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IN THE COURT OF APPEAL

SUPREME COURT CIVIL APPEAL No. 44/1973

BEFORE: The Hon. Mr. Justice Luckhoo, P. (Ag.)
The Hon. Mr. Justice Swaby, J.A.
The Hon. Mr. Justice Zacca, J.A. (Ag.)

STEWART ET AL v. LICENSING AUTHORITY FOR
CENTRAL AREA AND R. SAMUELS

November 26, 27, 28, 29, 1974; February 28,
1975.

H.O. Dayes and Lloyd Williams for the appellants.

R. Alberga, Q.C. and W.K. Chin-See for the respondent Samuels.

LUCKHOO, P. (Ag.):

This is an appeal against the decision of the Full Court of the Supreme Court given on September 20, 1973, refusing the application of the appellants for an order of certiorari to remove into the Supreme Court and to quash the order made by one of the respondents, the Licensing Authority for the Central Area on January 25, 1973, granting the application of the other respondent, Robert Samuels, for a road licence to operate two motor buses on the route Kingston to Spanish Town.

Robert Samuels was one of several applicants during the period July to November, 1967 for the grant of licences to operate motor buses being stage carriages along the route Kingston to Spanish Town via Washington Boulevard, Spanish Town Road, Ferry, White Marl and Central Village. The other applicants were Rupert Stewart (who had made an earlier application in 1965) in respect of an almost similar route), Western Services Ltd. and Charles Lawrence. In 1968

Eric Crooks made application in respect of the same route. At the time of those applications James Porteous and all of the applicants save Crooks were persons who were already providing transport facilities along or near to the route or part of the route. The applications were not heard by the Licensing Authority until the year 1972. The delay in hearing the applications has been attributed to the fact that the work of the Licensing Authority had become much in arrear. In or about 1970 Porteous acquired by purchase all the shares in Western Services Ltd. That company in 1971 surrendered its road licence in respect of stage carriages and a similar licence was issued to Porteous in his own name. Eventually it was decided to have the applications fixed for hearing at a meeting of the Licensing Authority to be held on August 15, 1972. The Island Traffic Authority as required by regulation 102 contained in Part IV of the Road Traffic Regulations, 1938 and made under the authority of s. 61 of the Road Traffic Law, Cap. 346 caused notice of the respective applications to be sent by registered post within the time specified in that regulation to those persons (who included Porteous) who were already providing transport facilities to places along or near the proposed route or part thereof and to the Local Authorities in whose areas the route or part thereof was situated. It would appear that each application was intended to be opposed by the other applicants and presumably notice of such intention was duly given the respective applicants as required by regulation 103 of the Regulations aforementioned. Porteous did not enter opposition to any of the applications in his own right. The applications were not heard on August 15 but at the next meeting of the Licensing Authority held on September 11, 1972, Stewart's application numbered 7 made in 1965 was heard. It was opposed at the hearing by Samuels and also by one McCaulay a person already providing transport facilities to places along or near the proposed route or a part thereof. They had both duly given notice of intention to oppose the application. At the conclusion of the hearing the Licensing Authority announced that a decision on that application would not be given until the other

applications for the same route had also been heard. Notification by registered post was duly given each applicant that the remaining applications would be heard on October 19, 1972. On October 19 the Chairman of the Licensing Authority was unavoidably absent and the meeting was adjourned to the following day, the applicants or their representatives then present being so informed. On October 20, 1972 the next application in point of time - that of Samuels numbered 68 - came on for hearing before the Licensing Authority comprising three of the five members who had heard Stewart's application and another member. Samuels' application was opposed by Stewart, Lawrence, Western Services Ltd. and Crooks all of whom were applicants for the grant of a road licence for the same route. Porteous represented Western Services Ltd. at the hearing of Samuels' application and cross-examined Samuels. In the course of the proceedings on that date Porteous made the point that there was need for six buses on the route and stated that no objection to Samuels' application being granted would be offered if the applications of Stewart and Western Services Ltd. were also granted. He intimated to the Licensing Authority that he did not wish to adduce any evidence in support of the opposition entered by Western Services Ltd. He said he considered the service to be necessary but would like to make submissions. Thereafter the evidence of Humane Hartley in opposition to the application was adduced on the part of the opposer Stewart. That witness was not cross-examined by Porteous. Instead Porteous wished to refer to the proposed time-table submitted by Samuels and was told by the Chairman that there was nothing to prevent his bringing anything to the attention of the Licensing Authority in relation to Samuels' time-table and his existing or proposed time-table. To this Porteous rejoined that all of the times in Samuels' proposed time-table "almost related to my direct times." Thereafter Lawrence gave evidence in support of his opposition to Samuels' application and was being cross-examined by Porteous when the further hearing was adjourned. The hearing of Samuels' application was

