

THE GREAT INQUISITION

MR. SMILLIE, LANDOWNERS AND THEIR TITLES

EXTRACTS OF EVIDENCE BEFORE THE COAL COMMISSION

The Coal Industry Commission reassembled in public on April 23rd for the second stage of the inquiry, the meeting place being the King's Robing Room at the House of Lords. On the Commission SIR ALLAN SMITH (chairman of the Managing Engineering Employers' Federation) has replaced SIR THOS. ROYDEN, and SIR ADAM NIMMO, colliery owner, has replaced MR. J. T. FORGIE.

Before the eventful summoning of the landowners to have their titles examined, a number of days were spent in hearing the evidence of Professor Pigou, Professor Cannan, Mr. Harold Cox, Professor Scott, Mr. Sidney Webb, Professor Graham Wallas, Professor J. H. Jones, Sir L. Chiozza Money, Mr. C. D. H. Cole, Professor L. T. Hobhouse, the Premier of Queensland, the Hon. T. J. Ryan, and others.

Owners of Mining Royalties

At the sitting on April 25th MR. ROBERT SMILLIE asked that the following gentlemen should be called on to give evidence:—The Marquis of Bute, the Earl of Dunraven, the Duke of Hamilton, Lord Durham, the Duke of Northumberland, Lord Londonderry, Lord Dynevor, and a representative of the Ecclesiastical Commissioners. "We would like to give these gentlemen an opportunity of saying something to us," said MR. SMILLIE, "they are only a sample of the royalty owners of the country. I would like them to attend and produce their titles to their land, the extent of their holdings of proved mineral land; the total output of coal, iron, and other minerals on their estates; the amount per ton payable, and the total income from mineral royalties." The Chairman intimated that the gentlemen named would be duly subpoenaed.

On the 29th April MR. SMILLIE amended his application by adding Lord Tredegar and Captain Wemyss to the list to be called. He asked also that the Duke of Hamilton's agent might appear instead of the Duke, in view of the illness of the latter.

The Ecclesiastical Commissioners

MR. S. E. DOWNING, secretary of the Ecclesiastical Commissioners of England, giving evidence on May 6th on the question of nationalisation of mineral rights, explained that the Ecclesiastical Commissioners were owners of coal and other minerals under large areas, especially in Durham and Northumberland. The royalties and wayleaves in respect of coal received in 1917 amounted to £370,000. The Commissioners held the property for the purpose of augmenting poor benefices. The parochial clergy were in effect beneficiaries for whom they held the property. In the matter of compensation the witness submitted that individual owners should be compensated according to the value of their respective properties. In regard to minerals unproved it would be necessary to arrive, with expert assistance, at something which could be described as the market value.

Questioned by MR. SMILLIE, the witness stated that the land formerly belonged to Bishops or Deans and Chapters who held it for many centuries. It was transferred by, or under, an Act of Parliament about 1840 to the Ecclesiastical Commissioners. It would not be right to say that most of the land at present held by the Commissioners was at one time part of the land held by the monasteries. On the dissolution of the monasteries the great bulk of the monastic property went to the Crown.

Who gave the lands to the Deans and Chapters and Bishops?—Their titles are very various, but the bulk of the grants made to the Bishops and Deans and Chapters in the early days were either by the Crown or by great subjects of the Crown.

By lords of the manor?—A great deal of the property that has come to the Bishops and the Deans and Chapters consists of lordships of manors.

I understand that the law of England is that no person can be

the owner of the land, although he may hold it?—That is a question of high legal authority which is too big for me; it entirely depends on how one understands the phrase.

As representing the Ecclesiastical Commissioners, you would be a law-abiding person?—I hope so.

If it is the law that no person, corporation, or collection of persons can own land, I suppose you would say it ought to be given up to those who could own it?—I see no reason for that at all.

Do the Ecclesiastical Commissioners claim to own the land or only to be using it for the time being?—As regards this land we are now talking about, we claim the fullest ownership that the subject can have.

Questioned by MR. SMILLIE on May 7th, Mr. Downing agreed that there had been cases in which common land had been fenced in by the landlord and the fencing legalised afterwards.

In reply to MR. COOPER, witness stated that the average charge per ton of coal made by the Commissioners was 6d., and said that their greatest mineral interests lay in Durham and Northumberland.

Lord Durham and his 12,411 acres

Lord Durham gave evidence on May 7th. The *présis* of his evidence stated: "I own the coal under 12,411 acres of land in the County of Durham. All this coal is let, and is being worked, or will be worked shortly. In 1896 I ceased to be a colliery owner by selling to a company formed by Lord Joicey all my leasehold collieries and all my plant and machinery at all my collieries, both freehold and leasehold, and at the same time leased to this company for 60 years the freehold coal worked by me. Neither I nor my father, who succeeded the first Earl of Durham, has ever prevented coal from being worked by refusing to lease. One lease still current was granted by my father in 1867.

"Of the 12,411 acres of coal owned by me and leased to colliery companies, my title deeds show that approximately 6,000 acres were bought within the last 100 years, 4,000 acres were bought between 1720 and 1820, and the remainder is ancient land owned by the Lambton family. I have had these title deeds examined, and they show that the purchase of the lands acquired since 1720 included the coal, the minerals being expressly mentioned. Apart from these purchases, I or my predecessors have purchased over 1,250 acres of freehold land within the last 200 years.

"THE COAL WHICH I OWN"

"In addition to the royalty rents which I receive for the coal which I own, I receive under the conditions of my mining leases certain underground wayleaves, shaft rents, and surface wayleaves for the use my property is put to in bringing coals belonging to other people through it. It may be argued that there is no justification for these charges, but the answer is that these charges were part of the bargain when the collieries were leased, and were agreed to by both parties as fair and reasonable. Further, I own certain surface railways, which I let at a fixed rental to those who work the coal.

