Die Veneris, 14° *Julii* 1905.

LORDS PRESENT:

Lord ZOUCHE.
Lord DIGBY.
Lord KENYON.
Lord STANLEY OF ALDERLEY.
Lord HYLTON.
Lord BURGHCLERE.
Lord ALLERTON

LORD ALLERTON IN THE CHAIR.

MR. ROBERT ARTHUR READ, is called in; and Examined as follows:—

Chairman.

1459. With a view to shortening the proceedings as much as possible, and detaining you as little as possible, I think we may take your proof as a statement of yours, and then put it bodily on the notes. That will give you what you want as regards that, and I need not go through it in detail?—That which is before you is an unexamined proof. There are certain things in it that I should like to put right if it is going to be printed.

Chairman—continued.

1460. If only verbal alterations, I should have thought you might have corrected it before you handed it in?—It was done under great pressure at the time. For instance, on page 1 there is a blank that has to be filled in. There is also a mis print at the bottom of page 3.

1461. If you hand in your corrected proof that will do?—I will do that. I would simply correct it in that way.

The Witness handed in the statement, which is as follows:

Witness is a Solicitor, and has been in practice in Westminster for over twenty years, and is Honorary Secretary of the Building By-laws Reform Association.

Cases which have come under Witness's personal observation, illustrating:—

(A) The hardships inflicted by unsuitable building by-laws.

(B) The friction caused by the application of building by-laws.

(C) Disturbances caused by the endeavour to impose building by-laws on districts not subject to them.

MALVERN CASE.

In this case a gentleman living with his sister in the house rented by her on a lease in common occupation, in ignorance of by-laws affecting him, erected a billiard room of corrugated iron as an annexe to the house.

The house stood in its own grounds of five or six acres. The nearest building except the stables belonging to the premises being a distance of at least forty yards from the nearest point of his premises. In fact the billiard room so erected offered no danger either to the inhabitants of the house or to the public.

The house was situate in the parish of Welland which had recently been taken into the urban district of Malvern and became subject to the building by-laws there in existence, which require buildings to be of brick or stone or other incombustible material, etc.

The building owner having built in ignorance was twice summoned before the Magistrates.

On the first occasion the matter was heard and the Defendant admitted that if the by-laws applied he had broken them. The bench inflicted a fine and the Defendant thought the matter was at an end.

On the second occasion he appeared in person and applied for an adjournment in order to obtain legal advice. The bench declined except upon payment of fifteen guineas, costs of the day, to grant an adjournment.

Acting on Witness's advice the owner took no further part in proceedings. The bench on hearing Counsel for the local authority inflicted a fine of ten pounds and costs.

Acting

Acting under Witness's advice the building owner consulted his Solicitors and the matter was taken on Appeal to the Court of King's Bench and came on on July 6th, 1903, before Mr. Justice Wills and Mr. Justice Channell.

On the Appeal various matters were raised, but the part of the Judgment Witness desires to bring before the Committee is that which deals with the question of the by-laws being unreasonable and is contained in the following passages:—

The Lord Chief Justice:

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"Now on the question of the by-law being "unreasonable, I propose to adhere here to the "view which was founded upon the Cuckfield "case, expressed by us a few weeks ago, "that the Court cannot say a by-law is un-"reasonable simply because it does not "contain a power to the local authority to "grant exemption under the special circum-"stances of the case. I should like, not only "to repeat my own words, but to adopt the "words of my brother Channell in that case, "that all such by-laws ought to have some "power to the local authority to say that the "hard and fast rule should not apply in a "particular case. I should like also to point "out that which was very likely not brought "to the notice of the Magistrates in this case, "that, if the fact is you cannot hold the by-"law to be unreasonable, and if it may be "very hard to apply it in all its strictness to "some building far away from any other "building, or to some structure which in "itself is not an element of danger either to "the house which it is connected with or to "anybody at all, including the person by "whom it has been erected, or the persons "occupying the house, they have got a dis-"cretion, which is pointed out in Section 16 "of the Summary Jurisdiction Act, to deal "with the matter reasonably and not to "convict people in respect of technical "offences which have no merits in them.

"I think, therefore, this case should go back "to the Magistrates and the present con-"viction must be quashed in order that "they may, if they think fit, deal with the "matter from the point of view of satisfactory "evidence as to who is the real person who "is responsible for continuing and erecting "the building, and also that they should "bear in mind what we pointed out in Salt's "case, and repeat to-day, that they have "got the power under Section 16 of the "Summary Jurisdiction Act of not convict-"ing people of continuing offences although "the by-law may apply to them, if there "has been no substantial offence against "the by-law."

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Mr. Justice Channell:

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"Unfortunately there are a very great "many cases in which the local authorities "are not reasonable, or their officers at any "rate are not, because very often it is a "question of fee, and the officer takes pro-"ceedings for a reason of that sort, but if "the local authorities are unreasonable and "do take proceedings in such cases, then the "Magistrates have it in their own hands. "They are not bound, on summary pro-"ceedings, to convict, if they think the case "is so trivial that it does not require "any penalty, and so on, so the matter may "be set right at last."

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The case went back to the Magistrates, who reconvicted the building owner. He thereupon took the matter to the Quarter Sessions, with the result that the Court, on a point of law, allowed the appeal.

Over this case hundreds of pounds of public and private money was wasted. Friction arose and bad blood was created, which is wholly against the interests of good local government.

Under the exemption clause such a building would have been exempted from the structural by-laws, no such proceedings as have been suffered here would have come about, and the public and the individual would have been the better off.

Ascot Case.

This was a case which occurred in the rural district of Windsor, which in December, 1895, adopted the urban by-laws as they relate to streets and buildings, and they were allowed by the Local Government Board in February, 1896. It arose from an owner having only a short lease of his house and large grounds desiring to put up a temporary cottage for his gardener.

The rural district of Windsor (which does not include the borough) has an area of 21,070 acres, on which in 1901 there lived a population of 40,299 in 7,696 houses, and ninety new houses were building. This gives an average of rather over one-third of a house per acre, and a population of about 5 people per acre.

It is beyond dispute that in many parts of this district good urban by-laws are a necessity. It is equally beyond dispute that in many parts the application of those by-laws inflicts personal and public injury.

The gardener's cottage in question was erected by the Wire Wove Roofing Company in private ground, and was an exceptionally taking building from the outside, and well-arranged, comfortable, and safe in its internal construction. But it was contrary to the by-laws, which required that every person who erects a new building, with certain exceptions, which did not apply to the particular building, should erect it of "bricks, "stone, or other hard and incombustible materials "properly bonded and solidly put together," being the common form of by-law known as the "bricks and mortar by-law."

The cottage had been erected because the gardener's accommodation on the premises consisted only of a miserable "bothy" consisting of a single bedroom with a sort of scullery, kitchen and living room mixed up together, all forming part of a greenhouse building. The new cottage was excellent in every respect, regarded from the point of view of its intended use.

In this case the building owner, having considerable influence, appealed direct to the Local Government Board, and the result was that upon the intervention of the Board the proceedings which had been commenced were dropped, and a wholly illegal building was allowed to remain.

The case gave rise to considerable comment in Local Government circles, and the Local Government Journal of the 24th October, 1903, contained an article under "Topics of the Week" headed "One law for the rich, another for the poor," and in its issue of the 7th November, 1903, published a correspondence between the local authority and the Local Government Board upon the matter.

Witness would point out that at the request of the owner he personally visited the cottage, and has no hesitation in saying that the local authority were practically obliged to take proceedings in this case, although upon the merits of the case there would be no possible reason why the building in question should not have been permitted.