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continued on November 27, 1972 after due notification to the opposers by way of registered post. In the case of Western Services Ltd. such notification was sent to the registered office of that company at 60, Espeut Avenue, Kingston 11. Earlier notifications of hearing for the company had been sent to Porteous at Havendale Avenue, Kingston. Porteous was the sole shareholder of the company. On November 27, 1972 Porteous did not appear and the further hearing proceeded without anyone representing the company. Later the application of Western Services Ltd. was called on for hearing and no one appearing to pursue the application it was dismissed before the completion of the hearings of all applications supported before the Licensing Authority. Stewart and Samuels were each granted a road licence to operate two buses along the route applied for.

Thereafter, the appellants Stewart, Porteous, Western Services Ltd. and Penn Overland and Crystal Transport sought from the Divisional Court of the Supreme Court an order of certiorari to remove into that Court and to quash the order of the Licensing Authority granting Samuels a road licence to operate two buses along the route applied for. The grounds on which relief was sought were stated as follows -

"(a) That notice of the hearing of the said application of the said Robert Samuels, No. 68 on the list of application for road licences for hearing in August, 1972, was not given to all persons providing transport facilities along or near to the route (Kingston to Spanish Town via Washington Boulevard, Spanish Town Road, Ferry, White Marl, Central Village for which a Road Licence was sought by the said Robert Samuels and granted to him by the Licensing Authority for the Central Area as aforesaid in disobedience of or non-compliance with Regulation 102 of the Road Traffic Regulations 1938 in consequence whereof of James Porteous (one of the applicants herein) and others were deprived of the rights conferred upon them by section 55 (2) & (3) of the Road Traffic Law, Chapter 346 of the Laws of Jamaica.

"(b)

That in hearing or purporting to hear the said application of Robert Samuels and to grant him the Road Licence applied for, the Licensing Authority for the Central Area acted without jurisdiction because of the facts more specifically set out in the preceding subparagraph (a) above.

(c)

That the said Licensing Authority in hearing and granting the said application of Robert Samuels failed to distinguish between the rights of persons opposing the said application pursuant to the Law and Regulations and the rights of persons supplying transport facilities along or near to the said route to make representations with regard to the said application and failed to take into consideration or to give opportunity to any such person to make any such representations in consequence whereof such said persons were deprived of their said rights.

(d)

That upon the hearing of the said application of Robert Samuels No. 68 on the said list, to which Rupert Stewart, Western Services Ltd. (of the applicants herein) were objectors and on which James Porteous (of the applicants herein) wished to make representations, the members of the Licensing Authority which sat, heard, decided upon and granted the said application were not the same members who sat, heard and granted a similar application at the same sessions of the Licensing Authority, viz. that of the said Rupert Stewart and on the hearing of the said application of Robert Samuels the Licensing Authority announced that it would, and did refer to the evidence given at the hearing of the application of the said Rupert Stewart, referring to the Notes of Evidence taken thereof.

(e)

That on the 20th October, 1972, the day of the hearing of the said application of the said Robert Samuels, No. 68 on the list, commenced one of the members of the Licensing Authority Mr. Tony Phillips arrived at the sessions or hearing in a motor car driven by the wife of the said Robert Samuels.

The Divisional Court by a majority in refusing to grant an order of certiorari held that Porteous not having opposed Samuels' application had no locus standi in his own right and was not entitled to be heard and that when he appeared on October 20, 1972 he did so for Western Services Ltd. and not for himself. In respect of the composition of the Licensing Authority in the hearing of the several applications the majority of the Court held that there was nothing wrong in the Authority adopting the procedure it did. Finally,

while deploring the fact that a member of the Authority was driven in a motor car by the wife of the applicant Samuels to the meeting held on October 20, 1972 the Court considered that in the circumstance there was no real likelihood of bias.

Substantially similar grounds were urged before us on behalf of the appellants save that the ground complaining that one of the members of the Licensing Authority had been driven by the applicant Samuels' wife to the meeting held on October 20, 1972 was not pursued.

