SUGGESTED AMENDMENTS TO PART II. OF THE HOUSING OF THE WORKING CLASSES ACT, 1890.

By T. EUSTACE HILL, M.B., B.Sc., F.I.C.,
County Medical Officer, Durham.

(FELLOW.)

THE Housing of the Working Classes Act, 1890, is probably the most important Sanitary Act which has been passed since the Public Health Act, 1875, in that the application of the several parts into which it is divided has done more to improve the dwellings and surroundings of the labouring classes, and even of the poor, than any other sanitary enactment.

The Act, as is well known, is divided into three chief parts, viz., Part I., only applicable to urban districts and dealing with unhealthy areas by means of an improvement scheme; Part II., which applies to both urban and rural districts, and enables sanitary authorities to proceed against the owners of one or more houses which are so dangerous or injurious to the health of the occupants as to be unfit for habitation, and also to deal with obstructive buildings and small groups of dwellings by means of an important scheme; and Part III., which enables a sanitary authority to provide houses for the working classes when and where such may be necessary.

I do not propose in this short paper to refer to the administration of Part I. for the delays, difficulties and great expense invariably incurred by sanitary authorities who have exercised their powers under it respecting unhealthy areas have been discussed on many occasions, and I believe at some of the Congresses of this Institute. Suffice it to say that the experience of some of our large towns, in their endeavour to deal with insanitary areas under Part I., has been an effectual damper to other towns in which large areas of dilapidated unhealthy dwellings can only be effectually dealt with by an improvement-scheme, and that it is generally

admitted that Part I. of the Act requires to be amended so that the procedure may be simpler, the delays less vexatious, and the expense to the ratepayers greatly diminished.

Neither do I intend to refer to Part III. of the Act, which is adoptive and in rural districts can only become operative with the consent of the County Council, for this part also has been the subject of many valuable papers and discussions during recent years, especially with respect to the necessity of increasing the period of repayment of loans sanctioned to sanitary authorities for the provision of working-class dwellings. I may state, however, that the procedure of this part of the Act, especially as regards rural districts, has been amended and greatly improved by the Housing of the Working Classes Act, 1900, but greater facilities require to be granted to sanitary authorities to enable them to provide cheap and healthy houses on convenient sites for the inhabitants of overcrowded districts.

It is safe to say that the application of the provisions of Part II. has been far more general and frequent than any other part of the Act, and has been productive of most good.

Prior to the passing of the 1890 Act, proceedings for the closing of dwellings unfit for habitation had to be taken under the nuisances sections of the Public Health Acts, 1875, or the Housing of the Working Classes Act, 1885, and under both these Acts there were many difficulties to be overcome before an insanitary house could be closed. By proceeding under Part II. of the Act of 1890, there is much less difficulty in obtaining a closing order in respect to a dwelling unfit for habitation, but ten years administration of this part of the Act by the Durham County Council has revealed serious defects which in some cases cause great hardships, and may even prevent the enforcement of a closing order granted by the Justices. For the last ten years the Durham County Council has exercised its powers under Section 45 (2) of the Act, and has dealt with nearly 2,000 insanitary dwellings. By that section a County Council has power in rural districts to call upon the Sanitary Authority to institute proceedings under the Act to close dwellings which, in the opinion of the County Council are unfit for habitation, and, if after reasonable notice, not less than one month, the County Council is of opinion that the District Council has failed to institute and properly prosecute proceedings either as regards the closing or demolition of an insanitary dwelling, or the pulling down of an obstructive building, the County Council may pass a resolution to that effect, and thereupon the powers of the District Council as respects the said dwelling-house or

obstructive building under this part of the Act (otherwise than in respect to a scheme) shall be vested in the County Council, and if a closing order or an order for demolition, or for pulling down an obstructive building is made, and not disallowed on appeal, the expenses of the Council as respects the said dwelling-house, including any compensation paid, shall be recoverable by the County Council from the District Council. In a considerable proportion of the houses scheduled by the Durham County Council as unfit for habitation, the County Council has had to exercise the powers of the Rural District Councils by default, and I will shortly refer to some of the most serious difficulties encountered by the County Council in administering the Act, difficulties which for the most part it must be remembered have also to be met by district authorities who desire to close insanitary dwellings.

In the first place the definition of the word "owner" in the Act is unsatisfactory, for notices must be served and proceedings taken against either the owner, as defined in the Land Clauses Acts, or against the persons holding the property on a lease or mortgage for a term of years of which at least twenty-one years have still to run. Proceedings cannot be instituted against the agent of the owner as is permitted by the Public Health Act, 1875, and it is often a very great hardship on the actual owner, who has, perhaps, let the premises on a repairing lease for a long term of years and may, therefore, not be responsible for the property falling into an insanitary state, to be called to put the property into repair or close it, because something less than twenty-one years of the lease has yet to run.

