Fabian tract 406
divide and rule:
the industrial relations bill

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I. Introduction

The purpose of this pamphlet is to show why the proposed Conservative industrial relations legislation is, at best, irrelevant and, at worst, deeply divisive at a time when the closest co-operation between government, management and trade unions is needed if our industrial relations system is to be effectively reformed. The only way we are likely to get a better system is by understanding the real problems facing both trade unions and management. Reform has to be based on analysis if it is to be effective.

It is, therefore, important at the outset to dispel some of the misconceptions about trade unions in particular and industrial relations in general on which the Conservative bill is based and which are shared by many sections of public opinion. It is a commonly held view that the main problem of British industrial relations is the number of strikes; and that the fault for these lies with the trade unions.

Inflation strikes

Of course, it is not surprising that industrial relations should have become headline news. Since the war, the British economy has been run on a very small margin of error. Politicians of both parties have tried to combine conflicting economic objectives—sustained growth, stable prices, a healthy balance of payments and full employment. Their relative lack of success in this tight rope act and their inability to control some of the main factors involved has encouraged them to try to influence collective bargaining. It is entirely legitimate that governments should have a view on wage determination; and it is certainly true that strikes in key industries can affect export orders very seriously indeed. But to argue, as many people do, that the number of strikes is one of the major problems of our society is to bend the facts beyond recognition.

Trade union leaders often point out that time lost through strikes pales into insignificance when compared with time lost through industrial accidents, unemployment or sickness. In 1970 twice as many working days were lost through industrial accidents, fifteen times as many through unemployment, and over thirty times as many through sickness.

Even considering strikes in isolation, there is little justification for the popular belief that Britain is notably strike prone. It is true that there has been a substantial increase in the number of days lost because of strikes during 1969 and 1970. But a rapid rate of inflation is usually accompanied by an increase in militancy. Other industrial countries, including those with a far more highly developed legal system, are also experiencing a rise both in prices and in the number of strikes. In fact, since the war, the British strike record has been relatively good—worse than the Scandinavian countries and West Germany, but far better than other important rivals like the United States, Canada, Italy and Australia.

Professor Hugh Clegg has written that "striking is an exceptional habit" (The system of industrial relations in Great Britain, Blackwell, p318). Certainly most industries have few strikes. Even in those industries which do have a high strike record, like the motor industry, coal mining, the docks and shipbuilding, most of the time lost is concentrated in a few firms. Professor Turner estimates that, in the metal using industries, strikes are mainly confined to only 100 of the well over 4,000 firms concerned (Is Britain really strike prone? CUP, p46). It may be that we have more unofficial (not backed by the union) and unconstitutional (in breach of procedure) strikes than some other countries. But this means only that our strike problem is different and not that foreign solutions are necessarily relevant to our situation.

The evidence we have from abroad suggests that in any case the possession of a legal framework does not necessarily increase or decrease the days lost through strikes. The record of the United States is far worse than ours, while the record of Germany is better than ours. Yet both have legal frameworks. From the point of view of British needs, a general legal
solution is likely to be an ineffective answer to a problem, which is as a rule confined to a few firms in a few industries.

bashing the unions

The trade unions have become the scapegoats of the mass media, of politicians, and apparently of a growing section of the public. Part of the blame for not getting their side of the story across must lie with the trade unions themselves. Trade union publicity is still very much in its infancy. But a much more important factor is the sheer prejudice of a large part of the mass media in the reporting of industrial affairs—the fault not of industrial journalists (whose integrity and knowledge are of the first order) but of their editors. Except on a few occasions, news stories about strikes usually carry the inference that the strikers are at fault. How often are managers publicly blamed for their failure in allowing relations to break down?

One reason for this is that trade unions are now considered by many to be too powerful. Yet, in some ways, they are less powerful than they were in the 1940s. Though there is the beginning of a new upward surge in total union membership, the percentage of workers organised is still less than the 45 per cent in unions in 1948. They have always been in a less powerful position than management. Decisions in a firm still come from the top. Trade unions have, however, to operate in a far more democratic environment. Even in the most bureaucratic of unions, the leadership cannot afford to be too far ahead of the members. If they do, the members are likely to vote with their feet by joining another union.

It is, of course, true that some groups of workers in some industries have considerable bargaining power. This is either because they do key jobs or because they work in key industries or in key parts of key industries. Craftsmen or other strategic workers like cranesmen or internal transport drivers generally have more bargaining power than other groups in a firm. Workers in industries like electricity supply or the docks which are vital to the economy, or those in firms like the motor component companies, without whose goods whole industries are brought to a standstill, or those in industries like the press, where the employers are, because of the nature of their product, peculiarly vulnerable, obviously have bargaining power.

But most workers are not in this fortunate position. As has already been pointed out, the majority of workers are still not organised into trade unions. Even when they are members of trade unions, the employer is in a far stronger position than the workers. Throughout industry a gross imbalance of power, which elsewhere in society would be considered intolerable, is accepted and justified. Too few employers see anything peculiar in the fact that in many cases they retain the old fashioned capitalist’s right to hire and fire, to demote and downgrade, and to issue orders without the need to explain or consult.

case for trade unionism

The case for trade unionism is not so much that trade unions improve wages and conditions. It is rather that they bring an element of democracy into an environment which would otherwise be totally autocratic. Many managers instinctively believe that the presence of a trade union in a firm is an unwarranted interference into private affairs of the firm. To these there are no legitimate differences in a firm. Management interests and employee interests are always the same, even if the workers think otherwise. The point of trade unions is that they force employers to recognise that workers have different interests. One does not have to be a Marxist to realise that, when, for example, a firm decides to make several thousands of its workers redundant, the workers involved probably feel rather differently about their fate than does the management. To managers, redundancy may seem in the interests of the company; to workers, redundancy is, at best, an unforgettable
period of insecurity and worry, and, at worst, a condemnation to a sentence of enforced idleness.

The power of employers has, if anything, grown in recent years. There are more big employers than ever before. Whereas the 320 largest companies held 62 per cent of total net assets at the end of 1957, by the beginning of 1968 they commanded 87 per cent, with the top 80 alone holding 63 per cent. Today a simple management decision by a giant firm can affect as many people as the action of a pre-twentieth century government. Over 40 per cent of the labour force work for the 221 companies which employ 5,000 or more workers. The situation is further complicated by the growth of the huge multi-national firm. About 15 per cent of British manufacturing industry is foreign owned, employing over a million British workers. Workers in these companies often suspect that critical decisions in these companies are made abroad. Certainly the ability to stockpile or channel investment elsewhere tips the power balance further in favour of the employers. The only way that employees have any chance of influencing directly the decisions of the giant corporations is if they organise themselves into trade unions. Thus, despite the gains that trade unions have made for their members, trade unions are more than ever necessary if there are to be any checks on the arbitrary power of managements.

