

this railway, did not realise that the Fernhill Railway became absolutely their property. There was a time when it is doubtful what was going on; so long as we saw the line in good order we were satisfied.

34. You say there was no Proclamation taking this line in the first instance, Mr. Maxwell?—So I have been told.

35. This line was always used exclusively for the purpose of working the coal-mine?—Yes.

36. The result of the Shag Point decision that was spoken of was that the legal ownership was vested in the Railway Commissioners. As a result of the legislation on the subject the Act of 1881 was brought in?—The dealings with the Shag Point line drew the Commissioners' attention to the position of the Fernhill line.

37. Have you read the decision in the Shag Point case?—Yes. The Shag Point Railway is in a different position to the Fernhill. The clause in the Act for the Shag Point Railway provides that the line was to be worked subject to an agreement between the Minister and the Shag Point Company. That materially alters things. With the Fernhill Company that is not so.

38. Then, as to Andrew's claim: you say there has been no claim made. Is it not a fact that Andrew has been in direct communication on the matter?—About the line?

39. Yes?—I do not know. I am not aware that he has done so.

40. *Mr. Lake.*] Of course, Mr. Maxwell, you are aware that the Shag Point line is constructed under a different Act—that of 1878—so that the decision on the Shag Point line does not necessarily apply to the Fernhill?—They are on "all-fours." The Commissioners could only work the Shag Point with the agreement of the Shag Point Company. There is no restriction in the Fernhill.

41. You cannot work it without arranging with them?—That is so. In some other cases, where the Government has used this Public Works Act to carry out private works of this nature, there has been put into the Act a provision that the work when completed should revert to the people who paid the money for it. A case in the Auckland District occurred, and when the line was finished it went over to the people to whom it should rightly belong, and that should have been done in this instance.

42. Was this Act of 1881 the same as that under which the Manawatu Railway was constructed?—No. The Manawatu Railway was constructed under the Railways Construction Act.

43. We have it stated in evidence that £500 was spent recently on this line; you say it was £200?—I think that a little over £200 has been spent since January last in ordinary maintenance of the line, in keeping it in order.

44. *The Chairman.*] Are the Committee to understand, Mr. Maxwell, that you had no legal or equitable right in this line until the Railways Act was passed in 1887?—That I am not clear about. I have never been able to get a satisfactory understanding about the case as to who the line vested in.

45. From your report, evidently the Commissioners consider they are not the rightful owners?—We consider we are legally the owners, but not equitably. We think that the line ought to go to the representatives of the people who paid for its construction, subject to legal claims.

46. *Mr. Moore:* Mr. Earnshaw stated that the Fernhill Company declined to pay the claim of Hamill?

*Mr. Earnshaw:* I do not think the company declined it. They were in financial difficulties, and were unable to pay.

*Mr. Macgregor:* They have never declined to pay; they have always recognised the claim.

47. *The Chairman.*] How long is it since the Commissioners made the last arrangement with Gray?—I am not aware that we have made any arrangements with Gray. You mean as for bringing coal from the mine: that would be in the month of February last—some time in the beginning of the year, any way.

48. *Mr. Earnshaw.*] I suppose that if Mr. Andrew really laid any claim to that land you would resist him in point of law. You claim the land as yours?—Yes; the land is undoubtedly the Commissioners—some of the land, I do not know how much it is.

49. All the land the line is on is yours?—Yes; all the land that the line occupies. A small portion of the line has been constructed on Government land.

50. *Mr. Lake.*] Is there in the department any application by the mortgagee as to this Proclamation? We have it brought out that this line was under mortgage at the time that the Proclamation was made?—There would not be in the Railway Department; if there was anything of the kind it would be in the Public Works Department.

51. *Mr. E. M. Smith.*] They could not work the mine at all until the Government Commissioners stepped in?—I do not think that is so. The people who had the mine could bring their coal down to the Government Railway-station the same as other coal companies do.

52. *Mr. Lake.*] In fact, it is a line of the Government's—the land with the line?—It is an unnecessary expense to the Government.

53. *Mr. Valentine.*] Have you looked at the new Bill for the purpose of vesting these lines?—I have read it over, it is not a satisfactory Bill. The proper persons to vest the line in would be the legal representatives of the people who constructed it, and not those whom the Act describes as owners, as the Commissioners are the owners.

54. *The Chairman.*] Does it not say that the title of the equitable owners shall be ascertained by application to the Supreme Court?—That is like going in a circle. The owners are the Railway Commissioners.

55. *Mr. Valentine.*] All you want is to get rid of it, and put it on the equitable owners, whoever they may be?—Yes; on the persons who are equitably entitled to it.