Witness refers to the Local Government Journal of the 24th October and 7th November, 1903, dealing with this case.

The Rural District Council of Ringwood, Hants.

The Rural District Council of Ringwood, in the year 1902, applied to the Local Government Board, under the Public Health Acts, for power to make urban by-laws to be applied to the parishes of Ringwood and Burley, being two parishes constituting the district.

The following figures will give some idea of the nature of the district, which is situate partly, if not wholly, in that part of the county known as the New Forest:—

Parish of	Area.	Inhabited Houses.		Population.	
		1891	1901	1891	1901
Ringwood -	11,842	893	1,073	4,119	4,629
Burley - - -	11,327	139	183	602	766

In Burley in 1901 there were sixteen houses building.

The reasons urged upon the Local Government Board for the necessity of by-laws in this district was the existence of the little town of Ringwood, where there were probably bad houses in existence, and next, from the fact that the parish of Burley only 1,100 acres of which being said to be available for building, the rest being forest, was beginning to assume an urban character. If so, this is obviously a case in which urban by-laws when sanctioned would probably have been comparatively harmless if governed by the exemption proposed by the Bill.

This case affords a good example of the way in which District Councils inflict by-laws upon their constituent parishes against the will of the inhabitants of the particular parish.

The parish of Burley sends one Councillor to the District Council, and notwithstanding that parish meetings were held and protests lodged against being included in the district to which the by-laws were to apply, the parish of Burley's representative voted with the rest of the District Councillors for its inclusion.

The rural district of Burley consists of six parishes, and thus it will be seen that the four other parishes combined with Ringwood to inflict upon Burley by-laws which if the parish had had any voice would not have been imposed upon it.

It would seem that this is an instance which well illustrates the value of Clause 5 of the Bill. It also shows how little those actually interested in a parish may be over-ridden by people who are not affected by by-laws proposed to be imposed upon it.

The East Grinstead Case.

In the rural district of East Grinstead troubles with the by-laws are extremely prevalent.

The area of the district is 45,810 acres, with a population of 11,907 people, occupying 2,550 houses.

The district takes its name from the town of East Grinstead which is situate in it, and which is not included in the rural district, but is an urban district. Many parts of this district, and notably the parish of Worth, are very sparsely populated.

A landowner desiring to build a bungalow in his park, and to provide cheap cottage accommodation on his estate, found himself unable to do either by reason of the by-laws.

As was not unnatural, the owner was annoyed at restrictions which were wholly unnecessary in the public interest, resented the interference, and eventually "strained relations" arose.

In this district, corrugated iron and wood constructions are allowed to be built under certain conditions, one of which restricts the area of the building, and the area to which they are restricted is rather too small for a properly convenient cottage. The owner thereupon started to build the cottage on somewhat larger dimensions. He was summoned for a breach of the by-laws.

He had committed two offences. First, in not building his cottage in accordance with plans he had sent in; and, second, in building the cottage larger than was allowed under the by-law where the materials proposed to be employed are used.

Witness appeared before the Magistrates, and while admitting a technical breach of the by-laws urged, quoting the above authorities, that a nominal

nominal fine should be inflicted. The Magistrates inflicted a fine of £5 and costs, but did not inflict a fine for a continuing offence which was asked for.

After many vicissitudes and the letting of much bad blood the cottage was ultimately, upon the advice of counsel, pulled down, not because it offended against any by-law prescribing materials, but because, if built with the particular materials which were sought to be employed, it was necessary that it should be built of a less cubical capacity, affording worse accommodation.

In all the four above cases a great quantity of local friction and ill-feeling was aroused, and large waste of public and private money was occasioned, the whole of which would have been avoided had the exemption proposed by this Bill been law.

The Position of Inhabitants when By-Laws are proposed to be Adopted.

It is now proposed to point out shortly the position of the residents in districts where building by-laws are in force.

Mr. Munro told the Committee that there are 1,442 Borough Councils, Urban Councils and Rural Councils who have adopted building by-laws under the Public Health Act. These Councils have, it is admitted, no power of relaxing their by-laws. Further, any inhabitant about to build a house builds it at his peril and under the necessity of showing that it complies with by-laws, whether reasonable or unreasonable.

The word reasonable in this connection received judicial interpretation in the case of Kruse *v.* Johnson (1898, 2 Q.B., p. 91). The Court deciding that case consisted of Lord Russell of Killowen, Chief Justice, the late Lord St. Helier, then President of the Probate Division, and Mr. Justice Mathew, now Lord Justice of Appeal.

That Court decided that it would be impossible to hold a by-law unreasonable if it could be reasonably applied to any part of the district in which it was in force. This practically means that no by-law is likely to be held unreasonable.

Next in the case of Salt *v.* Scott Hall (1903, 2 K.B., p. 245) the present Lord Chief Justice, Mr. Justice Wills and Mr. Justice Channell concurring, sent back a case to the justices with the intimation that a bricks and mortar by-law was not unreasonable in a remote valley in Anglesea, but they were entitled to exercise a discretion and deal with the matter on the merits of the case by way of either inflicting a nominal penalty or by dismissing the summons.

The Malvern case quoted by the Witness was heard by the same three Judges and in the same way, but although on the facts in Witness's own knowledge there was nothing but the most frivolous case, the Justices again convicted.

The difficulty is, that in almost all these cases by the time they get to a petty sessional court, the merits have been very much obscured in the friction and personal animosity that arises, and by which a local bench such as sits at Malvern cannot help being somewhat influenced.

The East Grinstead case was a further exemplification of this. There, within the by-laws, a worse building might have been erected than was actually put up.

But supposing the Magistrates on the authority of the quoted cases had dismissed the summons, the building owners' difficulties would not have come to an end, because the by-laws contain an ultimate power to the local authority to pull down a building erected in contravention of their by-laws. The only case to be tried before the Magistrates is, was there or was there not a breach of the by-laws. Upon proof of the facts the Magistrates find breach, but so trivial, dismiss the summons which is for penalties.

That does not deprive the Council of its right to pull down the building, hence, a building owner who had been acquitted by the Magistrates might still have building pulled down. (See Model Form of By-laws, Urban No. 99, Rural No. 51.)

In fact, short of amendment of every set of by-laws now in existence, which would take years and cost very large sums of money, there is no remedy except exemption by legislation.

Suggested Remedies.

The cases that have been laid before the Committee appear to Witness to conclusively prove that the operation of by-laws as they at present exist is contrary in many respects to the public interests.

In his evidence Mr. Munro does not appear to indicate any remedy for this state of things. The only attempt to suggest one seems to be at page 15, QQ. 232 to 241. The suggestion appears to be that it should be competent to the local authority to pass a by-law to provide that buildings to a certain extent isolated should be exempt from the general by-laws, but that such exemption should be subject to the consent of the Council.

It appears to Witness that any such method is open to objection, on the ground that it in reality would put a discriminating power in the hands of local authorities. Another objection is, that it would be many years before any such by-law could become universal. Thus Mr. Munro's suggestion offers no remedy for the immediate wants of the country, even if it were not open to the first objection.

To allow such a power of discrimination to local authorities would, Witness thinks, give rise to more serious evils than those that are now complained of, and would not to any extent get rid of existing difficulties. The statutory exemption which the Bill would confer upon houses posessing a certain amount of isolation is, he thinks, the true remedy.

Mr. Munro told the Committee that 1,442 sets of by-laws exist, all of which in Mr. Munro's opinion might be affected by the Bill. If only a thousand of these sets of by-laws need amendment in the direction indicated by the discussion it would take several years, and would cost at a reasonable estimate £20,000 to secure their amendment. In the meantime there would be no remedy.