The reasons for strikes have, therefore, to be considered against a background of unequal power in industry. To blame the workers alone is a gross oversimplification of a problem which usually has complex causes. Research carried out on strikes shows that their causes include such diverse factors as inadequate machinery, unfair payment systems, the pressures of technology, employee insecurity, and also the reaction of a better educated labour force to old style paternalist management. This is not just a matter of academic importance. Any programme of reform which is not founded on awareness of the complexities of industrial relations is bound to fail.
2. the Donovan report and "In place of strife"

The Conservative Government's legislation is being introduced against a background not only of considerable public concern about industrial relations but also of a growing body of knowledge both about the way the industrial relations system works and about the relevance of different proposals for reform. The Donovan Commission, in particular produced the first official report which was backed up by modern research. Any analysis of the Government's proposals has therefore to begin with its proposals. There were two different kinds of pressure on the Labour government: one came from the unions themselves who, as a consequence of judicial decisions like Rookes v Barnard, had begun to worry about their legal position; the other from public opinion polls which showed a mounting but confused desire for something to be done about unofficial strikes. The Labour Government, elected in 1964 with a miniscule majority, had committed itself to introduce the Trade Disputes Act (1965) which restored the unions' original legal immunity. At the same time, they accepted that there were industrial relations problems by setting up a Royal Commission on Trade Unions and Employers' Associations under the chairmanship of Lord Donovan.

The Donovan Commission had representatives of both sides of industry, including the Chairman of the Coal Board, a former employers' organisation representative, a leading banker, and the General Secretary of the TUC. There were also a number of people with specialist knowledge, including Professor Otto Kahn-Freund, a leading authority on labour law, The Times industrial correspondent and a leading academic, Hugh Clegg. It received evidence from 430 organisations and people and commissioned research (directed by W. E. J. McCarthy) on subjects like workshop relations.

the Donovan remedy

After three years of painstaking work, the Donovan Commission reported in 1968 that the major problem of British industrial relations was not strikes but the breakdown of regulated bargaining. There were "two systems" of industrial relations. In many industries, particularly in the private sector, the influence of national industry wide agreements had declined dramatically. The coming of full employment had given more bargaining power to the shop floor. As the Donovan Commission pointed out, many employers acquiesced in this development, partly to keep full time officials out of their undertakings. But they did not face up to the implications of this change. Instead of making effective local agreements which would define the status of local bargaining and also relate it to the national agreement, management allowed the authority of the national agreement to be eroded without replacing it by anything else. The increase in unconstitutional strikes, the spread of wages drift, the degeneration of payment by results schemes, and the mushrooming of overtime were, in fact, only symptoms of the chaos that management had allowed to develop at plant level. In the words of the Donovan Commission, "the root of the evil is in our present methods of collective bargaining and especially our methods of workshop bargaining, and it is in the absence of speedy, clear and effective disputes procedures".

One can argue about how far the Donovan analysis applies to the whole of British industry. Certainly national agreements in the public sector are far more important in the determination of a worker's take home pay than in the private sector (particularly engineering and the building industries). But, as the major industrial relations problems tend to be concentrated in the private sector, this is not a convincing counterpoint.

The Donovan Report also destroyed the myth, so dear to the mass media, that the unions are mainly to blame for poor industrial relations. Though the unions are criticised for failing to come to terms with plant bargaining, Donovan says that the main responsibility for industrial relations must always lie with management. It is management who claims the right to manage. It cannot, therefore, absolve itself of responsibility.
The Commission was not in principle against legal enforcement of collective agreements. However, it considered that, given the inadequacy of most agreements, it would be self-defeating to introduce enforceable contracts certainly until the system itself had been reformed. "To make the present procedure agreements legally enforceable would be at variance both with our analysis of the causes of the evil and with our proposals for a remedy. It would divert attention from the underlying causes to the symptoms of the disease and might indeed delay or even frustrate the cure we recommend".

The Donovan Commission, therefore, concluded that the major thrust of reform should be to tackle the causes of our industrial relations problems. To encourage firms to negotiate effective plant agreements, the Commission proposed that companies should be obliged to register collective agreements with the Department of Employment and Productivity. In addition, the Commission suggested that a statutory body, the Commission on Industrial Relations (CIR) should be set up to examine and give advice on problems arising out of the registration of agreements, of trade union recognition, of deficiencies in factory procedures and of industrial relations generally. The Commission was to rely on persuasion rather than on legal penalties.

In essence, the Donovan approach was to reform and strengthen the voluntary system of bargaining.

reaction to Donovan: "In place of strife"

Both the Labour Government and the TUC accepted the Donovan analysis. Even the employers, while complaining that the report did not go far enough, were prepared to tolerate an Act based on Donovan. How was it the Labour Government failed to get any industrial relations legislation through?

The TUC's points of dissent on the Donovan Report were comparatively few; the only really strong objection was to the controversial proposals adopted by a bare majority of the Commission to limit to registered trade unions the protection of Section 3 of the 1906 Act—the clause which is primarily responsible for the fact that virtually all strikes are lawful at the present time. Since this proposal was also rejected by the Labour Government in *In place of strife*, it is fair to say that the "meat" of Donovan excluding this proposal could have been incorporated in an Industrial Relations Act acceptable to the TUC.

Various reasons have been advanced as to why the Government did not take this step. Some say that it was because the Tories had preempted them by the publication of *Fair deal at work* earlier in the year. Others point to the traumatic effect of the Girling "who does what" strike where a strike of 22 workers resulted in 5,000 car workers being laid off. Others again suggest that the massive public opinion poll majorities against Labour tempted the Prime Minister into making a new initiative. Whatever the reason, the Government's response to Donovan was the publication of the ill-fated white paper, *In place of strife* in January 1969.

Most of the proposals in *In place of strife* came straight from Donovan. Companies with over 5,000 were to register their procedure agreements with the DEP. A CIR was to be set up, first as a Royal Commission to allow it to begin its work immediately (though as part of an industrial relations bill, it was to be put on a statutory basis). Where the CIR recommended the recognition of a trade union, the Secretary of State was to be empowered to order the employer to negotiate with the union. "If he does not, the union will be able unilaterally to take him to arbitration, whose award will be legally binding." There was to be statutory machinery for protecting employees against unfair dismissal. Trade unions would be required to register and to have rules covering the matters listed by the Donovan Report.

Much of the White Paper would have
been of great advantage to the unions. In particular the proposals on trade union recognition would have helped the trade union movement to overcome the opposition of hostile employers to union organisation which has been the major factor in holding back union growth. The Government also proposed a scheme for grants and loans to assist union mergers, training, research and the employment of management consultants.

But the trade unions objected fiercely to the new proposal to give the Secretary of State "a discretionary reserve power to secure 'a conciliation pause' in unconstitutional strikes and in strikes where, because there was no agreed procedure or for other reasons adequate joint discussions have not taken place". The TUC pointed out that many procedures at the present time are narrow in scope and one sided in operation. Moreover, agreement on new procedures would be made much more difficult if they were to be coupled with legal sanctions. The trade unions also bitterly opposed the financial penalties which a new industrial court (as proposed by the White Paper) could impose to enforce a 28 day "conciliation pause" and also orders imposing strike ballots in official strikes which "would involve a serious threat to the economy or public interest". Other proposals which the trade unions were against included the reserve power to give legal sanction to the CIR's recommendations on inter union disputes, and the obligation to register.

