

## The initial crisis of bus service licensing, 1931–34

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The Road Traffic Act, 1930, provided for the establishment of road service licensing as a means of regulating bus and coach services in Britain. Responsibility for administering the system was placed into the hands of thirteen Area Traffic Commissioners, who took office in January 1931, with the new dispensation coming fully into force from April 1931. The existing literature on the subject is focused in the main on explaining the licensing procedure and assessing the wider implications for the industry of this form of control. By contrast an examination of the problems encountered during the period of transition, from the largely competitive market to one where competition was strictly controlled, has received little attention. The purpose of this article is to address this deficiency, and in so doing demonstrate that this period was characterised by a number of severe problems that brought the system to the point of crisis. Areas of difficulty encompassed matters of fundamental policy as well as minor items of procedure and administration. The cause of these is to be found in a combination of factors. Those promoting road service licensing believed passionately that the new dispensation would be far superior to the one it replaced. Yet from the start the commissioners had inadequate resources, were faced with a work load far in excess of early estimates and moreover had great difficulty securing a common policy on matters such as frequencies, fares and service duplication.

Most of the literature on road service licensing was written when the system was in force. During the early years articles appeared regularly in the press in addition to the presentation of papers to various professional bodies. In June 1931 R. G. Pittard, of the Bristol Tramways & Carriage Company, gave a paper to the Municipal Tramways & Transport Association (MTTA) in which he admitted to difficulty in writing at a time when matters of policy were still far from clear.<sup>1</sup> The Institute of Transport received a number of papers, including one from Professor (later Sir) Arnold Plant of the London School of Economics, and two from E. S. Herbert, a solicitor prominent in road traffic law and closely involved with events at the time.<sup>2</sup> A. F. R. Carling, who joined Southdown Motor Services in 1931, and subsequently held senior executive positions with British Electric Traction, later offered some comment about his early experience of the system.<sup>3</sup>

The first extended academic study was undertaken by D. N. Chester at the University of Manchester and published in 1936.<sup>4</sup> Although Chester provided a detailed examination and explored many of the problems, he made no direct reference to the depth of the furore and turmoil that enveloped the system initially. His work was notable, however, for discerning the broad principles adopted by the commissioners in granting road service licences. Later contributions from Dyos and Aldcroft, Bagwell, and Barker and Savage by taking this as a starting point for discussion similarly offer little in the way of commentary on the transition.<sup>5</sup>

Examination of the difficulties is confined primarily to Hibbs, and Glaister and Mulley. Hibbs refers to the substantial amount of work involved in setting up the system and discusses some of the problems that arose in administering the Act, though he stops short of labelling the situation a crisis.<sup>6</sup> Glaister and Mulley, in work re-examining the objects and economic consequences of service licensing, review the period of implementation through analysis of the annual reports of the Traffic Commissioners.<sup>7</sup> Whilst this provides detail on some of the difficulties, a thorough examination of the transition was not the central purpose of the study.

### **Establishment**

The Act gave the Traffic Commissioners responsibility for licensing public service vehicles, drivers and conductors in addition to actual routes and services. There were three commissioners in each Traffic Area, except the Metropolitan, where there was one. The chairman was a full-time, salaried official appointed for a period of seven years. The other two, drawn from panels nominated by certain categories of local authority in an area, were part-time, unpaid and served for three years. In the Metropolitan Area (where the bus licensing functions of the Metropolitan Police and the provisions of the London Traffic Act, 1924, remained in force) there were no part-time commissioners, and the chairman's responsibility was confined solely to dealing with the licensing of coach services. Later this was altered and brought closer to the general model when, simultaneously with the creation of the London Passenger Transport Board (LPTB) in 1933, the licensing responsibilities of the Metropolitan Police were transferred to the Traffic Commissioner. The arrangement of the chairman sitting without the assistance of part-time commissioners remained an anomaly.

Operators had to obtain the grant of a road service licence for every service from the appropriate area commissioners. This was valid for one year, whereupon application for renewal was made. Where a route involved more than one Traffic Area application had to be submitted to each set of commissioners. For those services that ran through an area, using it as a corridor, a 'backing' licence had to be obtained from the commissioners of that area in addition to the main 'primary' licence. Local authorities, other bus operators and the railway companies were given statutory rights of objection.