"In 1913 royalty rents on 2,338,604 tons were 5 424d. per ton. The underground wayleaves, shaft rents, and surface wayleaves, on 970,113 tons were 1 056d. per ton. In 1918 the figures were:—Royalty rents on 1,526,315 tons, 5 6d. per ton, and underground wayleaves, etc., on 670,793 tons, 1 083d. per ton. In addition I am entitled to 1,500 tons of coal free for the use of myself and my employees in each year. These rents include payment for all the surface occupied by the colliery buildings, and such land as was occupied by spoil heaps at the time of the leases and in many cases the land occupied by the workmen's houses.

"In all my leases there is a general clause allowing the colliery

companies to acquire land for colliery purposes or for building houses on paying double the agricultural rent of such land for the term of their lease. At the end of the lease such houses fall in to me, but in practice are always re-let to the colliery company at no increase of rent.

THE LAW OF TITLE TO LAND

MR. SMILLIE, cross-examining Lord Durham, asked: I suppose it may be taken that the land, which includes the minerals and metals, is essential to the life of the people? Do you agree?—If you like, I accept that. They cannot live in the air.

Provided a limited number of people hold the whole of the land, they practically hold the lives of the people in the land at their disposal?—I do not accept that.

You do agree that land is essential to the life of the people, but you will not accept the proposal that if the land is in the hands of a limited number of people practically they hold the lives of the people at their disposal?—The lives of the people who live on my land are as happy as those on any other land, and it makes no difference whether I own it or not.

Land is quite as necessary to life as fresh water or air or sunshine?—Or bread.

We cannot get bread without land. It is one of its purposes to produce bread. You say you own the coal under 12,411 acres of land in the County of Durham?—Yes.

I suppose you claim the ownership of the surface of the land with the minerals under it?—Certainly, in nearly every case.

Do you know whether the law of England allows any person to own land in the full sense?—I am not a constitutional lawyer, but I consider that my title to my land is established by the laws of this country.

MR. SMILLIE then quoted Williams on "Real Property," in which it was said:—"The first thing the student has to do is to get rid of the idea of absolute ownership. Such an idea is quite unknown in English law. No man in law is absolute owner of his lands, but only holds estate in them." "Do you agree with Williams?" asked Mr. Smillie.

The Witness: I have not read him, but I know I am only tenant for life of those lands.

MR. SMILLIE next quoted Coke, who said that all lands were tenements under the law of England and no subject held land except by the King. "Do you agree with Coke?" asked Mr. Smillie.

I will quote a constitutional lawyer, Blackstone, who says:—"It is a received and undeniable principle of law that all lands in England are held immediately of the King." Do you deny Blackstone's authority? If he is correct you cannot hold the land you claim to own?

The Witness: That is your opinion. My family has owned land for a great many years and no one has disputed it.

"We dispute it now," interjected MR. SMILLIE. Continuing, MR. SMILLIE said: I will quote another. There is a very old Book which says, "The earth is the Lord's, and the fulness thereof." I am not exactly sure of the author, but it appears in the Bible, upon which you have promised to tell the truth and the whole truth this morning. Would you deny that authority?

The Witness: I prefer another authority, which says, "Render unto Caesar the things which are Caesar's, and unto God the things that are God's."

MR. SMILLIE: That is exactly what I want to be done at the present time, because if "the earth is the Lord's, and the fulness thereof," it cannot be the property of individuals.

THE RIGHT TO REFUSE THE USE OF LAND

I have a feeling that you have no title-deeds which justify your ownership of land or minerals, and that being the case, I would suggest you ought to give it back to the State, who is the proper owner of it, if I am correct. Now you say that neither you nor your father, who succeeded the first Earl of Durham, has ever prevented coal from being worked by refusing to lease. Does not that answer postulate that if you cared to prevent coal from being worked you could have refused to lease?—I suppose it could have been done, but I should never dream of refusing to renew a lease.

If you own the coal, and have the right to refuse to lease it, other landowners in your position may do the same?—I suppose so.

That would mean that a comparatively small number of people in refusing to lease the coal of this country would consequently hold the country in their hands to that extent?—You mean, they are blackmailers?

No; I do not mean they are blackmailers. I mean they have

the power to do this?—I think the State would intervene, just as it would if there were a miners' strike or a railway strike and the population were suffering thereby.

Do you think the State has the same right over landholders refusing to exercise the powers they hold?—Yes.

You and fellow landholders in the country hold perhaps a more important right than that—you could refuse to let the surface of your land for cultivation, could you not?—Yes; I have the perfect right to cultivate my own land.

The Dynevor Estates

Lord Dynevor, called next, said the acreage of the Dynevor Estates in Carmarthenshire and Glamorganshire was about 9,300. There was coal under about 8,720 acres. The average royalties from coal for the years 1916-17-18 was 4'745d. per ton, being on a fixed basis. There was a small area of 425 acres of one seam only, which had been sub-let by one colliery to another on which the royalty was one-twelfth of the selling price.

The average wayleave, where one existed, for 1916-17-18 was 855d. per ton.

"As to the Carmarthenshire estate," continued the witness, "King Henry VIII. beheaded my ancestor, Rice Griffith, on Tower Hill in 1531, and seized his lands. My family bought the larger part of the present estate about 1600, and there have been various additions of later date, also by purchase. A small portion was left by will by Mr. Keymer to the third Lord Dynevor. My interest in the Glamorganshire estate came to my family through one of three co-heiresses, Miss Hoby, who married my ancestor, Griffith Rice, in 1690. That estate was purchased from the Crown in 1541 by Sir Richard Crumwell. From 1541 to 1793 my predecessors worked the minerals and developed the industry, and must have spent considerable sums of money in doing so."

Lord Dunraven and Common Land

Lord Dunraven, the next witness, stated that the total acreage of the Dunraven estate was 26,443. The acreage of the coal area was 17,602. The average royalty per ton on the fixed and sliding scale was 6d. There was only one colliery where the payment was on sliding scale, and there the scale worked out at 11d. per ton. The bulk of the Dunraven estate was purchased by the Edwin family between 1684 and 1685. In 1810 the witness's grandfather, Windham Henry, the second Earl of Dunraven, married Caroline Wyndham, daughter of Thomas Wyndham, who was son and heir of Charles Edwin, and Thomas Wyndham settled what was now practically the Dunraven estate on the witness's grandfather and his heirs, and this settlement specifically mentioned the mines and minerals. Under two subsequent resettlements the witness was now tenant for life of the estates and minerals.