During the spring of 1969 opposition to In place of strife mounted and on 26 March it was defeated on the National Executive Committee of the Labour Party. Nevertheless it is just possible that if the Government had put the whole of In place of strife into one Bill they might have carried the day, since it was well known that certain unions were sufficiently attracted by some of the favourable aspects to tolerate the unfavourable ones. But on 15 April the Government destroyed its chances by the mistake of allowing the Chancellor of the Exchequer, in the course of his budget speech, to announce the so-called "short bill" in terms which made it seem that its true intention was to hold back wages. Of the five proposals in the "short bill" two were unpalatable and three were favourable, but the Government compounded its error by describing the bill as "an essential component in ensuring the economic success of the Government". From that point it was damned by trade union leaders and, most important, backbench Labour MPs, as a crafty alternative to the discredited and unpopular statutory incomes policy.

Ultimately the Government was forced to climb down. In exchange for a "solemn and binding undertaking" from the general council of the TUC to deal toughly with unconstitutional disputes under rule 13 the Government dropped the "penal" clauses. The TUC also agreed to take powers to intervene in inter union disputes. But despite the fact that the Government's pressure had forced the TUC to move farther than their initial position, it was difficult for the Labour Party to represent the episode as anything other than a defeat. Though the CIR had been set up in March 1969, the DEP had gone ahead with a scheme for the voluntary registration of agreements, and the Government had introduced a new bill whose enactment was stopped by the June election, it was easy enough for the Conservatives to say that nothing had been done about industrial relations. The trade unions might be blamed, perhaps, for failing to take seriously the possibility that a defeat for King Log in June 1969 laid them open to a victory for King Stork in June 1970. But it was the Labour Government's insistence on being seen to take some rapid action against strikes (instead of concentrating on getting across the Donovan message and speedily implementing their proposals) which ruined an otherwise acceptable and relevant bill and laid the way wide open for the Conservatives.
3. the Conservative bill

From the point of view of getting legislation through the House of Commons, the Conservative Government is in a strong position. Elected with a working majority, it seeks to claim that it has a "mandate" to introduce industrial relations legislation, the more so because the Tories made what they called "trade union reform" one of the main themes of their election campaign. The Government is also backed up by a confused but strong public sentiment that something ought to be done about strikes. But, as vic Feather, General Secretary of the TUC pointed out, "the electorate gave it no mandate to import into the British system of industrial relations this mish-mash of the worst features of American law." So it is entirely right that the Labour movement should argue as clearly and forcefully as possible against one of the most misconceived measures of modern times.

Intellectually, the bill is a disgrace. It completely ignores the painstaking research carried out by the Donovan Commission and without giving any reasons, rejects its analysis. Yet the Conservatives have done little research of their own. The Conservative proposals, which were first put forward in Fair deal at work (based on A giant's strength, produced ten years earlier by the Society of Conservative Lawyers) some months before the Donovan Commission reported, have been scarcely altered in fundamentals since, deal almost exclusively with symptomatic. Their main aim is not to reform collective bargaining but rather, by imposing from above a complex system of legal penalties (including imprison-ment) on workers and unions, to stop strikes and other forms of industrial unrest. As the TUC comments in its pamphlet Reason, "this stems from the Government's belief that strikes are a disease arising from union indiscipline; not a symptom of inadequate wage structures, low and one sided methods of solving disputes and the inherent conflict about wages and conditions in industry." In effect, the Government is asking the trade unions to be industry's policemen. It forgets that trade union leaders are officials of democratic organisations in which the seat of power has almost always been close to the members. In fact, the Donovan Commission concluded that the kind of disciplining of members which the Government's proposals would require would be "more likely to lead to internal disruption in the unions than to a reduction in unofficial strikes."

The role of the courts

The Government also appears to believe that the ultimate regulation of industrial relations is best entrusted to courts and lawyers. The cornerstone of the Government's new legal machinery is to be the National Industrial Relations Court (NIRC). The court, which will be able to sit in various parts of the country, will consist of from two to four laymen (one of whom will be an employer) and a President, who has to be a judge of the High Court or the (Scottish) Court of Session. The peculiarity of this court is that, unlike other courts, with the possible exception of the Restrictive Practices Court, it will be expected to make decisions about vital policy and administrative matters. It will not only be for the NIRC to decide whether to refer the state of industrial relations in a particular undertaking to the CIR, but also whether to make the particular procedure agreement recommended by the CIR legally enforceable. The NIRC also has the power to decide whether the CIR should examine a trade union's claims for trade union recognition or bargaining rights. It is even responsible for authorising ballots on the enforcement of union recognition and on the introduction or continuation of an "agency shop". Astonishingly, it is the NIRC, not the Government, which has the ultimate political responsibility of imposing a conciliation pause or a strike ballot in cases of national emergency.

collective agreements

and the law

The Government proposes that, unless there is written provision to the contrary, new written collective agreements should be legally binding. In other words, unless
trade unions manage to persuade employers to insert a specific clause saying that the agreement is not legally binding, the union is liable in the courts—even though it has never agreed that the agreement should be legally binding. And, even if the union has managed to negotiate a non-legally binding agreement with the employer, the employer will still be free to ask the NIRC for a reference to the CIR and, after the CIR has reported, to apply to the NIRC to make a CIR recommendation on procedure legally binding.

Under the Conservative proposals, trade unions will be expected to police agreements. Unless the union takes "all such steps as are reasonably practicable" to prevent the breach of a legally binding agreement, it can be made to pay compensation. It will, presumably, be for the NIRC to decide in individual cases whether a union has or has not taken all such steps. What the Government, in fact, is trying to do is to impose an alien American system on to a country whose traditions and conditions are very different. Agreements only became legally binding in the United States after the Taft Hartley Act of 1947. It has made little difference to the number of strikes during the term of contract, which had always been relatively few. The typical American strike, which happens at the end of the contract, is usually long drawn out and costly. It should not be forgotten that the USA loses about five times more in working days lost per thousand workers through strikes than does this country. In recent years, there has also been an increase in the number of "wild-cat" and between contract strikes which suggests that, despite the differences in industrial relations systems, America is facing similar problems to those of this country.