The commissioners presided over Traffic Courts, and were required to take a number of factors into account when determining applications. These included: the suitability of the route, the extent to which the needs of the area were already adequately served, and an assessment of the necessity or desirability of the service in the public interest. In addition the needs of the area as a whole had to be considered, with a view to securing the co-ordination of all forms of passenger transport, including rail. The Minister had reserve power to revise policy by way of issuing general directions to the commissioners, but it was seldom used. The authority to attach conditions to a licence was framed explicitly to ensure that the fares were not unreasonable, and, where desirable in the public interest, for them to be fixed so as to avoid wasteful competition. Applicants dissatisfied with a decision of the commissioners could appeal to the Minister of Transport.

The transitional arrangements issued shortly before road service licensing came fully into effect allowed all existing bus and coach services to continue in operation until such time as the appropriate road service licence application had been determined by the commissioners.<sup>8</sup> Services were therefore effectively captured and frozen at a single point in time. This had important ramifications, for whilst it enabled the commissioners to undertake their work in a stable environment, it provided also a highly effective camouflage for the difficulties that accompanied the introduction of the new system. Consequently, for much of the time, knowledge of the crisis was largely hidden from public view, and remained confined to those politicians, policy makers and professionals most closely associated with the industry.

### Resources and work load

The issue of resources and work load was central to the crisis of road service licensing. Rather surprisingly, given the national economic situation at the time, discussion concerning the financial and staffing levels necessary to support the commissioners received little airing in public. The Act merely followed the recommendations of the Royal Commission on Transport that expenses should be funded partly from licence fees and the Road Fund. Herbert Morrison, the Minister of Transport, was on record as saying that he was determined to avoid creating an excessive bureaucracy, and in February 1930 had issued a memorandum in which he estimated that gross expenditure on the new system would not exceed £165,000 a year.<sup>9</sup>

Pressure to keep public finances under control meant that the commissioners were forced to operate with a minimum of staff, using a model administrative structure provided by the Ministry of Transport.<sup>10</sup> This was framed around two divisions – one dealing with the licensing of drivers, conductors, vehicles and general administration, the other with road service licensing. The figures in Table 1 cover the period when the commissioners had responsibility solely for licensing passenger vehicles and services prior to the introduction of goods licensing under the Road and Rail Traffic Act, 1933.

48 Whilst income from fees exceeded expenditure, the gross expenditure was

**Table 1** The Road Fund: Traffic Commissioners' revenue account, year ending 31 March 1932–34 (£)

<i>Expenditure</i>	1932	1933	1934
Salaries, wages, superannuation	113,788	122,161	132,989
Travelling, postage, etc.	46,229	36,481	36,573
Accommodation	19,709	11,932	16,813
Printing, stationery	19,298	30,689	26,435
Badges, identification plates, etc.	4,954	160	142
Total expenditure	203,978	201,423	212,952
Fees under Road Traffic Act	215,504	223,804	228,027

Source Road Fund Accounts, 1931–33, Abstract Accounts, Part 1, Revenue Account

nearly 25 per cent greater than estimated originally by Morrison. Staffing was the largest item of expense, accounting for some 55.8 per cent of total costs in the first year, and two years later, following an increase of 16.7 per cent, the figure had risen to 62.5 per cent. The number of staff employed by the commissioners rose rapidly: for example, the Northern, Yorkshire and West Midland commissioners all recorded a substantial (between 60 per cent and 78 per cent) increase in staffing levels by the end of the first year, and this was probably typical across the administrative structure as a whole.<sup>11</sup>

The commissioners faced many problems in preparing estimates of the work load.<sup>12</sup> Details of operators and vehicles were obtained from existing licensing and police authorities, but the quantity and quality of the information varied enormously. Moreover the fragmented nature of the existing regulatory system made the task extremely time-consuming. Later more detailed information was sought direct from operators, although that too presented a difficulty. Some smaller operators were very hard to trace, and even when located there was no guarantee that the material required would be available. Apparently the commissioners received additional assistance from the large territorial companies, who seconded staff generally to help with this task.<sup>13</sup>

Despite all this effort it proved impossible to estimate the volume of work accurately. During the first year alone the total number of applications for road service licences and backings exceeded 50,000. The task of issuing and receiving documentation for these was daunting. In the North Western Area, for example, the number of applications grew from an initial figure of 3,300 to nearly 4,500.<sup>14</sup> The rules governing the basic administration of service licensing were issued initially in the form of provisional regulations, and the commissioners made great efforts to ensure that all operators were fully conversant with them.<sup>15</sup> Many went voluntarily to seek guidance, and at one stage advisory interviews in the Southern Traffic Area were running at the rate of eighty per day.<sup>16</sup> Those operators that submitted their applications in bulk immediately prior to the last submission date caused further problems, and it is hardly surprising that the commissioners were unable to scrutinise all applications in detail.<sup>17</sup>

Generally unopposed applications could be dealt with swiftly but for those subject to objection – and this was the vast majority – the commissioners were

obliged to hold a formal hearing in Traffic Court. The procedure adopted was the same as that used in the police courts. The applicants' case would be heard first, followed by cross-examination and re-examination, and then finally the objectors' case. The commissioners had wide discretion in determining applications, and were not bound by case law precedent. Decisions were made upon the facts of each case, though it soon became clear that the range of issues was complex and frequently highly contentious.

