The recommendation of the Commission is that the property in all coal and associated minerals, whether in working or not, should vest in the State on a particular day, and that they should be paid for (by the issue of Government Stock or Annuities) at their market value, subject to a deduction of 5%. (This deduction will be explained later). The coal that has no value (e.g. because it is not now known to exist, or lies below what is at present workable level) will vest in the State without compensation. Power is to be given to the State to refrain from purchasing particular areas of coal either for a time or altogether. This provision was inserted partly in order that the State might not be put to the trouble and expense of purchasing coal which will soon be worked out or for some other reason is not worth buying, and partly in order to keep open a line of retreat in case the valuation proved much higher than is now anticipated. The royalties are to be administered by a "Coal Commission" appointed by and responsible to the Secretary for Mines. The total estimated cost of purchase is £100,000,000 and it is anticipated that, if the Stock issued in payment is on a 5% basis the transaction will involve the State in neither profit nor loss.
The considerations that led the Commission to recommend nationalisation of royalties are set out at length on pages 77-79 of the Report. As to the manner in which this policy is to be carried out, they content themselves with saying that they have exhaustively examined several alternatives and "on balance are of opinion that a simple scheme of purchase, of both the developed and the undeveloped coal, is to be preferred". As the Government will probably wish to go into this question for themselves, a copy is attached of a memorandum put before the Commission by the Mines Department. It is a revised version of part of a memorandum written about 15 months ago and circulated to the Cabinet last July, examining in detail the possibilities of escaping from the expense, confusion, and other objections arising out of "a simple scheme of purchase" by applying a process of gradual acquisition either to developed coal or to undeveloped coal or both. The memorandum in its original form inclined in favour of such a course. But further examination, and consultation with the Board of Inland Revenue, forced the Department to the conclusion that, for the reasons stated in the present memorandum, no scheme of this sort can be devised which is not open to even greater objections than simultaneous acquisition, and that "if a nationalisation policy is to be adopted there is no sound alternative to facing up to the difficulties, risks and confusion of the policy of a simultaneous acquisition of all minerals". It was only after a prolonged examination of every possible alternative that the Commission arrived (very reluctantly) at the same conclusion.

The proposals of the Commission vary in one important respect from all schemes that have been considered hitherto.
It has always been assumed that it would be impossible to justify the nationalisation of royalties on any practical grounds unless power was given to the State to cancel existing leases (subject to compensation, and to a right of appeal) where the national interest required it. Otherwise the advantages that are claimed for State ownership obviously cannot be obtained in the case of coal already leased, so long as the leases run. The Commission (p. 82) contemplate that existing leases must be preserved except so far as it may be necessary to vary or cancel them for the purpose of giving effect to their proposals for furthering amalgamations.

It is perhaps unnecessary to go further into this point at the present stage. Acceptance of the Commission’s general scheme for the nationalisation of royalties need not, presumably, be taken as acceptance of its every detail. This is a point that will need very careful consideration at a later stage.

On aspects of this proposal that affect the Treasury and the Board of Inland Revenue, those Departments will no doubt advise. From the point of view of the Mines Department, the difficulties are great, but cannot be insuperable. There will have to be heavy additions to staff, but eventually, if the Commission’s forecast is right, the cost of administration can be met from the royalties without calling on the taxpayer.

The proposed deduction of 50% from the purchase money represents the liability which the Commission consider should be imposed upon royalty owners to contribute to the Miners’ Welfare Fund; equivalent annual contributions will have to be made by the State out of the royalties that they acquire. This proposal
is likely to be the subject of some criticism on the ground that it is unjust when applied to persons who may recently have bought coal for full value, while the vendor, who is really the person who has "neglected his moral obligation to aid the well-being of the population that works his minerals" obtains the full value, and unjust in that Scotland (where royalties are subject to local rates) is treated in this matter in the same way as England and Wales (where they are not). The Commission were not impressed by this line of criticism, holding that a principle in itself essentially sound must not be rejected because its adoption might lead to a few hard cases.

G. R. LANE-FOX.

Mines Department,
March 10th, 1926.
STATE PURCHASE OF ROYALTIES.

1. **Common features of all schemes of nationalisation.**

The following points may be regarded as fundamental in any proposal for the nationalisation of royalties:

1. The minerals that are to be the subject of acquisition are (a) coal and (b) associated minerals (e.g. stratified ironstone, shale, fireclay etc.) in so far as they are worked with coal, or capable of being worked with coal.

2. The rights that are to be acquired are:
   - (a) in unsevered coal the absolute ownership (subject to any existing lease) together with the right to let down the surface (on payment of compensation for damage) except so far as this may be waived, by agreement or arbitration before compensation is paid;
   - (b) in severed coal the rights enjoyed by the present owner (subject to any existing lease);
   - (c) the right of access underground, including all existing underground wayleaves and shaft-leaves;
   - (d) the right to bore and search for coal and power to enter land for this purpose.