As most trade union officials and shop stewards and many managers with industrial relations expertise realise, legally binding contracts are irrelevant to the real problems of British industrial relations. It is probably significant that the CBI has asked the Secretary of State for Employment that the onus for bringing cases against employees for breach of contract should rest with the new Registrar of Trade Unions. The CBI obviously fears that many sensible employers will be reluctant to use the law against workers with whom, at the end of the day, they will still have to carry on an industrial relations dialogue.

the registration of trade unions

The Conservative Government also intends to introduce a new system of registration of trade unions, whereby all trade unions wishing to escape having to pay unlimited damages for "unfair industrial practices" will have to register with a new Registrar of Trade Unions and Employees' Associations. In return the Registrar will have considerable powers over the content and operation of union rule books. Trade union rules must include provisions to ensure that a union does not exclude from membership anyone who is "reasonably well qualified for employment" as a worker of a kind catered for by the union (or by a branch or section of it), and that a financial member is not prevented from resigning from his union; and that members are not disciplined for refusing to participate in "unfair" industrial practices. The substitution of the principle of "state regulation" for "self regulation" (which is what the present system of registration amounts to) means that the requirements for registration can be tightened up as and when the Government thinks fit. Clause 14 of the bill already gives the Registrar the power to ensure that union rules meet "any other requirements" the Registrar likes to impose.

undermining trade union organisation

The Secretary of State for Employment has stated that he wishes to strengthen trade union organisation. Yet a number of the Conservative proposals will have the opposite effect. The right not to belong to a trade union is put on the same level as the right to belong to a union. Principle (1) of the consultative document states "every individual should have
a right to join a trade union and participate in trade union activities, and an equal right not to do so." Clause 5 of the bill is based on this principle. To some people this may seem fair. Certainly no union would seek to make union membership a legal obligation. But what outsiders forget is that the workers' security depends on building up effective trade union organisation. A man who refuses to join a union in an organised factory is not only enjoying the benefits of unionism without accepting any of the obligations of union membership, but is also a potential threat to union organisation. It is strange that a bill whose first principle claims to be the development of free collective bargaining should equate the right to join a union which furthers collective bargaining with non-unionism which obstructs it. No wonder that Professor Wedderburn has called the bill "a charter for blacklegs and non-unionists".

Under the Conservative proposals closed shops will be illegal. The pre-entry closed shop, where a worker has to be a union member before taking up a job, will be banned. This will apply not only to formal pre-entry closed shop agreements, but also to the informal arrangements which have come about as a result of shop floor pressure. As the TUC points out, "the outlawing of the pre-entry closed shop ignores completely the positive job which this kind of arrangement can do in providing stable employment and stable industrial relations in industries where entry control is vital for the maintenance of established standards". Under the Conservative proposals, post entry agreements will also no longer be possible. Instead, the Government intends to allow "agency" shops. By this arrangement, a union can secure an agreement with management whereby workers either become union members or, if they do not wish to become members, pay for its service or, in the case of conscientious objection, make equivalent contributions to an appropriate charity. In cases where the employer has refused to agree to an agency shop, there is provision for a ballot. To be successful, however, in establishing an agency shop the union will have to win the support of the majority of those "eligible to vote"—not just of those who actually vote. Where a union does not get a majority, it will not be allowed another attempt for two years. During this period a strike called by the union to force the employer to yield would be considered an "unfair industrial practice". Even if the union does secure a majority it will be open for the agency shop to be challenged after two years by a dissatisfied 20 per cent requesting a new ballot.

The consequences of not being registered as a union and the long list of "unfair industrial practices" tilt the balance of power in industry further in favour of the employers. The freedom to strike of all persons other than those acting with the authority of registered unions will largely disappear. This is the implication of clauses which say that it shall be an unfair industrial practice for organisations and individuals, other than registered trade unions and employers' associations (and their officials and agents acting "within the scope of (their) authority") to induce (or threaten to induce) any person, in the course of an industrial dispute, to break a contract. This proposal, in effect, means that nearly all those organising and many of those participating in unofficial strikes (the vast majority of all strikes) will be exposed to orders to refrain from unfair industrial practices and to orders for unlimited compensation.

Even the freedom to strike of registered unions is severely limited. Breaches of legally binding agreements are classed as "unfair industrial practices". It will be an "unfair industrial practice" to call a strike over any question of recognition or bargaining rights while the case is before the CIR or NIRC and for a period after the CIR has reported. Any strike action (or threat of it) to enforce the continuation of or to induce an employer to enter into a pre-entry closed shop agreement is an "unfair industrial practice" as is industrial action over an agency shop dispute while the CIR is organising and conducting a ballot or at any time after a ballot unfavourable to an agency shop. Any "secondary" industrial action will usually be an "unfair industrial practice", includ-
ing action to persuade workers not to deliver goods or provide services to a firm where workers are on strike. For a registered union guilty of an "unfair industrial practice" the financial liability to pay compensation will be limited in the sense that there will be maximum amounts, but all the funds of a union that are available to finance industrial action will be available for the payment of compensation awards. If the NIRC awarded against one of the 19 unions with over 100,000 members, the union might have to pay as much as £100,000 for each "unfair industrial practice." Moreover any person alleging that he has suffered loss can claim such compensation. Protection against a valid claim is available only to a registered union official who can show that he acted "within the scope of his authority".

sops to the unions

In a different context, a few of the Conservative Government's proposals might be welcomed as long overdue reforms. However, most of these need serious amendment if they are to be fair and effective. For example, the Government rightly accepts the principle of trade union recognition. But, in practice, their proposals are very different from those of the Donovan Commission and the Labour Government. A trade union will have to overcome a number of obstacles before an unwilling employer will be legally obliged to bargain with it. It will be up to the NIRC to decide whether an application by a trade union for investigation by the CIR of a recognition question would promote "a satisfactory and lasting settlement of that question." The CIR will then have to establish the appropriate "bargaining agent" for each "bargaining unit" (terms borrowed from the USA) and have to determine the conditions which should be satisfied before recognition was granted to the "bargaining agent." In particular, the CIR will have to be satisfied that the union (or unions) had the support "of a substantial proportion of the employees" and the resources and organisation that would "enable it effectively to represent those employees." Even when the CIR had made its recommendations, the employer will still be free to reject them. For the recommendations to be enforceable against an unwilling employer, the union will have to apply to the NIRC for a ballot to be held—and there will have to be a majority for the union to be successful. There will also be provision for recognition orders to be modified or revoked—which could increase inter-union conflict.

The Government's proposals on protection against unfair dismissals fall far short of those of the Donovan Commission and the Labour Government. It is not entirely clear from the Conservative bill whether the burden of the proof is on the employee, or the employer, as in In place of strife. If the employee has to prove that his dismissal was unfair, he will rarely be able to obtain adequate protection. There is to be no protection initially for those with less than two years' service unless dismissed for trade union activity and no right of reinstatement for anybody. Finally, the application of common law principles in assessing compensation would mean that, in a favourable labour market, the employee might not get anything at all. One of the few proposals which in principle can be supported is that for the disclosure of information to unions by employers during negotiations. Yet, even this, at the moment, is in extremely general terms. What is really needed, above all, is for trade unions to have access to detailed financial breakdown for the shop, factory or company concerned in the negotiations. There is nothing in the bill to give trade unionists confidence that they will be able to obtain this information. Moreover, the employer is permitted to withhold information for a variety of reasons, such as when disclosure would be "seriously prejudicial" to him "for reasons other than its effect on collective bargaining."