The difficulty as regards the word "owner" would be overcome if the word had, in addition, the same meaning as in the Public Health Act, 1875.

Another and much more serious defect in the Act is that when once a closing order has been obtained no further responsibility rests on the owner as to the closing of the dwelling, all subsequent proceedings to that end being directed against the tenants. The tenant must receive not less than seven days' notice from the prosecuting authority to vacate the house, and if he makes default in obeying the notice he is liable to a penalty of 20s. a day during the time he continues to occupy the house. This method of procedure often inflicts the greatest hardships on the tenant, who is usually not to blame for the insanitary condition of the dwelling, especially in overcrowded districts, where it is often impossible for him to find another house. The Justices making the order have power to grant a reasonable allowance, recoverable from the owner, to

the tenant on account of his expenses in moving, but in most districts the Justices refuse to make any such allowance or to impose any fine on the owner for being in possession of insanitary property.

In practice it is often impossible for the prosecuting authority to get the tenant out of the house after a closing order has been obtained, for the penalties resulting from the tenant disobeying the order to quit can only be recovered by distraint, and very frequently the personal effects are not worth distraining upon. Besides which many authorities are averse from taking extreme measures against tenants who have committed no offence, and to whom eviction frequently means loss of employment as well as house, owing to the impossibility of their obtaining another house in the neighbourhood of their place of employment.

The difficulty of getting rid of the tenants is, of course, much greater where a number of houses are ordered to be closed, especially in over-crowded districts like most of the mining districts of Durham, where it is the custom for the employers to provide free houses for their workmen, and where, owing to the uncertain life of the collieries or works, the erection of dwellings by private enterprise is practically *nil*. In such cases the closing of insanitary dwellings (and I regret to say that there are still many houses not fit for habitation in the county) would invariably mean overcrowding of other houses in the district, while apart from that, the difficulties in the way of the prosecuting authority evicting the tenants very frequently renders the effective administration of the Act impossible. The only remedy I can suggest is that the duty of removing the tenants from houses ordered by the Justices to be closed should be placed on the owner, who should be liable to a penalty for each day a house continues to be occupied after a date fixed by the Justices making the closing order.

It is certain that if this were done owners would take more care to keep their houses in a sanitary condition, and in the county of Durham, where it is the custom for the colliery-owners to provide houses for their workmen, it would impress on some owners the necessity of replacing by modern dwellings houses which nothing short of reconstruction can make sanitary.

Another amendment of the Act which, in my opinion, is very desirable is the extension of the powers of County Councils under Section 45 (2) of the Act to urban districts, other than boroughs. It is an undoubted fact that in many of the smaller urban districts there is less inclination on the part of the sanitary authorities to enforce their powers respecting houses unfit for habitation than in rural districts, owing to the fact, probably, that

members of the Council are elected from a more restricted area, and consequently have more common interests, and moreover are themselves not infrequently interested in small house-property. In such districts much good would result if the County Councils had power to deal with insanitary dwellings respecting which the Urban District Councils had made default in enforcing their powers under the Housing of the Working Classes Act.

It is also very desirable that a sanitary authority should have power to appeal to Quarter Sessions when the application for a closing order has been refused by the Justices. At present the owner is able to appeal against the order of the magistrates closing his house, but the prosecuting authority has no appeal against an adverse decision which may be capricious and against the weight of evidence. In two instances where applications for closing orders by the Durham County Council were dismissed by the Justices, there were strong reasons for believing that the decisions, in the face of the strongest evidence as to the insanitary condition of the dwellings, were affected, in one case by private opinions formed without hearing the evidence, and in the other by local influences.

From the point of view of County Councils, it is important that the Act of 1890 should be amended by the introduction of a section which will prevent a closing order obtained at the instance of a County Council from being rescinded by the Justices unless due notice has been given to the County Council of the application for such rescission. On more than one occasion, as a result of a certificate being given by a Rural District Council, the Justices have rescinded closing orders obtained by or at the instance of the Durham County Council without the latter's knowledge, and the houses have subsequently been re-occupied, although in the opinion of the County Council they have not been made properly fit for habitation. It is only reasonable that, if the County Council has been instrumental in obtaining the closing order, information should be given to that authority of any application for the rescinding of that order.

Power should also be given to sanitary authorities to obtain the demolition of a house permanently closed as unfit for habitation, if its removal is desirable, even though it may not be proved to be dangerous or injurious to the health of the public or of neighbouring tenants.

A house which has been permanently closed is unsightly and undesirable, it frequently obstructs light and air, and in other ways may be objectionable.

The only other point to which I want to call attention has reference to the forms of notices required to be used, and which are set out in Schedules iii. and iv. of the Act.