The scale of objections caught the commissioners by surprise.<sup>18</sup> Figures of the total number of objections are not recorded, but the situation in the Northern and Eastern Areas provide some evidence of the magnitude of the problem. In the former case the commissioners received approximately 3,500 objections to 2,442 applications, whilst in the latter the record showed an average of over two objections to every application, although some were unopposed.<sup>19</sup>

Faced with the need to hold a large number of hearings, the commissioners had no alternative but to sit for long periods on consecutive days over many months. During the first year the Northern, North Western and Yorkshire commissioners each sat in excess of 100 days, but even in the sparsely served North Scotland Area they accounted for no less than fifty-nine days.<sup>20</sup> In this latter area particular difficulties occurred on Orkney and Zetland, where the decision to hold all hearings on the mainland in the interests of economy caused much resentment, although later it was rescinded.<sup>21</sup> By contrast the South Eastern commissioners decided to hold sittings outside their area in London after operators in the capital complained about the time and expense involved in travelling elsewhere.<sup>22</sup> Subsequently the legality of this was challenged, and the practice ceased until a clause empowering the arrangement was passed as part of the London Passenger Transport Act, 1933. The time required for each hearing was exceedingly hard to gauge. It was by no means uncommon for sittings to continue late into the evening, and on one occasion the Yorkshire commissioners sat well into the early hours of the following day.<sup>23</sup>

The large number and duration of public hearings caused much difficulty for those councillors who served as part-time commissioners. The first public evidence of serious discontent emerged on 9 May 1931 when *The Times* reported that Alderman H. Milner-Black, an ex-Mayor of Brighton, had resigned as a commissioner for the South Eastern Area.<sup>24</sup> Like others he found the demands upon him to be arduous, and detrimental to his public duties in Brighton. In addition to the large number of days scheduled for hearings, he mentioned specifically the burden of having to be present at numerous private conferences. At the time of his resignation Milner-Black had participated in eleven sittings, but one of his fellow part-time commissioners, Alderman C. J. Knight, from Eastbourne, was subsequently to attend for 115 days out of a total of 168.<sup>25</sup> In June there was another resignation when Alderman F. C. Jex, JP, relinquished his position in the Eastern Area owing to pressure of work.<sup>26</sup> The vacancies were filled by other members from the panels nominated by local authorities, but for senior policy makers the resignation of two part-time commissioners in quick succession so soon

after the commencement of road service licensing could not have been other than worrying.

Shortly afterwards, at the annual conference of the MTTA in Southampton, Baillie P. J. Dollan, from Glasgow, who served as a commissioner for the Southern Scotland Area, launched a highly critical attack on the entire system.<sup>27</sup> Like Milner-Black and Jex, he was aggrieved by the large amount of time that he was required to devote to the task, and having to abandon some of his council activities as a consequence. The lack of remuneration or reimbursement of expenses for his new role was a source of much displeasure. The sense of injustice no doubt was heightened by the fact that the part-time commissioners were the only official participants not being paid for their efforts. Dollan's strongest criticism, however, was directed at the highly legalistic nature of proceedings in Traffic Court, and he urged the Association to press quickly for amendments. His critique could not easily be ignored, and demanded some sort of response from the highest level.

Morrison had been invited to address the conference, and replied direct to Dollan's criticism in a conciliatory tone. He set out his thoughts in the following terms:

The Traffic Commissioners, however, have a big job. They cannot rush it and they must not give piecemeal decisions until they have viewed the problem as a whole. When sufficient time has elapsed for things to get into working order I think you will find the procedure will become simplified and general principles will be established, and that there will not be that enthusiasm to find work for the legal profession that there is at the beginning . . . but on behalf of the Traffic Commissioners I ask you to recognise that they have a difficult and complicated task, and to help them carry out their duties smoothly and with friendly co-operation all round.<sup>28</sup>

Morrison at this point was under intense pressure, but seems to have been determined not to interfere directly. He had recently spent much of his time dealing with the intricacies of the London Passenger Transport Bill, and the problems with road service licensing must have been particularly unwelcome.<sup>29</sup>

Certainly his reiteration of earlier pleas for co-operation and patience were less than helpful, but the criticisms had not gone entirely unnoticed. When in August the Ministry next invited local authorities to submit nominations for part-time commissioners the time commitment involved was specifically mentioned. Officials had some difficulty arriving at a figure but suggested the work would occupy on average four or five days a month. This still represented a heavy load, and must have limited the range of individuals available for nomination, since few would be prepared, or indeed able, to devote so much time to the task.