As precedent for the exemption proposed by the Bill, Witness relies upon the London Building Act, 1894 (Section 201, Sub-sections (11) and (12)). He observes that Mr. Munro in reply to a member of the Committee (at Q. 257) appears to confuse temporary and permanent buildings. Under Clause 201 permanent domestic buildings can be erected of any material provided that they comply with the provisions as to size and space which are contained in the sub-sections. The Bill simply proposes to extend this power in a somewhat modified form to the urban and rural districts of England.

Artificial Division of Districts.

Witness has pointed out that the proposed exemption would obviate the difficulty of having to discriminate between the rural and urban areas of the same districts. The Committee are aware that many urban districts have, within their boundaries, large areas which are really rural, and to which urban by-laws are by no means applicable, but at the same time they are required for the urban parts. The exemption would operate either to prevent the urban part as it grew from being crowded, or if buildings were to be put close together the strict by-laws would automatically come into operation.

As to Plans.

It has been suggested that it would be necessary to have a plan of some kind to enable the authority to see the position of the buildings in regard to their curtilages and otherwise. This might be convenient, and a block plan which would give all necessary information would offer no difficulties.

Witness desires to direct the Committee's attention to by-law 45 of the rural model and to the second paragraph on the top of page 36 (edition 1903). This paragraph provides that a person intending to erect a building to which the by-laws will apply shall send to the Clerk of the Council or to the Surveyor "a block plan "of such building to a scale of not less than one "inch to every forty-four feet, and shall show "the position of the buildings and appurtenances "of the properties immediately adjoining, and "the width of the street, if any, in front."

Witness does not mean that there is no necessity for such a block plan as there indicated. There is no limit to the distance at which properties immediately adjoining which are required to be shown may be from the proposed building, and to comply with the by-law literally would render it in some cases to practically deposit a map. It seems to Witness that any plan which should be required in respect of such buildings should be limited to showing the immediate surroundings of such buildings within, say, a distance of 5 ft. of the curtilage.

Remedy by Proposed Exemption.

Witness would point out that the proposal to exempt isolated buildings would be equally necessary if no complaints whatever of the working of by-laws by local authorities were in exis-

tence. It is not a proposal aimed at depriving local authorities of power but of conferring reasonable freedom upon building owners.

It seems unnecessary to remind the Committee that all restrictions on the freedom of user of property are in themselves undesirable and are only rendered necessary by the fact that the population becomes congested in various parts thus giving rise to the necessity for artificial restrictions upon the use of property. Therefore on theoretical as well as on the practical grounds that he has above explained, Witness strongly advocates the provision of this exemption, which confers a very limited amount of freedom on owners, and would, in his opinion tend immensely towards the relief from the evils which the by-laws are now in many cases admittedly inflicting.

As to the Power of recalling By-laws.

In reference to Clause 5 of the Bill, Witness desires to point out that there seems to have been some confusion between the power proposed to be conferred upon the Local Government Board by the clause and a right of appeal against the decisions of District Councils when enforcing their by-laws.

Witness desires to point out that no power of appeal can take the place of this clause, which was framed, as it is thought, in the interests of local authorities and their constituents.

It has been suggested that it is undesirable to allow five ratepayers of the district to require by-laws in existence in that district to be reviewed by the Local Government Board. In this connection it is necessary to remember that in the case of rural districts the by-laws are not made by a body directly responsible to any particular parish of which the district is made up, and that although the inhabitants of the parish may be strongly adverse to the introduction of bye-laws, it may be put upon them by a District Council, consisting perhaps of a dozen members and upon which that parish is represented by one member only. (*Vide* the Burley case.)

The intention of the provision of Clause 5, is to enable the Local Government Board, at the instance of Councils or at the instance of complaining ratepayers, to enable good by-laws to at once and without waste of time or money come into operation. The clause would seem to offer no terrors to a Council administering its by-laws in an enlightened manner, and would provide for it a power of adopting the best by-laws on any given subject which might from time to time come into existence. As Witness has pointed out, if a perfect set of by-laws were called into existence to-morrow it would be useless, because already seven-ninths of the districts in England have adopted the faulty ones now the subject of complaint.

In the opinion of Witness the necessity for Clause 5 would be largely removed if the exemption conferred by Clause 2 of the Bill were granted, as such exemption would put it within the power of owners desiring to erect good buildings to do so unfettered by by-laws by providing the requisite space allowed such buildings. The clause would, however, still remain of great use

so as to enable authorities to adopt more perfect by-laws relating to sanitation as the knowledge of the laws governing sanitary conditions, and inventions for providing all sanitary requisites, come into existence.

Conclusion as to Clause 2.

In conclusion, Witness strongly advocates the exemption proposed to be conferred by the Bill, among others on the following grounds :—

(A) It is right in principle, so far as possible to relieve property from restrictions which are unnecessary to public health or safety.

(B) The restrictions upon building imposed by by-laws is in many cases unnecessarily stringent, and the Bill would relieve a large class of buildings from those restrictions.

(C) It would result in better and cheaper houses, both for the well to-do people and for the poor peop'e alike, being erected in urban and in rural districts.

(D) It wou'd tend to discourage the crowding of buildings together on the land.

(E) It would obviate the necessity for artificial sub-divided rural districts in order to protect certain parts of them from urban encroachments.

(F) It would be possible to retain in urban and rural districts good by-laws although stringent in operation over the whole country without inflicting undue hardships.

(G) It would practically render such cases as the Malvern case, where bad blood was created and large sums of money wasted, almost unheard of.

Conclusion as to Clause 5.

Witness strongly supports Clause 5 on the ground that the power to recall by-laws which it contains would operate beneficially by facilitating the adoption of good by-laws in substitution for bad.

It seems to him that it is a valuable weapon in the hands of a Council desiring to do its duty by providing its district with the best possible by-laws at the least cost and with the least possible friction.

Conclusion as to a Dispensing Power with Appeal.

That legislation in this direction is undesirable and would be no remedy for the evil which the exemption clauses of the Bill desire to get rid of. As the law at present stands the only question which can be tried upon appeal is whether there is a breach of the by-laws or not. If a breach has occurred, punishment must follow, and no right of appeal can be of any value. This is the result of the law as laid down by Judges who have held that by-laws properly made have the effect of laws, and that public bodies cannot any more than private individuals dispense with laws that they are simply required to administer. (*See* Yabbicom *v.* King, 1899. I.K.B. p. 444. Mr. J. Day at p. 448.)

In reference to appeal to a Committee of the County Council in the case of a refusal to exercise a discretionary power which might be conferred upon District Councils by an Act of Parliament, Witness has good reason to think that the County Councils would be as loath to accept the position of a Court of Appeal in these matters as Urban District Councils or Rural District Councils would be to submit themselves to the control of the County Council.

Witness has had professional experience of dealing both with Urban District Councils and Rural District Councils, and from personal experience he is confident that no such tribunal as is suggested would meet with any approval from public bodies.

Lord *Stanley of Alderley.*

1462. There is no material point we ought, in cross-examination, to note ?—I should not add anything of substance.

1463. There is nothing here that incorrectly represents your views ?—No.

Chairman.

1464. In the appeal cases to which you have referred, and where you quote what was said by the Lord Chief Justice and by Mr. Justice Channell, I understand that the real point about that is, that the Lord Chief Justice amongst other things pointed out that the magistrates have power, if they choose, not to inflict a fine ?—That is so. Under the Summary Jurisdiction Act they have power to dismiss the case, but the difficulty is, that although they dismiss it, the proceedings before them is for a fine, and although it is dismissed, that does not get rid of the breach of the byelaws which has happened.