3. The acquisition is to be subject to existing leases, and to an obligation to grant leases to working proprietors. But there is to be a power (subject to compensation and appeal) to terminate leases and grant fresh ones where it is in the national interest to do so.

4. Persons claiming to own coal are to be under the obligation to make claims in order to establish a right to compensation.

5. Compensation for coal at present in lease or being worked by the proprietor is to be assessed on the basis of the market value of the rights to be acquired.
Compensation is to be paid by the issue of Government securities.
On this groundwork it is possible to build up several alternative schemes, differing in detail.

2. **Simultaneous acquisition of all coal.** This policy contemplates that on an appointed day the property in all coal and associated minerals, developed and undeveloped, will vest in the Crown, that unworked coal, equally with that at present being worked, will be paid for at its present market value (if any) and that the State will forthwith be substituted for the existing lessor in every current coal mining lease (in so far as the lessor's rights and obligations are derived from his ownership of the minerals, not of the surface).

3. **Objections to "simultaneous" scheme.** The administrative difficulties of any scheme in which all the coal in the country simultaneously changes from private to public ownership are very great, though no doubt not insuperable. To make a complete valuation in a limited time, involving as it would the examination of the claims of vast numbers of land-owners, large and small, who thought, rightly or wrongly, that there was coal under their small plots of land, would be a gigantic task. To create some £100,000,000 of fresh debt is not a course to be undertaken lightly. The huge sums that would have to be paid to some individuals in compensation would furnish a ground for political attack. The necessity for examining every coal mining lease in the country, of separating what relates

Φ This of course means that coal which is not now known to exist will be acquired for nothing.
to the minerals from what relates to the surface (not always an easy task) of adjusting in each the new tripartite relationship between the lessee, the State as mineral lessor, and the ex-royalty owner as surface lessor, and of ascertaining the conditions under which each parcel of severed coal is held by the owner— all this presents an administrative problem of the first magnitude. The large temporary additions that would be necessary to the staffs of the Inland Revenue and the Mines Department would not commend themselves to public opinion.

4. Possibility of gradual nationalisation. Is there, then, any scheme of nationalisation that by substituting a gradual process would be free from these objections. The considerations that arise in an attempt to apply this principle to undeveloped minerals and minerals now being worked respectively are different, and it is necessary to examine the two separately.

**UNDdveloped MINERALS**

5. *Time of acquisition of undeveloped minerals.*

None of the arguments for nationalisation seems at first sight to make it necessary for the State immediately to acquire the property in all undeveloped minerals. It is enough that they should be acquired when they are about to be developed. There is an attractive simplicity about a plan of this sort. Under it anyone who wished to work any coal would apply to the State for a lease of a particular area. The State, if satisfied that the proposed lay-out was a proper one, would grant a lease on such terms as it thought fit. It would at the same time advertise for claims for compensation from the owners of the minerals, to be made within a certain date, and
pay them in Government securities, the interest on which, during their currency, (guaranteed of course by the Exchequer) would be met out of the State royalties.

(6) **Effect of deferring acquisition of undeveloped minerals.**

But to do this is, in effect, not to destroy but to perpetuate private ownership. If all undeveloped coal were to be acquired outright, those whose coal is of no appreciable value, or who do not know they have any, would (very probably) get nothing for it; but if the State acquires gradually in the way suggested above, everyone whose coal may be required in the future - even those who do not know that they have any - will be entitled to full value for it just at the time when its value is greatest. The only change is that he can only realise that value by selling it; he must not lease it.

(7) The "Coal and Power" proposal for acquiring undeveloped minerals. The authors of "Coal and Power" favoured gradual acquisition of undeveloped minerals on grounds of economy, and their device for overcoming the difficulty referred to above is worth quoting in full. Their recommendations were as follows:

"We propose (i) that all land-owners who believe that minerals lie under their land should be entitled, for a period, say, of five years, to make by way of anticipation a claim for compensation, to become effective in the event of the minerals being taken over;

(ii) that if no claim be lodged within the stipulated period the right to make a claim for compensation should lapse;

(iii) that all such claimants should be required to assess the value of their own mineral rights, which assessments should be recorded with the Inland Revenue Department for the purpose of estimating the death duties and other taxation due from the estates to which they refer;