The overall spirit of the bill is authoritarian, anti-union and restrictive. If it becomes effective it could not only weaken the unions, but also make the problems of industrial relations more difficult to solve than in the past.
4. the effects of the bill

It is a hazardous exercise trying to gauge what the effects of the Bill are likely to be before it is actually in operation. Much depends on how the employers decide to operate it. It is probable, however, that hopes of reform will be set back a number of years. The bill will be used as an authoritarian crutch by bad employers. Instead of getting down to finding out why their industrial relations are poor, they will turn to the law. Even enlightened managers, who are involved or wish to become involved in the reform of collective bargaining, may find that the general industrial relations climate makes their task much harder than before. It is even possible that many promising experiments (some of which are described in the next chapter) may come unstuck or run into great difficulties. Already the CIR is finding it more difficult to get co-operation. So the work of those on both sides of industry who, over the last few years have tried to create new patterns of bargaining, could well be undermined.

The attack on shop stewards

One of its most unfortunate effects is likely to be on the position of the shop steward. The shop steward emerged from the Donovan Report as the Lynch pin of the bargaining system. According to the survey commissioned by Donovan on workshop bargaining, most managers preferred to deal with shop stewards rather than with full time officials—presumably because of their availability and their local knowledge. Contrary to popular belief, managers find shop stewards far less militant than their members. To managers, shop stewards have many virtues. They act as the workers’ voice, as containers of conflict, as bargainers with management, and as management’s guarantee that agreements will stick. If shop stewards did not exist, they would have to be invented.

Yet the bill, which does not even mention shop stewards, could make it more difficult to find them. A shop steward who threatens strike action without giving the necessary notice and without the authority of his union, can be convicted of an “unfair industrial practice”. It will also be an “unfair industrial practice” for him to threaten a strike or go slow either in order to get rid of a non-unionist, or in order to boycott goods or services produced by black leg labour, or, a supreme catch all clause, in support of any “unfair industrial practice”. Few potential stewards will forget that compensation awarded against an individual acting without his union’s authority is unlimited. The bill also provides employers with a particularly neat way of getting rid of troublesome shop stewards. Under the proposals on unfair dismissals an employer is free to reject recommendations for reinstatement. He need only pay compensation. Thus the unlawful dismissal of a steward will still achieve its objective. All in all, few stewards will feel confident about their legal rights.

Those who continue to work as shop stewards are likely to be deterred by the proposals on legally binding agreements from entering into the kind of procedure agreements suggested by Donovan. Employers could even be left to deduce for themselves whether their offers are acceptable, since the workers’ representatives may feel that agreement to accept these offers lays them open to too many dangers.

Where industrial action which includes, in the menacing language of the bill, “any irregular action short of a strike” which has the intention of “preventing, reducing or otherwise interfering with the production of goods or the provision of services” (and involves the breach of some or all the employment contracts) takes place, it may in future be the result of passing the word round or talking or putting up an unsigned notice. If the employer wants to negotiate to restore normal working, he may find it difficult to get anyone to accept any knowledge about it, let alone responsibility for advising a return to normal working, since this would be regarded as proof of responsibility for the original "unfair industrial action".

Most negotiators on the union side will
insist, if they sign agreements at all, that all agreements contain the proviso that they are not legally binding. This is not because they wish to break agreements. It is rather that they want to avoid the rigidities of an imported legal system. Lawyers will quite rightly, from the legal point of view, object to ambiguity. Industrial negotiators, however, know that an ambiguous phrase can allow both sides to save face or avoid a conflict on an issue which the common sense of both sets of negotiators tells them is secondary. The essential features of legally enforceable contracts are their duration and the provision of escape clauses. So, instead of restricting the negotiations to content (a task which is generally difficult enough) both sides will have to negotiate on whether or not it is legally enforceable and, if so, for how long and under what conditions it will be terminated. Judging from American experience, negotiations are likely to be lengthy and may well be carried out against a background of industrial action. In general, therefore, opposition to legally binding agreements is likely to be fierce. Where employers insist on standing on the letter of the Industrial Relations Act, they could face prolonged and bitter disputes of a type which have not been seen in this country since before the Second World War.

Mr. Carr has said that he seeks to strengthen the authority of trade union leaders. Yet his legislation is far more likely to widen the gulf between the leadership and the shop floor. A trade union leader who has to spend much of his time reminding his membership and shop stewards of the possible legal consequences of their actions is hardly likely to inspire their confidence. In the last few years, as is pointed out in the next chapter, unions have rightly devoted much time and energy to improving their own structures and communications. Some of this work may be undermined by the effects of the bill. The point that Mr. Carr has failed to understand is that it is in the nature of trade unionism that authority should be derived from below. Trade union leaders can persuade, advise and cajole; they cannot command. Mr. Carr’s attempt to make them more authoritarian can only divorce them further from their members at a time when, if they are to continue to influence their members, they need to be less, not more, authoritarian.

**agency shop: recipe for multi-unionism**

The implications of the Government’s proposals for trade union organisation are extremely serious. The unqualified right to resign from a trade union and the banning of closed shops are likely to weaken the unions’ bargaining power, to stimulate fierce inter-union competition and to further the growth of “breakaway” unions.

Trade unions have used the “closed shop” to increase their bargaining power. In the “pre-entry” closed shop industries their aim has usually been to achieve the maximum security possible in unstable conditions by controlling the hiring of labour. The only way that workers like seamen, actors or fishermen, for example, could effectively preserve their jobs and build up organisational strength was by securing the establishment of a pool of unionists as the recognised source of labour in their industries.

However, the growth sector is the “post entry” closed shop. “Post entry” closed shops now account for more than four out of every five workers in closed shops (who probably now amount to nearly five million workers). In many of the “post entry” closed shop industries, particularly parts of building, engineering and chemicals, the major problem for unions has been that of high labour turnover, which continually threatens to undermine union organisation. A related difficulty is that of contacting union members. In road transport, in particular, it would be extremely difficult to maintain union organisation without a closed shop. In a number of major companies and industries, like ICI, the railways and electricity supply, closed shop arrangements have been also established as part of a productivity agreement. The unions argued that, if they were expected to take part in long and arduous negotiations and, at
their conclusion, to persuade workers to accept a deal which involved far-reaching changes for all and, often, considerable disadvantages for some groups, then they were entitled to ask for a closed shop. In addition, there was a strong body of opinion on the shop floor which felt that the hard won advantages of productivity bargaining should apply only to trade unions.

All types of closed shop will be banned, and the post entry closed shop replaced by the agency shop. Unfortunately the conditions attached to an agency shop and to the proposals on bargaining units are likely to lead to trouble. The proposal that 20 per cent of the employees could challenge an agency shop by requesting a ballot, if taken in conjunction with the fact that 20 per cent (or two-fifths if the unit is covered by an order already made by the NIRC on recognition) would also be able to challenge a union’s position as sole bargaining agent, could be used either by disgruntled trade unionists to form a breakaway union or to invite in another union. Unions will also be vulnerable to attacks from employer sponsored associations. It is significant that a clause in the consultative document which made it an "unfair industrial practice" for an employer to seek to dominate a union has been quietly dropped. Mr. Carr says he wants to make unions strong. The proposals on trade union organisation are, however, a recipe for increased multi-unionism and inter-union warfare. The TUC’s Bridlington procedures, which govern inter-union relations and under which most inter-union disputes are satisfactorily settled, could well be undermined and the development of a more rational trade union structure which the TUC is seeking to promote will be strangled. What the Government appears to want is a multiplicity of warring unions (whose relationships with their membership is like that of an insurance company with its clients—a purely business arrangement) and a TUC without any authority at all.