MR. HODGES asked, regarding collieries which he suggested had closed down owing to the royalty payable being in excess of the profits per ton: "All you are concerned about is whether you get your royalties or not?"

MR. RANDALL: That is what I have to look for.

You don't mind whether the company dies or not?—Does it matter if I do mind or not?

MR. HODGES next asked how it came about that Lord Dunraven became possessed of the minerals under a thousand acres of common land (Brycoffin Common) at Coit. "Have you any title deeds to the mineral rights under that common?"

Lord Dunraven: I cannot tell you. MR. RANDALL: I think it is officially mentioned in the survey of the manor.

Have you ever examined that?—No.

MR. SMITH: Can we have the title deeds produced for this common?

THE CHAIRMAN: You can give us a *précis*, Mr. Randall?

MR. RANDALL: Lord Dunraven's solicitor can.

MR. SMILLIE: With regard to these thousand acres of common land, under which the minerals have been worked, we want to know if Lord Dunraven has the right to work the minerals under that common land. We want to know his right. It has been stated here by an eminent landowner (Lord Durham) that under the common law of England the surface and the minerals always go together. In some cases they are divided undoubtedly, by agreement or arrangement, but under the common law they always go together. We want to know how it is, if this is common land under common ownership, that Lord Dunraven works the minerals under there.

MR. RANDALL: The surface belongs to Lord Dunraven also.

MR. SMILLIE: It is common land. We will see, if you produce the title deeds, whether it is your land or common land.

The Duke of Hamilton's 56,000 acres

Mr. Timothy Warren, giving evidence on May 8th, stated that he was a solicitor in Glasgow and a partner of the firm of Moncrieff, Warren, Paterson and Co. He acted as law agent for the Duke of Hamilton in relation to any Scotch real property he possessed. That consisted of the two properties, Pardovan and Riccarton, in the County of Linlithgow, extending together to about 1,450 acres. In neither of these was coal found. It was possible there might be some oil shale, but it had only been worked in Pardovan, though unsuccessfully, on account of the poor quality. He also acted as law agent for the Hamilton Estate Trustees, a body constituted by the Hamilton Estate Act, 1918.

That Act, he continued, was passed for the purpose of dividing the administration of the last Duke of Hamilton's trust into two separate sections—the one relating to the island of Arran and the other properties in which the late duke's only child, the Marchioness of Graham, and her children are interested, and the other (the Hamilton Estates Trust) relating to the properties, chiefly real properties in Lanarkshire, Stirlingshire, and Linlithgowshire, in which the present duke and his children are interested. I assume that the request for information which has been addressed to the duke relates to the lands held by the Hamilton Estate Trustees. Under the Act of Parliament, special provision is made that both bodies of trustees are to continue to administer the estate respectively coming under their control under the Act subject to the same duties, obligations, etc., as are imposed under the late duke's testamentary writings. The whole purposes of the duke's will continue operative as before, excepting only that there are separate bodies of trustees to administer the two sections of the trust properties into which these have been divided.

Under the duke's will the debts affecting the estates having all been paid off, the present duke is now beneficially entitled to the net annual income which these estates produce. The estates in Lanarkshire, Stirlingshire, and Linlithgowshire which the trustees own extend in all to about 56,500 acres. There are portions of the estates in which, while the trustees own the coal, they do not own the surface, but with a trifling exception (some 30 acres) wherever they own the surface they own the coal. Their entire ownership of surface and/or coal

extends to	acres 56,000
Of this area the coal actually on lease amounts to ..	20,500
Coal believed to be available but unlet	6,500
Coal which probably exists, but has not yet been proved as workable	7,000
Areas wherein geological conditions preclude the existence of coal	22,000

The area wherein the coal belongs to the trustees and the surface to other proprietors is somewhere about 2,900 to 3,000 acres. This is mainly in the Redding district, Stirlingshire.

The lordship on coal on the output (42,727,372 tons) for the ten years, 1907-8 to 1918-19 has been 6'391d. per ton. The lordships range from 4d. per ton fixed or 4d. to 5d. per ton in the lowest rated collieries—the figures varying for the different seams—to 10d. to 1s. per ton in the highest rated collieries—varying as before for the different seams. In every case but one the royalties are fixed—in that one case the royalty is 3d. to 8d. per ton of a minimum, or one-twelfth of the selling price under deduction of 4d. per ton.

ORIGIN OF TITLES

The origin of the titles of the ducal lands is in each case a Crown grant, the earliest being a charter by King Robert the Bruce to Walter, the son of Gilbert, and to the heirs by his wife, at that time Mary de Gourdon, of the lands of Machan, in Clydesdale, granted at Dunbretan (Dumbarton), March 3rd, ninth year of his reign, 1315. There are an enormous number of other charters, and the titles in all are counted by hundreds. There are in addition a few properties which have been bought and paid for in the market in the ordinary way for the purpose of consolidating existing holdings.

MR. SMILLIE: How long has your firm been agents for the Duke of Hamilton?—Since the passing of the Estate Act of 1918. The previous agents were Todds, Murray, and Jameson, and Mr. James Hamilton, of Glasgow, is the mineral agent for the duke.

Do you know anything really about the history of the Hamilton Estate for a period of 40 or 50 years?—No; I do not.

You can only speak with authority on the affairs of the Hamilton Estate since 1918?—And on what I am credibly informed of by the responsible officials of the estate.

Do you know that a charter conferred upon the representative of the family the parishes of Hamilton, Dulserf, Glasford, and Lesmahagow?—I have seen some of the charters, but the time has been too limited for me to examine them all.

You represent the duke?—I was sent here to represent the estate trustees.

Do you know if the parish of Dalzell was conferred at the same time?—No.

Some of us on this Commission challenge the duke's rights to own this land, and you are sent to speak for and represent him—we want to ask you really about the legality of his possessions?—Yes; I understand.