The practicalities of establishing road service licensing found the commissioners under intense strain, having to contend with a mounting number of problems. They faced a typical administrative dilemma, with the need to expedite the processing of applications having to be weighed against a

voluminous quantity of work and the need to give each case due consideration. Many of the difficulties were those commonly associated with introducing any new system, and these began to ease as the commissioners gained greater experience and proficiency in their work. For example, the better arrangement of sittings to either avoid or minimise the number of cases that had to be adjourned was welcomed. Similarly the phasing of expiry dates for different categories of licence enabled the load to be spread more evenly in the future.<sup>30</sup> On the other hand, during the next few years the situation with regard to objections was mixed. Some areas, such as Yorkshire, found little or no reduction, but the experience in the East Midland, Northern, Southern and Southern Scotland Areas was more typical, where, although objections were fewer, they were pursued with greater vigour.<sup>31</sup> In addition the commissioners found increasingly that operators were seeking to alter the conditions attached to a licence. Strangely, there was no provision in the Act for an operator to apply for this sort of variation. The commissioners instituted their own procedure, which evolved rapidly to form part of the system, and this simply added to the work load. Often the processing of a variation was more labour-intensive than an application for a new licence, or renewal; eventually additional staff had to be employed solely to deal with this unexpected aspect of the work.<sup>32</sup>

### **Policy difficulties**

The most contentious task for the commissioners was to develop and apply policies that secured the objectives laid down in the Act. The objectives were highly subjective, and incapable of measurement. Like many statements of public policy they were couched in broad terms deliberately so as to allow maximum room for manoeuvre.<sup>33</sup> Morrison had fought hard to ensure that the commissioners retained full discretion to accommodate local circumstances within a general overall framework. Although these aims were not mutually exclusive, there was certainly a tension that needed careful handling. Obviously there was an expectation generally that the commissioners would administer service licensing with consistency, equity and sensitivity. Yet even before they had begun to hold public hearings Sidney Garcke, a director of the British Electric Traction Company, raised the spectre of partiality. In a letter to the Omnibus Owners' Association (OOA) Garcke pointed out that nearly all Traffic Areas had a part-time commissioner drawn from a transport-operating municipality, and he questioned whether such a commissioner should adjudicate at hearings considering applications from his own authority.<sup>34</sup>

Within weeks of the first round of public hearings it became clear that each set of commissioners was approaching a number of crucial issues in very different ways.<sup>35</sup> Naturally decisions in one area invited comparison with similar cases in another, and the absence of a common approach was immediately apparent. This was a new, though not unexpected, element in the crisis. Indeed, given the structure of area commissioners and the wording of the Act,

it was hard to see how inconsistencies could be avoided. Differences occurred on matters relating to frequencies, fares (particularly as a means of protecting other modes of transport), service duplication and the form of general conditions attached to licences. The commissioners for Southern Scotland, for example, sought to timetable all duplication whereas the North Western commissioners permitted operators considerable discretion on the matter. On 10 June the question of differing conditions attached to licences of coach services passing through more than one area was raised in Parliament and it was announced that the commissioners had established a sub-committee to consider the matter.<sup>36</sup>

In the trade press adverse comment on the inconsistency in policy appeared regularly. By contrast the national press, such as *The Times*, which had reported the early hearings in some detail, tended to ignore these criticisms, with subsequent reports confined largely to events in the Metropolitan Area, or specific items raised in Parliament. Of course, since outwardly many bus and coach services were operating unchanged under the transitional regulations, the public largely remained unaware of the growing level of dissatisfaction too. In political and professional circles, however, the situation was very different. In July 1931 representatives of the MTTA, alarmed by the actions of the commissioners, had met Morrison privately at the House to raise their concern.<sup>37</sup> Some months later they followed this with a circular to members requesting them to keep the Association informed of issues, and in particular any hostile or adverse comments by the commissioners directed at the sector.<sup>38</sup>