1465. Therefore, supposing they dismiss the case, what happens then ?—That still leaves the council with its remedy under Statute—Section 158 of the Public Health Act of 1875—to pull down. That is a remedy, which is also for the purpose of machinery, recapitulated in the bye-laws.

Lord *Hylton.*

1466. In certain cases, I believe they have pulled down, for instance, in the case of Mr. Wilfrid Blunt in Sussex ?—Yes.

Lord *Stanley of Alderley.*

1467. You mean, though the magistrate may dismiss the case, it does not oust them from the power of pulling down ?—No.

1468. It only protects the person from a fine; it does not protect the building ?—That is so.

Lord *Burghclere.*

1469. The magistrates restrain indirectly in this way action on the part of the bye-laws, but they cannot in any way force district councils to act reasonably in this way except by restraining them

Lord *Burghclere*—continued.

them from acting unreasonably ?—I hardly think your Lordship means restrain. It would be the refusal to inflict anything but a nominal fine. It is no restraint on the council's action.

Chairman.

1470. You quote certain cases. The Ascot case—that was in 1895 ?—No, that case was quite a recent case, in 1903. 1895 was the date of the adoption of the bye-laws and not of the case.

1471. Since 1895, at all events as regards the rural districts, there has been, as I understand, issued by the Local Government Board a new model, and we had before us the other day, for example, a copy of the bye-laws of the Maldon and Chelmsford districts. You are probably familiar with those and with the power of exemption which is given there. Would you say that that goes a long way to meet cases such as you have in your mind ?—I do not think that it does. It only meets them, at any rate to start with, in the particular district. To go on with, it only meets them to a limited extent and leaves discrimination in the hands of the council, instead of providing a Statutory right to proceed under proper conditions.

1472. I dare say you are aware that the evidence pointed in this direction and in fact, in answer to some questions put to the witnesses, they were inclined to say that they thought there was given to the bye-laws an elasticity which almost met the case, and that very few difficulties had arisen ? I read an answer, I think it was of a gentleman who attended from West Bromwich, which was rather to that effect, but I did not gather that from anybody from the Local Government Board.

1473. Did not Dr. Thresh say something like that ?—With regard to Dr. Thresh I do not think he committed himself to that. His views are before the Committee. So far as he goes I know he is in favour of a statutory exemption, and is against discrimination, and all these new bye-laws, as a rule, are getting as near as possible to discrimination.

1474. Do not you see some difficulty arising from statutory exemption in this sense. One of the complaints against the bye-laws is, that the local authority is bound by them; they are rigid and they must obey them; they have no power to depart from them. Would not that apply to statutory powers and might not there be cases where even the local authority would, if they had the power, exercise the same control, and would be precluded from doing that by the statutory obligation which had been imposed upon them. Do not you see any difficulty of that sort now ?—I do not think so. It seems to me the question is this: Is exemption good or is it bad ?

1475. Is it good in all possible cases ?—I think that the cases in which it would be bad are quite the exception, and that the difficulties have all arisen from legislating for what I might call the exceptional cases instead of the general cases.

Lord *Burghclere.*

1476. If the statutory powers gave limits within which district councils might use their own discretion, would not that rather meet the case which the chairman is putting ?—If I understand your Lordship aright the suggestion is that by Act of Parliament the district council should be enabled, having made bye-laws, to dispense with them in certain given cases.

1477. Not that exactly. Some bye-laws, within certain limits laid down by Parliament. I would rather say not make bye-laws, but that the district council should itself have the dispensing power, without bye-laws, within the limits laid down by Parliament. Parliament might pass, for all district councils alike, by statute, limits within which the district council might use its own discretion according to the necessities and needs of a district, guarded, of course, by an appeal to the county council or the Local Government Board. Would not that meet any objection to statutory legislation about which the chairman has asked you ?—I think, to a certian extent, it would meet that particular difficulty, but it seems to me to be only a limited part of it, and unfortunately it is also involved in the question of discrimination, as to which I think I should like to deal later on, and point out what the difficulties are which will arise, I do not think your Lordship's suggestion will really meet it.

1478. Do you wish to have statutory legislation laying down rigid lines which every district council is bound to put into action, whether they suit its locality or whether they do not. That seems to me to be absolutely wrong ?—But that is a different proposition, is it not, to providing a statutory exemption. I should be completely with your Lordship against saying, by statute, that the local authority shall or shall not exercise certain rules which are laid down in the Act.

1479. These very bye-laws, which we are talking about in Maldon, we were told by the Local Government Board representative the other day give the district council themselves no discretion whatever; they are perfectly rigid ?—I agree.

1480. Do you think that good ?—No, I think it is very bad.

1481. Then do you want the district council to have the power themselves, with the assent of the Local Government Board, to frame another set of rigid bye-laws from which they cannot deviate ?—No.

1482. Then you must come back to the point I am coming to, which is, that you must give district councils limits by statute within which they can use their own discretion according to the wants of the locality within which they live, of course, with certain safeguards ?—That is exactly the present condition, if I may respectfully say so.

Chairman.

1483. When you say the present condition you mean the present condition of legislation ?—Yes. The Public Health Acts, both of 1875 and 1891, give powers of making bye-laws, but those

Chairman—continued.

those powers are not absolute and generally they are confined to certain statutory matters which are specified in the sections.

Lord *Burghclere.*

1484. But those bye-laws are rigid ?—Yes.

1485. I do not want to make the bye-laws rigid. I want to give each district council, within certain limits clearly laid down, the power of a modifying or dispensing action, according to the necessities of the locality or the place in which they themselves live ?—In other words, having adopted a set of bye-laws, under the machinery of the present Acts, confer upon them an additional power of dispensing with those bye-laws within certain statutory limits.

1486. Dispensing or modifying them according to the necessities of the district in which they live ?—They have the power of modification by going to the Local Government Board.

1487. Then they modify them in a set of bye-laws, which is again rigid ?—Yes.

1488. That is exactly the point. I want to give the district council power of modifying from time to time, as suits the necessities of the case. You may have a place which is growing, and at one time it may be quite right that you should allow questions of structure and so on to be exempted, but the place may grow and become an urban district, and within certain parts of it it may be very right and necessary that the district council, with proper safeguards, should have the power to modify and not go through all the formality of having another set of bye-laws again approved by the Local Government Board and so on, so long as you clearly define the limits between which they may act. That is my proposition ?—I appreciate it, but I do not think it will carry you much further than the existing legislation except with this respect, that it will enable them to act within a statutory limit without going to the Local Government Board.

1489. On their own initiative ?—They have that now.

Chairman.

1490. Would not the tendency of that, in practical working, be this: that the local authority in order to avoid discriminating, and in order to avoid the difficulties arising from discrimination, would make the maximum power of exemption the minimum requirement as regards the building ? In other words it would not be discrimination within the powers given to them, but they would give the greatest amount of freedom, in all cases, which they were permitted to give ?—Yes, I follow that. I could give your Lordship an example of something of the kind that is already done under existing circumstances. I do not think you have cured your difficulty then, because you find that the views of the local authority in regard to the building of houses are so difficult to deal with and they have to lay down lines which shall guide their officers, who are not people as a rule of very wide experience. They cannot afford to pay the officer who has that. Therefore they have to lay down a set of rules rather in detail, and directly you get to that you get to all the difficulties which now arise. The instance I can point out is quite a modern one and will probably be familiar to Lord Kenyon; it is that of the Ringwood authority. The Ringwood district had one set of bye-laws, but the contributory parish of Burley is exempt from numbers 78 and 9. That is exactly what is rather suggested here, and the modifications are graduated, but it is not satisfactory and does not get rid of the difficulties. Builders in the parish of Ringwood—which except the little town of Ringwood is practically as rural as Burley—are under difficulties which those in Burley are not and so on. It does not, in my mind, conduce to good local government.