Will you undertake to produce that charter?—Yes; if the Chairman orders me to do so.

THE CHAIRMAN: What is the date?—It is about 400 or 500 years ago.

THE CHAIRMAN asked the witness to communicate with him on the subject.

MR. SMILLIE: I asked that certain dukes and earls might be called and produce the charters justifying their possession of certain land in the country. We waived that for the moment because it was said that it would take a van to carry one gentleman's charters, and that it might require a special train to carry the lot. While we recognise it would not be possible to produce the charters and deeds to this Commission in this room, I would ask you to allow us to put this matter into the hands of some counsel, and that the charters may be produced to counsel on both sides.

THE CHAIRMAN: Is there any particular charter you want?

MR. SMILLIE: We will give you, as far as we possibly can, a list of the charters we want.

THE CHAIRMAN: If you will do that, I will communicate with them.

HOVELS NEAR HAMILTON PALACE

Do you know how many mansion houses the Duke of Hamilton's family possess?—Hamilton Palace and four other places.

Do you know that Hamilton Palace is a very large building, containing a good many apartments?—Yes, a very large number.

You know that it stands in a very large enclosure, surrounded by a high wall?—That's right.

Just outside that wall, on the west side of the palace, are some of the most miserable homes in Great Britain—miners' houses?—I cannot use comparative terms; but there are indifferent houses there, hundreds of years old.

Are you aware that in the town of Hamilton miners' families, the families of the men who are producing coal from the duke's mines, are living four, five, and six per apartment?—I cannot say.

Do you doubt my statement?—I don't.

INCOME FOR NOTHING

The Duke of Hamilton's income from royalty rents would be small if the miners on the Hamilton estate were not working? There would be no royalties then?—I should think not.

Consequently, the present duke, and the other dukes before, never contributed personally anything at all to their income from royalties?—It was their property; they contributed their property.

Are you aware we have not yet seen the title deeds?—I am.

Are you aware of a Scottish law of 1592 which confers all metals and minerals found in the land of Scotland on the Crown?—Gold and silver, but not coal.

Have you read the Act?—I have not read it.

Do you know there are old charters which specifically mention coal?—Yes.

Are you aware that it was laid down in that Act, which is still the law of Scotland, that 10 per cent. of the value of all minerals and metals worked from the ground must be paid to the estate?—No.

Can you tell us how much the Duke of Hamilton or the trustees of the estate have paid under that law?—Nothing, because the Act does not apply. It has been the subject of legal interpretation in two cases; but I am afraid I cannot now give you the reference.

I am trying to make out that the Duke has been illegally working, or allowing to be worked by lease, the minerals on the

Hamilton estates including coal. If he has been doing it wrongfully, then I want to ask you whether that is just to the nation itself?—Of course, if he is not entitled to the property it is obviously unjust.

Supposing he owned the coal, do you think it would be unjust that he should live in Hamilton Palace, and attend the Riviera and the racecourse, drawing a shilling a ton for every ton produced by the miners, while the miners, who are risking their lives, get less than a shilling a ton for hewing the coal. Would that be manifestly unfair?—If the Duke did not own the coal, it would be unjust.

Do you think it would be unjust, supposing he owned the coal, to be getting one shilling per ton for every ton he produced, while the miners risked their lives and were getting less than one shilling per ton?—It would not be.

TO FIGHT "FOR THEIR COUNTRY"

I think you will agree that, within a radius of 10 or 15 miles of Hamilton Palace, a very considerable number of men and boys left the coal pits and went into His Majesty's Service?—I hope they went from all parts of the country.

A very large number went from the collieries from which the Duke of Hamilton is claiming mineral royalties?—No doubt.

In many cases their families were not too well off when the father or the sons were away?—It was a common experience.

Was it not to defend their country they went abroad?—Doubtless.

In what sense did any of them possess any of their country?—They were citizens.

Is it not remarkable to ask people to defend their country if they really don't own a single acre of it?—I do not think the possession of acreage is necessarily a corollary of the rights or duties of citizenship.

MR. SMILLIE suggested that the duties of citizenship in the case of a duke implied that he should endeavour to look after the families of those who went to defend his relatives and life.

The Witness: From the philanthropic point of view it would be fair. I do not see any legal obligation.

MR. SMILLIE: I think there is something hard in the legal application. Was there not serious danger that if these boys had not gone away the Duke might not have had his royalties?—You cannot set up the Duke as the personal object of these remarks.

The Duke of Northumberland

244,500 ACRES

The *précis* of the Duke of Northumberland's evidence stated that the acreage of his holding of surface land was approximately 169,000 acres. The acreage of the proved mineral rights is approximately 244,500 acres. In this latter area is included about 168,500 acres of the lands comprising the 169,000, as both surface and mineral rights of these form part of the estates of witness.

The average royalty payable per ton, whether fixed or on a sliding scale, for the six years 1913-18 would be about 6·77d. If taken only for the last year it would be 9·25d. Both these figures are gross, and before deducting excess mineral rights duty, mineral rights duty, income-tax or super-tax. If all these were deducted the 9·25d. would be reduced to 3·4d.

The following classifications give the main particulars as to how the estates were acquired:

(a) Grants from the Crown; (b) Re-grants from the Crown either with or without Parliament's sanction; (c) Purchases; (d) Settlements on marriage; (e) Escheat; (f) Exchange.

As an example of (a) the Warkworth Estate; as an example of (b) re-grants of 1414 and 1461; as an example of (c) Alnwick in 1309 and Redesdale in 1750, besides a very large number from that date. Over £1,100,000 has been so invested in the last 100 years; as an example of (d) Prudhoe; as an example of (e) Lucker in 1365; and as an example of (f) Shillbottle in 1395.

OPPOSITION TO NATIONALISATION.

With regard to the movement for nationalisation, which is to take the remaining quarter of what you have, do you think you could successfully raise opposition to Parliament taking legislative measures to take that quarter?—I hope so. I should do my utmost in the House of Lords and in trying to organise opposition in the country to any scheme of nationalisation.