The commissioners were in a difficult position. Commissioner Dollan was adamant that uniformity could be achieved only by having a co-ordinated policy adopted generally by all areas.<sup>39</sup> Despite the mood of deepening crisis Morrison remained sanguine, but, having refused to impose principles additional to those in the Act, he found himself with little room for manoeuvre. The only option available was to rely on procedures that generally were ill equipped for resolving this particular difficulty. Three methods were available: first, the periodic conferences of the chairmen; second, the commissioners did on occasion act jointly; and finally there was the appeal procedure to the Minister of Transport.<sup>40</sup>

The chairmen's conference allowed discussion on issues of common interest. As we have seen, an early example occurred in respect of the conditions attached to coach service licences, and undoubtedly this provided some degree of cohesion at this critical time. Having said that, the custom of the conference always to protect the discretion of the commissioners meant that the opportunity to secure greater uniformity was limited.<sup>41</sup> Cases of the commissioners acting jointly in a public setting were rare. The most notable example was in December 1931 when the South Eastern and Metropolitan commissioners held a joint inquiry to consider fares on long-distance services, although this did not extend to a joint sitting, for which there was no legal authority until after the Second World War.<sup>42</sup>

The final method, and the one used most frequently, was appeal to the Minister of Transport. The appellate jurisdiction of the Minister was in part

intended to allow him to deal with instances where a difference of opinion between the commissioners of different areas led to conflicting decisions. The official view was that this situation would seldom arise, since the various commissioners would work closely together to ensure commonality.<sup>43</sup> Although the proportion of appeals was actually quite small, the absolute number was very large indeed. Morrison was clearly worried by this development and expressed his unease in the following terms:

I am afraid that we are going to have a lot of appeals. I am not too happy about this. I am bound to say that when the Act was going through I looked forward with some interest, and perhaps some eagerness, to the exercise of this Ministerial authority – settling these things on appeal; but I am equally bound to say the nearer I get to the job the more I realise that I am going to be in a great deal of trouble, whatever I do. They are intricate, difficult decisions, that land you in criticism whichever way you go; but my own experience in administration at the Ministry is that the best thing to do is to make sure you have all the facts, be fair and impartial, do the right thing, and stand by it. On the whole I find that the House of Commons stands by you as long as it is convinced that you are acting fairly and sincerely in the discharge of those responsibilities. That is the spirit in which we shall go on.<sup>44</sup>

Beneath this resolute language one detects an air of growing trepidation. At the end of the first year a total of 1,309 appeals had been lodged, although some 255 were subsequently withdrawn. Decisions had been made in respect of only 389, with the remaining 665 still to be considered at a later date.<sup>45</sup>

The appeal procedure was relatively straightforward. The Minister appointed a representative, usually with legal experience, to hold a public inquiry locally in order to determine whether the commissioners had decided correctly on the facts before them. On completion a report was sent to the Minister, who made the final decision. Although the decision had no binding force beyond the case at issue, it did provide a pointer for the commissioners to follow when dealing with similar cases in the future.

The process was open to criticism both in principle and in practice. The position of the Minister was the subject of much debate. Many felt that his appellate jurisdiction was compromised by the pivotal role that he played in appointing the commissioners, and his authority to give general directions.<sup>46</sup> Furthermore his direct accountability to Parliament potentially laid him open to improper political influence on matters that were quasi-judicial. Morrison was sensitive to this danger, and had pleaded with his colleagues to show restraint, but the situation was exceedingly hard to avoid in practice.<sup>47</sup> The fact that the inquiry reports and the rationale for the subsequent decision were not published was a further problem. At the time this was standard government practice, and Morrison simply followed the existing convention.<sup>48</sup> The main practical criticism centred upon the large amount of time that was involved in determining appeals, but like many of the other procedures there was little that could be done to expedite the process.

While all this was taking place the national economic situation continued to deteriorate. In August 1931 the Chancellor of the Exchequer, Philip Snowden, and Prime Minister Ramsay MacDonald, together with leading members of the government, decided on a package of public expenditure cuts to balance the budget. They were able to secure only a small majority in Cabinet and MacDonald responded by resigning from office, along with the rest of his colleagues, on the morning of 24 August. MacDonald, apparently under pressure from King George V, was invited to lead a National Government. Although there is some debate about Morrison's attitude to these events, after much hesitation he did not join the new administration and was replaced as Minister of Transport by the Liberal, John Pybus (later Sir).<sup>49</sup> The contrast between the two men was stark. Morrison, the self-educated, confident, pragmatic Cockney socialist, and widely experienced in transport matters, displayed total confidence in the ability of the commissioners to resolve the difficulties. Pybus, by comparison, was a conscientious and able administrator but less self-assured. He lacked both the parliamentary and transport experience of his predecessor, and his sensitive disposition rendered him temperamentally unsuited to the parliamentary duties of a Minister, where he found the robustness of debate particularly discomfiting.<sup>50</sup>

