

We now propose to take the component parts of the Act for more detailed consideration. We propose to give attention first to the Act as one that requires and provides for the licensing of motor-omnibus services, of motor-omnibuses, and of motor-omnibus drivers.

On the whole, the evidence satisfies us that these provisions were sound in their conception, and—with an exception to which we shall call attention—satisfactory in their working, as a means of controlling and regulating traffic, which had become, or was tending to become, through lack of control, a menace to the public. In this term we would include the physical menace of competing lines of buses and trams in the streets, and the economic menace of unfinancial ventures. The exception relates to the provision whereby motor-omnibus services are licensed under section 5, with no provision for renewal, and no time-limit for the license. Whilst under section 8 the term of the license issued in respect of the motor-omnibus, and under section 11 the term of a license issued to a motor-omnibus driver, is in each case one year, the license issued under section 6 for a motor-omnibus *service* is apparently permanent, and not periodical. It was pointed out that the proprietor of a service may, from being a careful, law-abiding proprietor and operator of a bus service, become an unfinancial and (or) careless proprietor, carrying out a policy of defiance of the Act and regulations, trusting to the difficulty of proving offences to secure his immunity from punishment. Furthermore, there seems to be no adequate penalty in view of the fact that disobedience of the terms of the license may prove to be much more lucrative than obedience. Further, the conditions obtaining on any route at the time the license is granted may be entirely altered by subsequent tram extensions, and as the law now stands the licensing authority cannot in such circumstances reconsider the license. We are of opinion that in view of such possibilities it would be better if the license for a motor-bus service required periodical application for renewal. We suggest an annual application. Sufficient security tenure could be secured to proprietors of services by a provision somewhat analogous to that in the licensing legislation of the Dominion, whereby a licensee acquires a virtual right to renewal unless one or more of certain specified objections are deemed by the licensing body to be sustained.

The amendment we suggest would be effected by adding to subsection (1) of section 8 the words “or of a motor-omnibus service” immediately after the words “in respect of a motor-omnibus.”

*Local Authority as Licensing Authority.*—Most of the adverse criticism levelled at the working and effect in this district of the Motor-omnibus Traffic Act, 1926, was directed against the provision which, in its application to this district, placed the Auckland City Council in the position of licensing authority. The Auckland City Council owns all the tramways in the district, and is the largest operator of motor-omnibuses. There are in addition seven proprietors of private omnibuses, operating on fourteen routes, who have been required to apply to the licensing authority for leave to establish services. Any proposed new services must be based on such an application. In determining whether or not any such application shall be granted the licensing authority is required by section 6 to “take into consideration any existing or proposed facilities for the transport of passengers within the area proposed to be served; the condition of the roads or streets proposed to be traversed, and the normal traffic thereon, and all other relevant considerations.” By section 10 of the Act it is also required to “prescribe the routes to be traversed, the time-tables to be observed, the fares to be charged, and such other matters as may be prescribed by regulations, or as the licensing authority thinks proper.”

It seems to us that the discretion committed to the Auckland City Council as licensing authority by these provisions may fairly be described as a judicial discretion. We do not propose to labour the point. We would adopt the dictum of a learned English Judge to the effect that in the administration of justice it is not sufficient that the fountain of justice should be pure—it must be obviously pure. It was very strongly urged by the witnesses and by counsel for the suburban bodies that this salutary principle is violated by the provision we are now dealing with, and with this criticism we agree. Mr. Johnstone, counsel for the City of Auckland, did not seriously combat the criticism. In his closing address he quite