The relevant provisions of the Road Traffic Law, Cap. 346 which relate to the conditions for the grant of road licences and conditions to be attached to road licences for stage carriages are contained in s. 55(1) - (4) of that Law -

"55. - (1) Subject to the provisions of this Part of this Law a Licensing Authority may grant to any person applying **therefor** a road licence of any of the classes specified in section 54 of this Law.

(2) A Licensing Authority shall not grant a road licence if it is made to appear to the Licensing Authority by a Traffic Area Authority that from the particulars furnished in pursuance of subsection (4) of this section the provisions of Part II of this Law relating to the speed of motor vehicles are likely to be contravened, and the Licensing Authority in exercising discretion to grant or to refuse any such licence, or to grant or to refuse any such licence for a stage or express carriage in respect of any routes, and discretion to attach conditions to any such licence shall have regard to the following matters -

- (a) in the case of an application for a licence in respect of a stage or express carriage, the suitability of the routes and the condition of the roads on which the service may be provided under the licence;
- (b) in the case of an application for a licence in respect of a stage or express carriage, the extent, if any, to which the needs of the proposed routes in the Traffic Area in which the licence is issued or any of them, are already adequately served;
- (c) in the case of an application for a licence other than in respect of a contract carriage, the extent to which the proposed service is necessary

or desirable in the public interest;

- (d) in the case of an application for a licence other than in respect of a contract carriage, the needs of the Traffic Area as a whole in relation to traffic (including the provision of adequate, suitable and efficient transport services) the elimination of unnecessary services and the prevention of unremunerative services), and the co-ordination of all forms of passenger transport including transport by rail;

and, in the case of an application for a licence in respect of a stage or express carriage, take into consideration any representations which may be made by persons who are already providing transport facilities along or near to the routes or any part thereof or by any Traffic Area Authority, or local Authority, in whose Area any of the routes or any part of any of the routes is situate.

- (3) Subject to the provisions of this section and to representations made under this Law the Licensing Authority may attach to a road licence such conditions as the Authority may think fit with respect to the matters in which the Authority are required to have regard under the preceding subsection and in particular for securing that -

- (a) in the case of a licence in respect of a stage, express, contract or hackney carriage, the fares shall not be unreasonable;
 - (b) in the case of a licence in respect of a stage or express carriage, where desirable in the public interest the fares shall be so fixed as to prevent wasteful competition with alternative forms of transport, if any, along the route or any part thereof, or in proximity thereto;
 - (c) in the case of a licence in respect of a stage or express carriage, copies of the time table and fare table shall be carried and be available for inspection in vehicles used on the service;
 - (d) in the case of a licence in respect of a stage or express carriage, passengers shall not be taken up or shall not be set down except at specified points or shall not be taken up or shall not be set down between specified points;
 - (e) in the case of a contract or hackney carriage, copy of the fare table shall be carried and be available for inspection in vehicles used as such;
- and generally for securing the safety and convenience of the public, and the Licensing Authority may from time to time vary in such manner as the Authority may think fit the conditions attached to a road licence.

(4) Every person applying for a road licence of any class shall submit to the Licensing Authority -

- (a) particulars of the types or type of vehicle to be used accompanied by the certificate of fitness issued in respect of the vehicle;
- (b) in the case of an application for a road licence in respect of a stage or express carriage, the time tables and fare tables of the services which it is proposed to provide under the licence and as to the frequency of the services and the times to be taken on the journeys included in those services as the Licensing Authority may require;

and the Licensing Authority shall transmit to the Traffic Area Authority in whose Area Application for the licence is made a copy of such particulars.

Section 61 of that Law relates to the procedure on applications for licences and provides as follows -

"61. - (1) Subject to the provisions of this Part of this Law the Minister may make regulations as to the procedure on applications for and the determination of questions in connection with the grant, suspension and revocation of licences under this Part of this Law by a Licensing Authority, and the surrender of such licences, and those regulations may make provision as to the particulars to be furnished and the persons to whom notices are to be given, the manner in which notices are to be published or served, and as to the manner in which objections may be made."

The Regulations in that regard are Regulations 95 to 108 (inclusive) contained in Part IV of the Regulations made on March 14, 1938 (Rules, Regulations and Order 1938). Of those regulations the following are relevant to the matter under inquiry -

"97 - (1) Application for Licences or Backing shall be made to the Authority for the area in which the Applicant resides or carries on his business or within or from which the vehicle is intended to be ordinarily operated."