Under Schedule iii. the form of notice and procedure is laid down in the Public Health Act, 1875, respecting nuisances injurious to health, and the notice must specify the works necessary to abate the nuisance; while under Form A of Schedule iv., the notice must call upon the owner to make the dwelling fit for habitation, even though it cannot be made habitable, and it is the intention of the sanitary authority to permanently close it. As a result of such a notice the owner not infrequently spends money in a useless endeavour to comply with its requirements, and it is very desirable that Schedule iii. should be amended to enable the sanitary authority to apply for a closing order, when the premises are so dangerous or injurious to health as to be unfit for habitation, and are incapable of being made habitable, without the necessity of calling on the owners to make them habitable.

If that were done Form A of Schedule iv., might be used with respect to premises which could be made habitable, and the notice in such cases should state the work required to be carried out to make the premises habitable.

On several occasions the Durham County Council has drawn the attention of the Local Government Board to the necessity of amending Part II. of the Housing of the Working Classes Act, 1890; and the President of the Local Government Board having stated during the present session of Parliament that he proposes to introduce a Bill to amend the Housing of the Working Classes Acts, the County Council in May last forwarded to the Local Government Board and the County Councils Association the following suggestions prepared by the Clerk and myself for the amendment of the Acts:—

1. To make the meaning of the word "owner" the same as in the Public Health Act, 1875.

2. To make the owner of a dwelling-house as to which a closing order has been obtained liable to continuing penalties as long as he permits it to be occupied.

3. To provide that no closing order shall be determined without notice to the Council of the Administrative County in which the dwelling is situated.

4. To give power to Sanitary Authorities to make a demolition order as to any building which is dangerous or injurious to the health of its own inhabitants.

5. To give County Councils power to enforce the Act in urban districts other than Municipal Boroughs.

6. To give a right of appeal against the dismissal of an application for a closing order.

The necessity of some, if not all, of the above amendments, having regard to effective administration of Part II. of the Act of 1890, is I think evident; and the probability of some of them being introduced into any amending Government Bill, would be greatly enhanced if the action of the Durham County Council were supported by the powerful influence of The Sanitary Institute acting on the recommendation of this important Conference.

Mr. Samuel Adams (Clerk to the Rural District Council of Auckland) said he cordially agreed with the first two of Dr. Hill's suggestions for amendment of the Act. The first would help very materially in serving notices and getting the Act into operation, and the second would make it much easier to get an order of the justices carried out. But he thought that the other four suggestions were open to very considerable objection. It was evident that the paper had been written from the point of view of the county councils. It was not well to have the county council continually interfering with the action of district councils, as was sometimes the case. The district councils, as it was, had frequently cause of complaint of being overridden in their decisions by the county councils. The representatives of district councils were very much better able than the representatives of county councils covering a large area to determine what was best for their own districts, and there could be no advantage in their being subject to the dictation of the county councils in such matters. Dr. Hill said that the result of the service of the notice on an owner frequently was that he spent money in a useless endeavour to comply with the requirements of the district council. A case which would well illustrate that point had occurred at a meeting of his council the day before. A house was reported as being unfit for habitation, and the council had to serve notice for the necessary work to be done to make it habitable. The notice ordered to be served was one stating that the height of the rooms must be raised to ten feet, that through ventilation and proper drainage should be provided, a new roof should be put on, and that the present privy and ashpit should be removed and new ones built. A member of the council asked whether it did not amount to the building of a new house, and of course it did. If the notice were not complied with, and a new house built, the house would be closed. Therefore he did not see any need for the suggested alteration of the law in regard to the strict operation of a closing order after the service of a notice to put the house into a habitable condition. They gave the owner the opportunity of putting the house into proper repair. If he complied with the notice, well and good; if he failed to comply, a closing order would be obtained. With regard to the rescinding by justices of closing orders when

notices to repair had been complied with, they would notice that Dr. Hill said, "On more than one occasion, as the result of a certificate being given by a rural district council, the Justices rescinded closing orders obtained by, or at the instance of, the Durham County Council without the latter's knowledge," and the suggestion was that before any action was taken for the rescinding of an order by the justices notice should be given to the county council of intention to apply. People on the spot who knew the circumstances and knew what was necessary, might be quite satisfied that the house to which the closing order related had been put into a proper condition, but it was not enough. The county council was to receive notice, and then that body would instruct their solicitor to make a journey to the petty sessional division where the house was situated, and the solicitor would go there, not necessarily to oppose, but to hear what was going on. A bill would afterwards come in to the district council for £5 or £6 as the solicitor's fee and expenses. And perhaps the medical officer would go, and the clerk to the county council also, and a bill would come in to the district council in proportionate amount for their special services and expenses. It would be a means of running up costs against a district council which certainly ought to be avoided, for it was not at all a necessary step to take. The fourth suggestion made by Dr. Hill was a most serious thing for the district councils. With the press of business they now had they could not possibly find time to carefully consider the question of the demolition of buildings, and he did not think that that was a power which should be conferred upon them. Such a question should go before a judicial tribunal, and be argued out by representatives of both sides. In dealing with matters of this kind district councils were necessarily largely guided by reports from their officials, and this suggestion practically put these officials in a position which ought only to be occupied by a judicial bench. His principal objection, however, was to the control of the county council in these matters. That was absolutely unnecessary.

