

But, it is only where there is "any doubt or dispute about the ownership of a railway" that a Commissioner is to be appointed (section 5 "The Colliery Railways Vesting Act, 1893"). The ownership of the railway means "the company who constructed or paid for the construction of that railway or its assigns," and the line of railway cannot be vested in any one else (see section 2 of the Act). Now, there can be no question that the "assigns" of the company in the present case must be either Mr. John Logan or Sir Robert Stout, or both; and if Sir Robert Stout requests in writing that the line may be vested in Mr. John Logan, and he consents in writing to have it so vested, I see no reason why it should not be done.

I have only to add, in conclusion, that I do not see how I could state a special case in conjunction with Messrs. Stout, Mondy, and Sim in terms of section 5 of the Act. It is only "if and when the parties to the dispute of ownership of the railway can agree upon the facts to be stated" that that course can be adopted. Who in the present case can be said to be "the parties to the dispute of ownership"? and who could I claim to represent in the matter? Clearly not the Crown, or the Public Works Department, or the Railway Commissioners, as they are not parties to the dispute. If it is thought advisable to give Mr. Andrew, Mr. Gray, or any other of the petitioners, a chance of disputing the ownership of the line, the best course will, I think, be for the Governor to appoint Mr. Justice Williams to be a Commissioner, and leave him to inquire into the matter "by such ways and means as he may think fit."

It will be abundantly clear from what I have said above that, in my opinion, there is no reason whatever to appoint a Commissioner.

B. C. HAGGITT, C.S.

29th May, 1894.

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