CABINET.

Coal Mines Reorganization Commission.

(Part II of the Coal Mines Act, 1930.)

Note by the President of the Board of Trade.

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I circulate to the Cabinet the attached memorandum by the Secretary for Mines.

W.R.

Board of Trade,

13th February, 1936.
1. With the publication of the recent Report of the Coal Mines Reorganisation Commission (Cmd. 5669 of 1936) it has become known that Part II of the Coal Mines Act, 1930, has proved unworkable, and a decision cannot be delayed on the question whether it should be repealed or amended. In other words, are we to abandon a policy of compulsory amalgamation for the coal mining industry, or not?

Historical Summary.

2. All the Commissions and Committees which have considered the matter during recent years, from the Statutory Commission of 1919 onwards, have emphasised the need of converting the industry into a smaller number of units of greater average size than the fifteen hundred odd units of which it at present consists. The Mining Industry Act of 1926 established machinery to enable the industry to carry out amalgamations for itself, even to the extent of compelling unwilling minorities to participate, but leaving the initiative entirely with the colliery owners, with the result that little or no progress was made against the combination of inertia and mutual distrust so long a characteristic of the industry. Accordingly, the Coal Mines Act of 1930 (Part II) set up the Coal Mines Reorganisation Commission, whose duty was "to further the reorganisation of the coal mining industry" and "for that purpose to promote and assist amalgamations where they appear to the Commission to be in the national interest". The Act of 1930 gave the Commission the same right to ask the Court to coerce colliery owners as the Act of 1926 gave to colliery owners against one another, and imposed upon the Commission the
obligation in certain circumstances themselves to prepare and submit to the Court schemes of amalgamation where they considered them expedient, and where the colliery owners concerned failed to do so.

3. It was, I think the hope of Parliament in 1930, as it certainly was that of the Members of the Commission when they commenced their work, that it might not prove necessary to use the machinery of compulsion. Nevertheless, no one doubted that such a machine had now been made available and that, in the last resort, it could and would be used. Those who still hoped for effective action on the part of the coal owners themselves were, however, again doomed to disappointment. With the change of Government in 1931, the obstructive attitude of the Mining Association became so pronounced that the Commission felt bound to ask the new Government for a specific declaration of their support and confidence. This declaration was given in the House of Commons on the 31st May, 1932, by the Attorney General, and so far still holds good. An extract from the Attorney General’s speech is attached.

The West Yorkshire Case.

4. In spite of this declaration, the attitude of the colliery owners as a whole remained hostile, and the Mining Association specifically questioned the legal powers of the Commission to establish before the Court a case for compulsory amalgamation. The Commission, however, proceeded steadily with the preparation of schemes, and were also able, from time to time, to give help to colliery owners in effecting voluntary amalgamations (notably the merger of the Powell Duffryn Company with the Welsh Associated Collieries). Eventually, last year, they decided to prepare and submit to the Court a scheme of "partial" amalgamation for West Yorkshire, which had the support of a large majority (56 out of 60 concerns, or 88% of the total production) of the owners concerned. This
case was heard by the Railway and Canal Commission in May last and was rejected both on merits and on law, as the Reorganisation Commission record in their present Report.

5. Subsequent to this the legal issue regarding "total" amalgamations was referred to the Law Officers of the Crown, and they have now advised definitely that if compulsory amalgamation is desired as a matter of policy, amendment of the law is necessary.

The Present Position.

6. The position with which the Government is now faced, therefore, is this. The Commission was intended by Parliament to have powers of compulsion: and in the debates on the Bill of 1930 all parties assumed that the Bill gave those powers. It has now, however, become clear that the Act as drafted does not give the powers which it was intended (and thought) to give. We cannot leave matters as they are; namely, have a statutory (and expensive) Commission in being bereft of any real authority. In my view, therefore, the Government has before it the alternatives of repealing Part II. (and thereby specifically abandoning the policy of furthering amalgamations in the coal industry, if necessary by compulsion) or of amending it in such a way as to give the Commission the powers which Parliament originally intended to give them.