Chairman—continued.

Lord *Hylton.*

1491. Under Clause 5 of the Bill in the case of Burley one may probably assume, from what you put on your proof, that a number of the ratepayers of Burley would have appealed to the Local Government Board, and it is not unreasonable to assume that Burley would have been very likely given the new model rural code of the Local Government Board ?—The case at Burley is a very modern one, in which Ringwood, Burley being a contributory parish, applied for bye-laws. The Local Government Board at the instance of the ratepayers in Burley held an inquiry. At that inquiry I was asked to attend by some gentlemen who have appeared before your Lordships, and we urged very strongly on the Local Government Board that Burley did not want building bye-laws at all, but the Board, following up its practice of supporting a local authority, said: "We will give you bye-laws for Burley, but they shall be practically only on our model rural form." Therefore Burley is under the model rural form. But the difficulty of the parish of Burley was this, that it had one representative on the district council of, I think, of eight or ten members, and although Burley parish, practically to a man, except its representative, was against having bye-laws at all, they were imposed.

Lord *Stanley of Alderley.*

1492. But you do not advocate that any section of the local authority may secede and say: "We will not submit to the law." That is really what you are advocating ?—I think not. The position of Ringwood was "No bye-laws."

1493. Is it not your position that the people of Burley, being a majority, had a right to rebel against the district of Ringwood ?—I think not. The constitution of a district council is to preserve the various parishes as local areas, and each parish has the right of appeal to the county council,

Lord *Stanley of Alderley*—continued.

council, in various circumstances, against its district authority. It is exactly an analogous case.

Chairman.

1494. But then it failed, apparently, to convince the county council ?—It had to appeal to the Local Government Board in this particular case. In cases of rights-of-way, and that sort of thing, the appeal is to the county council. I am not complaining in this particular case.

1495. I understand, in this particular case you quote, the bye-laws were imposed upon them against the wishes of the parish ?—Yes.

1496. I think from what you said just now that their representative upon the district council was also against the wishes of the inhabitants ?—That is so, and their remedy was not to return him.

Lord *Burghclere.*

1497. Did they return him at the next election ?—I am afraid I cannot tell you.

Lord *Stanley of Alderley.*

1498. You are contending, I take it—and in your proof on page 5 you suggested—that the will of the inhabitants of a particular parish should over-ride the power of the district council. I take it that is your contention ?—For the particular government area, that is the parish in which they are. In doing that I am only following out the precedents, which I find were, if a parish council wants the rural district council to do certain things for it and the rural district council refuses, it has an appeal to the county council. It is not a rebellion, it is simply machinery.

1499. Exactly, and though the case went against you, you are still complaining ?—No, I carefully guarded myself from complaint.

1500. Are you taking the side of the inhabitants of Burley ?—I regret the decision of the Local Government Board.

1501. But you are still in a contumacious attitude which you ought not to be ?—I hope not. I am only in the position of a man convinced against his will.

Chairman.

1502. Not convinced, but coerced against his desire ?—Perhaps that is a better way of putting it.

Lord *Kenyon.*

1503. I do not quite see how the inhabitants of Burley would have been better off under your Bill, because it gives only an appeal to the Local Government Board, who probably would give the same decision again ?—That is confining yourself to Clause 5.

Chairman.

1504. In your proof you mention the East Grinstead case and, at the bottom of page 6, you say: "He had committed two offences. First, in not building his cottage in accordance with plans he had sent in; and second, in building his cottage larger than was allowed under the bye-law where the materials proposed to be employed are used." In the case of a person presenting plans to a local authority, and the local authority refusing to approve the plans, is there any power or right of appeal against such decision on the part of the person aggrieved at that stage where the question either of interpretation, or of conformity to the bye-laws should be determined by an independent tribunal ?—Under the existing law there is no power of appeal at all. The plans are sent in. The council simply say: "We disapprove them on certain grounds." There is no appeal. Then the difficulty arises. Both the council and the building owners are in a difficulty because neither can get the question determined except by breaking the bye-laws and putting up the cottage or house.

Lord *Stanley of Alderley.*

1505. Or rather by chancing breaking the bye-law ?—That is more correct.

Lord *Burghclere.*

1506. Does that not show the disadvantage of the rigidity of your bye-laws ?—I think that it really illustrates this, that a bye-law, whether it be certain and rigid, or uncertain and with a power of discrimination, is a matter which should be subject to appeal. I do not think its rigidity has anything to do with that particular question. It does not occur to me that it has.

1507. Would not the appeal prolong the proceedings to a disadvantageous extent. Would not a quicker mode of deciding the question at that moment be to the advantage of the builder ?—I should answer not, if it were discrimination on the part of the district council.

1508. I do not think you trust the district council ?—I beg your pardon. It is not the district council. I was reading only the other day of a case, that was brought before me. It is a very great pity that a bad citizen should be made over a squabble about a bye-law. The Chairman of the district council, of course, could not condone either his breaking the bye-laws or all the subsequent trouble which arose, but he said he entirely sympathised with him, but his misfortune was that he was there, and must administer the bye-laws.

Chairman.

1509. The object of my question was to elicit from you whether you think that, at that stage, a right of appeal would be of some advantage. Let me put the case as it appears to me. I send in plans to a local authority; they disapprove those plans, or do not approve them, and refuse to

Chairman—continued.

to approve them. It may be that they say they are not according to the bye-laws. My contention may be that they are according to the bye-laws, and well within the four corners of the bye-laws. There is no power of determining that question, so far as I understand it, except by going through the process of going on with your building and letting the local authority prosecute you for having disobeyed the bye-laws. The result of that is that a man has spent his money, bad blood is set up, and a great deal of friction arises. Would it not tend to avoid that condition of things if, at that stage, before the money was spent, and before the grievance had been accentuated in that way, there were some magistrates or some tribunal to which a person could appeal and have the question decided, either as regards the reasonableness or of their compliance with the bye-laws themselves?—I think that would undoubtedly be an advantage in many cases, and I think the existence of such an appeal would tend to be a corrective to a great deal that now happens, and prevent it ever happening.

1510. And make both sides a little more cautious?—Quite so, but I do not think that goes quite where we want to get to altogether.

Lord *Stanley of Alderley.*

1511. But you agree to it so far?—I myself took part in the discussion which Mr. Stenning mentioned with regard to that, but the foundation of all that is to my mind his first premise, which is, that you must get a universal code of bye-laws—good building regulations—which shall be used all over the country.

1512. The point is simply, is it better to take a decision at once, before unnecessary expense, or not. Whether you have universal bye-laws is a separate question. You are asked a definite question for the moment and you agree?—I agree, but I must guard myself from going further than I mean.

Lord *Kenyon.*

1513. To whom would you suggest that appeal should be?—That is one of the great difficulties If it is merely an appeal upon a question whether a building conforms with bye-laws or not, then I think the only really satisfactory way would be to establish, for districts or for counties, special tribunals of appeal, That I am afraid is the only satisfactory way. There are a great many objections to that on the ground of expense and delay and otherwise.

1514. They would be appointed by the county council?—I suggest, if that machinery were to be adopted, the county council should have the power of nominating say, one, two or three, as might be right, surveyors or architects who should determine the question, which would be purely one of fact.

1515. It would be specially constituted to meet this particular case?—It would be a standing tribunal, and each case as it arose would be referred to it.

Lord *Burghclere.*

1516. To determine questions of law?—I think not. I think they would be questions of fact.

Lord *Stanley of Alderley.*

1517. You would have a professional rather than a legal tribunal?—Speaking as a lawyer, I should be very sorry to determine whether plans did or did not comply with the byelaws.