"102 - The Authority on the receipt of an application for a Licence in respect of a Stage or Express Carriage Service shall except in the case of an Application made under Regulation 186 hereof forward the duplicate copy of such application to the Island Traffic Authority who shall cause notice thereof to be sent by Registered Post to any person or persons who are already providing transport facilities to places along or near the proposed route or any part thereof, and to every Local Authority in whose area any route or any part thereof is situated. Such Notice shall be sent at least 14 days before the day fixed for the hearing of the Application."

"103 - Where any person or persons or any Local Authority intends to oppose an Application for a Licence or a Backing in respect of a Stage or Express Carriage Service notice of such intention shall be given to the Applicant at least seven days before the day fixed for the hearing of the Application. Such notice may be in the form of an ordinary letter sent by registered post. The Applicant or any interested Party may appear either in person or by Counsel or Solicitor at the hearing of the Application."

By s. 93(4) of Cap. 346, Regulations made under any part of that Law shall be of the same force and effect as if they are contained in and form part of the Law. Section 62 of the Law, (Cap. 346) provides for appeals to the Road Traffic Appeal Tribunal in connection with road licences and is as follows -

"62. (1) Any person who -

- (a) being an applicant for the grant of a road licence, is aggrieved by the refusal or failure of the Licensing Authority to grant the licence, or with any condition imposed by the Licensing Authority; or
- (b) being a Local Authority which, or a person providing transport facilities who has opposed the grant or variation of a stage or express carriage licence, is aggrieved by the grant thereof or by any condition or by any variation of the conditions attached thereto; or
- (c) being the holder of a road licence, is aggrieved at the revocation or suspension thereof, by the Licensing Authority or by any variation of the conditions attached thereto,

may within the prescribed time and in the prescribed manner appeal to the Road Traffic Appeal Tribunal constituted under section 17 of this Law.

- (2) On any such appeal, the Road Traffic Appeal Tribunal shall have power to make such order as it thinks fit (including an order revoking a licence) and any such order shall be final and conclusive and shall be **binding** upon the Licensing Authority."

The Island Traffic Authority is the Road Traffic Control Authority having the general control of road **traffic** in the Island and is also the Traffic Area Authority for the Traffic Area in which is included the Corporate Area as defined by the Kingston and St. Andrew Corporation Law, Cap. 192. (See s.3 of Cap. 256).

Section 55(2) of Cap. 346 requires the Licensing Authority in exercising its discretion to grant or refuse a road licence for a stage carriage and in exercising its discretion to attach conditions to any such licence to take into consideration any representation which may be made by persons who are already providing transport facilities along or near to the routes or any part thereof or by any Traffic Area Authority or Local Authority, in whose area any of the routes or any part of the routes is situate.

Regulation 97(1) requires application for the grant of a licence in respect of a stage carriage service to be made to the appropriate licensing authority.

Regulation 102 requires the Licensing Authority for the appropriate area on receipt of an application for a licence in respect of a stage carriage service to forward a duplicate copy thereof to the Island Traffic Authority who shall cause notice thereof to be sent by registered post to any person or persons who are already providing transport facilities to places along or near the proposed route or any part thereof, and to every Local Authority in whose area any part thereof is situated. Such notice shall be sent at least 14 days before the day fixed for the hearing of the application.

Regulation 103 requires that where any person or persons or any Local Authority intends to oppose an application for a licence in respect of a stage carriage service notice of such intention shall be given to the applicant at least 7 days before the date fixed for the hearing of the application.

Section 62(1)(b) confers a right of appeal on a Local Authority which, or a person providing transport facilities who, has opposed the grant of a stage carriage licence, and is aggrieved by the grant thereof or by any conditions attached thereto.

It seems clear from a consideration of the provisions set out above, more particularly those of regulations 102 and 103 and of s. 62(1)(b) that opposition to the grant of a stage carriage licence may only be made by a Local Authority in whose area any route or any