A growing number of employers, who have begun to welcome closed shop arrangements as part of a wider plan for improving industrial relations, will also be frustrated by the bill. Many managements may find themselves in a very invidious position. If, as is likely in a great number of cases, the majority of the workforce decides not to work with non-unionists, management will be unable to do anything about it; it will be illegal to sack non-unionists, and management will be unlikely to want to take legal proceedings against the overwhelming majority of its workforce.

It is said that, when drafting the "20 per cent" proposals Mr. Carr had the Pilkington strike in mind. Yet, if anything is clear about the strike at Pilkingtons, it is that the agency shop proposals would have made the situation worse. The strike began not against the union but against the company, so that the agency shop would not have prevented the strike. Since the strike the GWMU has undertaken far-reaching reforms of its own branch structure and is involved in changing both negotiating procedures and wages structures. If the "agency shops" and "bargaining agents" proposals had been operating, it is possible that, at some stage after the strike the GWMU would either have been thrown out of the factory or would have been forced to compete with other unions. Is it likely that either a new and inexperienced union or the development of competition between two or more unions would have improved industrial relations or have been in the best interests of the workers?

undermining the CIR

The bill’s effects will be equally harmful to the work of the CIR, which was set up by the Labour Government in early 1969 in line with the Donovan Commission recommendation. Its main purpose has been to assist employers and unions in the voluntary reform of industrial relations institutions and procedures. Though the Conservatives claim this will continue to be its main purpose, a reforming role is likely to be incompatible with the new functions they propose.

The Commission has had the goodwill of
all political parties and of employers' organisations and unions. Its composition was balanced by having two management members, two trade union members (both of whom have recently resigned in protest over the implications for the CIR of the new policy), and one academic, in addition to its chairman, George Woodcock, previously TUC General Secretary. Its staff is drawn from similarly diverse backgrounds. Its potential for effective action was good because it was in tune with progressive thought on both sides of industry and had already established good working relationships at national and local levels.

As the CIR has been working entirely by voluntary persuasion, it could hardly get off to a flying start. It has therefore published only a limited number of reports recommending reforms in the institutions and procedures for collective bargaining. Part of the reason for slowness, also, was that references, which have to be made by the Secretary of State at the Department of Employment, have been sent through in erratic trickles and most of the early ones were concerned purely with particular employers' failures to recognise certain unions—a subsidiary type of CIR enquiry function.

These circumstances have led to an underestimation of what the CIR is doing and of its future potential if left to get on with its proper job. However, it has a number of reports due out shortly on companies and industries where it has been examining the inadequacies of collective bargaining institutions and procedures. Two of them are its biggest jobs to date—industry wide references on ship-building and ship repair and on hotels and catering.

Already the build up of patterns of recommendations for various companies are attracting wider attention, especially as they are seen to be having beneficial effects in those companies. The industry wide references would have been certain to lead to far ranging discussion and perhaps to reforms on a really ambitious scale within two important industries. The new bill may kill this prospect.

There seems little doubt that if the CIR could have been left, without incorporation in the Government's legalised enforcement system, it would have proved itself a very potent catalyst for the voluntary reform of industrial relations.

The Industrial Relations Bill, however, gives the CIR several new functions which require it to play a central role in the Government's legal proposals. These include the obligation, at the request of the NIRC (which will have been approached by an employer), to produce procedural provisions applicable to a particular situation which could, if necessary, be made legally binding, and to report back to the court. Under similar circumstances and obligations, the CIR must also investigate and make recommendations about appropriate bargaining units and bargaining agents (should there be one union or a panel of unions) in trade union recognition cases. The findings could then be enforced by the Court if the majority of employees voted to endorse the CIR recommendation. The CIR has also been given the job of supervising or arranging the ballot of employees on behalf of the court in connection with the agency shop proposal.

As the unions are implacably opposed to the bill and to the particular provisions which make these new CIR functions necessary, it is clear that the commission will no longer retain the confidence of the unions as an independent and impartial body. Perhaps they will no longer even talk to it when performing its residual voluntary functions.

Even if the unions decided nationally that they would maintain CIR co-operation, the commission would still find it impossible to perform its old voluntary tasks at shop floor level. The shop stewards and local officials already regard its activities with suspicion, believing it to have changed its status from an independent agency to a Government instrument. Even when it was pursuing one of its voluntary exercises there could be no guarantee that at a later stage the employer might not decide to ask for the recommended procedures to be made
enforceable. The CIR's methods will have to change. It will, in future references of any sort, have to recommend procedures that are suitable for possible legal enforcement, otherwise it will be defying the Government's intentions. All this means that the unions in the workplace, and perhaps the employers too, will fail to give it the frank and open co-operation on which its success has depended. The CIR has operated by talking to anyone and everyone, so far. Both sides are now likely to prevent anyone but official spokesmen talking to it. In case the reference eventually goes to the NIRC. If the Government decides it will be legalistic, it must not be surprised if the parties play the same game and begin to guard closely every word they utter or put on paper. They are increasingly likely to give formal, restricted and recorded evidence only. The CIR's past efforts to keep things as informal and oral as possible to encourage full disclosure will all be laid to waste. This is likely to give rise to a situation where all the most important facts of industrial relations remain unwritten and unknown to everyone except small employer-union groups in the workplace who will seek to maintain control over their own joint systems, free from interference. The contrast between the formal and the informal system highlighted by the Donovan Report will pale into insignificance beside the same contrast in the new era of legal systems and secret domestic systems.

The CIR seems likely to suffer the eventual fate either of the National Incomes Commission or the Prices and Incomes Board. The former became redundant because it had no influence once the unions had decided not to co-operate with it; the latter because it was doing a job which was thought by a new Government to be undesirable. As Tory politicians seldom accept blame for the failure of their own policies, the CIR will, of course, get blamed by them for its own failure to succeed in its new emasculated circumstances. They may then shut it down themselves if the party stays in office long enough. It would be tragically ironic for what was, until the bill, one of the most promising public institutions created in recent years.

**the Conservative apparatus**

Managers and trade unionists who wish to improve industrial relations will get little comfort from the new Conservative institution—the National Industrial Relations Court. The basic aim of the NIRC is not industrial relations reform but seeing that the law bites. As such, the NIRC will hardly inspire the confidence of trade unionists. The Government's preliminary consultative document laid great stress on the informality of the NIRC and the industrial tribunals which will work under it. But law has its own rationale. It will be hard to prevent lawyers' arguments from dominating courts which have lawyers and, in the case of the NIRC, judges as chairmen. The consultative document also proposed that the courts should include people "with specialist and practical experience of industrial relations on both sides of industry". It is interesting that, in the bill, the requirement that both sides be represented has been dropped—presumably to prevent the unions from wrecking the legal machinery by refusing to allow any trade unionist to serve on the court. The Conservatives must not be surprised if the NIRC, which consists solely of judges, employers, and Conservative academics of the "black paper" type is regarded as little more than a kangaroo court.

