence; sickness; misconduct and many others. In fact, you name it, and the bosses thought of it. *All* these disputes under the Tories' Bill would be illegal. Firstly, the Tories' Bill will not basically change the existing legal position: a) the court will not be able to *compel* an employer to reinstate a worker⁽²⁵⁾; b) the compensation awarded to a worker will continue to be based on common law principles⁽²⁶⁾. Secondly,

when a dismissal takes place, the onus of proof will be on the *employee*. The Tories start by naming a whole list of *fair* dismissals in Clause 22, and it is worth repeating to show how many excuses they will allow the boss to dream up when wanting to get rid of stewards and convenors: 'for the purposes of this act the dismissal of an employee by his employer shall be regarded as having been fair if the reason for it (or, if more than one, the principal reason)' is

- a) related to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do, or
- b) related to the conduct of the employee, or
- c) was that the employee was redundant, or
- d) was that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.

This means that an employer can use any excuse he likes to victimise workers, and will get the backing of the Tory laws. The Tories not being satisfied that the above mentioned excuses would cover all circumstances have decided in Clause 24 that if a worker is dismissed because he took part in any industrial action, it will be *unfair*. But, wait for it! If the employer dismisses *more* than one worker for taking part in any industrial action, then it will be fair. This means that the Tories are giving legal backing to mass victimisation (such as in Pilkingtons). If the employer decides to sack the whole strike committee *the boss* will get the backing of the Tory Government and *the workers* will have no redress. One final point on dismissal is that even if you *were unfairly dismissed* and had been at the firm for 23 months there is nothing you can do - you see, the act only includes employees that have been continuously employed for *two years*.

Finally, in Clause 25, the Tories' admiration for 'Scabs' and 'Blacklegs' is again shown when it is made an 'unfair industrial practice' for any person to attempt to secure the dismissal of an employee. So if you refuse to work with a 'blackleg' or 'scab', this will be construed as inducing an unfair dismissal and therefore be illegal.

How to fight the Tories

Financial crashes such as that of Rolls Royce appear very dramatic. Events like this are however only another example of the fact that British employers are in real financial difficulties with their profits. The way they are trying to get out of their mess is by attacking wages, salaries and pensions so as to have more cash for investment. The Tory anti-union bill is just one part - although an important part - of a well thought out strategy of the employers and their government.

To cut wages it is not necessary to actually give a worker less money in his pay packet. Allowing prices to rise will do just as well. Inflation can cut wages without direct struggle between worker and boss. Employers can even claim that they are giving wage rises. In the last year prices have gone up by 8%, and social security charges by another 2%. To be as well off at the end of 1970 as you were at the beginning you needed a 10% rise. The postmen who were offered 8% were therefore offered a wage *cut*, yet the employers and the government claimed that they were being given a generous rise.

At present workers have to go on strike just to keep up with the cost of living. Those who don't strike fall behind and become worse off than before. Technology has created the possibility of everyone enjoying a far higher standard of living, yet we have the situation that some groups of workers are actually becoming worse off. Whereas prices have been going up in the last couple of years at 6-8% a year, wages in at least 90 industries have only been going up at 4% a year⁽²⁷⁾. This means sections of the working class must become worse off. In 1971 one child in six lives in a family below the poverty line⁽²⁸⁾.

It is no solution as the Tories and the Labour Party have claimed for better organised workers to hold back their wage claims. The only people to gain would be the employers and the financiers. Low wages mean higher profits and no employer is going to give away his extra profit to the lower paid and weaker organised.

Not less strikes, but more.

The Tories say that the aim of their Bill is to decrease the number of strikes so as to stop lost production. This is untrue. If the Tories were really interested in stopping lost production they would act against industrial accidents, unemployment or sickness. Five times more production is lost through industrial accidents as through strikes, 30 times more production is lost through unemployment, and 80 times more through sickness (figures for last full year for which records are available). These losses are the product of capitalism and its governments. Since 1966 deliberate actions by Labour and Tory governments have raised the number of unemployed from 350,000 to 700,021. Compared to the loss of production caused through this loss of working manpower, all the days lost in strikes are

totally insignificant.

