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C.P.(45) 337

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10TH DECEMBER, 1945.

CABINET

BILL FOR THE NATIONALISATION OF THE

COALMINING INDUSTRY

Supplementary Memorandum by the Minister of Fuel and Power

1. Since my Memorandum of 8th December (C.P.(45) 329) covering the 5th December print of the draft Coal Industry(Nationalisation)Bill was circulated further developments have taken place of which I should inform the Cabinet.
2. As a result of further discussions with the Mining Association, agreement has now been reached on the Terms of Reference (attached hereto) under which the Tribunal (referred to in Clause 9 (3) and in the Third Schedule of the draft Bill) will determine the aggregate amount of the compensation to be made in respect of that part of the industry which is covered by the definition of "coal industry value" in Clause 9 (2) (a).
3. The Terms of Reference as now agreed are, in substance, the same as were seen and approved by the Meeting of Ministers held on 6th December, and they have been worked out in close consultation with the Treasury throughout. There are one or two alterations in detail which the Mining Association asked for, but they are only matters of drafting and not of principle.
4. Agreement having been reached on this matter it will not be necessary to set out the actual Terms of Reference in the Bill, and there will be consequential alterations in the wording of Clause 9 (3) and the Third Schedule will be omitted. This procedure will enable the Arbitration to proceed concurrently with the Bill. I propose to issue the Terms of Reference in a Command Paper at the same time as the Bill.

E. S.

Ministry of Fuel and Power, S.W.1.

10TH DECEMBER, 1945.



TERMS OF REFERENCE

1. The Tribunal shall consist of two Judges of the Supreme Court to be appointed by the Lord Chancellor, one of whom shall be Chairman, and of an accountant to be agreed between the parties, or in default of agreement to be nominated by the President of the Institute of Chartered Accountants for England and Wales.
2. The parties to the reference shall be H.M. Government and the Mining Association of Great Britain.
3. The Tribunal shall determine the global sum required to provide fair compensation to the owners of the assets described in Annex I hereto for the transfer of those assets to public ownership, and for that purpose shall ascertain the amount which the assets might be expected to realise if sold as one unit in the open market as assets of a going concern by a willing seller to a willing buyer on the basis of (a) the net annual maintainable revenue, that is to say the net annual revenue which the assets as a whole might reasonably be expected to earn in the future, if they were not transferred to public ownership, and (b) the number of years purchase to be applied thereto.
4. (1) The Tribunal shall have regard to all relevant circumstances, but shall not make any allowance either because the acquisition will be compulsory or because the distribution of compensation among the several owners will involve expense: and

(2) The Tribunal shall not allow in favour of the owner any increase in value which the assets may be expected to have after transfer by reason of their being in the hands of one owner and of that owner being, in effect, the State.
5. In order to facilitate this reference the parties hereto have agreed that the figures of tonnage disposable, profit per ton and revenue for past years are as shown in Annex II hereto.
6. Cases shall be exchanged on or before the 30th day of March, 1946. Replies shall be exchanged not later than 14 days after the exchange of cases. Cases and Replies shall be lodged with the Tribunal on the same days as they are exchanged.
7. The parties may appear before the Tribunal by Counsel.
8. Subject to paragraphs 6 and 7 of these Terms the Tribunal shall regulate its own procedure.

ANNEX I

The assets concerned are the assets of the Coal Industry (as defined below) but not including coal in stock or in transit, stocks of timber, stores, materials, spare plant or parts, liquid assets, freehold minerals other than coal, rights granted by the Coal Commission in lieu of lump sum compensation to get or lead coal at a peppercorn rent or rights in respect of short workings; and for this purpose:-

- (a) The Coal Industry includes those activities only which are comprised in that industry for the purpose of the district wages ascertainment that is to say the ascertainment of the results of the industry in accordance with agreements between colliery owners and mine workers for regulating wages.
- (b) An asset is an asset of the Coal Industry in so far as it is so treated for the purpose of the district wages ascertainment, but an asset belonging to an excluded activity brought into computation on such ascertainment at a fair transfer price or similar charge is not an asset of the Coal Industry.
- (c) Cases of doubt shall be tested by reference to the actual ascertainment of the results of working for June 1939 or for the period which first included June 1939.

ANNEX II

	<u>Tonnage</u> <u>Commercially</u> <u>Disposable</u> <u>million tons</u>	<u>T.S.</u> <u>credit balance</u> <u>per ton</u> s. d. (to nearest farthing)		<u>T.S.</u> <u>credit balance</u> <u>£ million</u>
1922	228		11 $\frac{3}{4}$	11.25
1923	253	2	2 $\frac{1}{2}$	27.38
1924	244	1	2	14.25
1925	222		3 $\frac{3}{4}$	3.38
1926	81	1	3 $\frac{1}{2}$	5.15
1927	231		5 $\frac{3}{4}$ Dr.	5.44 Dr.
1928	219		11 Dr.	9.99 Dr.
1929	239		4 $\frac{1}{2}$	4.65
1930	223		4 $\frac{1}{4}$	4.11
1931	203		3 $\frac{1}{2}$	3.05
1932	192		2	1.64
1933	192		3	2.30
1934	205		5	4.40
1935	206		6 $\frac{1}{4}$	5.42
1936	212		11 $\frac{1}{2}$	10.17
1937	224	1	2 $\frac{3}{4}$	13.77
1938	210	1	4	14.09
1939 (first 9 months)	160	1	4 $\frac{1}{2}$	11.02

- Notes:
- (1) The tonnage is tonnage commercially disposable, which is broadly speaking the sales tonnage.
 - (2) The actual T.S. figures are based on returns covering only approximately 97% of the industry. The figures shown above are the T.S. figures scaled up to 100%.
 - (3) The above figures are subject to certain adjustments to arrive at net annual revenue including an adjustment in respect of remuneration of working capital.

