New South Wales.



ANNO VICESIMO

GEORGII V REGIS.

Act No. 60, 1929.

An Act to amend the law with respect to trusts and powers; to cure defects in titles; to amend the Trustee Act, 1925, and certain other Acts; and for purposes connected therewith. [Assented to, 24th December, 1929.]

B^E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Trustee (Amend- short title. ment) Act, 1929."

Act No. 60, 1929.

Trustee (Amendment).

Amendment of Act No. 14, 1925, s. 27.

Amendment of Act No. 14, 1925.

New sections.

Re Allott,

Rule against perpetuities

1924, 2 ch. 498; Davis v.

Samuel, 28

S.R. 1.

2. The Trustee Act, 1925, is amended by inserting in subsection one of section twenty-seven after the word "notwithstanding" the words "any lapse of time or."

3. The Trustee Act, 1925, is amended by inserting after section twenty-seven the following new sections :—

27A. (1) The rule of law known as the rule against perpetuities shall not render void—

(a) a trust or power to sell property in any case where a trust of the proceeds of sale is valid;

(b) a trust or power to lease or to exchange property in any case where the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of a valid trust.

(2) This section applies to trusts or powers created, and to the execution or exercise thereof, either before or after the commencement of this Act.

27B. (1) A power to postpone sale shall be implied in every trust for sale, unless a contrary intention appears.

(2) Where there is a power to postpone sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustee for sale shall not be liable in any way for postponing the sale, in the exercise of his discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of sale.

(3) The provisions of subsections one and two of this section apply to trusts created either before or after the commencement of this Act.

(4) Where a disposition or settlement coming into operation after the commencement of the Trustee (Amendment) Act, 1929, contains a trust either to retain or sell any property, the same shall be construed as a trust to sell the property with power to postpone the sale.

Postponement of sale. cf. 15 Geo. V, c. 20, s. 25.

27c. (1) A trust for sale shall, so far as regards Purchaser the safety and protection of any purchaser, be under a trust deemed to subsist notwithstanding any lapse of time $_{et. 15 \text{ Geo. V}}$, until the property is conveyed to or under the c. 20, s. 23. direction of the persons interested in the proceeds of sale, and in the case of land until the conveyance is duly registered.

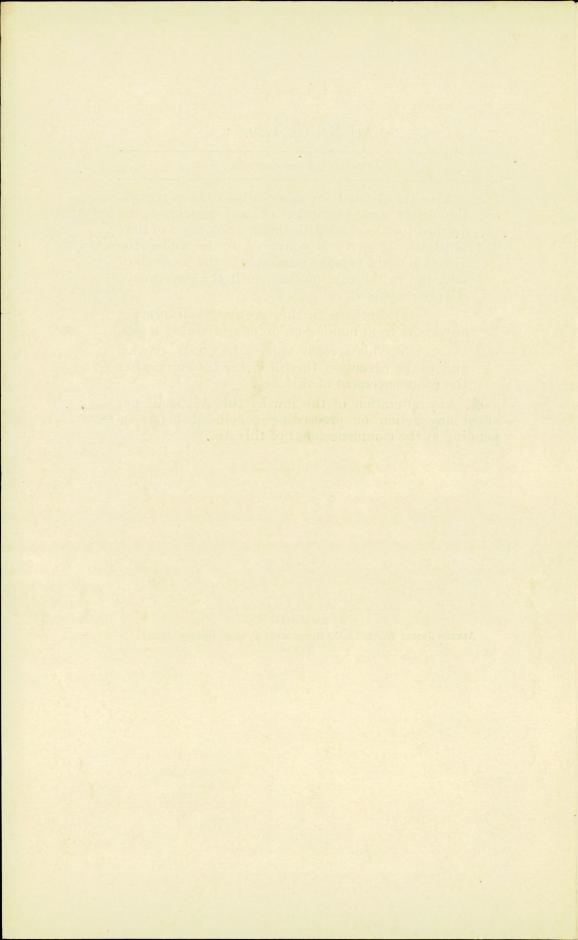
(2) Nothing in this section shall prevent any court from making an order restraining a sale.