Would you do more than an ordinary enfranchised citizen? Would you do more than cast your vote?—Certainly. I should do my utmost. I should do much more than cast my vote. I

should spare no effort in speaking and in organisation that I could possibly make in order to prevent it.

And would you oppose with equal fervour nationalisation?—I should oppose both the latter with even more deadly opposition.

Why?—There are several reasons. The main one is that the Miners' Federation do not want it. They are only in for this scheme as a step for something far worse, something far more revolutionary.

CONFISCATION OF LAND

What is that?—The confiscation of all land. It is only an expression of opinion, but I think they want to control the sources of production of all industries. I think they want the complete control of the coal industry for themselves.

And therefore it is out of regard to the national interest that you oppose nationalisation?—Yes.

Do you know that the Miners' Federation have their own ideas that the property ought to be worked on a more up-to-date plan?—I daresay they do.

Would any scheme put forward for that purpose bear any relation to the confiscation of land?—They have said that they are out for the confiscation of land.

Who said they were?—I saw that Mr. Smillie in an address on May 4th said that he wanted the whole of the land. I think he said in a question to a previous witness that he was out for confiscation—or nationalisation, as he put it.

MR. SMILLIE: All the minerals of the land.

The Witness: I think you said confiscation of land.

MR. SMILLIE: I am out for the taking over of all land.

The Witness: A most interesting admission.

LANDOWNERS' SERVICES

What particular service do you perform for the community as a coalowner?—As an owner of coal I do not perform any service for the community. I look after my property to my best advantage. I do not know whether you call that service.

The personal service you perform is very slight?—The service which a landowner performs on a large estate is in generally managing it.

SIR LEO MONEY asked the witness whether he considered it a bad thing that miners and their families, who represented about one-tenth of the population, should have a monopoly of the coal trade?—Yes.

Don't you think it is a bad thing for one man to own as much as you do?—No, I think it is an excellent thing.

Lord Londonderry

The Marquess of Londonderry in the course of his evidence said: "I am the owner of minerals already proved to exist under about 5,808 acres in the County of Durham. I also carry on business as a colliery-owner in that county, being the owner of three collieries situate near Seaham Harbour, called Dawdon Colliery, Seaham Colliery, and Silksworth Colliery. The Dawdon and Seaham Collieries are upon my own freehold estate of Seaham. The Silksworth Colliery is held by me under lease from other owners, together with the coalmines which are worked to that colliery. I carry on my business as the Londonderry Collieries (Limited). All the shares in that company (except four of £100 each) belong to me. As between that company and my estate the coalmines are let to the company, the amount of the rents, which average 4½d. per ton, being credited and paid to me by the company.

"There is attached to Dawdon Colliery a large area of submarine coal which is held by me as a lessee of the Crown, upon which I pay a tonnage rent of 4½d. per ton. The whole of the coal at Silksworth Colliery is held under lease, and is sublet to varying tonnage rents.

"The royalties payable to me are fixed tonnage royalties. They vary slightly with the different coal seams, the average highest of any one mining property being 5½d. per ton, and the lowest 3½d. per ton. Of the total average annual output of 546,720 tons 378,124 tons are worked at an average of about 4½d. per ton.

"As regards the nature of the root of my title I have had my title deeds examined, except as regards the title deeds relating to the 834 acres of land situate near the City of Durham, forming two properties called Old Durham and The Grange, under which the coal in the upper seams is exhausted, and which belonged to my ancestor, John Tempest. The result of this examination

is that I find that all my properties were acquired by purchase, and that the minerals are expressly included in the conveyances."

THE RIGHT OF PRIVATE PROPERTY

MR. HODGES: If this Commission reports in favour of the nationalisation of minerals after considering all the facts, will you oppose any legislation to that effect?—Yes, I shall certainly oppose legislation for nationalisation. I take it that the Report of the Commission is to advise the Government. In my view, my opinion is as good as any individual member of the Commission.

Your opposition is based upon the assumption that you believe in the inalienable right of private property?—Yes, I believe in private ownership of property.

You believe more particularly in holding your own private property?—I believe in holding my own, like the coat on my back or the coat on yours.

Lord Stafford

The Earl of Strafford, on being called as a witness, submitted a statement of evidence by the Trustees of the late Mr. R. G. E. Wemyss (Torrie and Rennie's wells, etc., Coalfields). It showed that the acreage of the Torrie Estate, including foreshore, was 1,383 acres (estate, 756; foreshore, 627). The coal and other minerals were let to the Fife Coal Company, Limited, until Martinmas, 1939, subject to breaks. The acreage of the Rennie's wells, Over Inzievar Langlands, and Fernwoodlee Coalfields was 567 acres. The coal was let to the Coltness Iron Company, Limited, until Martinmas, 1944, subject to breaks. The surface of Rennie's wells, Over Inzievar, and Fernwoodlee belonged to Mr. A. D. Smith-Sligo, of Inzievar.

Torrie Coalfield was let over 50 years ago, but the lease was abandoned. The field was let to the Fife Coal Company, Limited, with entry as at Whit Sunday, 1908.

From the combined coalfields the average annual income was (20 years' average), 65,499 tons of coal sold (output, 78,263); average lordships, £1,563; average lordship per ton of coal sold, 5-729d.

The nature of the root of their titles was as follows (the lands of Torrie, Wester Inzievar, Easter Inzievar, and others): Precept from Chancery in favour of James Erskine Wemyss, dated April 25th, 1837; precept from Chancery in favour of James Hay Erskine Wemyss, dated August 8th, 1854.

EVEN UNDER THE SEA

MR. SMILLIE: You say the acreage of Torrie Estate includes foreshore. Have you the foreshore down to low-water mark? How far do you follow the coal out to sea?—That I am afraid I am unable to tell you.

As to this precept from Chancery in favour of James Erskine Wemyss, dated April 25th, 1837, have you seen it?—No. I have never seen it. I think on the question of titles it would be better to call the law agents than myself.