Unfortunately for Pybus, he inherited responsibility for road service licensing at a critical time. Within weeks he faced criticism in the House, having to defend the system against a variety of complaints.<sup>51</sup> Small operators in particular were experiencing difficulty coping with the procedures, and the effect of a decision by the commissioners tended to have a proportionally greater impact upon their business than was the case with a larger organisation. By December 1931, with calls for the Act to be either repealed or reformed substantially, Pybus was in great difficulty.<sup>52</sup> He responded by issuing general directions to all commissioners setting out additional policy considerations applicable to rural services and small operators.<sup>53</sup> This was an act of political expedience rather than administrative necessity, since the commissioners had already given small operators considerable assistance.<sup>54</sup> In any case an exceedingly large number of applications had already been determined, and the actual impact of the directions at this stage was probably fairly limited. Morrison was dismayed by this interference, and later condemned Pybus for yielding to such pressure.<sup>55</sup> Whilst Morrison had successfully resisted demands to intervene, the situation that confronted Pybus only a few months later was far more serious, and the calls for action could not be ignored.

Many believed that the issuing of general directions for one group set a precedent that might encourage others to seek similar treatment. Fortunately this did not happen, as larger operators found that a grievance over one application was more than compensated by their having secured a satisfactory outcome in others. Issues of concern generally could always be referred to the appropriate professional association for transmission to the Ministry. Some cases involving smaller operators, however, continued to be raised directly in the House.<sup>56</sup>

The Traffic Commissioners demonstrated clearly the sort of difficulties that often arise in the field of public policy, where those charged with the task of implementation simultaneously have to make policy and apply it to particular circumstances.<sup>57</sup> Of course, senior figures at the Ministry, and in the industry, were prepared initially for some problems, but the process of developing and securing a common approach proved much more troublesome and tortuous than many imagined.<sup>58</sup> Events had very quickly exposed weaknesses in the system, and with initial optimism now tempered by the reality of experience, the position of the commissioners was one of qualified rather than total support. Having said all that, few if any desired to return to a competitive market. The belief that most of the difficulties could be resolved successfully was strong, and, with policy continuing to evolve, each sector of the industry not only remained resolute in defending its position but sought actively to influence developments in its favour.

### Legal challenges

The crisis of road service licensing came to a head through a number of legal challenges to the Minister of Transport at the Court of Appeal. In December 1931, during an action against the Premier Line company for continuing to run a service after the refusal of a licence, the court dismissed arguments that the Minister had acted *ultra vires* in framing the transitional regulations.<sup>59</sup> Two years later, following an appeal by Upminster Services against the conditions attached to a licence, the Minister was found to have exceeded his powers in ordering the revocation of the licence.<sup>60</sup>

The most serious cause of disagreement, however, centred on the regulation of coach services in London. For some years the growth of coach travel had led to increasing congestion in and around the capital, and in March 1931 Morrison issued general directions to the Metropolitan commissioner specifying additional guidelines for regulating this form of traffic.<sup>61</sup> Although the guidelines had been framed to preserve the discretion of the commissioner, they undoubtedly had a limiting effect.<sup>62</sup> Application of this policy provoked great bitterness among operators, many of whom subsequently lodged appeals. For an operator this had the advantage of permitting the continuation of the existing service under the transitional arrangements, until such time as the appeal was determined. For the Ministry, however, it must have added greatly to the problem of appeals generally, which as we have seen was causing much concern immediately prior to Morrison's resignation.

Early in December 1931 the commissioner announced a reserved decision on a large number of applications where he refused to sanction coaches operating into central London. A month later the grounds for the decision were explained fully in a memorandum which proposed, with few exceptions, the total prohibition of all local coach services from the area.<sup>63</sup> Frank Pick, Managing Director of the Underground Electric Railway Company of London, was highly critical. In a letter to *The Times* he advised that the subsidiary

company Green Line Coaches intended to appeal against the decision, and railed against the operation of the Act in the following terms:

I confess it is strange to me that even a Traffic Commissioner can dictate to the public how they are to be served. The Road Traffic Act of 1930 was passed to restore order and prevent abuse on the roads. No one envisaged its use to deprive the public of reasonable service. It outruns its object. Control is one thing; prohibition is another.<sup>64</sup>