(iv) that the State should be empowered to take over the minerals concerned, or any part of them, at any time, at the valuation placed on them by the landowner, or, at the option of the State, at a valuation to be determined by arbitration."
8. **Objections to the "Coal and Power" proposal.** This proposal is, in effect, that compensation should be paid for each parcel of minerals acquired (provided that it has been registered) at whatever time the State thinks fit to acquire it; that the amount of compensation, however, should be the value of the parcel not at that time, but at some previous date—possibly many years before. Now the recognised method of valuing undeveloped minerals is to estimate the probable full royalty value of the minerals when they come into working (\(\text{royalty} \times \text{value} \times 37\)-year period), the length of time that is likely to elapse before the commencement of working (\(\text{years} \times 2\)-years working period) and then to find the present value of an annuity of \(\text{royalty} \times \text{value} \times \text{years} \times 10\)-basis. In the result (on a basis), the present value that coal would have if it were about to be immediately worked is divided by two for every 7\(\frac{1}{2}\) years for which the working is likely to be deferred. Thus coal which is not likely to be worked for 20 years is worth now less than 20 per cent of what its value will be then, and coal which is not likely to be worked for 50 years, less than 1 per cent. But the present value of a deferred annuity is a contradiction in terms unless it implies an immediate, not a deferred, payment. To adopt the present value of a future benefit as the purchase price of that benefit at some future time is to credit the vendor with compound interest on a sum that he has never received.

9. **Deferred confiscation of undeveloped minerals.** The same objection is applicable to any scheme for acquiring coal at a future date at something less than its market value at that date. All such schemes amount in effect
to deferred confiscation. If the principle of deferred confiscation is to be adopted, it would be much simpler to adopt it openly and to announce that after a certain period (say 50 years) all coal would vest in the State without compensation and in the meantime the State would buy any coal it wanted at market value; a progressive reduction in market value would then automatically follow. The only essential difference between this and the "Coal and Power" scheme is absence of disguise.

10. A register of undeveloped coal. If then, deferred confiscation is to be ruled out, the alternative of full market value at the time of acquisition must be accepted. On that basis the only way, it appears, in which a scheme of gradual acquisition of undeveloped coal can be prevented from perpetuating the system of private ownership is to require owners to register claims within a certain time after the passing of the Act, to pay them in full if and when their coal is acquired, but to pay nothing for unregistered coal. That would be a rough and ready way of ensuring that coal which is not known to exist at present is acquired for nothing, and coal which is known to exist, or for the existence of which there are grounds of suspicion sufficiently strong to give it a market value, would be paid for in full. Obviously, under any system of registration there would have to be a penalty for frivolous claims. This might be done by giving the State the right to take to arbitration the question whether the claimant did in fact possess a marketable commodity and giving the arbitrator power to award costs against him. Or (as suggested in "Coal and Power") by taking the value put by the claimant on his coal as a basis for death duties. Or by both. The compilation of a register
of undeveloped coal would be troublesome but quite practicable, provided that the initiative was imposed on the claimant, not undertaken by the State.

But even this plan is open to serious objections that are pointed out in the next paragraph.

II. Time of acquisition of undeveloped coal. The comparative advantages of simultaneous acquisition and gradual acquisition as applied to undeveloped coal may, then, be summed up as follows:

(a) In point of convenience. In the administrative difficulty of making the change there is little, if anything, to choose between the two. The difficulty lies in making the register, examining the claims, looking into questions of title and assessing compensation. This must be done in either case. In case of ultimate working the advantage is clearly with the "simultaneous" policy. A policy of acquisition of coal when ripe for development would lead to the practical difficulty that the State would need to settle the terms of a lease before it was justified in buying the coal, but could not wisely settle these terms until it knew what it had to pay for the coal. Moreover, it would be difficult for the State to protect itself from bogus applications for a lease made in collusion with the owner of the coal with the object not of carrying out the terms of the lease but of securing the purchase money.

(b) In point of equity. Here also the balance is in favour of simultaneous acquisition. The "gradual" policy is open to attack on two grounds. First it places the owner of the coal at the mercy of the State, who can determine whether and
when coal is to be worked, and, by pursuing a particular geographical policy of development, can change values in favour of some owners and adversely to others. Secondly, glaring anomalies would be likely to arise as between registered and unregistered owners. The experience of the administration of the Finance Act 1909-10 shows that the Courts look with the utmost disfavour upon anomalies of this sort, and will always give relief if they can find any loophole for doing so.

(c) In point of expense. - The simultaneous policy is probably cheapest in the long run, for, although theoretically it should be more expensive (since it acquires some coal unnecessarily), in practice it would probably prove cheaper to buy everything outright than to buy something less than everything in subsequent piecemeal transactions, each at the top of the market. But the simultaneous policy has the disadvantage that it imposes a liability on the State without any corresponding revenue to meet it. This is the reason that the authors of "Coal and Power" gave for rejecting it, and it is a strong one if a "gradual" policy is to be applied to developed coal too. But if (as proposed in "Coal and Power") developed coal is to be acquired "simultaneously" the royalties received from it by the State ought to be sufficient for the service of the whole of the securities issued in payment for both developed and undeveloped coal, and for administrative expenses as well.