Since 1962 industrial accidents at work have risen by almost 70% and now stand at a staggering 322,390 a year. Twenty two workers were killed in a warehouse fire in Glasgow, due to illegal acts by the management, the firm was fined only £13.12.0. per body. There are only 39 inspectors specialising in safety work, and they have to cover over 200,000 factories. Each inspector is therefore responsible for over 5,200 factories. If he visited one factory a working day, it would take him over 25 years to visit them all. In 1968 five times as many production days were lost through accidents as were lost through strikes. The government complains about strikes but covers up the scandalous lack of a proper factory inspection system.

An enormous number of working days could be saved by a decent health service. There are 530,000 people ill enough to be waiting to go into hospital (LRD, Dec. 1970) but there are no beds available. According to the *Financial Times*' article on Hong Kong flu '...if one eighth of the working population has been forced to take two days off as a result of the Mao flu epidemic this Christmas, then the little germs will have done more damage in terms of working days lost than all the strikes in 1969'. Instead of the government passing acts to ensure an adequate supply of flu vaccine, it blames the loss of production on strikes.

The Tories do not even expect their Bill to cut the number of strikes. In the United States - with a similar law, more days are lost per worker through strikes than in this country. What the Tories want to end is successful strikes. The bosses fear the short, sudden and therefore effective strikes called from the shop floor at the time the employer is weakest. They want the constitutional strike which will give the employer time to prepare and is therefore more likely to result in a defeat for the workers.

Unemployment and Other Weapons.

By increasing unemployment the Tories hope to intimidate workers against striking. They also want to select the weaker organised sections of workers and defeat them. This explains their intransigence over the postmen's demand. They hope that if they can beat one section of the workers they can scare the others.

The Press is another key weapon. This is owned entirely by large publishing companies which exist to make profits in just the same way as do all other companies. During strikes the press supports the employer and is against the workers. In the power workers' strike they tried to whip up hatred against the strikers. In the postmen's strike they tried to convince the postworkers that the strike was about to collapse. The press attempted to make the strikers feel isolated and cause them to return to work. No trade unionist ever got a decent hearing from the capitalist press and none ever will.

The Tories aim to use racialism as a means to confuse workers as to who is their real enemy. The press helps in this campaign by giving huge publicity to the speeches of Enoch Powell and others whose speeches create racial antagonism.

The Labour Movement Must Act.

The Tory offensive is already under way. The question is: Has the working class got the power to defeat it? Undoubtedly the answer is yes!

There are nearly 10 million workers in trade unions in this country. Without them nothing could be produced; no goods could be transported, and no articles could be sold. The employers have the 1% of the population who own 81% of all industrial shares, and those who have been taken in by the employers' propaganda. In terms of real power the organised working class is enormously stronger than the employers. The question is whether that strength will be used or not.

Not all workers understand the importance of the Bill and some even support it. This is true but it can be overcome. All it would take would be a massive propaganda campaign by the leaders of the trade unions and Labour Party. At every opportunity - by meetings; interviews; publications; Parliament; they would denounce the Tory anti-union campaign and explain that it is only by the strength of its trade unions that the British working class has built up and maintained its standard of living. There should be no mincing of words. They should not apologise for strikes but *defend* them. People like Vic Feather, Harold Wilson and so on have been heard of by every worker. A real campaign by them would arouse the interest of millions of trade unionists and soon bring home the importance of destroying the Bill.

But Wilson has no intention of fighting the anti-union laws. On the contrary, it was his government which introduced the first form of them in its 'In Place of Strife' proposals. Neither does Feather have any intention of doing anything. The campaign of the TUC against the Bill wouldn't frighten an old grandmother, let alone the Tory employers. They refused even to support the one day strikes called against the Bill on Dec. 8th and Jan. 12th. They are more concerned with stopping the militants fighting a real campaign than they are with fighting the Tories.