part thereof is situated, or by any person or persons who are already providing transport facilities to places along or near the proposed route or any part thereof. It is to such local Authority and such category of persons that notice of the application is to be given by registered post within a specified period prior to the hearing of the application and it is to such local Authority and such category of persons that a right of appeal is given provided that the local Authority or person in that specified category has opposed the grant of the application. The procedure for entry of opposition is as has already been noticed, prescribed by regulation 103. Of course where opposition has been made, at the hearing of an application it must be taken into account by the Licensing Authority determining the application. What then does s. 55(2) of Cap. 345 mean when it requires the Licensing Authority to take into consideration any "representations" which may be made by persons who are already providing transport facilities along or near to the routes or any part thereof or by any Traffic Area Authority or local Authority, in whose area any of the routes or any part of any of the routes is situate? That that subsection should specifically require the Licensing Authority to take into account representations made by those categories (which includes a Traffic Area Authority which is given no right of appeal) can only in my opinion mean that the representations are such that they do not seek to oppose the grant of an application. The representations may be in support of the application or may be that the grant of the application if made should be subject to conditions. It will be observed that no time limit is specified for the making of "representations". Does this contemplate that "representations" may be made at any point of time short of the actual conclusion of the hearing or pronouncement of the decision in respect of an application? It is only fair that an applicant should be apprised of the nature of any "representation" that has been made in relation to his application so that in supporting his application at the hearing he may have the opportunity of dealing with the "representation". This he cannot do where the testimony in support of his application is already given and the

testimony in support of any opposition entered is being put forward. The appropriate time for giving of notice of any "representation" is in my view prior to the commencement of the hearing of the application and acting by analogy with the requirement of regulation 103 for the giving of notice of opposition to the applicant such representation should be communicated to the applicant within the time specified in regulation 103 for the notification to him of an intention to oppose his application. It is to be noticed that no provision is made under the Road Traffic Law, Cap. 346 or the Regulations made thereunder which permit a Licensing Authority to extend the time specified in regulation 103 within which notice of opposition to an application for the grant of a road licence may be given the applicant.

What are the complaints which the appellants make in respect of the proceedings before the Licensing Authority? The first complaint is that all persons providing transport facilities along or near to the route in Samuels' application did not receive any notice of the hearing of that application fixed for October 19, 1972 and taken on October 20, 1972 by the Licensing Authority, and that particularly Porteous, a person who in the year 1971 up to and including October 20, 1972 and thereafter has been a person supplying transport facilities along or near to the said route did not receive any notice of the hearing of Samuels' application fixed for October 19, 1972 and taken on October 20, 1972 by the Licensing Authority, nor did he receive any notice for the meeting of November 27, 1972 which concluded the matter which was part heard on October 20, 1972 and in consequence did not attend that meeting.

As has already been stated section 55(2) of the Road Traffic Law, Cap. 346 requires the Licensing Authority in exercising its discretion whether to grant or refuse an application for a road licence or to attach conditions to a grant to take into consideration any representations made inter alia by persons supplying transport facilities along or near to the route in question and to

regulation 102 abovementioned requires that persons in that category be notified of applications made for the grant of road licences for such route. Where a person entitled to make "representations" does not enter opposition to the grant of the application within the specified time for so doing but wishes to make representations only he must as has already been pointed out, make those representations before the hearing of the application commences so that the applicant may have an opportunity of meeting those representations. In the instant case it has not been shown that any person entitled to make representations - leaving aside Porteous for the moment - wished to make representations but were deprived of the opportunity so to do for the reason that there was a failure on the part of the Licensing Authority to give due notification of the hearing of Samuels' application. So far as Porteous is concerned he was duly notified of the date of commencement of the hearing as required by regulation 102. He received no notice in his own right in respect of any of the adjourned hearings. In my view he was not entitled to any notice of the adjourned hearings for the reason that he made no "representation" prior to the date fixed for the commencement of the hearing of Samuels' application. It was only during the course of the proceedings on October 20, 1972 where he took the stand on behalf of objectors Western Services Ltd. that no objection would be offered to the grant of Samuels' application for a road licence to operate two buses on condition that Western Services also was granted a road licence to operate two buses on the same route and after evidence led in support of Samuels' application had been closed and he, on behalf of Western Services Ltd. had declined to adduce evidence in opposition that he intimated that he wished to ask questions in relation to the time-table proposed by Samuels for the operation of the two buses applied for. He was correctly told by the Chairman that the proper time to ask such questions was when the evidence in support of Samuels' application was being adduced.