The other instruments of Conservative policy are the proposals (regarding industrial action which threatens the national economy or the lives or health of a substantial number of persons) for "cooling off" periods and (where it is thought that the membership may be against the action) for ballots. The American experience is that membership nearly always follows the lead of their negotiators, so ballots are likely to make little difference to industrial relations. The "cooling off" proposals could, however, work in favour of the employers—and buy industrial peace at the expense of employee interests.
One good effect of the Government's Industrial Relations Bill is that it has united the trade union movement. Not for many years has the movement been so cohesive. From right to left, the trade union leadership has expressed its opposition to the bill.

The TUC has, therefore, been able to launch an unprecedented campaign through articles, advertisements, broadcasts, speeches and demonstrations to put across its case to the public. It has also begun a major educational exercise for trade union officers. The TUC, however, rightly rejected strikes against the bill as counter productive. Strike action is unlikely to make the Conservative Government change its mind. If anything, it will increase its determination to carry through its legislation and even give the Conservatives the opportunity to call a snap election at a time when public opinion (as measured by the public opinion polls) it still favourable to some form of industrial relations legislation. Strikes are equally unlikely to give the public a favourable impression of the trade union position. After all, it is the erroneous but persistent impression that the country is consistently strike prone which has led to public concern about industrial relations.

However, in its opposition against the bill, it is important that the trade union movement should not be seen to confine its campaign only to criticism. It has also to put forward in a positive way how it thinks our industrial relations problems ought to be tackled. For if the trade union movement has rights, it also has obligations. Though it rightly desires to change the balance of power in industry, it is also part of the community with obligations to that community.

Because of its majority in the House of Commons, it is difficult to force the Government either to drop or to modify substantially the bill. The purpose of the TUC's campaign should now be to persuade public opinion—including the employers—that, even if the bill actually becomes law it would be folly to implement it. Part of the message the unions must get across is that there is, in fact, a far more effective way to reform industrial relations.

more industrial democracy

One of the most significant developments in recent years is a growing demand for greater participation. There is nothing particularly ideological or highbrow about this. Greater involvement is usually seen in purely workplace terms—in the determination of pay and working conditions, in the organisation of work and the deployment of labour at shop floor level. To most workers, industrial democracy is, therefore, not yet so much a question of such ambitious concepts as worker directors on boards, but rather of the direct participation of union representatives and members in the basic decisions that govern their everyday life in the plant. It is not really surprising that this should be so. A better educated work force is unlikely to remain content with authoritarian patterns of management; and it will want to influence decisions at the point of contact—on the shop floor.

So if there is to be a real chance of reform of industrial relations both management and unions have to come to terms with the desire for greater industrial democracy. All the evidence we have of successful changes in industrial relations systems is that they require worker participation. Shopfloor involvement was an essential ingredient in the Fawley productivity bargains, for example. Both management and unions had to learn a new style, a new way of going about things. It was no longer enough to reach a cosy agreement together. There had also to be direct worker involvement. Otherwise the negotiators risk the kind of massive rejection of both management and unions that occurred at Pilkingtons. Thus more democracy and improved industrial relations go hand in hand. Perhaps the biggest criticism of the bill is that it totally ignores this and instead seeks to impose improvements on the system from above. Anybody with any experience of industrial relations at all
could have told Mr. Carr that such an exercise would certainly be doomed toailure.

If the kind of changes in bargaining practices and institutions which have taken place in the best firms were to be universalised throughout industry, it would amount to a revolution. According to the Donovan Commission’s research paper on trade union growth and recognition, written by Professor Bain, over a quarter of the workforce have to work in industries in which the employers are hostile to unionism and where there is no effective collective bargaining. A spread of unionism in industries like hotel and catering and the distributive trades would mean that a vast number of workers who now have no representation would, for the first time, be able to influence management decisions.

Even in industries with a substantial proportion of organised workers, the shop steward’s position in a factory, as the Donovan Commission showed, often goes unrecognised. In the best firm, the shop stewards’ rights and facilities are carefully but generously defined in written agreements. Because of this, shop stewards are able to give full service to their members without harassment—to the benefit of all concerned (including management). If there is to be a real increase in shop floor democracy, then the most advanced practice must be adopted by all firms.

But an extension of industrial democracy implies more than full recognition of shop stewards. It also means participation by members in decision making. This is easier written than done. In one of the shop stewards’ reports it took six months of discussion to establish a new shop floor joint consultation and negotiation procedure. In order to change their wages structure, British Oxygen carried out a similar time consuming exercise. Though such a policy takes time and hard work, the rewards for management and workers alike were substantial. Participation paid.

The trade unions, for their part, must democratise their own structures. It is quite right that unions should be continually seeking to increase the number of subjects which are discussed at the bargaining table. During the 1960s productivity, training and manpower utilisation generally were brought into many negotiations—often by trade union negotiators.

But if the unions ask for greater influence over management decisions, then they must also seek to increase the participation of their members in the shaping of bargaining policy. Unions remain the most democratic large scale organisations in Britain. Yet, in many cases, they have not yet adapted their structures to the changes at shop floor level. As a result, they have tended to react to rather than shape events.

However, there is now a growing awareness that reforms are needed. A number of unions (including the GMWU, the EETU and USDAW) have set up a system of local and national industrial conferences at which shop floor representatives can discuss bargaining objectives. These have been enormously successful. There has also been a move (particularly by the TGWU) to put more shop stewards on negotiating bodies. Union branch structures (usually geographically based) are becoming increasingly obsolete. Few trade union members consider that the branch is at all relevant to shop floor problems.

Many unions are, therefore, seeking to create factory based branches which hold meetings in the factory, thus bringing union administration closer to the shop floor. There remains, however, a major problem. The ratio of officials to members and the standard of support services is still inadequate to the need. The only way to get an improvement is by a massive increase in contributions. British trade union members get their unionism on the cheap. At the typical contribution rate of 15p a week, for example, it would take the best part of three years to contribute £20, which is a below average week’s wage. Fear of losing membership to other unions, however, inhibits even the most forward looking trade union
leaders from going for large increases in contributions.

the role of the TUC

Here, and in many other areas, the TUC has an important part to play. In the last five years there has been a significant expansion in the functions of the TUC. Not only is the TUC now speaking for the movement with more authority and expertise on economic subjects, it is also involved more closely than ever before in industrial relations. The changes in the rules of the TUC, mentioned in chapter 2, allowing the TUC to intervene in inter-union disputes and unconstitutional strikes have meant a greatly enlarged TUC role in resolving industrial conflict. More and more over the last two years we have become familiar with the headline “Vic Feather intervenes”. There is little doubt that, without the TUC, there would have been more strikes, and strikes of longer duration.