(3) This section applies to trusts created and to the execution thereof either before or after the commencement of this Act.

4. Any alteration of the law by this Act shall not Saving affect any action or proceeding concluded before or clause. pending at the commencement of this Act.

By Authority:

ALFRED JAMES KENT, I.S.O., Government Printer, Sydney, 1929. [3d.]



I Certify that this PUBLIC BILL, which originated in the LEGIS-LATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

> W. L. S. COOPER, Clerk of the Parliaments.

Legislative Council Chamber, Sydney, 18th December, 1929.



ANNO VICESIMO

GEORGII V REGIS.

Act No. 60, 1929.

An Act to amend the law with respect to trusts and powers; to cure defects in titles; to amend the Trustee Act, 1925, and certain other Acts; and for purposes connected therewith. [Assented to, 24th December, 1929.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Trustee (Amend- short title. ment) Act, 1929."

Amendment 1925, s. 27.

Re Allott,

1924, 2 ch. 498 ; Davis v.

Samuel, 28

S.R. 1.

2. The Trustee Act, 1925, is amended by inserting of Act No. 14, in subsection one of section twenty-seven after the word "notwithstanding" the words "any lapse of time or."

Amendment of Act No 14, 1925. **3.** The Trustee Act, 1925, is amended by inserting after section twenty-seven the following new sections :---New sections. 27A. (1) The rule of law known as the rule Rule against perpetuities against perpetuities shall not render void-

(a) a trust or power to sell property in any case where a trust of the proceeds of sale is valid;

(b) a trust or power to lease or to exchange property in any case where the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of a valid trust.

(2) This section applies to trusts or powers created, and to the execution or exercise thereof, either before or after the commencement of this Act.

27B. (1) A power to postpone sale shall be implied in every trust for sale, unless a contrary intention appears.

(2) Where there is a power to postpone sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustee for sale shall not be liable in any way for postponing the sale, in the exercise of his discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of sale.

(3) The provisions of subsections one and two of this section apply to trusts created either before or after the commencement of this Act.

(4) Where a disposition or settlement coming into operation after the commencement of the Trustee (Amendment) Act, 1929, contains a trust either to retain or sell any property, the same shall be construed as a trust to sell the property with power to postpone the sale.

Postponement of sale. cf. 15 Geo. V, c. 20, s. 25.

Act No. 60, 1929.

Trustee (Amendment).

27c. (1) A trust for sale shall, so far as regards Purchaser the safety and protection of any purchaser, be under a trust deemed to subsist notwithstanding any lapse of time $_{ct. 15 \text{ Geo. V}}$, until the property is conveyed to or under the c. 20, s. 23. direction of the persons interested in the proceeds of sale, and in the case of land until the conveyance is duly registered.

(2) Nothing in this section shall prevent any court from making an order restraining a sale.