Chairman.

1518. You would have somebody to argue it and somebody else to determine it?—Your Lordship is perhaps not unaware that in London we have a tribunal of appeal.

1519. But it is very difficult to establish a tribunal of that sort in every rural district?—You cannot in every rural district, I am suggesting the county as a unit.

Lord *Kenyon.*

1520. What would you do when it is a case in which a borough council is involved?—I think as a rule a borough is capable of looking after itself.

Lord *Stanley of Alderley.*

1521. Especially if it is a large borough. You would not say Horsham or Midhurst were large?—Yes, but they are not county boroughs.

Lord *Kenyon.*

1522. There are rural areas included in their districts?—I think you will find that the rural district of Horsham is quite distinct from the borough. In all cases a borough is a unit, but you often get an urban district including many rural parts.

Lord *Stanley of Alderley.*

1523. You might have fields and isolated houses in Horsham or Midhurst?—The borough of Horsham is comparatively small. Within my own knowledge there has been considerable trouble of late with regard to the extension of bye-laws in the rural district of Horsham which is around the town of Horsham.

1524. But there are plenty of boroughs which have rural land in them?—Plenty. I think we could almost find that in the Metropolis.

Lord *Kenyon.*

1525. In those cases you would let the tribunal be appointed by the borough council?—I think so, certainly.

Chairman.

1526. Is not that a question that might be determined by the magistrates?—As a question of fact, I think it might. At present they do not get a case before them until there is a breach. I think myself, the magistrates have a very difficult position

Chairman—continued.

position under the present law. I think, it is a very false position.

1527. You would apply the healing ointment of arbitration?—It is a false position that everybody is in, to my mind, under the present state of things.

1528. Would you favour widening a little the power of dealing with the plans, to include something which, for the want of a better word, I will call reasonableness in the requirements of the local authority?—I think there you get on to very difficult ground, because you make an appeal which I fancy Lord Burghclere very much objects to, and that is as against the exercise of its functions as a local authority. The appeal then would be to a court or a person, as against the exercise of the judgment of the local authority, and that is a different thing to an appeal on a question of fact.

1529. You might possibly find a means of applying it in a rather less rigid way and give a little elasticity, which was rather in Lord Burghclere's mind?—Yes.

1530. It is conceivable in cases that the local authority might not object to a decision which gave a little more power in a particular case, although they might feel, for the reasons you have described, a strong objection to seeming to discriminate?—I cannot pretend to speak to that, I can only again quote that instance where the gentleman expressed his strongest wish to be able to deal otherwise with the case.

Lord *Kenyon.*

1531. Would you suggest that that appeal should be the final appeal, or that there should be another appeal to the Local Government Board?—As far as I am concerned I should say it should be final. It seems to me you must have finality. I am entirely against multiplying these things. I want to have something simple. Whether I get what I want, or whether it is modified, I want something simple and practical.

Chairman.

1532. With regard to your conclusions, you say in paragraph C of your proof, that the exemption proposed to be conferred by the Bill would result in better and cheaper houses, both for the well to-do people and for the poor people, being erected in urban and in rural districts. Where would the cheapness come in?—In the choice of materials.

1533. You have satisfied yourself that there would be that cheapness?—I can only tell you that everybody who comes to me to discuss this matter says undoubtedly there would be an appreciable saving in material, and I think it has been admitted in evidence before you that there would be.

1534. We have found it extremely difficult to get anybody to pledge themselves to what percentage, and I should have thought, if it was so clear as to justify this confident statement, it would have been possible to have given examples of it?—The confident statement is made from the experience of particular districts—in the cases given by Mr. Till, Mr. Clough, and others.

1535. You are aware that in the evidence some of the witnesses went so far as to excuse themselves from giving a figure, because it varied in different districts according to the nearness of the material or the cost of carriage and so forth, or even the cost of labour. In fact, one of the witnesses said that the cost of labour in Lincolnshire was very high, which rather surprised me?—Is not that a little beside the question? It seems to me not to matter whether you are going to build in wood, brick, or anything else. What you want to be able to do is, to build in that material which shall be cheapest and best at the place where you are going to build. That would depend upon a number of surrounding circumstances; in one place it may be brick, and in another wood. Although it is impossible to make any such general statement that wood will save 10 per cent. over brick, or brick will save 10 per cent. over another material, you can make this general statement that a law which will enable you to build with the materials best suited, from every point of view, to the particular place where you are going to build, is the right law for cheapness.

1536. That is subject to the qualification that the materials themselves shall provide a habitation which shall be healthy?—Please understand that that underlies everything. In that connection I should like the opportunity of bringing before you a matter which was sent to me just the other day. It is a copy of the Report of the Departmental Committee of the Board of Agriculture, and the particular matter that happened to be under inquiry was the fruit industry. They took this question into consideration and there is a paragraph in their Report—paragraph 76—which I should like to read. It is rather long, but I do not like to read an excerpt because it might give a false impression. The gist of the paragraph is, that in their view the existing bye-laws prevent the erection of this necessary accommodation for the particular industry and in their recommendation, at page 38 of their Report—recommendation No. 29—with reference to the paragraph which I have mentioned, No. 76—they say this: "That the present bye-laws for building in country districts be modified so as to allow of the cheaper construction of cottages." I have not had an opportunity of hearing or going into all the evidence which was brought before them, and I am not prepared to say more than this, that that is a Departmental Committee which has been considering the matter, and that is the conclusion they have come to.

1537. Probably we should all agree about that. The question is whether the bye-laws exercise any appreciable effect upon the cost?—That is the finding they have been driven to; whether rightly or wrongly I am not prepared to say.

1538. I did not gather that from what you read, I think there was an "if"?—May I read it

Chairman—continued.

it again, because I do not think there was any qualification about it. This is the acommodation and the suggestion: "That the present bye-laws for building in country districts be modified so as to allow of the cheaper construction of cottages." I take it that is either meaningless or is founded upon evidence which shows that the bye-laws cause unnecessary expense.

Lord *Stanley* of *Alderley.*

1539. At any rate, it is their opinion?—Yes.

Lord *Kenyon.*

1540. That is only in relation to that particular industry?—Yes, but we have no special inquiry in regard to others.

Chairman.

1541. This is fruit picking?—The fruit industry.

Lord *Kenyon.*

1542. It is for a class of people who are nomads; they come for a certain time?—No, the gist of the complaint is, that they want, for permanent fruit growing, a population which is not at present upon the land and which cannot get there. That is the gravamen of the thing.

Lord *Burghclere.*

1543. It is rather a sweeping statement, because I fancy there are bye-laws which probably would meet them?—If I had had an opportunity of analysing the evidence I would have helped your Lordships all in my power to get at the matter closer.

Chairman.

1544. Have you ever considered whether it would be possible to meet any grievance in this case by giving to the Local Government Board power, in any cases where it has found that an existing building bye-law is unsuitable to the district, or particular buildings to which they apply, or to operate contrary to public interest, to disallow any such bye-law. Do you know, as a matter of fact, whether the question has ever been considered?—As to a bye-law actually in existence?

1545. Let me put this case: The bye-laws are, let us say, framed and applied for by the local authority, and therefore their consent goes with them. They are confirmed by the Local Government Board and therefore their consent is necessary to them. You have, therefore, in setting up the bye-laws, the consent of two parties. If, on evidence, the Local Government Board came to the conclusion that a bye-law was either obsolete or did not meet a public demand which had arisen, would it be possible for them to withdraw their approval of those particular bye-laws as being no longer suitable?—Once having approved, no.

Chairman—continued.