More and more workers are beginning to understand the vicious nature of the Tory Bill. Rising prices, Health Service cuts and rocketing unemployment are also making workers aware that the bosses and their Tory government are the main enemy.

A big and active movement is growing inside the unions that wants to defend working class living standards and fight unemployment. Obviously this puts pressure on the union officials, particularly at local level. The massive demonstration of Sunday 21st February undoubtedly shows the effect of even Feather and other right-wing trade union leaders when they make 'left' noises. It would, however, be dangerous to conclude that a leadership which disowns unofficial strikes and talks about our 'national economic interests' - i.e. boss and worker uniting to solve Britain's crisis - can be pressurised into fighting those same bosses and their government. The *Financial Times* understands the TUC very well. In an editorial on 12th January, the very day of 'action' called by the TUC, it said that the 'fundamental attitude (of the TUC) is probably not so different from that of the CBI (the Confederation of British Industry) ...

Its readiness to negotiate with the Government can be read between the lines, in reference to the need for higher productivity'.

These right-wing leaders when they appear to be responding to pressure are, in fact, adapting their words to the changing mood and opinions of the membership in order to retain their control over the movement.

The Rank and File must organise.

But if the TUC will not fight what can the rank and file hope to achieve? Won't they inevitably be defeated by the Tories? Fortunately, this is not at all the case. Certainly the fight to really defeat the Tories and to get control of the unions out of the hands of their present leaders is a long one, but it is perfectly winnable. What is more, it is vital to win because otherwise the Tories will really slash the health service, the social services, housing, education, wages and everything else that goes up to make a decent standard of living.

First it is necessary to get organised. Trade unionists better than anyone understand the need for organisation. If ten people cooperate in an organised way, then they are not ten times stronger than any one of these people individually, but they are a hundred times stronger. An individual can do very little, but a group of even a half dozen can produce leaflets and pamphlets explaining the laws and how to fight them. It can hold meetings to agitate against the Tories, it can organise demonstrations against the laws and other Tory attacks on the working class. In short, it can do a hundred and one things which will bring home to the mass of their fellow workers what this Bill is about and how to fight it. In some areas this can be organised through the Trades Council or through local committees of trade unionists. In other areas, especially where the right wing is strong, new organisations will have to be set up in order to try to carry out a campaign against the Bill. What is key is not the organisational form, but that such groups begin work at once. There are an awfully large number of people to convince and time is short. A start must be made now.

What ideas.

When trade unionists meet to discuss how to fight the Tory laws, they often discuss the same questions no matter where the meeting takes place. One of the most frequent of these discussions is on whether we should fight the Bill as a separate issue or whether we should combine it with campaigns in support of strikes for higher wages, campaigns in favour of workers control and so on. This is an important question and must be answered.

The answer lies in understanding the Tories' real aim. As explained, their aims are not just an attack on trade unions, but are aimed at the living conditions of the working class. The Tories, to be successful, rely not only on the anti-trade union laws, but on increased unemployment, and on inflicting decisive defeats on sections of workers in order to intimidate other workers. It is obvious that this Tory strategy can only be defeated if they are prevented from doing all these things. Not only must one fight the Bill, but also fight unemployment and Health Service cuts, etc. Support must be given

to workers in strikes and so on. The fight against the anti-union laws is in itself insufficient unless it is accompanied by an attack on all the other Tory measures.

Inter-union solidarity is vital. The Tories aim to win by using divide and rule tactics. They want to defeat the unions one by one. They know a defeat in one industry will affect workers in another. The way to defeat this is by rapid solidarity action. For example, if the telephone engineers had struck at once in support of the post office workers then the strike would have been won in a week - and the engineers would benefit from the fact that a decisive defeat for the Post Office would make it easier to win the engineers' next wage increase.