Such stinging criticism from someone as influential as Pick must have been embarrassing for Pybus. In the newspaper a lengthy correspondence ensued, and shortly afterwards Pybus announced the establishment of a committee of inquiry under the chairmanship of Lord Amulree (formerly Sir William McKenzie), along with Sir Hardman Lever and Sir Henry Maybury, to examine the entire matter.<sup>65</sup> J. F. Heaton, chairman of Thomas Tilling, and no doubt looking from the vantage point of the company, claimed the Act generally was working well. He was, however, openly critical of the Minister's position, arguing that the only way to restore confidence in the system was through the creation of a permanent appeal tribunal.<sup>66</sup>

Four months later, in June 1932, the Amulree committee published a first report dealing with services in central London, followed in August by the final report examining suburban operations.<sup>67</sup> The reports, although recommending wider latitude than that allowed by the commissioner, did little to defuse the situation. The Motor Hirers & Coach Services Association (MHCSA), which throughout all this period had complained vociferously against the restrictions, expressed grave doubts about the legality of the entire procedure.<sup>68</sup> During the inquiry a claim that the general directions were *ultra vires* was later countered by Pybus with a statement asserting that the directions were *intra vires* and wholly consistent with the Act.<sup>69</sup> The MHCSA had made it clear that they were prepared fully to contest the matter in the courts, and a meeting between operators and the Ministry proved unable to resolve their differences.<sup>70</sup> Many small operators were outraged, claiming that the inquiry had supported the position of Green Line Coaches in preference to the independents, and a telegram of protest was sent to the King.<sup>71</sup>

Pybus, however, pressed on. He accepted the recommendations of the report and advised that he intended to progress appeals to become effective from 19 September 1932.<sup>72</sup> After a few cases had been heard Grey Coaches, on behalf of the MHCSA, obtained a rule nisi (an interim injunction) for a mandamus to challenge the Minister's action in taking the inquiry reports into account when considering appeals.<sup>73</sup> Most of the outstanding cases then were adjourned pending the outcome of this fresh legal argument. Consequently many coach services in and around London remained largely as they had some eighteen months previously, when the transitional arrangements first came into force. It was a further six months before the Court of Appeal delivered a judgement in favour of the Minister and discharged the rule on 28 March 1933.<sup>74</sup>

The willingness of operators to resort to legal action demonstrated both the depth of anger at the way in which events had unfolded and real determination to pursue what they saw as their legitimate claims. In one sense this was useful, as the decisions served to define the limits of the Minister more clearly, but in another there was great uncertainty until the legal processes were complete. In retrospect the clash over coach services in the capital was the crucial test, and the defining moment of the crisis. One can only imagine the sense of relief in the Ministry when the challenge failed, and the process of determining appeals was able to resume. Its successful resolution marked the turning point as operators quickly came to realise that there was little to be gained from further confrontation. Of course, by this stage, many of the initial problems and injustices had been resolved, although not necessarily to universal satisfaction. Nevertheless, in the light of all this experience it was inevitable that some changes would be necessary to improve the operation of the system, and as the rumblings of discontent began to subside, attention turned to considering in more detail the sort of reforms that might be made.

### Adjustment

Minor modifications of Traffic Areas had been introduced in April 1932 for the purpose solely of reducing the work load on both the commissioners and the operators.<sup>75</sup> They were followed in 1933 by enlargement of the Metropolitan Area upon the formation of the LPTB. Later the same year the Road and Rail Traffic Act simplified matters by providing for a reduction in the number of areas from thirteen to twelve with the abolition of the Southern Traffic Area. Alteration of the licensing procedure, however, required separate legislation. Operators and their associations were not slow in seeking to influence the process of reform. The OOA enthusiastically supported the case for establishing a special body to deal with appeals, and in July 1932 submitted to the Ministry a detailed proposal for an Appeals Advisory Committee modelled along the lines of the Amulree committee.<sup>76</sup> Although representatives from the Association later met officials of the Ministry to discuss the suggestion in detail, little progress was made.<sup>77</sup>

In the meantime other professional associations had been working independently on their own set of proposals for reform. Early in July 1933 they met collectively to prepare a common agenda for presentation in a joint deputation to Oliver Stanley, who some months earlier had succeeded Pybus as Minister of Transport.<sup>78</sup> At the meeting with Stanley they spelled out an extensive list of items including: the redefinition of the different types of service, extending the validity of licences to three years, and establishing an advisory committee to deal with appeals along the lines suggested earlier by the OOA.<sup>79</sup>

Stanley agreed to examine these seriously but rejected their plea for an appeal committee, largely on the grounds of the sectional interests on such a body, and the expense. Instead he offered to make available the reports of the inquiry on which the basis of an appeal was determined and, where his

decision differed from the inquiry, to set out fully his reasons. Stanley's concession was not as great as it seemed. Some years previously a Committee on Ministers' Powers had been established to examine issues in general, and had recommended that reports to Ministers should be in the public domain.<sup>80</sup> Whilst the change was helpful, the objection in principle to the appellate jurisdiction of the Minister was to long remain a source of discontent.

