

public authority.” Those words are taken, I think, from a similar section in the 1926 Act. They were the subject of litigation, and the words went to the Court of Appeal for interpretation. They were very unhappily phrased in the 1926 Act, and the Court of Appeal decision, trying to decipher what they meant, left the matter just about as hazy as before it went there. I submit it would be better to alter those words, so that they may not work the hardship they did. Only two cases have been taken in the Courts under that section, and the result was that the method of assessing the value of a man's fleet and his undertaking was to take each bus and value it separately as an independent bus—that is, as a second-hand bus—quite apart from the fact that it was a unit of a complete organization. Having valued each bus separately as a second-hand bus, the total was added up and the fleet was valued on that basis.

*Mr. Mason.*] That was the Court of Appeal decision?—Those were two cases following on the Court of Appeal decision. Both cases were in Auckland, and the result was that the values were assessed on that basis, and the two companies concerned simply received for their fleet and organization the total of so many second-hand buses; and any cost they had incurred in perfecting the organization, in standardizing the fleet, in experimental work, and generally in getting things into good running-order was entirely lost. In both those cases—and it must always be so—considerable expenditure was incurred before the organization could be completed, and a considerable amount was lost in finding out what was required, an amount which at the time of taking over was not represented by any definite asset that you could run into a yard and look at. In both cases great hardship was worked on those companies, and they did not receive adequate compensation for what was taken from them by the local public body; and those decisions were given on these words.

*Mr. Harris.*] You are not dealing with goodwill?—Not in the sense of goodwill being something paid in anticipation of future profits. I am speaking of the value of the fleet and organization which is taken from the man as a going concern. The words in the section were commented on by the Court of Appeal as extremely difficult of interpretation. The wording I am going to suggest is: “In computing the price to be paid under this section in respect of any undertaking, the price shall be fixed at the fair market value (as a going concern) of the motor-omnibuses and the property of the claimant used exclusively for the purposes of the undertaking,” and so on. That is not goodwill; it is merely asking that he shall be compensated for what he has got. I submit this is the fair compensation a man should be paid. Take a case when a man has, say, a fleet of twenty buses, which is in being and has been running and serving the public for a period of years—an organization which has probably cost that man in overhead charges, experimental work, and various other things quite a lot of money to bring to a state of perfection. Take from him that organization and you take from him not only his service, but all the plant, equipment, and organization ready to hand to supply the requirements of that service. It should be paid for on the basis of “What is it worth as a going concern, a fleet in being, to take it from him and fill the requirements of the public as he has been doing?” The only fair price for that is what it is worth *in situ*—that is, as it stands as a going concern. That is what he should get. It has cost him money to get it. If he is to be sacrificed in the public interest on the ground that his absorption is to do away with economic waste, it is fair that he should not lose money by being the victim of the sacrifice. It is only fair and just that he should be reasonably compensated, and that he should not be a loser by it. He is, in any event, the loser by the fact that after spending a period of years in organizing a service he has then everything taken from him and he has to find some other avenue for his activities for the rest of his life. He has to put up with that, and therefore he should not be an actual loser in cash in the recompense you make him for what you take from him. These words have been the subject of litigation, have been found to be unsatisfactory, have been said to be unsatisfactory, and have worked unfairness. I am speaking with some intimate knowledge of the particular section, and I can assure the Committee that it works unfairly to the bus-proprietors whose buses are taken over, and I think the intention of the framers of the Bill is to compensate fairly. I therefore submit that if the words “as a going concern” are put in it will achieve that object—to be fair. That is all I want to say on that point; and I make that suggestion because I feel it is the intention of the Bill not to penalize the man who is put out of existence, and that is the only way to achieve that. With regard to the latter portion of the same clause—“In determining the amount of such compensation, the claimant shall not be regarded as having enjoyed any exclusive or preferential right or privilege with respect to the conduct of a motor-omnibus service on any route or routes”—I would respectively suggest that those words should be cut out, because it appears to me and to the committee I represent that they flatly contradict the words that immediately precede them. If members of the Committee will notice, there is provision, on top of the value of the buses and plant, about half-way down the clause, for further compensation. It says, “together with such amount (if any) as is agreed on by the parties or as is considered reasonable by the Compensation Court, as compensation for the loss suffered by the claimant by reason of the refusal of the licensing authority to renew his license.” That distinctly contemplates that the bus-proprietor is to receive something further than the bare value of his plant and assets. Now, that must mean something by way of goodwill, something in acknowledgement of the fact that he has a right to run on that road; and, of course, that is only reasonable and fair. Whether he had a right which was worth a great deal or not, or whether he was likely to lose it at any time, would be a matter which the Court would consider in assessing how much additional was to be given him for his right. But when you take the words, “In determining the amount of such compensation, the claimant shall not be regarded as having enjoyed any exclusive or preferential right or privilege with respect to the conduct of a motor-omnibus service on any route or routes,” then there is nothing further for which he can be paid, because if he is deemed to have no right to be running, then there is nothing on earth that the Court can give him.

*Mr. Sullivan.*] Is that not just a statement of fact. Under the law the local body can cancel the license?—Yes, under certain circumstances.