7. I would submit that we cannot contemplate the repeal of Part II. In the first place, on economic grounds, apart from the well-known advantages that are ordinarily claimed for units of a reasonably large size, amalgamations are a vital complement to the policy of centrally controlled selling. That policy was successfully pressed upon the coalowners as the most likely means of getting results quickly enough to avoid a strike. But it is only a step along the road, not the end of the journey, as, with so many different participants, organised selling would not be nearly so successful as it would be in conjunction with a properly organised industry. Nor is it by itself likely to ensure the concentration of the industry to the extent that is desirable.
8. In the second place, on political grounds, it would be impossible to go back on a policy which has been unanimously advocated by a series of impartial courts of inquiry, and accepted by Parliament, especially as we cannot ignore the views of the Reorganisation Commission itself. In the reports it has from time to time published it has made quite clear its own opinion that the experience of the last five years has strengthened and not reduced the need for amalgamation. The policy has had the declared support of successive Governments since the Act of 1930 became law. Moreover, as recently as the 3rd December last, in the Debate on the Address, the Prime Minister referred to the important functions of Part II of the Act in connection with the Government's coal policy as a whole. At that time, of course, the Law Officers' decision had not yet been given. The issue is therefore no longer whether amalgamations are desirable or not, but whether they should, in the ultimate, be forced upon the industry. I am convinced that they will not be made except by compulsion or under an effective threat of compulsion.

9. I do not at all despair of further progress by voluntary action. A considerable number of individual coal owners (as was evidenced in the West Yorkshire case alone) are favourably disposed to amalgamation. But I am absolutely certain that once the overriding power of compulsion is removed, the impulse towards voluntary action will disappear with it. I have previously referred to the inertia and mutual distrust which are such fixed characteristics of the coal industry; and I am convinced that they are as potent to-day as they have ever been, when colliery owners are taken as a whole. Only if compulsory powers are an imminent reality will the progressive elements in the industry face the unpopularity involved in making their voices heard, or, indeed, will they raise their voices at all.
10. For this reason therefore I recommend one last and
final breathing space for the owners, and suggest that in
re-affirming the Commission's compulsory powers the Bill
should specifically preclude the application of compulsion
until the lapse of a period of two years after the passage of
the Bill. The industry would thus have had eight years in
which to re-organise, and after 1938 the Commission would have
the undoubted right compulsorily to make amalgamations provided
that the Court has the last word in any dispute as to terms.
I suggest also that the effective instrument creating any
compulsory amalgamations prepared by the Commission should be
an Order of the Board of Trade, thus keeping alive a form of
Parliamentary control. If the Bill is approved it should in
my view become law as soon as possible, so that we may take
advantage of the better atmosphere existing in the industry as
a result of the settlement of the wage dispute, and also because
the whole nation would to-day welcome any action by Parliament
which might help to improve the structure of the industry. The
last three months have shown all too clearly that its present
organization yields neither a reasonable return on the capital
invested nor a decent wage to the men which it employs.

Recommendation.

11. I therefore recommend that a Bill should be prepared
forthwith, and submitted to the Home Affairs Committee as soon
as possible, to amend Part II of the Act of 1930, so as to
remedy the deficiencies disclosed by the Law Officers' opinion,
and to re-establish beyond doubt the intentions of Parliament
to vest in the Reorganisation Commission powers to compel
amalgamations in the coal industry to the extent that they are
desirable in the national interest and cannot be secured by
voluntary action on the part of the coal owners themselves.
Such a proposal is neither novel nor revolutionary: it would
be merely declaring the law to be what everyone since 1930 has
assumed that it is, with the important difference that the power
of compulsion, now re-affirmed, would be specifically post-dated
in its actual application for a period of not less than two years.

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Another question which was asked me was, "Why has there been no reorganisation?" The owners may have been more to blame than the miners; I do not say they have been, but the fact is that reorganisation has not proceeded as it was hoped it would as a result of Part II of the Act, because of the uncertainty prevailing in the industry.

I say, on behalf of the Government, that when this Bill is out of the way the Reorganisation Commission set up by Part II of the 1930 Act can take up the task that was committed to it by Parliament with energy and a certainty that the Government not only hope but intend that it should proceed with its task. There is certainly an opportunity, now that we have set up this industry in comparative stability for 12 months, for the commission to undertake its task with a vigour and an assurance not possible as long as they thought it was practical politics that Part II of the Act might be repealed. The Minister for Mines and the President of the Board of Trade will do anything that is necessary to encourage the Reorganisation Commission to put into force the powers they already have, and the passing of this Bill will help to create the conditions in which reorganisation can take place.