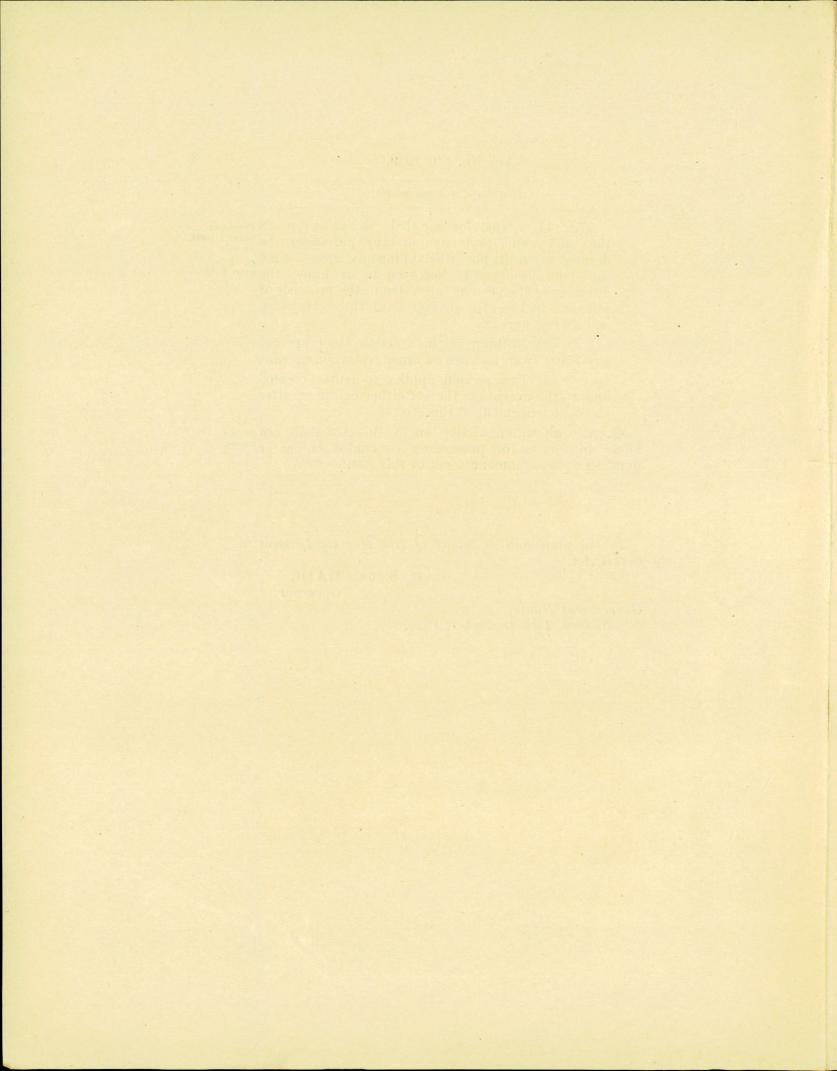
(3) This section applies to trusts created and to the execution thereof either before or after the commencement of this Act.

4. Any alteration of the law by this Act shall not saving affect any action or proceeding concluded before or clause. pending at the commencement of this Act.

In the name and on behalf of His Majesty I assent to this Act.

D. R. S. DE CHAIR, Governor.

Government House, Sydney, 24th December, 1929.



This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

> W. L. S. COOPER, Clerk of the Parliaments.

Legislative Council Chamber, Sydney, 13th November, 1929.



ANNO VICESIMO

GEORGII V REGIS.

Act No. , 1929.

An Act to amend the law with respect to trusts and powers; to cure defects in titles; to amend the Trustee Act, 1925, and certain other Acts; and for purposes connected therewith.

B^E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :---

1. This Act may be cited as the "Trustee (Amend- short title. ment) Act, 1929." 2.

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2. The Trustee Act, 1925, is amended by inserting Amendment in subsection one of section twenty-seven after the of Act No. 14, 1925, s. 27. word "notwithstanding" the words "any lapse of time or."

3. The Trustee Act, 1925, is amended by inserting Amendment of Act No. 14, 1925. 5 after section twenty-seven the following new sections :- New sections.

27A. (1) The rule of law known as the rule Rule against against perpetuities shall not render void-(a) a trust or power to sell property in any case $\frac{Re \text{ Allott}}{1924, 2 \text{ ch.}}$

perpetuities where a trust of the proceeds of sale is valid; 498; Davis v. Samuel, 28

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(b) a trust or power to lease or to exchange S.R. 1. property in any case where the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of

a valid trust.

(2) This section applies to trusts or powers created, and to the execution or exercise thereof, either before or after the commencement of this Act.

27B. (1) A power to postpone sale shall be Postponeimplied in every trust for sale, unless a contrary ment of sale. intention appears.

cf. 15 Geo. V, c. 20, s. 25.

(2) Where there is a power to postpone sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustee for sale shall not be liable in any way for postponing the sale, in the exercise of his discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of sale.

(3) The provisions of subsections one and two of this section apply to trusts created either before or after the commencement of this Act.