It is also necessary to fight all the Tories' indirect attacks. The employers' lies must be combatted in every detail: where old age pensioners are discussed for example, Heath's crocodile tears should be contrasted with the fact that the Tory-controlled Greater London Council turned down a suggestion by London busmen to operate a cheap fares scheme for pensioners.(30)

A campaign must be organised to mobilise the great power of the working class. The AUEW called a one-day stoppage against the Bill on 1st March and again on 18th March. The job of the action committees is to organise campaigns in other unions for official solidarity strikes in such cases. If the right-wing officials of unions are able to prevent such strikes being called, then the action committees must try and get supporting strikes at local level. This should be the beginning of a campaign for a General Strike against the Tories.

These committees must ensure that solidarity actions are mobilised for all workers fighting the employers and that the resources of the unions are used at both local and national level to fight redundancies; cuts in the Health Services and other Tory attacks on social services. Trade union money is used to sponsor many Labour M.P.s. A campaign must be conducted for the withdrawal of funds from all union sponsored M.P.s who do not give 100% support to the fight against the Tory Bill. The Labour Party's refusal to pledge themselves to an unequivocal rejection of the Bill shows that they are neither prepared nor able to lead a struggle on behalf of the working class. Members of Parliament backed by trade union money must be committed to a policy based on the interests of the trade union membership.

Inside the Unions.

An absolute necessity for fighting the Tories is complete solidarity inside the Unions. Any weakening will be fatal. To get that solidarity all members of the Union must be involved in taking key decisions, and all officials must be responsible to the men they represent.

Officials who are not in touch with the men on whose behalf they are supposed to negotiate are all too frequent. Too many union officials live lives that are totally different to the lives of the members. Sid Greene of the National Union of Railwaymen has been voted one of Britain's best dressed men and admits to

spending £1,000 a year on clothes. That £1,000 is more than some of his members earn of a year. With his living standards how can Sid Greene possibly understand the financial problems facing the majority of his low paid members? All union officials should be elected and subject to frequent re-election. Officials will then be forced to respond to the demands of ordinary union members. The members of the unions must have the right to elect any other union member of their choice. It is a scandalous denial of the rank and file workers' rights that certain unions have rules preventing Communist Party members holding office, and that in other unions people standing for full time positions must have the approval of the executive committees.

Plaintive pleas by the Labour M.P.s and members of the TUC for the Tories to cease their attacks on the working class are treated with contempt and scorn. The Tory policy is not a result of mistakes or muddled thinking. They are a government of the bosses, whose job is to solve the economic crisis at the expense of working class living standards.

No government can continue to rule if its decisions and laws are ignored and challenged by the trade unions. The only practical way to defeat Tory strategy is to bring the Government down by the use of industrial action. If this action is not taken, the Tories will use their parliamentary majority to put the Bill on the Statute Book and implement other attacks on workers' conditions. They cannot be moved by protests or appeals.

1. Clause 88 (3).
2. Clause 125 (1).
3. Clause 128 (1).
4. Whitakers Almanack.
5. Lord Tanglely is chairman of a petroleum company which last year had a turnover of almost £59 million and a net profit of nearly £4 million.
6. Section 7 (5).
7. Section 13 of the Administration of Justice Act 1970.
8. Clause 10.
9. To confirm this, read Clause 71 (5), 72 (1)b and (2)b.
10. Clause 127b.
11. Clause 127c.
12. Clause 18 (2).
13. Clause 11 (1)b.

14. Clause 13 (1).
15. Clause 41 (d).
16. Clause 12 (2)a-b.
17. Clause 12 (3).
18. Clause 12 (2)b.
19. Schedule 8, p.138.
20. Clause 87.
21. Anyone interested should read judgements such as Lyons v. Wilkins 1896.
22. Clause 86 (2).
23. Clause 70 (1).
24. Dismissal Procedures, a report - HMSO 1967.
25. Clause 94 (4)b and 94 (5).
26. Clause 102 (2).
27. Incomes Data investigation into 126 industrial groups.
28. Press release of the Child Poverty Action Group, 25/1/71.
29. Financial Times 6.1.71.
30. Target Dec 1970