MR. SMILLIE: I understand the secretary invited Captain Wemyss, who said he was not the person that ought to be called; somebody else ought to be called. This Commission has been set up for the purpose of inquiring whether or not it would be wise in the interests of the nation to nationalise the mines and the minerals. We are anxious to know how the coal under this land is held by the Wemyss Trustees on behalf of the wards. We want to know before anything is done whether in this case, and in hundreds of other cases, a title can be shown to justify present ownership. Can you give us any information on that?

The Witness: I cannot personally give you that information. It can be supplied by the law agents of the Trustees.

Lord Dudley's Estates

Mr. John Tryon, Trustee of the Earl of Dudley's estates, and director of the Earl of Dudley's Baggeridge Colliery, said that the Earl of Dudley's Estates of about 12,000 acres were in South Staffordshire and East Worcestershire. They had been held by the family for many centuries. Up to the present time the whole of the products, including royalties of the colliery, had been expended in development. Referring to housing, he said that great difficulty arose from the fact that the Miners' Federation were opposed to tied houses, whose right of occupation depended upon the continuance of employment by the owner.

The Tredegar Estates

Lord Tredegar was called on May 9th, and said in the course of his evidence: "My estates, in which there are minerals, are

situate in the counties of Monmouth, Glamorgan and Brecon, and my residences are at Tredegar Park, in Monmouthshire, and Ruperra Castle, in Glamorganshire.

"The approximate area of my estates in the above three counties is 32,000 acres in Monmouthshire, 7,000 acres in Glamorganshire, and 43,000 acres in Breconshire, most of which consists of waste or common lands of the Lordship of Brecon. Of these areas only about 12,500 acres in Monmouthshire, 2,500 acres in Glamorganshire, and 3,800 acres in Breconshire contain coal.

"The average royalty received by me on coal during the six years ending December 31st, 1918, was 4-997d. per imperial ton.

"All the royalties payable to me are calculated on a fixed tonnage basis, and there is no case on my estate of royalties being calculated on a sliding scale dependent on the selling price of coal.

"It would be impossible on such short notice to go into the exact nature of the origin of my titles to my various estates, but they may roughly be divided under three heads:—The first lands, which have been in the possession of my family from time immemorial, probably long before the Norman Conquest; secondly, the purchase by my ancestors from the Earls of Pembroke and Montgomery of the Lordship Marcher of Wentloog (including Machen) in 1710, and the Lordship Marcher of Brecon in 1639; and, thirdly, the innumerable small purchases made by my predecessors in title."

THE "GOLDEN MILE" RAILWAY

"Questions have been asked before this Commission by, I believe, Mr. Smillie and Mr. Tawnay with regard to my Tredegar Park Mile Railway.

"Every statement contained in those questions is incorrect and misleading, and founded on an entire misapprehension of the facts.

"No wayleave whatever is charged on traffic passing over the Tredegar Park Mile Railway.

"This railway has been constructed by my predecessors in title under statutory powers, and has ever since been repaired, maintained, and renewed by the owner for the time being of the Tredegar estates, and in respect of it I am in the position of a statutory railway company, and am simply entitled, under various Acts of Parliament, to charge the company using my railway road tolls on the same basis as any other railway company charges a railway company having running powers over its railway."

CONFISCATION AND BOLSHEVISM

MR. BALFOUR further inquired whether, if it were decided to confiscate property, it could not equally be decided to confiscate the cottages which miners themselves had erected.

Lord Tredegar agreed.

MR. BALFOUR suggested that such action would break down the whole title of right to property in the country and cause confusion and Bolshevism.

Lord Tredegar: Yes.

Referring to Mr. Balfour's question about the right to confiscate the miners' cottages, MR. SMILLIE said: "It is possible for human brains and hands to build cottages, but is it possible for you or any other landlord to create an inch of soil?"—No, but we can develop it.

Is not there a wonderful difference between confiscating what can be created by human effort and confiscating something which the Creator made for the use of all people, and which no one can reproduce?—There is a great difference.

You still think you have as much right to confiscate a miners' life savings—the cottages—as to confiscate the land which neither you nor anyone else has done anything to produce?—I have done a great deal in output.

To produce the land?—No.

MR. SMILLIE: Is it on the same plane to confiscate a cottage built with the life savings of a man and confiscate land no landlord ever did anything to create?

Lord Tredegar: I do not think you should confiscate anything.

£19,000 A YEAR FROM THE RAILWAY

MR. SMILLIE questioned Lord Tredegar as to the statement in his *précis* that the statements contained in the questions put by Mr. Smillie and Mr. Tawnay as to the Tredegar Park Mile Railway were incorrect and misleading. Are you right

in saying this is a mile of railway?—It is one mile of railway but it is six miles of railway lines, because there are three double lines.

There is a very large output of coal which must come over it? Quite true.

All the coal produced up the valley would be required to be left unless it passed over that particular railway?—No; it could be diverted.

MR. SMILLIE pressed the point, and Lord Tredegar admitted that to some extent a certain amount of coal must either be brought over that private railway of his, or else remain in the colliery.

MR. SMILLIE: That means that the whole industry there, employing thousands of men, would be dislocated and stopped, providing you, at any time, cared to stop the right of going over your railway?—Yes.

I understand you are drawing from that railway £40,000 a year?—Then you understand entirely wrong, and that is why I make the assertion in my *précis*. Never since that railway was built has any owner of the Tredegar estate received £20,000 a year in respect of that railway.

MR. SMILLIE: I was incorrect in the amount per ton, and also in the amount per annum. What approximately would be the amount per annum you receive?—£19,000 per annum.

That is less than half the sum reported in the newspapers?—Yes.

Have you any idea what it would cost to lay that railway?—Yes, I think it would cost about £40,000. I would not be absolutely certain.

£19,000 would be a very fair return—I think unfair return—on £40,000?—I quite agree with you.

You quite agree?—Yes, I do.

THE LAND THEY FOUGHT FOR

Further questioned by MR. SMILLIE, Lord Tredegar said he had been a naval officer for four and a half years. He was aware that a very large number of miners left the district and joined the Army. He did not think military service entitled a man to land when he came back. He was not sure if the sailors and soldiers wanted it.

