

ORDERS IN COUNCIL : DO THEY ENTAIL DEFINITE OBLIGATIONS ON THE
COMPANY ?

During our investigations the chairman of directors of the company advanced the view that the company's Orders in Council do not entail any really binding obligations upon the company. Mr. Dalziell contended that the Orders in Council are merely permissive, and confer upon the company the right to do certain things, but that in the event of the company not wishing to do those things they are at liberty to hand the Order back to Your Excellency and to thereby relieve themselves of the burden of giving effect to its provisions. This view was an entirely new one to the Commissioners, and we expressed our surprise at it, and asked the company's representative to have the matter very fully considered, and to advise us whether this view constituted the matured and deliberate conviction of the company. Mr. Dalziell promised to submit a joint opinion on the subject by Mr. C. P. Skerrett, K.C., and Sir John Findlay, K.C. This he ultimately did, and a copy of the opinion is submitted to Your Excellency herewith as an appendix to this report.

It will be observed that the opinion substantially supports Mr. Dalziell's views. Probably Your Excellency will consider it advisable to submit the matter for the opinion of the Crown Law Officers. It seems to your Commissioners a rather extraordinary view that an arrangement duly arrived at between the company and the Government and committed to writing and approved in a formal Order in Council can be set aside and rendered entirely ineffectual at the instance of one party only.

ORDER OF REFERENCE NO. 1.—WOULD THE ACQUISITION OF THE COMPANY'S
TRAMWAY BE IN THE BEST INTERESTS OF THE STATE ?

The character of the company's tramways and its present condition are briefly described in the paragraph headed "Description of Tramway." The tramway is not at all similar to the standard type of railway-construction in New Zealand, and cannot be made so except by entirely reconstructing many miles of it and entirely relaying the whole line with heavier rails. The rolling-stock at present in use on the line is not suitable for running on the Government railways, and would therefore have to be broken up or sold, if a buyer could be found for it.

The line could doubtless be used as a "light line" and could continue to be worked very much as it is worked now, but such a line and such a method of working would be quite foreign to the present New Zealand railway system, and could not, we think, be advantageously undertaken by the New Zealand Railways Department. Moreover, the taking-over of the line by the Government would at once give rise to an agitation to have it brought up to Government standard, which cannot be done except at enormous cost, and which should certainly not be attempted.

The great bulk of the evidence we took was entirely against the proposal that the Government should take over and work the line. It is true that some of the settlers advocated this course, but these gentlemen are not expert railway men and cannot be expected to fully appreciate the grounds on which the railway experts base their views, and they are, of course, interested parties. The expert officials, both the Government's and the company's, are unanimous in condemning the proposal to convert the line to Government standard, and without such conversion the Railway Department would not care to undertake to work it.

We took the evidence of the General Manager of Railways, the Chief Railway Engineer, the late Engineer-in-Chief and Under-Secretary of the Public Works Department (the present Engineer-in-Chief and Under-Secretary being a member of the Commission), the chairman of directors of the company, and the company's general manager, and, as already stated, all unanimously condemned the proposal.