Mr. John Lindsay (Glasgow) said that in Glasgow they had enforced the provisions of Part 2 of the Act, and they had not experienced the difficulties which seemed to have beset the operation of the Act in some other parts of the country. He had noticed that one of the difficulties that Dr. Hill referred to was the restricted meaning of the word "owner." This was an imperial statute, applicable to Scotland as well as to England, but in Glasgow they had not had this difficulty, because in the definition Act they were referred back to the Public Health Act, and in the Scottish Public Health Act the word "owner," *inter alia*, included the person actually in receipt of the rent, and for the purposes of the Act they got at the factor and they regarded him as the owner. They got him on the spot, and so were relieved of the difficulty which arose in some cases of having to prove who the owners were. In many cases the owners were beneficiaries of old trust-estates, and they might be in all parts of the world. He did not, however, know whether the definition of "owner" in the English

Public Health Act was as broad as that in the Scottish Act. Another point of difficulty in England seemed to be in regard to the procedure which might be taken against the tenants for compelling them to leave a house after the closing order had been pronounced, and it did seem a little strange that the proceedings should be brought against the tenants alone and not against the owner. But in that matter also they had not the difficulty to contend with in Glasgow, because there was a provision, referred to in the paper, that any compensation which was to be payable to the tenant by the local authorities was recoverable by the local authorities from the owner, and not in any one of the cases that he had prosecuted had any difficulty arisen. And the reason was this, that the owner felt he was sufficiently punished by the closure in the first instance and the demolition afterwards of his property, without incurring any risk of recouping the local authority for compensation to the tenants. Therefore he arranged with his tenants to have them removed, if need be, by making an application to the Court for a summary ejectment of the tenant upon giving him notice some ten days, being a third of the period of his lease or tenancy, the tenants being in the majority of cases monthly tenants. But a point of greater surprise to him as to the practice of the Courts in England was the following sentences: "On more than one occasion, as a result of a certificate being given by a rural district council, the justices have rescinded a closing order obtained by, or at the instance of, the Durham County Council without the latter's knowledge, and the houses have subsequently been re-occupied." He could not understand that. He could not imagine that any Court, especially a Court of Appeal, as this Court practically was, would rescind any judgment of a prior court without intimation being given to the representatives of the local authority, and without their being heard. The practice in the city of Glasgow was where a nuisance existing in a house was such that the remedying of it could accomplish the desires and wishes of the local authority, then they simply took procedure under the Public Health Act with a view of having the state of matters complained of remedied. And in the event of failure to satisfy the order of the Court, there was a subsequent section which entitled him to ask the Court to prohibit the use of the dwelling-house until the order of the Court had been carried out. But if the state of matters in the house was such that no immediate remedy would meet the views of the local authority, then they had power, under a local act, on a certificate granted by the medical officer of health, the sanitary inspector, and the master of works (who was known in England as the borough surveyor), to take proceedings for the immediate closure of any such houses. The granting of that certificate raised a presumption against the house, and they gave notice to the owner to appear, not before a court of law, but before their committee of health, which was a committee delegated with powers from the corporation or local authority, and unless cause was shown to the contrary a closing order was pronounced, with the right of appeal within some five days to the Sheriff, whose position was somewhat like to that of the county court judge in England.

Under that power they had closed up hundreds of houses in the city of Glasgow. There was a provision by which afterwards, when the house had been put into order, the owner could come back to the committee of health and ask for the order being rescinded, and that was done in some instances; but otherwise the house remained closed, or was demolished, or its use was changed and the premises occupied for business purposes. Supplementary to that provision they obtained, in an Act of 1900 (a Building Regulations Act), powers whereby they could demolish these houses instead of under the earlier local Act, where proceedings had not been taken by the owner to have them rendered fit for human habitation, or where they continued to be a menace to the health of the people in the adjoining property. Further north they were very radical and drastic, and where they met a state of matters such as was described in the paper the remedy must be drastic and must be applied without any hesitation, and they were not usually guilty of any very great hesitation when such a state of matters was demonstrated to the committee. But if they were not satisfied even with all these methods of procedure, they proceeded under the Housing of the Working Classes Act. They had never availed themselves of Part I., because in that city they had local Acts, City Improvement Acts, which enabled them to deal with large areas. But as it had been represented to the Corporation by the medical officer that under that Act they should direct their attention to the matter of back lands, that was tenements reared up in what was originally intended to be the back court or yard of the front dwelling-houses, they had a special committee appointed to supervise all these back tenements in the city. They had selected cases where the hardship would be at the minimum, and taken all those properties, which were very numerous in Glasgow, where the back land was owned by the same proprietor as the front property; and when the owner argued it a case of hardship to demolish without compensation, as he invariably did, the answer was given that he was most to blame in this respect, that he had utilised as a site for another tenement what was intended primarily to be the back yard and breathing space of the front tenement, and in no one instance had his plea for sympathy and compensation been sustained. He did not say had not been sustained by the local authority, because from them the owner never looked for much sympathy, but the plea had never been sustained in a court of law. Under that procedure they were bound to go in the first instance to the Sheriff for a closing order, and then an order of demolition was pronounced by the local authority through its committee, with a right of appeal back again to the Sheriff. They selected these cases and got their certificates under Section 32, which said that the house was unfit for human habitation; and, having satisfied the Court upon that point, they served upon the owner a notice to put it in order. They knew that the condition of that house, and its situation and surroundings, were such that he could not carry out the requirements of that statutory notice; but that did not bother them at all, it rather assisted and influenced them in their