1546. But, supposing power were given to them to withdraw?—That, I think, is the power which I suggest in Clause 5 of the Bill.

1547. Do you go as far as that?—I think so.

1548. "Shall from and after a date to be named therein be substituted for the bye-laws." But that is not quite the case I put?—The first is on withdrawal, the second is on substitution.

1549. But that overrides then the opinion of the local authority, it may be, and imposes upon them something which they object to?—Agreed.

1550. Whereas, the case I put to you would withdraw the bye-law, and therefore, as regards the district, you put it back into the position that it was prior to the consent of the Local Government Board being obtained. It would then be open to the local authority to modify or to make such modifications in the bye-laws, as would meet the approval of the Local Government Board, and, if they did not choose to take that course, it would leave the district at any rate outside the operation of a bye-law which, in the opinion of the Local Government Board, was not conducive to the public interest?—I assent at once that that would be a most useful power in my view. It goes to the first part of the clause suggested; that is to say, it would confer upon the Local Government Board a power of saying, "This is a bad bye-law and we suspend it," and then the bye-law would cease to apply. It stops short of enabling the Local Government Board to impose a particular bye-law. I should entirely agree that it would be a most useful power.

1551. You see the distinction between the two as regards the effect upon the Local Government Board?—It is broad.

1552. After all, would it not be fair that one party to the contract should say: "I no longer agree to this, and therefore I desire to withdraw from it." That leaves the place in the position it was, prior to the arrangements having been made?—I at once say that I think that is preferable to any attempt to impose, say, a central authority upon a local authority.

1553. Have you anything further to add?—There are one or two little things that I should like to add. The first is this: A good deal has been said about the necessity, where you have urban districts surrounded by rural districts or a small town or a small aggregation of houses in a village surrounded by rural country, of enabling the rural part to be protected against the incursion, supposing an industry suddenly springs up in the town, of cottages and other buildings which may be objectionable, I should like to point out that this exemption would, in my view, exactly meet that sort of case, and it prevents the necessity for artificial divisions which Mr. Monro and others so much object to—sub-dividing a local area. That is to say, if you have a district—the rural district of Horsham for example—you do not want one parish to have one set of bye-laws and the parish of so-and-so another set. Where you have to sub-divide a parish it is more objectionable

Chairman—continued.

objectionable from the Local Government Board officials' point of view.

1554. But your exemption would apply even after the district had become practically a populous district?—That would be so.

1555. That is a point which, to me, appears to be a little difficult. You would not propose to make that exemption apply, let us say, to a county borough, not because it is a county borough, but because it is thickly populated—a place like Leeds, for example?—I confess I should, simply on the analogy of London. There is a very great misapprehension, I think, about the condition of London.

Lord *Stanley of Alderley.*

1556. We have evidence about London?—With great respect it was inaccurate. I have been up stairs dealing with London government for three weeks or more, and in 1894 I was acting in connection with the Building Bill of that year. The inaccuracy consists in this, that there was a confusion between temporary buildings and permanent buildings. Mr. Monro suggested that the exemption, which was conferred by Section 201 of the London Building Act, was in respect of temporary buildings. That is not so. It is in respect of permanent buildings.

Chairman.

1557. Does it apply to buildings to be used for human habitation?—Yes, of every kind. I will read it to you. It is in Section 201 of the London Building Act of 1894, sub-Sections 11 and 12.

Lord *Burghclere.*

1558. Do these govern the action of the county council?—There is only one building authority in London for the Building Acts, and that is the London County Council. Section 201, sub-Section 11 says: "All buildings and structures (not exceeding in height thirty feet as measured from the footings of the walls and not exceeding in extent one hundred and twenty-five thousand cubic feet, and not being public buildings) wholly in one occupation and distant at the least eight feet from the nearest street or way, and at the least thirty feet from the nearest buildings and from the land of any adjoining owner. A detached dwelling-house shall not be excluded from this exemption solely by reason of its being within thirty feet of another detached building constructed as stables or offices to be used in connexion with such dwelling house." That describes a building which might be a moderate-sized house in a suburb of London, with its stables and other things adjoining it with comparatively small distances separating it from adjoining owners and from adjoining premises. Such a building is exempted from the operation of Part VI. and Part VII., which are the Parts relating to structure in the London Building Act of 1894.

Chairman.

1559. Structure covering materials and size?—Yes, structure in its widest sense.

Lord *Stanley of Alderley.*

1560. We certainly have it in evidence from one of the witnesses that the exemption applied to permanent as well as temporary buildings?—I have looked for it. I think somebody told you so, but with how much authority I do not know. This is a thing I have had to deal with so much in detail that I venture to draw attention to it very carefully, because it seems to me to really govern the question of exemption by precedent.

Chairman.

1561. You would admit that the protection, even to an exemption of that kind in a place like London, and with the tribunal which is provided in London, is more complete against abuse of it than it would be in a little district where the expert knowledge and everything else could not be obtained?—That might be conceded, I think, without injuring the principle at all, and, I think that the real answer to that is, that, if you exempt and you provide the maximum finally for what might be called fraud upon your exemption, as we do in our Bill—that is to say, the whole thing can be swept away—you have an ample protection.

1562. And you would practically make, in such districts as applied, the bye-laws inoperative as regards structure and materials wherever the building had a certain space surrounding it?—That is exactly the position. I have looked carefully at the evidence and submit that, so far as the Local Government Board is concerned, I claim their witnesses distinctly as favouring the position of exemption. I have read their evidence very carefully. I think there are one or two suggestions which Mr. Parsons made, and, outside that, both he and Mr. Kitchin seemed to think exemption was desirable.

1563. I do not wonder at your being attracted by Mr. Parsons' evidence, but whether he was sufficiently informed to express upon that question what would have been the views of his chiefs, I do not know. I am afraid we rather led him into expressing opinions upon questions outside the area of his department?—Then I appeal to Mr. Kitchin, the architect who supported him. I can only deal with the evidence as I find it. I look upon the exemption as a most valuable thing, from the point of view of the public, and of the local authority. To my mind it goes to the essence of the thing provided you properly safeguard it.

1564. With regard to that there is a point on Clause 2. You have, in fact, in answer to a question I put, given the answer, but not in this particular form. Clause 2 reads: "The following buildings shall be exempt from the operation of any bye-law now or hereafter in force within any 'county district' with respect to the structure of walls, foundations, roofs, floors, chimneys, or hearths." There is nothing said about the saving clause of health. You do that by Clause 4?—Yes.

1565. But

Chairman—continued.

1565. But if some words were put in there to signify and show clearly that the questions of health and ventilation were not to be trenched upon by that clause, then Clause 4 becomes unnecessary?—Yes, I want to guard myself with regard to the drafting here.

1566. It was not a question of drafting that I was thinking of. I thought your answer on the questions of health which you gave to me in answer to a former question was that it must be understood that they were altogether outside the operation of this Act?—Yes, subject to detail.

1567. Therefore, that is your evidence—not to trench upon anything that would affect the health?—Certainly not.

1568. Or to make the exemption apply to anything affecting health or ventilation?—Please understand that. If you use specifically that word "ventilation," I should like to point out we may differ as to what the necessity of particular regulations of statutory requirements as to ventilation would be. For instance, if you are going to have houses in a row, ventilation is one thing.

1569. But in the clause itself you say: "With respect to the ventilation"?—That becomes structural in this way, that there are certain requirements with regard to window space and those sorts of things which are hard and fast and rigid in the bye-laws, and would take years to alter and cost thousands and thousands of pounds. There they are and you cannot get rid of them. But I think this is an opportunity by which you might get rid of them very well by a slight modification of this Bill, which would effect all Dr. Parsons or your Lordship has in your mind when talking about ventilation, without interfering with the utility of the clause.

