

of these provisions may be expressly varied or excepted by the Order in Council (see section 22). It will therefore be seen that the Order in Council is a most flexible instrument, and may adapt or exclude the provisions of the Act or make new provisions, as the circumstances of each case may demand. Then, section 13 of the Act enables the Governor in Council to from time to time revoke, amend, extend, or vary an Order in Council by a further order. It remains to be noted that, by section 33 of the Act, all carriages used on any tram shall be moved by the power prescribed by the order, and, where no such power is prescribed, by animal power only.

The necessary consent of the City of Dunedin to the principal line was obtained in 1877, and the consents of the other boroughs followed in 1878, 1879, and 1880. Orders in Council were issued on the footing of those consents. The order prescribed as motive-power, animal-, or steam-power. Steam-power was used for some time, and ultimately abandoned for horse-power, by which all the cars are now moved.

It stands as an admitted fact that the tramways had pre-occupied the streets some years before the Telephone Exchange was established.

Then came the proposal to substitute electricity as the motive-power, horse-haulage being found to be too expensive. This proposal had been sanctioned by the City Council as far back as August, 1889, it having been brought before them on the 24th June previous. The Council then "agreed to give facilities to the company to carry out what is called the overhead system of electrical propulsion." It was not, however, till the end of 1892 that the company found itself in a position to finance the substitution of the new method.

On the 19th January last plans and specifications were forwarded to the Public Works Department that they might be gone into in anticipation of the preliminaries to obtaining the Order in Council being complied with. They were referred to the Engineer-in-Chief, who made certain inquiries and requisitions. Upon this, Mr. Hay, Civil Engineer, and Mr. Murray, representative of Siemens Brothers and Company, met the Engineer-in-Chief in Wellington, and his inquiries and requisitions were answered and satisfied. Meanwhile, on the 24th February, the Public Works Department wrote that "The Minister was advised that the existing Tramways Act was not intended to apply to electrical tramways, but merely to what were known as street tramways at the time the said Act was passed."

This proposition was combated both by correspondence with the Public Works Department, and by Mr. H. D. Bell and Sir R. Stout in personal interviews with the Solicitor-General. Then, the Public Works Department advised "the Act did not apply to the overhead system." Ultimately it was ascertained that it was the definition of the term "road" in section 2 which created the difficulty. That definition says, "road" shall mean any carriage-way being a public highway; and the Law Officers considered that meaning to exclude authority to erect the necessary posts for the overhead system on the footway. The Tramway Company contended that the municipalities had ample power to sanction the erection of the posts, and had done so. In the Leeds Tramway case, hereafter alluded to, the Attorney-General raised the same question for the Telephone Companies; but the Court ignored the objections and justified the tramways. The English Act and the New Zealand Act may, it may be mentioned, correspond in their provisions, the Board of Trade being in the English Act substituted for the Governor. However, to amend the Act, so as to meet the difficulty raised by the Law Officers, the Government promised to introduce an amending Bill this session. Shortly afterwards they asked my firm to draw the Bill, as the Law Officers were busy. This was done, and the Bill sent to the Government early last June. This Bill was drawn as a general Bill, and was not confined in its terms to the case of the company I represent. It contained a clause authorising the insertion in the Order in Council of provisions for guarding the public safety and interference with electric lines. These provisions would, of course, be available in any case where the company was willing to submit to them, but cannot be said to prevent a company from arguing against the equity of any provision sought to be imposed on it. It was not till after this Bill was drawn and sent in—viz., not until the 26th June, that my firm was informed of the requirements of the Telephone Department.

I. Summarising the foregoing, these points are to be noted:—

(1.) That the company's tramways had preoccupied the streets some years before the establishment of the Telephone Exchange.

(2.) That the Tramways Act extends to the authorisation of the overhead system; but that doubts are raised by the Law Officers whether the Act would authorise the erection of posts and wires as required by the overhead system.

(3.) That the object of the proposed Bill is to remove these doubts.

(4.) That the question of what conditions are to be imposed on the Tramway Company will still remain to be worked out in obtaining the Order in Council.

(5.) That the tramway company have a grievance, in that the objection on the part of the Telephone Company was started on them so late.

It is to get a pronouncement, either by a resolution of the House, or by an addition to the Bill, that the company is not, by any Order in Council that may be issued, to have imposed on it as a condition the adoption of the double-trolley system, or the payment of the cost of making a metallic return-circuit for the telephones, that the petition is presented.

The contentions for the company against the double-trolley system are these:—

(1.) That the evidence is all one way as to the superiority of the single-trolley system proposed by the company.

(a.) The evidence of Mr. Baron, of the Gölcher Light Company, is entitled to great weight, as he has made himself conversant with the systems prevailing in Europe and America. This gentleman gave evidence more out of enthusiasm for the cause of science than at the instance of the company. I did not know what evidence he would give. I only learnt from him afterwards what his points were. His evidence is, I respectfully submit, of more value, as that of a general elec-