

may be invoked. They are, in my opinion, foreign to this matter, and merely provide that the Minister may exercise powers if the Corporation does not exercise them. If the Corporation decides not to exercise powers which it possesses, then the Government may step in and deal with the matter; but this Bill appears to me to be an attempt by the Government to overcome difficulties which they have not provided for in certain Orders in Council. The Government have provided Orders in Council for the control of the Wellington City Tramways. Section 23 of the first two orders provides that a specification of the brakes has to be supplied to the Public Works Department. That has been so supplied, and approved of by the Public Works Department. At the time those Orders in Council were granted, the Government had power to put in all provisions that were necessary to control the tramways, and if any have been omitted and it is necessary now to put in any other provisions the matters may be specifically dealt with in respect of such provisions as were omitted. If you look at the Second Schedule of the Tramways Act, and the section which is here referred to, clause 32, you will see that the Council has certain powers in regard to making by-laws, and I would specially call your attention to this fact: that, subject to any provisions which the Minister may make in the Order in Council, the municipality has the right of control. The Governor in Council gave our Council a charter on which it spent half a million of money, relying on that Order in Council and relying on the fact that the Minister cannot revoke the Order in Council.

3. *Hon. Mr. R. McKenzie.*] I suppose you admit that lawyers have disagreed on that?—No. The franchise is given, and it may be revoked for certain breaches which are mentioned in the Order in Council. If you look at section 9 of the Tramways Act you will see that the Order in Council can be revoked on the application of the local authority. What this Bill does is to take the power to alter the provisions set out in and to vary the Order in Council by regulations. It has been said here that section 213 of the Public Works Act gives ample power to the Minister. If you look at the Public Works Act you will see that the matter of control by the Minister is dealt with under sections 213 and 215. Section 213 gives the Minister power to appoint a person to inspect the tramway. The Inspecting Engineer inspects that tramway before it is open; and the Minister also appoints him to inspect it during its working. The Minister cannot by the Public Works Act authorise the Inspecting Engineer to go upon that tramway and report to the Minister; and then the Minister, absolutely of his own free-will, untrammelled by anything, by any statute or any controlling power, cannot say, "You have got to make certain alterations, and if you do not make them you have to pay £20 per day." That power is not given under the Public Works Act, and, in my opinion, rightly not given. It should not be given to any man to have the power to say that certain alterations are to be made. The Government, in my opinion, has sufficient power in limiting the construction by Orders in Council by saying that you are to put certain brake appliances in. The Order in Council provides for brakes, for electrical construction of the tramway, and practically for the construction of the cars; but this Bill gives the Minister within six months the right to make regulations, and after inspection the Government might say that certain other things are necessary to put the line in order. The question is not what the Minister is going to do or what the present Minister proposes to do, but what powers the Act gives the Minister. As far as we are concerned, section 215 of the Public Works Act states the position under which we are working, and that in my opinion gives the Minister sufficient powers. The only thing that is necessary, in my opinion, and the only thing that can give rise to this Bill or the necessity for anything in the Bill, is the fact that certain appliances may from time to time become out of date—appliances which were approved of under the Order in Council. If the Bill were limited to give the Minister power under proper restrictions—but it should be very carefully restricted—to order the replacement of certain brakes, machinery, or appliances which he considered out of date, then that would be sufficient. In regard to the position in Auckland, the Minister is confined to following certain language. This Bill has done away with the power of the municipality to make by-laws, and given the Minister power to alter the Order in Council by regulation. I am personally of opinion that there is too much done by regulation—too much power given to the Minister; but here is a case where the Minister takes power to himself to abrogate the charter by Order in Council. As to clause 4 of this Bill, I think that follows the existing practice. Under clause 6 the Minister is to license the cars, but at present the Minister gives a permit to run, and I do not see why he asks that they should be licensed by him. If he has once given the permit to run, I think that is sufficient. With regard to section 6, clause (a), that is a matter of small detail—it merely provides that the Minister may require the local authority to give a copy of the Order in Council to any person on payment of 1s., and I do not think that will matter to anybody. As to section 6, clause (b), I agree with that, because I think it takes out a technical difficulty in the Act with regard to the advertising of certain applications which it is not necessary to put before the public. I think the dangers which are sought to be obviated by this Bill would be amply met by giving the Minister power to order the replacement of obsolete material; or, if it could be conclusively proved before an independent tribunal that any tramway, corporation, or company is working under an Order in Council which does not give sufficient control or which is totally at variance with the latest Orders in Council, such Orders in Council might be given up for one in the latest approved form; but there is no necessity for a Bill giving such absolute power to the Minister as the present Bill does. In fact, the inspection carried out on our cars provides for a daily inspection of brakes, as I ascertained from facts which came before me, and I do not see how the Minister is going to have that daily inspection.

4. I suppose you are aware, are you not, that lawyers disagree sometimes?—Yes.

5. Do you know Dr. Fitchett, the Solicitor-General for New Zealand?—Yes.

6. And do you know Dr. Findlay?—Yes.

7. And do you know Professor Salmond?—Yes.

8. Well, supposing those three men advise me that the powers taken in this Bill are necessary, would you consider their opinions equal to your own?—I would say that the powers were not necessary, and I am not going to discuss their opinions with you.