(4) Where a disposition or settlement coming into operation after the commencement of the Trustee (Amendment) Act, 1929, contains a trust either to retain or sell any property, the same shall be construed as a trust to sell the property with power to postpone the sale.

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27c.

27c. (1) A trust for sale shall, so far as regards Purchaser the safety and protection of any purchaser, be under a trust deemed to subsist notwithstanding any lapse of time $_{ct. 15 \text{ Geo. V}}$, until the property is conveyed to or under the c. 20, s. 23. direction of the persons interested in the proceeds of sale, and in the case of land until the conveyance is duly registered.

(2) Nothing in this section shall prevent any court from making an order restraining a sale.

(3) This section applies to trusts created and to the execution thereof either before or after the commencement of this Act.

4. Any alteration of the law by this Act shall not Saving affect any action or proceeding concluded before or
15 pending at the commencement of this Act.

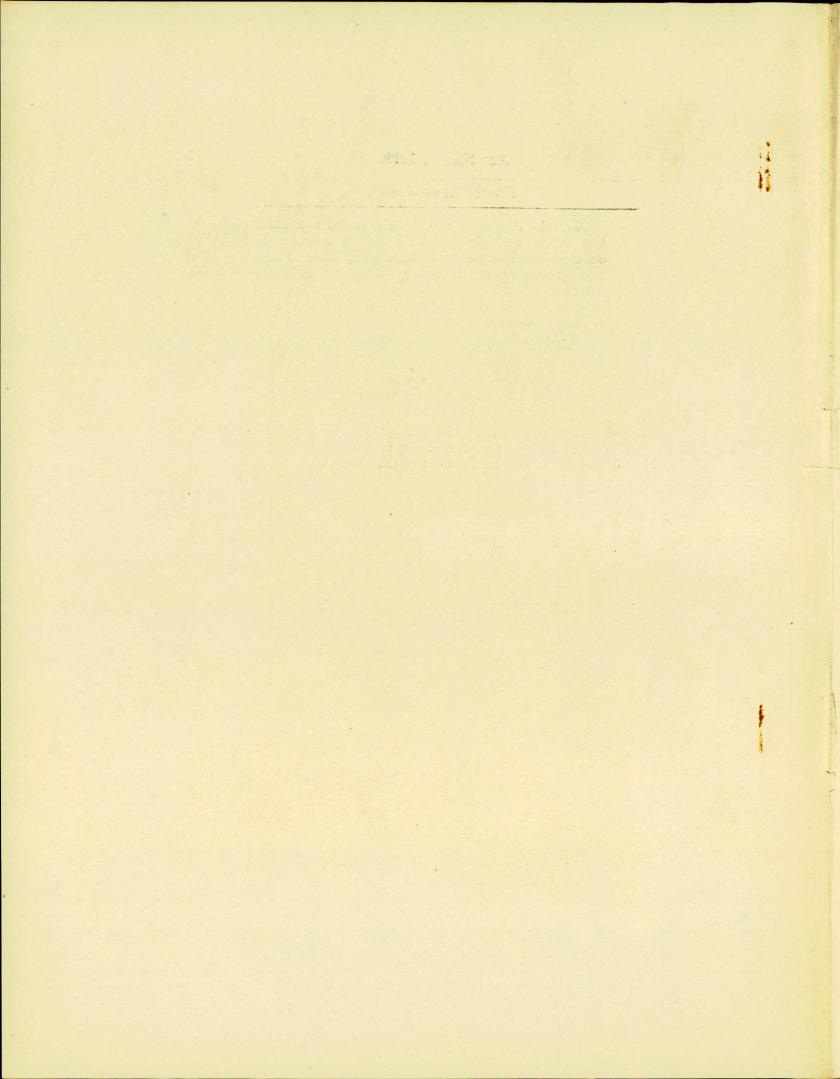
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Trustee (Amendment) Bill, 1929.

EXPLANATORY NOTE.