The Chairman added that there was nothing to prevent him (Porteous) from bringing anything to the attention of the Licensing Authority then sitting in relation to Samuels' proposed time-table and his (Porteous') existing time-table and his (presumably Western Services Ltd.) proposed time-table. To this Porteous replied "All these times almost relate to my direct times" (presumably in respect of his existing bus service). So as a matter of fact Porteous did on October 20, 1972, make representation to the Licensing Authority that the times set out in Samuels' proposed time-table were almost the same times as those in his (Porteous') existing time-table. Thereafter Lawrence gave evidence in opposition to Samuels' application and when Porteous came to cross-examine him he set about to show that Lawrence was not a fit applicant for the grant of a road licence. He was still cross-examining on his theme when the adjournment was taken. This cross-examination was obviously being pursued by Porteous in furtherance of the right acquired by Western Services Ltd. as an objector so to do. Clearly Porteous in his own right had no right to cross-examine Lawrence for he did not enter opposition to the grant of Samuels' application. When the Chairman permitted Porteous to make the representation he did in relation to Samuels' ^{proposed} /time-table he was strictly speaking granting Porteous an indulgence in so far as the representation affected Porteous' own time-table. The time had long past when Porteous could properly make representations. If I am wrong in so holding and it was competent for Porteous even at that late stage in the proceedings to make representations, was Porteous deprived of the opportunity of making the representations he now states he wished to make by not being sent a notice that the adjourned hearing would be continued on November 27, 1972? Paragraphs 21 and 22 of the affidavit sworn by Porteous in support of his application for the grant of an order of certiorari are as follows -

"21. In particular I wish to object to the time-table of the proposed service by Robert Samuels (the grant of which licence is the subject of this application) in so much as time.

Mr. Samuels in his time-table proposes to leave Spanish Town at two hours intervals commencing at 5.20 a.m. and the proposed departure time from 7.20 a.m. onwards for no less than nine trips, exactly coincide with the time-table for which I already hold the licence.

22. The above facts refer to the time-table for one of the buses included in the said licences granted to Robert Samuels. With regard to the time-table for the second bus included in the said licence, the time-table departing from Kingston is ten minutes in front of one of my buses and I specifically wish to make representations about this fact also."

Two points will be noticed in regard to the question

of the representations Porteous has stated he wished to make -

(i) in fact he did on October 20, 1972, make a representation in respect of the time-table proposed by Samuels; (ii) the representation he did make somewhat overstated the matter. However, the Licensing Authority's attention was specifically attracted to the point Porteous wished to make and I can see no actual prejudice suffered by Porteous by any omission to notify him personally of the fixture for continuation of the proceedings on November 27, 1972.

I would hold that Porteous was not entitled in his own right to receive a notice of fixture of any adjourned hearing and that the Divisional Court of the Supreme Court arrived at the correct conclusion in that regard. Even if I am wrong in that regard I would hold that in the events that occurred certiorari ought not to go in that regard for the reason that Porteous and indeed no one else suffered any prejudice in not being notified of the fixture for continuation of the proceedings.

It was next submitted that the Licensing Authority ought to have heard together all of the applications made in relation to the same route and that the Authority in determining Samuels' application erred in taking into consideration the evidence adduced

in respect of Stewart's application when the composition of the members of the Authority sitting in the one differed from that sitting in the other in the manner set out earlier in this judgment. An examination of the record fails to disclose that in fact the members of the Authority who sat to determine Samuels' application did take into consideration the evidence adduced in respect of Stewart's application. At the hearing of the former the question of taking into consideration the evidence adduced in the latter was agitated but it does not appear that any decision was taken by the Authority in this regard. This submission also fails.

As to the desirability of the Authority hearing all applications made in relation to one route I do not think any general rule should be laid down. It should be left to the Authority to determine whether or not the applications may all conveniently be heard together.

In the result I would hold that the appellants have failed to show that the majority of the Divisional Court of the Supreme Court arrived at the wrong conclusion. I would dismiss the appeal of each appellant with the costs to the respondents to be agreed or taxed.

Before parting with the case I would like to bring to the attention of the appropriate rule making authority that the existing regulations in relation to applications for road licences were made in 1937 and are apparently based on those enacted in England in 1933 under the provisions of the Road Traffic Act, 1930 and which were replaced by more detailed regulations governing the procedure to be followed in respect of such applications in 1934 no doubt because of the need to have specific provision made in respect of certain procedural steps required to be taken, one of them being the time within which and the manner of giving notice of any representation (as distinct from opposition) desired to be made in relation to such applications and another the manner of

giving notice of fixture for hearing (including continuation of hearing) of applications. The procedural regulations of 1934 have since been modified.

SWABY, J.A.:

I agree.

ZACCA, J.A. (Ag.):

I agree.

LUCKHOO, P.(Ag.):

The appeal is accordingly dismissed. The order of the Divisional Court is affirmed. Costs to the respondent Samuel to be agreed or taxed.