The Road Traffic Act, 1934, made a number of important changes in road service licensing. Some of the amendments promised earlier to the joint deputation were incorporated into the Act. This included a redefinition of stage and express carriage services, and clarification of the provisions with regard to private hire. The obligation on the commissioners to hold public sittings for the purpose of hearing applications in certain circumstances was removed. Interestingly the provision for extending the validity of licences to three years was framed as a discretionary power subject to ministerial order. There was no indication of when the provision might be activated, and during the third reading an attempt to have the extension introduced immediately was unsuccessful.<sup>81</sup> Apparently the commissioners took the view that conditions were not yet sufficiently stable to warrant the extension, and there was concern that the move would be more than offset by a correspondingly large increase in the number of applications for variation.<sup>82</sup> Such caution on the part of policy makers was understandable, but the claim regarding stability was puzzling. Certainly few would have wished to repeat the experience of the crisis that had followed the introduction of service licensing. However, it could be argued that stability had been achieved through the transitional arrangements, and then by the issuing of licences to which conditions were attached, regardless of their duration.

Three years later the then Minister of Transport, Leslie Hore-Belisha, announced that the validity of stage carriage licences only would be extended to three years with effect from 8 May 1937.<sup>83</sup> This was considered to be very much in the nature of an experiment, express services having been excluded on account of a tendency to more variation. Pressure to extend the concession continued, and finally express operations were included the following year by Minister Edward Burgin with effect from 31 August 1938.<sup>84</sup>

### Conclusion

Road service licensing was an ambitious plan to regulate an industry that had enjoyed considerable operational freedom. Few doubted that implementing the new controls would present innumerable difficulties. Self-evidently the Traffic Commissioners faced a monumental task in attempting to shape a system that was founded on little more than general objectives. Of course, early operation of the new dispensation was always likely to be subject to close scrutiny. Work for all the participants was arduous, especially for the commissioners, who probably felt that they were on trial, and to some extent they were.

The immediate problems associated with road service licensing exposed the system to the most intense pressure. The difficulties were dealt with in a

variety of ways. Those relating to basic administrative matters were rectified largely through a combination of time and experience. Statutory definitions were modified through a process of consultation followed by new legislation, but there were certain other issues that were less easy to deal with. The desire for commonality of outcome was an obvious example, and the subsequent disquiet regarding the appellate jurisdiction of the Minister of Transport was another. It was not surprising, therefore, that the combination of all these events quickly brought the system to the point of crisis.

Morrison's reluctance to intervene at a detailed level reflected his supreme confidence in the men he appointed as chairmen, and their ability to deal successfully with the task before them. Clearly Morrison was determined to 'ride out the storm', but his resignation from office in August 1931 meant that he avoided having to deal with the strongest pressure for change, which came some time later. Whether he could have resisted the growing chorus of complaint had he remained Minister of Transport is doubtful. Morrison's subsequent criticism of the actions of his immediate successor, John Pybus, was rather harsh. Pybus had no alternative but to respond to the situation in practical terms. The legal challenge that he faced regarding the regulation of coach services in London during the summer of 1932 was an exceedingly serious development. Had it been successful it would have thrown the system into even greater turmoil as senior policy makers attempted to unravel an unimaginably complex situation. In the event the crisis was contained.

Self-evidently the success in dealing with these difficulties, and balancing the tensions inherent in the system, was the product of a number of factors. Morrison's absolute commitment to road service licensing, and the general support and co-operation of the industry as a whole, proved an obvious benefit. Despite the difficulties, most operators preferred the security of an environment where competition was strictly controlled, and had no desire to force the collapse of such an advantageous system. Undoubtedly the contribution made by the founding chairmen and the staffs of the commissioners was a vital ingredient. The chairmen brought a range of personal qualities that did much to ensure the success of the new dispensation, whilst the administrative staff carried out their task with a dedication and determination that reflected the best traditions of the civil service.<sup>85</sup> Ultimately this collective effort laid the foundation for a system of road service licensing that despite the initial crisis was later applauded as a model of administrative efficiency.

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