endeavour to get rid of these plague-spots in the back courts, and, having got their closing order, they pronounced the demolition-order, and though the owner appealed to the Sheriff, they proved the two points which were required for the successful operation of Sections 32, 33, and 34: firstly, that the house in itself was uninhabitable, and secondly, that through its contiguity to adjoining property, it never could be made habitable according to their standard; the statutory standard of free space for air and ventilation. The first case they tried was fought fiercely, and in that case, as in subsequent cases, the argument was used that this was the only estate available for the support of some spinster lady. They heard that argument in almost every case; it was always either a widow or a spinster; but they got their demolition-order all the same, and brought it home to the Court that there was no room for sympathy in the case, because the house had occupied a site which never should have been occupied, and the occupation of which deprived the tenants of the front property of the benefit of that back court for air, ventilation, washing-house, ashpit, and water-closet accommodation. The Court in these cases granted the order, and the property was taken down, the front property thereby getting the air and ventilation it was entitled to, and the rents of the front property went up. The advantage of taking procedure in a case of that kind against the owner of both properties was that thereby they avoided questions between different landlords, and of course, where the owner was the same in both instances, the element of compensation did not arise. They had followed out from 1890 until to-day the provisions of Sections 32 to 34, and under these provisions they had cleared out a number of these back lands in the City of Glasgow. It might be that it was peculiar, especially to Glasgow, that the owner was the same, but they had selected these cases for that reason, and in the last eight cases, dealing with property whose rental in some cases was over £100 a year, they had taken proceedings and, consequent on the decision of the first case which he had referred to, prior to the new orders in these eight cases, the owners of the latter had come and said that rather than fight these cases and run the risk of being found liable in the Court expenses, they would pull down the property. This was done at the last term of Whitsun and the Corporation had had no more difficulty. They had not started any case where compensation was exigible, and they had successfully avoided the application of Section 38, which merely referred to an "obstructive" building which in itself might be fit for human habitation. Their main contention all through had been that the house was unfit and could never be made fit for human habitation for the reason that it was surrounded at the sides by property belonging to other people, but mainly at the front by property belonging to the same owner. The Glasgow Corporation had in their Building Regulations Act a provision which assisted them to a great extent by stipulating that there could be no sleeping apartment used which had not available to it as free space one half of the height from the floor to the ceiling of the particular house; and they caught most of the landlords

of old and dilapidated property upon that point, because the front of the back building was so near to the back of the front building that the houses could not possibly get that space. In the last case fought against the Glasgow Corporation the objection had been taken that the medical officer in his representation did not state what was required to make the house fit for human habitation. On behalf of the medical officer he declined to state it, and his argument was this: that, while under ordinary circumstances under the Public Health Act and the Local Acts, when an owner was called upon to remedy a certain state of matters they were bound to give a description, when dealing with the Housing of the Working Classes Act they were not bound to do anything of the kind, for this reason: that in the schedule annexed to the Act there was a statutory form of notice which did not provide for details, and the schedule, being part of the Act of Parliament, must be followed out literally, and they maintained successfully before the Court that, having taken the statutory form contained in Schedule A of the Act, it would have been illegal on their part to have gone beyond it and given details; and the Court sustained that contention and granted the closing order, and the property is now down.