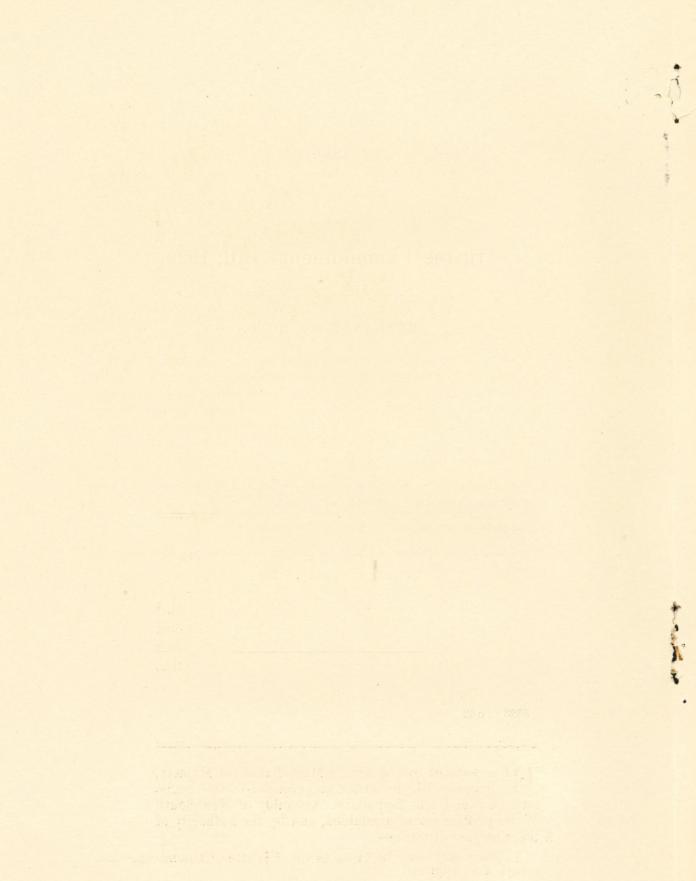
THE Bill amends the law with respect to a trust or power to sell, lease, or exchange property, where the duration of the trust or power is not expressly limited. It appears from Davis v. Samuel (28 S. R. 1) that in some circumstances the rule against perpetuities may make the trust or power void, and so defeat the intention of a testator, although the sale, lease, or exchange was only directed or authorised in connection with the carrying out of valid trusts. The proposed new section 27A removes difficulties arising from this operation of the rule.

The proposed new section 27B authorises a trustee to postpone a sale where there is a trust for sale, unless a contrary intention appears.

The proposed new section 27c protects a purchaser under a trust for sale.

The amendment proposed in clause 2 is in effect a consequential amendment.

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Legislative Council.

No. , 1929.

A BILL

To amend the law with respect to trusts and powers; to cure defects in titles; to amend the Trustee Act, 1925, and certain other Acts; and for purposes connected therewith.

[MR. BOYCE ;-12 November, 1929.]

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B^E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :--

^{1.} This Act may be cited as the "Trustee (Amend- short title, ment) Act, 1929."

Amendment 1925, s. 27.

2. The Trustee Act, 1925, is amended by inserting of Act No. 14, in subsection one of section twenty-seven after the word "notwithstanding" the words "any lapse of time or."

3. The Trustee Act, 1925, is amended by inserting 5 Amendment of Act No. 14, 1925. after section twenty-seven the following new sections :---

New sections. Rule against perpetuities Re Allott, 1924, 2 ch. 498; Davis v. Samuel, 28 S.R. 1.

27A. (1) The rule of law known as the rule against perpetuities shall not render void-(a) a trust or power to sell property in any case

where a trust of the proceeds of sale is valid; 10

(b) a trust or power to lease or to exchange property in any case where the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of a valid trust. 15

(2) This section applies to trusts or powers created, and to the execution or exercise thereof, either before or after the commencement of this Act.

27B. (1) A power to postpone sale shall be 20 implied in every trust for sale, unless a contrary intention appears.

(2) Where there is a power to postpone sale, then (subject to any express direction to the contrary in the instrument, if any, creating the 25 trust for sale) the trustee for sale shall not be liable in any way for postponing the sale, in the exercise of his discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of 30 sale.