MR. SMILLIE: You don't think that service for the country is a justification for expecting to get land. Would you believe that a large number of the landlords in this country claim that the largest amount of land they possess was given by kings for service rendered in the war?—In some cases it may have been.

Are you aware that 200,000 acres have been granted by kings to persons for service rendered in war; and, if so, why do you say that common people, colliers and other workmen, have no right to expect such rewards?—If land is available, by all means let them have it.

MR. SMILLIE: It only becomes available if taken away from you.

Lord Bute

128,582 ACRES

Lord Bute stated that his holding of land and of the proved mineral rights was 128,582 acres and 48,878 acres respectively. The average output of coal for the past six years (to December 31st, 1918) was 3,241,962 tons per annum. The average royalty (before deduction of Excess Mineral Rights Duty, Mineral Rights Duty, Increment Value Duty, and Income and Super-Tax) was 6-42d. per ton on 85-31 per cent. of output and 1s. 5-92d. on 14-69 per cent. of output.

THE HERBERT GRANT

MR. HODGES asked Lord Bute if he had studied the history relating to the property granted in 1547-1550 to Sir William Herbert, his ancestor?—No, I have not done so. The only thing I know about it is that one of his services was the raising of an army, but there were other services too.

Are you quite sure of that?—So I have been told.

MR. HODGES then quoted from what he said was a copy of the actual document which granted the property to Sir William Herbert. This document stated that the grant was made "for quelling rebels in the Western part of England." "Did you know that before?"—I had heard of it.

The theory that he raised an army does not quite square with that?—Yes, it does. He raised the army to quell rebels.

Not for service in a foreign land?—I cannot possibly tell that. There may have been other services.

If that was the service rendered, who was the judge to recognise the value of that service; was it the King?—I cannot tell you.

The King signs this document, and he was between 10 and 14 years of age when he signed it. You are aware that Edward VI. died when he was 15, so that, in effect, a minor in the sense of the law transferred to Sir William Herbert one of the greatest properties that has ever been known to be granted to anyone, except, perhaps, to the Duke of Northumberland. Would that be a legal transaction?—Yes, I am advised it was.

I know life is rather a hurry, but fortunately someone found this document, and preserved it. You are aware it was lost for a couple of centuries, are you not?—No.

Are you aware that it was discovered in the Records Office by Mr. H. Hobson Matthews, in the employ of the Cardiff Corporation?—No.

Are you aware that the Cardiff Corporation still possess this deed?—So I believe.

"THIS GIGANTIC FRAUD"

And in effect the conclusion is generally held in South Wales by those best able to judge that the executor of the will of Henry VIII. appropriated for himself under the signature of the King, who was then 10 years of age, all the lordships of Miskin Glynrhondda, Llangrisant, and Pentrych and Clun, and about 30 more in Monmouthshire and Breconshire. Are you aware of that?—No.

MR. HODGES quoted from the SOUTH WALES DAILY NEWS of June 1st, 1912, which, he said, made this statement in referring to the grant of land to Sir William Herbert: "It will be seen that Sir William Herbert, one of the guardians of the boy King Edward VI., granted to himself enormous areas of land, which, at that time, were in the possession of the Crown, using the boy King's name in order to enrich himself." The article also stated: "Literally millions of money had been paid and received as the outcome of this gigantic fraud."

You think that for all time your heirs and successors should enjoy the property which you and your ancestors have enjoyed for so long?—I think the right should remain recognised.

Don't you think it might be necessary that you or one of your successors might in turn have to raise another army to quell another lot of rebels?—The Witness did not reply.

It was because there was such an indication that this Commission had to begin its sittings.

THE CLAIM TO THE ISLE OF BUTE.

MR. SMILLIE: Are you in possession of the whole of the Isle of Bute?—All except the town property.

At one time a large number of people owned land in Bute?—Yes.

Do you know whether a marquess for the time being watched very carefully for the death of one of his freeholders, and on his death sent his agent to collect his titles so that he might sign them, and that these titles were never returned?—My ancestor bought up the barons of Bute.

It is alleged that the method of buying was to secure the title deeds, and make the people believe they were going to be signed and transferred, but they were never returned, and immediately afterwards they had to begin paying rent. Would you justify that, if it was so?—It does not seem fair.

If we could prove that that has been done by your predecessors, would you recompense these people who have been wrongfully robbed?—It is not proved. It is entirely a matter for the law.

SIR ARTHUR DUCKHAM asked whether there was any possibility of proof being brought forward.

MR. COOPER: I understand there are no minerals in the Isle of Bute.

MR. SMILLIE: It ought to be possible. The onus should be on them.

SIR ARTHUR DUCKHAM: I think the onus should be on Mr. Smillie.

MR. SMILLIE pointed out that his lordship believed that his predecessors had bought out the barons of Bute. If they were paid for there would be receipts, and these proofs ought to be available. At the present time these people were paying rent instead of enjoying their own.

MR. COOPER protested against the introduction of the question.

Income from Royalties and Wayleaves

The gross annual income from Mining Royalties and Mining Wayleaves of the various parties examined before the Commission were stated to be as follows:—

	£
Ecclesiastical Commissioners (1917)	370,000
Lord Durham (1918)	38,648
Lord Dynevor (average, 1916-18)	9,321
Lord Dunraven (1918)	64,370
Duke of Hamilton (average, 1908-9 to 1917-18) ..	115,432
Duke of Northumberland (1918)	82,450
Lord Londonderry (average, 1913-18)	14,684
Lord Stratford—for Trustees of the late R. G. E. Wemyss—	
Torrie Lordships (average, 1912-18)	7,117
Rennieswells Lordships (average, 1909-19) ..	8,521
Lord Tredegar (average, 1913-18)	84,827
Lord Bute (average, 1913-18)	115,772

The witnesses (with the exception of the Ecclesiastical Commissioners) were careful to state that these gross incomes were subject to excess mineral rights duty, mineral rights duty, income tax and super-tax. In the case of the Duke of Northumberland, for instance, these taxes reduced a gross income of £82,450 to £23,890 net.