Dr. W. Butler (Willesden) said he sympathised with the objection which Dr. Hill had raised as to having to specify, in applying for a closing order, what should be done in order to make the property habitable. He happened just now to have to deal with some premises under section 32, and he was in the anomalous position of having to prescribe what was required to put the houses into habitable condition under circumstances where it was impossible to carry the prescription out. He was dealing with houses which happened to be in precisely the condition described by the last speaker, these having been built upon the back area of surrounding houses. They were not the property of one owner, and they were in the most awful condition which it was possible to imagine houses used for human habitation to be in. He had purposed specifying what was requisite to put these into habitable condition, knowing all the time that it was altogether impossible that these requirements could be carried out; to have to prescribe for air-space, for instance, where there was not air-space available. But he was advised by the clerk to the local authority that if he did prescribe all that was necessary he would lose his case. Therefore he had to content himself with a prescription which was not adequate to the case. He had to prescribe what was best for the houses to make them habitable, and yet he had to fall short of what he knew was necessary to make them habitable so that he could get the order. And it was conceivable that the owner would carry out his prescription, and in the end would have produced an insanitary set of houses in place of some which were rather worse at present, and then make an application for the rescinding of the closing order, and he would be left, as a result of the operation of this Act, with houses which, although considerable sums of money had been expended on them to make them sanitary, remained in the end utterly insanitary. For such reasons as these he had great pleasure in endorsing the recommenda-

tions of Dr. Hill that the prescription should be omitted from the Housing of the Working Classes Act.

DR. BOOBBYER (Nottingham) said that, in dealing with insanitary dwellings under Part 2 of the Act of 1890 in urban districts, the responsible officers of such districts adopted slightly varying procedure, on account of the somewhat different interpretations of the Act given by their several legal advisers. A fair idea of the range of variation which commonly occurred might, he thought, be gathered from different opinions expressed by the contributors to the current discussion. Their own procedure in Nottingham, when citing an owner before the Health Committee, was to furnish this person with an architect's specification of the work required to render the house or houses complained of fit for habitation. Such a specification very often of course amounted to a *reductio ad absurdum*. The owner was perhaps called upon to achieve the impossible. He had possibly to raise all the floors of a house, the basement of which was considerably below the pavement of the street in which it stood. Or again, he might be called upon to provide through ventilation, ventilation which would necessarily involve the destruction of back-to-back houses. The ownership question was not commonly the main difficulty in county boroughs and other urban districts, but the magistrates who had to consider the applications for closing orders were often a very serious difficulty, especially in cases where there was often no appeal from their decision. He would give an example. A short time back he had condemned, seriatim, a large number of houses (between forty and fifty) in one district. The entire health committee of the city, and many other people afterwards, also examined the houses, and unanimously concurred in the condemnation. When the application for closing orders came before the local bench, the magistrates first asked the rentals; they were told from 1s. to 2s. 6d. per week. They then inquired whether the inmates could afford to pay more; the defendant counsel replied in the negative. They then asked whether there were any other houses in the city of so low a rental, and were told there probably were not. They finally said they would be no parties to a scheme for turning hitherto-self-supporting people into the workhouse, or worse, and dismissed the applications *en bloc*. It was often useful to put examples of this kind before inexperienced people of philanthropic bent, to afford them an idea of some of the possible difficulties of local authorities in endeavouring to deal with insanitary property. There was one very serious difficulty, due to an intrinsic defect in the Act of 1890, which was encountered after a closing order had been obtained. It was this: An order for demolition of insanitary houses could not be made unless such houses could be shown to be a nuisance to the neighbourhood. As it was commonly impossible to show that an empty house carefully closed up was a nuisance, within the meaning of this term under the Public Health Act, the empty house was frequently left standing indefinitely. It was, indeed, actually part of the routine duty of officers of the Health Department

to see that the houses did not lapse into such a condition, in some respects at least, as to justify the order for their demolition.

Dr. H. Manley (West Bromwich) said that the speeches which had been made had amply demonstrated the need for amendment of the Act. In regard to the question of prescription, he had always maintained that they were not bound, as in the Derby case, to put forward a specification in all these cases, but his town clerk had always held that he must. He would welcome any amendment of the law which would sweep away any doubt as to such a prescription being necessary. In regard to the appeal to Quarter Sessions, he was rather inclined to think that local authorities would get very little help from them, because, unless they were appealing to Urban Quarter Sessions, they would simply be appealing from one set of magistrates to their own colleagues; and it was very doubtful always whether they could get a quarter sessions bench to upset the decision of three or four of their own colleagues. It was not like appealing to the Borough Quarter Sessions where there was a Recorder. In regard to the demolition question, most of them would remember the great difficulty which Dr. Newsholme had at Brighton. It was difficult to prove that the closed house was a nuisance, although the area round that house might be a very great nuisance. It was often the haunt of tramps, and the depository of fæcal matter for the neighbourhood. It seemed highly necessary that they should have greater facilities for dealing with these insanitary dwellings, as in Glasgow.