(3) The provisions of subsections one and two of this section apply to trusts created either before or after the commencement of this Act.

(4) Where a disposition or settlement 35 coming into operation after the commencement of the Trustee (Amendment) Act, 1929, contains a trust either to retain or sell any property, the same shall be construed as a trust to sell the property with power to postpone the sale. 40

Postponement of sale. cf. 15 Geo. V, c. 20, s. 25.

27c.

27c. (1) A trust for sale shall, so far as regards Purchaser the safety and protection of any purchaser, be under a trust deemed to subsist notwithstanding any lapse of time $_{ct.15 \text{ Geo. V}}$, until the property is conveyed to or under the c. 20, s. 23. direction of the persons interested in the proceeds of sale, and in the case of land until the conveyance is duly registered.

(2) Nothing in this section shall prevent any court from making an order restraining a sale.

(3) This section applies to trusts created and to the execution thereof either before or after the commencement of this Act.

4. Any alteration of the law by this Act shall not Saving affect any action or proceeding concluded before or clause. 15 pending at the commencement of this Act.

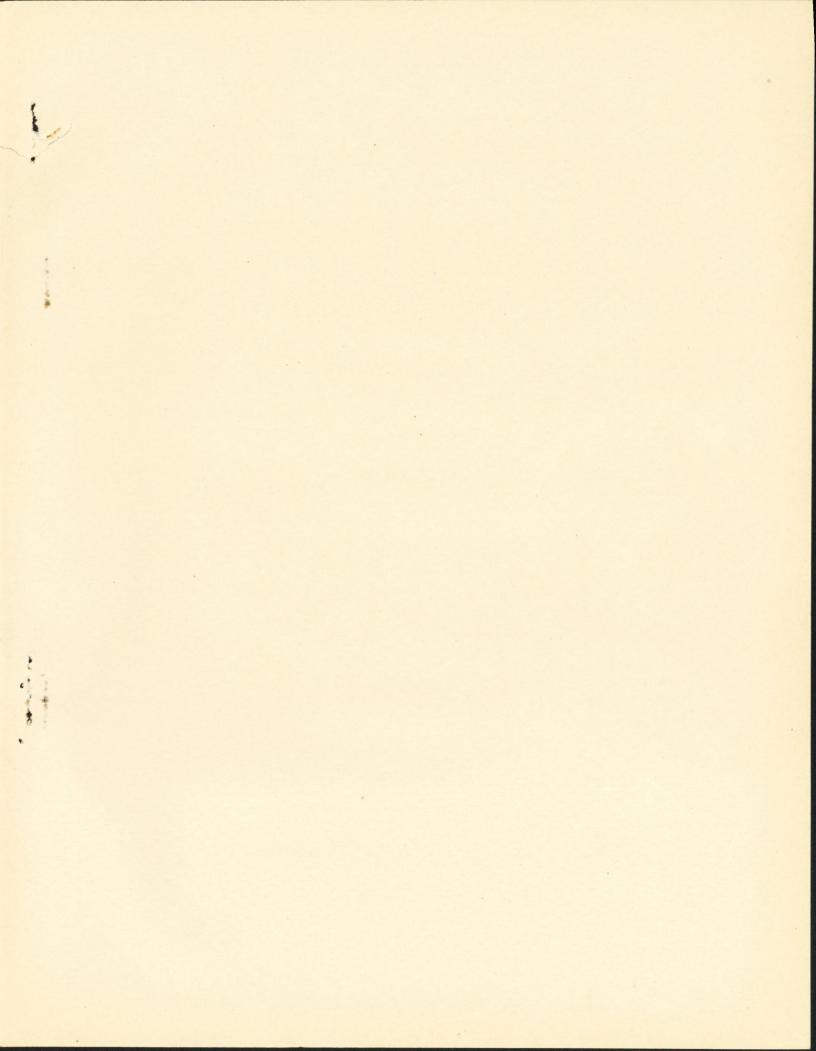
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