On the positive side, the TUC, through its collective bargaining committee, is beginning to influence wage negotiations. The greatly increased accent by the trade unions on improving the position of the low paid is, at least in part, a response to the TUC policy statement on low pay. Its target of a £16.50 minimum is now the accepted aim of unions negotiating for low paid workers. On other bargaining subjects, including productivity, better procedures, equal pay, redundancy arrangements, and fringe benefits, the TUC is beginning, a little cautiously perhaps, to express a movement view. It is even starting to intervene in what were previously considered to be the internal affairs of unions. The Conservative Government does not seem to be aware that, stimulated by the TUC, many unions are revising their rules in line with the kind of recommendations put forward by the Donovan Commission. In its anxiety to get its legislation through, the Conservative Government has, in fact, chosen to brush aside or play down the contribution of the TUC.

The TUC must, therefore, publicise more dramatically what it has been doing. In the new situation created by the Conservative bill, it must also capitalise on its increased authority to assist in the development of union organisation. The last two years have seen a significant increase in union membership, particularly amongst women and white collar workers. However, there are areas of potential recruitment, like hotel and catering and retail distribution, where little progress has been made. The TUC also needs to move fast to prevent its own procedures for inter-union disputes being undermined by the bill. In particular, it must lay more emphasis on encouraging unions to sign “joint working arrangements”, to prevent destructive inter-union competition.

One of the aims of the TUC’s educational campaign to inform trade union officials about the bill is to enable them to convince employers that it would be against their own interests to operate the bill. A TUC which, despite the bill, was seen to be acting with a new authority in industrial relations would be an additional argument in persuading those employers (and they are already a sizeable number) who have grave doubts about parts of the bill, not to operate it.

the trade unions and the Labour party

It is welcome news that the Labour Party and the TUC are co-ordinating their opposition to the bill. It is, however, vital that this short term tactical response for the future of the Labour movement should develop into something more enduring. Both parties need each other. The trade unions need the support of the Labour Party to defend working class interests and to assist in the achievement of the trade unions' social objectives. The Labour Party which is, at the moment, dangerously divorced from its working class supporters, needs the support of the unions. Labour leaders should not forget that the most successful European Socialist parties are those which have the backing of a powerful trade union movement behind it. So it is very much in Labour’s political interest that the Con-
servative attempt to transform the trade unions from a movement into a con-
glomeration of "business" unions with few social and political objects should be
totally crushed by a united Labour
movement.

First, however, there must be a full dis-
cussion between the two wings with no
holds barred. Past failures and mistakes
must be admitted and analysed. The
Labour Party, in particular, must pledge
itself to a repeal of the Conservative bill.
This is not to say that the Party should
not have an industrial relations policy;
indeed, one of the purposes of closer co-
ordination would be to thrash out a
policy which was both relevant to the
problems and was also acceptable to the
trade unions. The first part of the chap-
ter has already sketched out the outlines
of the democratic approach that ought to
be adopted. Something more, however, is
needed. There is a case for having a body
(like the CIR as envisaged by Donovan
and the Labour Government) to analyse
and investigate industrial relations prob-
lems and give a push, when needed, to
reform. There is also a strong argument
for making conciliation more widespread
and effective than it has been in the past
(even before the Tory Government of
officially abandoned the attempt) by making
it genuinely independent—perhaps by
linking it to the CIR—and by involving
working managers and trade unionists as
conciliators.

The trade union movement and the Lab-
our Party must come closer together not
only on industrial relations but on econo-
ic and social policy as well. The Conser-
vative Government, without doubt the
most reactionary British government of
recent times, is seeking to create a society
in which social justice would be a dirty
word. Their attack on the workers is not
merely expressed through the Industrial
Relations Bill. Mr. Barber's efforts to
slash vital social spending and shift the
burden of taxation away from the better
off, combined with Mr. Carr's attacks on
low paid workers in the public sector, is
only the start. Much more on the same
lines is threatened. In face of the Con-
servative onslaught, the Labour Party
and the trade unions must now hammer
out a common approach.

Their discussions must be both realistic
and wide ranging. Politicians should real-
ise that trade unions, with the best will
in the world, cannot afford to move too
far ahead of their members. If they do,
their members merely disregard them. On
the other hand, trade union leaders have
to accept that any government committed
to economic growth, is bound to be con-
cerned with what happens in the collec-
tive bargaining field. The trade union
movement, however, is entirely right to
insist that any discussion of wages has to
be considered in context. Inequality (of
wealth, opportunity and power) is still,
despite the efforts of Labour govern-
ments, one of the most striking charac-
teristics of British society. Any prices and
income policy which is not part of a
wider Socialist strategy inevitably be-
comes little more than a policy of crude
wage restraint.

In the field of incomes and wealth the
Labour Party and the trade union move-
ment have to work out the details of a
more egalitarian taxation policy. A
wealth tax must be at the centre of it.
The TUC have also shown interest in
widening the ownership of capital.
Schemes to promote this objective should
be examined in detail. Both wings have
also to face up to the problem of the
low paid and other groups in poverty.
Nobody, least of all trade unionists, who
are daily faced with the problems of re-
conciling the often conflicting demands
of different groups of workers, supposes
that there are any easy answers. Policies
to help the low paid, in particular a na-
tional minimum, imply redistribution
amongst wage earners, which would be
difficult, if not impossible, without eco-
nomic growth. Higher family allowances
or more generous pensions probably mean
higher taxation which again is much
more likely to be accepted in an expand-
ing economy.

There are, however, many other inequali-
ties in society. It is vital for the Labour
movement to retain the support of the
better off worker who tends to be losing
his traditional automatic loyalty to working class organisations. But before he gives his support the more affluent worker wants to be certain these organisations understand his needs. Middle class critics of the “affluent” workers forget that his increased living standards which have, in any case, been rising very slowly, are obtained at a high cost. Long hours of overtime and the demands of shift work usually restrict any life outside the factory. Despite his higher living standards, the “affluent” worker remains a factory worker, subject to all the insecurities, stresses and strains of factory life. His aspirations, and his aspirations for his children, are frustrated by the way society is now organised. A more humane working life, a better environment, and a fairer educational system are high on his list of priorities—as they should be on the priorities of the Labour movement over the next five years. The Labour Party, in particular, must remember that it will not get the support it needs for its social programmes for minority groups unless it can satisfy the aspirations of the better off workers.

The Labour movement also must face up to the increase in power of the great corporations, particularly the multi-national corporation. The TUC has been ahead of the Labour Party in calling for greater public control and accountability over these power centres. The decision of the Conservative Government to dismantle regulating agencies (like the Industrial Reorganisation Corporation and the Prices and Incomes Board) makes a response by the Labour movement all the more urgent.

**Conclusion**

The Conservative Government’s Industrial Relations Bill faces the Labour movement with an unprecedented challenge. If it is operated, it could set back industrial relations many years. If, however, the trade union movement manages to seize the initiative by revealing the bill’s inadequacies and by publicising its own alternative then there is a chance that any legislation will be a dead letter. Equally important, the Labour Party and the trade unions have now been presented with the opportunity of working out together a viable Socialist strategy for creating a fairer and better society. They must take it.
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Both the authors are members of the Fabian Society's Trade Union and Industrial Relations Committee. The views expressed are those of the authors and do not necessarily reflect the views of their organisations.

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