

Book Review—Eddie Webster

Industrial Relations and the Limits of Law: The Industrial Effects of the Industrial Relations Act, 1971 *

A recurrent analysis of Britain's relatively poor post-war economic record suggests that industry suffered from too many strikes and that trade unions had grown too strong. As well as resulting in strikes, such excessive power was considered to be reflected in restrictive practices and coercive restrictions on individual freedom, such as the closed shop. This has been called the traditional view and it is associated especially with sections of the Conservative Party. However, the attempt to put this view into practice by Heath's Conservative government, through a comprehensive system of labour law, failed. The Industrial Relations Act, 1971, was repealed in 1974 and apparently regretted by few. Once again, this time under Thatcher's more strident Conservative government, it looks as if the British parliament is going to try to legislate control over the unions. In particular, according to the Conservative Working Paper, they intend to legislate against the closed shop and 'secondary picketing'. It is appropriate, therefore, that we evaluate this scholarly study, by the Warwick Industrial Relations Research Unit, on why the Act failed.

The Act failed, the author believes, because of a confusion of aims. On the one hand, it embodied the traditional view that the law should be invoked to control 'union power'. Hence, to end the power of the closed shop and, as an extension of 'individual liberty', Section 5 of the Act provided for equality of rights between joining a trade union and not joining a trade union. On the other hand, the I.R. Act shared the view of the Donovan Commission (a Labour government inquiry into industrial relations which reported in 1968) that a high proportion of industrial disputes in Britain were the result of a lack of effective collective bargaining.

They therefore recommended ways of strengthening collective bargaining, suggesting new machinery whereby unions might gain recognition from unwilling employers. Collective bargaining means that certain conditions of employment will be determined by collective negotiation rather than individuals seeking separate arrangements. To this extent, collective bargaining imposes some limits on the rights of individuals. Thus, managers who wanted to increase the control of unions over their members were reluctant to see bargaining arrangements disturbed by the new individual rights, and combined effectively with unions to draw the sting from the law's attack

that the TUC non-registration policy would be difficult to sustain, it was highly effective. Two conditions were necessary for this effectiveness. Firstly, the labour movement was virtually united in its opposition to the Act. Clearly it would have been hard for unions to justify non-registration if other unions were gaining obvious advantages from accepting the new registration conditions. As Vic Feather, TUC General-Secretary, indicated, in introducing the debate on registration:

'The real issue before us is unity, not the Act. What is the best way in which we can ensure that unity? Everything else is secondary'. (p 254)

Secondly, it was important that employers did not either give advantage to registered unions or exploit the vulnerability of those unions that remained unregistered.

Based on detailed research, this book is a crucial contribution to our understanding of the interaction between law and what happens in practice in industrial relations. Although the book makes no attempt to theorise about law, it does contain a warning to those who see the state as all powerful and who focus on its intentions **alone**. Ultimately, the capacity of a state to implement an industrial relations policy depends on the balance of class forces, in particular, the strength of working class organisation. In Britain, where the trade union movement is strong, these limits were effectively demonstrated between 1971 and 1974.

While the authors correctly point to the limits of law, their own analysis demonstrates the limits of a merely institutional analysis of industrial relations. By focussing on industrial relations institutions **alone**, the authors are unable to adequately explain why a previously 'voluntarist' state intervened at this particular stage in the history of British capitalism to control the unions. One crucial feature of the British economy in the late 1960s, as Glyn and Sutcliffe demonstrated, in 1972, was the progressive decline in the rate of profit.¹ Their calculations revealed a steady pre-tax decline in profit from 16.5% in 1950 to 9.7% in 1970.² Any adequate understanding of the state's behaviour at this time would have to situate industrial relations in the context of this crisis in British capitalism.

Footnotes

★ Basil Blackwell, Oxford, 1975

1. Andrew Glyn and Bob Sutcliffe, *British Capitalism, Workers and the Profit Squeeze*, London 1972.
2. These calculations have been subjected to various criticisms, but have since been largely confirmed by the independent analysis of G. Burgess and A. Webb, 'The Profits of British Industry', *Lloyds Bank Review*, April 1974.