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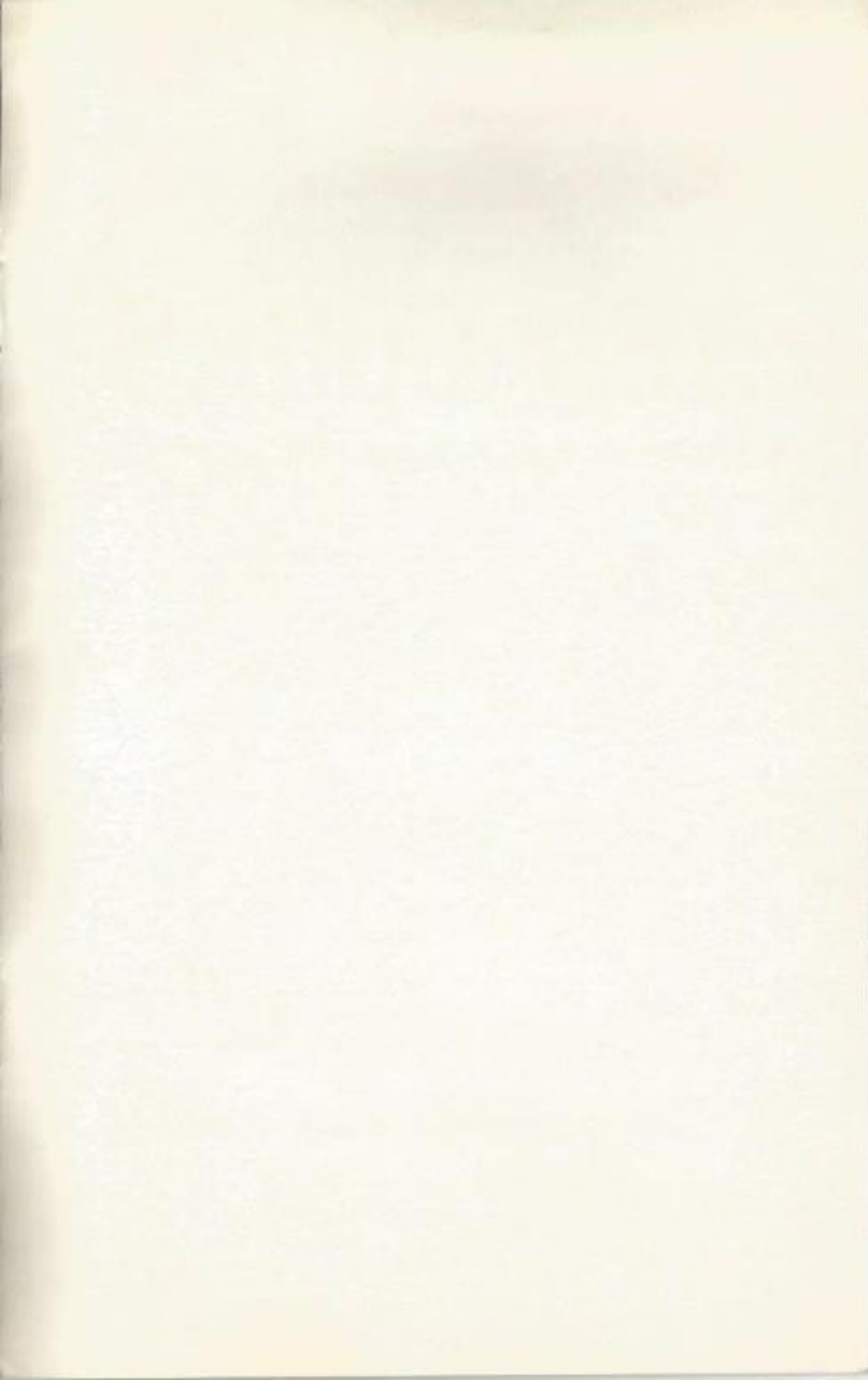
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