Dr. T. Eustace Hill (Durham), in replying on the discussion, said that with one exception the suggestions in his paper had not been adversely criticised to any serious extent. He was glad to see that even Mr. Adams had agreed to two of the most important suggestions, numbers 1 and 2. Except in one or two particulars his paper applied to all sanitary authorities who were endeavouring to put the Act into force. The only suggestions separately affecting County Councils were numbers 3 and 5. Mr. Adams had asked why rural authorities should be put under the thumb of the County Council when urban authorities were not. His answer to that was that he suggested that urban authorities also should be put under the thumb of the County Councils where it was conclusively shown that urban authorities neglected their duties under this Act. It was undoubtedly a fact that the application of this Act was grossly neglected in very many rural and small urban districts. Although Mr. Adams had held that no alteration of the law was necessary with regard to the serving of the notice he thought that that point had been well discussed and it was not necessary for him then to say anything more respecting it. The case quoted by Mr. Adams, as having been before one of the local bodies, on the previous day, was a proof of the necessity for some amendment with regard to Schedules 3 and 4, and that gentleman's argument did not affect what he was urging, namely, that Schedules 3 and 4 should be amended so that the former would be used with

respect to a house which could not be made habitable, and Form A of Schedule 4 would then only be used in cases where the property could be made habitable, and the requirements necessary to make the house habitable would have to be stated in the notice. If that were done the needs of all classes of houses would be met. He thought Mr. Adams had rather raised a bogey when he spoke of the increased cost to local authorities if notice had to be given to the County Council before the order for closing was rescinded. He could assure him that there was no ground for such a fear, and he held most strongly that the order for rescission should not be granted without notice being given to the County Council. On account of the difficulties which the Durham County Council had had, they had recently requested every clerk to the justices to inform the County Council directly of any application for rescission of closing orders, and in two or three cases the clerks to justices had given them that information. In two cases he had himself seen the property, and in one case, where he was satisfied that the houses had not been made habitable, the owner was advised not to make his application, and in the other case certain other alterations were made before the closing order was rescinded. Mr. Adams's objection was only a bogey, and in practice would not be substantiated. In regard to Mr. Lindsay's observations it appeared probable that in England local authorities could proceed under Schedule 3 of the Housing of the Working Classes Act and could serve notice on the agent of the owner, corresponding in England to the factor in Scotland; but if they did that they had to prove that the property was injurious to health. Sometimes this was difficult, and undoubtedly the sanitary authority in its notice under Schedule 3 had to prescribe what repairs should be carried out, otherwise the notice would be bad. A point not impressed sufficiently by the paper was that the County Council, if they took action by default under Section 45 of the Act, could only proceed under Schedule 4, and they had therefore to serve the notice on the owner who must be the owner as defined by the Act; and it was in that respect particularly that he thought that the Act should be amended. He quite agreed as to the great difficulty at present with regard to the serving of the notice requiring an owner to make the house habitable, even though the house could not be made fit for habitation. The ruling of the clerk to his County Council was that in the notice all they had to do was to require the owner to make the house habitable and that no specification was necessary, but even in that case there was the objection that before the notice had expired the owner would probably endeavour to improve its condition, although it was impossible to make it habitable, and would therefore be going to needless expense, because, after all, the house would be closed. There was need for amendment in that case also. He was rather sorry to hear of Dr. Boobbyer's experience with the magistrates, but there was no doubt that the difficulty with the justices was a very real one and very hard to get over. But whilst he admitted that there was a natural objection on the part of the magistrates at Quarter Sessions to reverse the decision of their colleagues, he thought that in practice, where it could be proved that the decision of the Petty

Sessional Court was against the weight of evidence, there would be no difficulty in getting the decision reversed; and he therefore hoped that his suggested amendment as to appeal to Quarter Sessions would be included in any recommendations which that Conference might make for the amendment of the Act. He moved that the amendments suggested in the paper be approved by that Conference of Municipal Representatives and referred to the Council of the Institute for consideration and report.

DR. MANLEY seconded the resolution.

COUNCILLOR JOWETT (Bradford) said that their present manner of proceeding appeared to him to be somewhat defective, in that these recommendations might go forth to the public as the only amendments required in the opinion of that Conference when there might be other amendments which were equally required, but were not at present known to the Conference. But he supposed there was no help for it but to go on as they were doing.

MR. ADAMS said that if these suggestions of Dr. Hill's were to go forward as recommendations to the Council, he wished to move an amendment in relation to Clause 5. In view of the evident desire of the Conference that certain powers of control should be vested in the County Councils, he wished to limit the exercise of such powers to both urban and rural districts containing a less population than 50,000. His amendment was: "That no power should be conferred upon County Councils to deal with an urban district with a population of 50,000 or with a rural district of such a population."

COUNCILLOR J. KAVANAGH (Bishop Auckland) seconded the amendment.