Other Evidence

MINING IN KENT

On May 14th Mr. E. D. Forster-Brown, consulting engineer, stated that recent boring operations in Kent had disclosed a coalfield of 250 square miles, capable of producing 1,370,000,000 tons of coal, and also mines containing 120,000,000 tons of iron. Mr. H. F. Plumtree, landlord of the property leased by the Kent Coal Concessions, admitted in examination that he never made any efforts to ascertain if there was coal beneath his land, the boring being done by the company.

Mr. Henry Fitzwalter Plumtree, the landlord of property leased to the Kent Coal Concessions, gave evidence.

Questioned by Mr. Cooper upon the leases, both of which extended from 1907 over a period of 60 years, witness said that under one lease (1,062 acres) dead rents were to be paid at the rate of £200 for the first year, £400 for the second, and £1,500 a year for every subsequent year. Under the second lease (2,323 acres) the dead rents amounted to £400 for the first and second years, £700 for the third year, and £3,000 a year for the rest of the lease. The royalty in each case was £35 per foot per acre, equal, approximately, to 6d. per ton.

Mr. Smillie put some searching questions to the witness. He inquired first how he became possessed of the estate.

Witness replied that he inherited it, and that his predecessors bought it from various people. He was possessed of certain deeds, but he did not know whether the land was originally given as a grant from the Crown.

It only recently became known that there was coal under the surface of your estate?

Witness replied that the possibility of coal in Kent had been talked about for years, but it was only proved comparatively recently.

What efforts did you make to prove the coal?—I did not make any effort. It was done by the Kent Coal Concessions. The Channel Tunnel people, he added, were the first to bore and find anything like coal.

So the position is that you charged them a rent for spending their money in proving that your property is more valuable? Was that justifiable or equitable?—I believe it is a matter of business. It was their choice, not mine.

BORING PROSPECTORS' "CHEEK"

Mr. H. Eustace Mitton gave evidence as to boring developments carried out by pioneer companies in North Nottinghamshire.

MR. SMILLIE: If the State takes over the mines and minerals you would expect them to pay the boring companies the money that they have spent in proving the minerals?—I would expect them to pay the amount expended by the pioneer companies or anybody else if they had proved those minerals to be of value to the nation.

MR. SMILLIE suggested that the landowners should pay the boring companies' compensation, and not the State. "Why," he asked the witness, "have you the cheek to come here and say the State should pay the pioneer companies compensation for having proved minerals?"

The Witness: I want to show that there is a certain amount of money which has been expended in proving coal in Nottinghamshire and Yorkshire, and that if the State takes the mines over those who have put down money to prove minerals should be compensated.

MR. SMILLIE: Supposing the State did not take over the mines would the owners of the land pay?—No.

Henry George and Karl Marx

There were several interesting passages in the evidence and cross-examination of Mr. Harold Cox, taken on April 24th. He said that: A generation ago the popular creed was that the State should appropriate the land, or any inherent value in the land, leaving capital untouched. Under the inspiration of this earlier creed royalties were attacked, but not profits.

The scheme of nationalisation put forward by the Miners' Federation in 1912 differed little in general character from that of the Fabian Society. There was, however, a difference of principle on the question of compensation to the owners of royalties. The Fabians had never been led away by the rhetorical sophistries of Henry George, and rightly argued that there was no more reason for confiscating mining royalties than any other legally recognised form of property. The Miners' Federation, still influenced by the Henry Georgeite phase through which it passed thirty years ago, proposed to confiscate mining royalties.

MR. SIDNEY WEBB cross-examined the witness in regard to his references to the Fabian Society and the Fabian pamphlet. He pointed out that the Fabian pamphlet was not published till 1916, and asked if the witness suggested that the nationalisation question had arisen since then. The whole effect of what the witness had said was to suggest that the agitation and demand of the Miners' Federation for nationalisation was due largely to the Fabian Society, and in particular to the Fabian pamphlet of 1916.

The witness said that what he meant was that the Fabian Society had instilled into the minds of the mass of the people theoretical conceptions in favour of State Socialism.

MR. WEBB, on behalf of the Fabian Society, thanked Mr. Cox for that advertisement, but disclaimed such influence on the Miners' Federation. Referring to the question of royalties he pointed out that the witness had stated: "The subsequent decline in the agitation against mining royalties is indeed in no way due to the logic of facts. It is due to the influence of new theories. Henry Georgeism is no longer fashionable; the prophet of to-day is Karl Marx." Did Mr. Cox suggest that the Fabian Society had passed from the doctrine of Henry George to that of Karl Marx?—The Witness: No.

MR. WEBB: You do not wish to imply that the Fabian Society has ever had anything to do with the proposals of Karl Marx?—No. My view has always been that the Fabian Society had always looked upon Karl Marx as a colossal humbug.

Do you wish to imply that the transition from Henry George to Karl Marx is characteristic of the Miners' Federation?—That is my impression.

MR. WEBB: Are you familiar with the works of Karl Marx? Do you remember anything he said about mining royalties, because I do not?

MR. COX replied that the essence of the Marxian doctrine was to attack profits, and the Miners' Federation were now more keen on attacking profits than on attacking royalties.

MR. WEBB: With regard to mining royalties, I suggest they have become speechless with indignation.

"Property in land, like property in slaves, is essentially different from property in things that are the result of labour. Rob a man or a people of money, or goods, or cattle, and the robbery is finished there and then. The lapse of time does not, indeed, change wrong into right, but it obliterates the effects of the deed. That is done; it is over; and, unless it be very soon righted, it glides into the past, with the men who were parties to it, so swiftly that nothing save omniscience can trace its effects; and in attempting to right it we would be in danger of doing fresh wrong. The past is forever beyond us. We can neither punish nor recompense the dead. But rob a people of the land on which they must live, and the robbery is continuous. It is a fresh robbery of every succeeding generation—a new robbery every year and every day; it is like the robbery which condemns to slavery the children of the slave. To apply to it the statute of limitations, to acknowledge for it the title of prescription, is not to condone the past; it is to legalise robbery in the present, to justify it in the future."—HENRY GEORGE.