DEVELOPED COAL.

12. Developed coal - possibility of gradual acquisition.

It is here that the administrative difficulties of "simultaneous" acquisition are most serious, and the advantages therefore of a "gradual" scheme would be greatest. Such a scheme in its extreme form would leave all existing leases alone and provide merely that, after the expiry of a lease, if and when anyone wants to work the remaining coal it is to the Crown that
application must be made; as soon as a lease is granted the minerals become the property of the Crown, and the previous owners are entitled to compensation. But this does not go far enough to satisfy even the utilitarian case. It is part of that case that the State ownership of minerals would enable faulty lay-outs to be corrected, facilitate the absorption of the inefficient by their more efficient neighbours, and so forth. To meet the utilitarian case, therefore, it would be necessary also to provide that the State may at any time buy up any particular minerals in lease without waiting for the lease to expire, with a view to cancelling the lease and granting a fresh one.

13. **Advantages of gradual acquisition of developed coal.**

The advantages are that the difficulties would be avoided that are inherent in the haste of a simultaneous scheme—a haste that is quite unnecessary from the utilitarian point of view, since, from that point of view, a very large part of the minerals now being worked might just as well remain for the present in private hands. There would be no necessity to value all developed minerals within a limited time; no great addition to the national debt at any one time; no distribution of vast sums to persons already drawing royalties; existing mining leases would not have to be all examined and their rights and obligations re-distributed; the additions required to the staffs of Government Departments would be comparatively small.

14. **Disadvantages of gradual acquisition of developed coal.**

The principal disadvantage is, of course, that it does practically nothing to meet the "political" case. A substantial proportion of the royalties now being paid might continue for 50 years or more. Since a verdict in favour of the nationalisation policy, as compared with the "Leslie Scott" policy, can only be based on belief in the strength of the "political"
argument, this is a serious matter. It has other disadvantages. The agony of transition will be less acute but it will be more prolonged. The "simultaneous" scheme has the great merit that, under it, all coal vests once and for all in the Crown on a certain day, claims for compensation must be made within a certain period: the State's full liability is known; and the thing is finished. Under a "gradual" scheme a state of uncertainty would hang over everyone concerned for an indefinite period. Moreover the necessity that every lessee would be under of dealing with the State, as reversionary owner, as well as with the existing lessor, would be almost impossibly cumbersome. The policy is open, too, like gradual acquisition of undeveloped coal, to the objection that it is buying piecemeal at the top of the market. Theoretically it ought to make no difference at all whether the coal unworked at the end of the lease and the mine plant and equipment are bought in reversion during the lease or in possession at the end of the lease. Practically, the latter would be likely to prove more expensive.

**CONCLUSION.**

15. Conclusion. It would probably be generally admitted that it is a pity that the claim of the Crown to all minerals was not reasserted by the Legislature when it was disallowed by the Judiciary 350 years ago. And if we approach the problem in that spirit, with a single view to seeing to what extent the position could now be recaptured without disproportionate trouble, we shall probably come to the following conclusions. The first will be that the position is capable of being quite easily recaptured as regards undeveloped minerals by their acquisition outright. We shall then turn to developed minerals. We shall probably say that it is no use for the moment trying to recapture the position here. The system of royalties exists, we cannot stop it, we shall not do any practical good by transferring the royalties from private hands.
to the Crown, and the only thing to do is to let the system run itself out. We can only recapture the position to this extent; that we can restore to the Crown any minerals that may remain after the leases have expired. If it is objected that we are thus foregoing the power that the State ought to have to see that the terms of leases accord with the national interest, we shall reply that we shall certainly have regard to this in leasing the minerals that we have recaptured, but, as regards those which we have allowed private persons to lease, we have already foregone that power, and that if anything needs doing the "Leslie Scott" remedy will do it well enough as a stop-gap.

We shall therefore decide that the right policy is acquisition of undeveloped coal outright, acquisition of coal in lease as leases fall in, and the "Leslie Scott" machinery in the meantime for private lessees with a grievance, or an ambition to absorb their neighbours. It will then be pointed out by the Treasury that a policy that contemplates spending a good many millions on minerals producing no revenue, while leaving all revenue-producing minerals in private hands, is not one that can be expected to commend itself to them.

And so, in view of the practical impossibility of gradual acquisition of undeveloped coal without either adopting, to a greater or less extent, the principle of confiscation, or of perpetuating the principle of private rights, we are forced back to the conclusion that, if a nationalisation policy is to be adopted, there is no sound alternative to facing up to the difficulties, risks and confusion of the policy of "simultaneous" acquisition of all minerals.

G. R. LANE-FOX.