ALDERMAN IMRIE (South Shields) said that this amendment brought up fresh matter for discussion. He held that the County Council was a great nuisance to the urban districts. In the midst of the Durham County Council's area was an urban district containing 50,000 inhabitants. They were hedged in, and the County Council took care that the urban district did not extend. The County Council would probably, by their want of careful sanitation in the district immediately adjoining that urban district, make it impossible for the part of the urban district nearest it to become a healthy district. How many towns had recently been applying for the extension of their boundaries? Under this Housing of the Working Classes Act in a large congested district, such as South Shields, they were constantly closing houses under a magistrate's order, and sometimes they got a demolition-order, but it was usually voluntary on the part of the owner because they had no power to demolish a house unless it was in a dangerous condition, in which case it became the duty of the city engineer to destroy it. What were they to do with the population that they were constantly removing? The proper remedy, of course, was to acquire land outside, but if they acquired land outside of their own area they were losing ratable value, and it was like a shopkeeper advising his customers to go elsewhere. What a sensible rating authority would do under such circumstances was to ask for

power to extend their area and to take in some of the agricultural land outside. Then in such a case the County Council intimated that it would oppose any such application. Only a year or two ago the South Shields Council applied for an extension of their boundaries, enabling them to take in a lot of unoccupied agricultural land in the immediate vicinity. It was contemplated to run out trams to this district; and, of course, without the modern facilities of trams, it would be a great hardship to take the working class population outside the town in this way. The County Council opposed them and the Rural District Council opposed them, and instead of getting the land they needed they got an insanitary area, densely populated, which they did not want. He would like to add to the resolution something like this:—"As the difficulty is mostly confined to densely populated urban districts, County Councils should be recommended to give every facility for these urban districts to extend their boundaries, and thus provide room for spreading out their population."

MR. T. A. GUY (Bradford) again urged that there was a good deal in the way of useful recommendations which should be dealt with in addition to the matters included in Dr. Hill's suggestions, and he suggested that they should content themselves with passing a general resolution to the effect that the different authorities represented at that Conference should send in to the Council of the Institute particulars of any amendments which they thought to be necessary for the proper working of the Act, and that the Council of the Institute should take all these suggestions into consideration and make representations to the Government in accordance therewith. If that were done he thought some practical result would have been arrived at as a consequence of that Conference.

MR. B. HEPWORTH (Heckmondwike) said he thought there were Urban District Councils with only 10,000 population which had quite as much intelligence, so far as the members of the Councils were concerned, as those with 50,000 population had. It seemed to him that they were making a way for swallowing up all smaller District Councils in England, however well they managed their business. He was entirely opposed to the County Councils having the power which was suggested in clause 5. He thought that the County Councils had more to do already than they could do well. The County Council seemed to be simply a huge body for spending money, and the less the Urban District Councils had to do with the County Council the better it would be for the people. He was speaking as a district councillor and a guardian.

MR. ADAMS'S amendment was then put and defeated.

MR. J. CORRIGAN (Ince) moved the omission of clause 5.

MR. W. DYSON (Kettering) seconded the amendment. He said that urban districts were quite capable of dealing with their own business. It seemed to him rather ridiculous that the powers should be handed over to the County Council in regard to a place like Kettering with a population of 30,000, when

they had three boroughs in the county with a population of less than 5,000 each which would be at liberty to control their own affairs.

ALDERMAN IMRIE (South Shields) expressed a hope that the Conference would not pass that amendment, for it would not suit the Northumberland and Durham districts at all. They would not get any improvement in the sanitation of the county districts if they passed that amendment, because the people in most of the rural districts were under the thumb of the landowner or the mine-owner, and in either case it would be practically impossible for sanitation to be carried on and improved, and they would be no better off than they were before the times of medical officers of health and the larger duties assigned to County Councils.

The amendment was put, and defeated by 17 votes to 10.

MR. ADAMS then moved an amendment, "that the Council be asked to take such steps as are necessary to release rural districts with a population of 50,000 from the control of the County Council." He pointed out that many municipal boroughs with less population than that were free from County Council control, and said there was no reason why rural districts with that large population should not be in the same position.

The amendment was seconded, and, upon being put, was defeated.

MR. T. A. GUY then moved, "that the Council of The Sanitary Institute be requested to ascertain the recommendations of the large towns of the country with regard to desirable amendments of the Housing of the Working Classes Act."

DR. T. EUSTACE HILL said he would accept that as an addendum to his resolution, but he wished to point out that if too much time was taken up in doing what was suggested the influence of the Congress would be lost. The Bill would come before Parliament and be passed during that Session, and it would probably be a long time before there would be any other amending Bill.

MR. ADAMS asked why the inquiry should be limited to the large towns, and said the bulk of the population was not in the large towns. Would Mr. Guy mind specifying that the opinions should be asked of Boroughs, and Rural District, and Urban District Councils.

MR. GUY said he should prefer to leave it to the discretion of the Council as to whom they should make the inquiries from.

The proposed addendum was then put to the meeting and carried, and the recommendations contained in Dr. Hill's paper were carried as a substantive resolution.

NOTE.—Resolutions passed at meetings of the Institute can only be in the form of recommendations to the Council, to whom they must be submitted for consideration and approved before they can be considered as the official opinion of the Institute.

Notes of the decisions of the Council on the resolutions are given at p. 855.