1570. Have you anything else to add?—There was one other thing. It seemed to have been on some of your Lordships' minds that there might be a sort of appeal from the decision of the district council under its bye-laws by five ratepayers, or any number of ratepayers, to a County Council. I have very carefully considered that, but it seems to me that it would be destructive to good local government if you could appeal in a personal case from one local authority, by ratepayers, to another. Where you have a public case I agree, that is to say, if you could appeal and so suspend a bye-law which affects the whole parish I agree, but that if we ratepayers should be able, to take up any case and say: "Very well, we will support you and go to the county council and appeal against it:" I think would be very undesirable.

1571. It rather increases the power of money. I think it is very undesirable. I wish to point it out because the question of appeal has got rather confused, I think, in many ways.

Lord *Burghclere.*

1572. What are the special grounds on which you think it very undesirable?—I think it is very undesirable with a private case.

1573. Why is it a private case? It comes under the action of the bye-laws. It may be an example of many other cases?—An individual case.

Lord *Burghclere*—continued.

1574. But an individual case may only be dependent upon many other cases. An individual case comes under the action of the bye-laws, and is as much a public case as five cases?—If I could go to the Local Government Board at once and say "Suspend the bye-laws," my action, or the action of the five ratepayers, would inure, for the benefit of the whole of the parish, at once.

1575. Would it be for the benefit of the whole parish that one set of bye-laws could be interpreted rightly for one special case?—I do not think it would have the same effect. It would differ very largely.

1576. Why?—Because in every case there would be slightly different circumstances, and you would never get a clear precedent that you could rely upon.

1577. But in the case of an appeal to a Court of law you do not appeal for the law but for justice to an individual?—I agree.

1578. Would it not be the same in this case?—But then you are not allowed to call in four other gentlemen to maintain your action. The individual acts and fights his individual case on his own individual feet, and gets a decision of a Court of law. The suggestion here is almost what I may call "maintenance."

1579. Then you would allow one individual to appeal to the county council?—I would prefer that. The whole thing I think, is wrong.

Chairman.

1580. The distinction would appear to be this, that the appeal in that case by five ratepayers upon a particular case, unless it resulted in the suspension of the bye-laws would do nothing as regards future cases of a like character?—Nothing at all.

1581. They would have to be repeated?—Yes.

Lord *Zouche.*

1582. It is not suggested that these five ratepayers should belong to any particular parish or any particular parish in a district. They might be any five ratepayers in the whole of a rural district?—Certainly, and that might embrace half-a-dozen parishes.

Chairman.

1583. Might they be five ratepayers within the county council area?—No, within the actual district affected by the bye-laws.

Lord *Kenyon.*

1584. Do not you believe that that might lead to a good deal of abuse if any five ratepayers can force the Local Government Board to hold an inquiry?—Experience has shown that, where you require a deposit of as high as £50, people do not do it often, and they will not do it unless there is a substantial case. The sum of £50 was rather fixed by the analogy of one or two other cases in which the Board of Trade and other authorities fixed that amount, and it is found to operate very well.

The witness is directed to withdraw.

Mr. GEORGE MONTAGU HARRIS, is called in; and Examined as follows:—

Chairman.

1585. I think you are secretary of the County Councils' Association?—Yes.

1586. Has this Bill been before your association?—No. The association is always very cautious not to consider anything that does not very directly affect the county councils, and none of the provisions of this Bill appear to do so, and so they have not gone into it.

1587. Has the Executive Council, on the recommendation of the Education Committee passed any resolution?—Yes, it passed a resolution as to buildings for temporary schools, and I will read the resolution, if I may. In March last, the following resolution was passed: "That in consequence of the difficulty of erecting temporary schools in accordance with district bye-laws, it is desirable that a representation be made to the Local Government Board in favour of exempting new schools of a temporary character from such bye-laws where the plans for the buildings have been approved by the Board of Education and by the Local Government Board."

1588. Would that be effected by this Bill?—No, but it might be possible to introduce a clause having this effect into the Bill as it is of the same nature. It would mean another exemption.

1589. In other words, you would then bring within the exempting clause of the Bill, public buildings?—Buildings for schools of a temporary character.

1590. But still buildings used for more or less public purposes?—Yes.

1591. What was in their minds when they considered this? How would you describe a temporary building in that case?—Perhaps if I were to give an instance it would explain better. The matter came up on the application of the Warwickshire County Council, which, in two instances, wished to put up a corrugated iron building lined with wood as a temporary school. Of course in many districts, the population increases so rapidly, that, in order to accommodate the children at all, it is necessary to build something at once, which necessarily must be of a temporary character.

1592. And in order to secure the site?—In each case the district council refused to pass the plans on the ground that they did not comply with their bye-laws, which required the external walls to be made of brick or stone, etcetera. The Warwickshire Education Committee applied to the Board of Education and the Local Government Board. The Board of Education said they had nothing to do with the matter. The Local Government Board said it was impossible for them to act in the matter, but they communicated with the district council suggesting that they might make a bye-law exempting, under certain conditions, the building in question from the operation of the bye-laws with respect to the structure of the walls, but no action was taken by the district council as regards that representation of the Local Government Board.

Chairman—continued.

1593. Therefore the district council was opposed to it?—Yes, they were opposed to dispensing, in this case, with the provisions of their bye-laws.

1594. Then the effect of the resolution would be to ask Parliament to over-ride the local authority and impose on them an exemption in this case, which they themselves were opposed to?—Yes, which the district council were opposed to. This difficulty has arisen in the case of many other councils, and in consequence of that the resolution I have read was passed, and that was sent to the Local Government Board, and the Board replied that it was impossible to take any action except by legislation. Consequently a further resolution was passed at the last meeting of the executive council to the effect that representations be made to the Local Government Board with a view to obtaining legislation to exempt temporary school buildings from the operation of bye-laws with respect to new buildings.

1595. I suppose the whole case here is a question of expense?—Not entirely. Of course the probability is that a larger and more permanent school would be built hereafter, but, for the purpose of accommodating the children at once, it is most desirable that there should be some possibility of building a school which would last until a more permanent building could be erected.

Lord *Zouche.*

1596. It would be a question of time as well as expense?—Yes.

Lord *Burghclere.*

1597. What safeguard would you have that this temporary building would not be left there for ever. It is obvious you would have no safeguard whatever. The local people, who are bound to build a school, would, under your scheme, put up a temporary building such as they wanted, hoping that the village would in course of time be a large city. In the meantime, there would be no power to make it into a proper building, and they would escape the expense that Parliament puts upon them. What safeguard would you have against that?—The conditions might be laid down by the Board of Education or the Local Government Board. The plans for the schools would have to go before both those Boards, and they might lay down any conditions they thought fit.

Chairman.

1598. The Board of Education, by their inspectors from time to time, if they found the place unsuitable would have power to call attention to it?—Exactly.

Lord *Stanley of Alderley.*

1599. Is there not generally in local bye-laws a provision for temporary buildings?—I believe not. I could not say for certain. Certainly in many cases it is found that there are no provisions.

Lord *Hylton.*

1600. They all differ and all the evidence we have before us is that in the case of any difference of opinion between the Local Government Board and district councils, the district councils always get their own way with the Local Government Board. I am afraid your Association will find it a waste of time to try to get the Local Government Board to do anything, because they throw up their hands and say "We cannot do anything?" —Exactly, as in this case they say they can do nothing without legislation. But a clause could be introduced into this Bill exempting buildings of this character. It is desired that only those schools should be exempt where the plans for the buildings have been approved by the Board of Education and the Local Government Board.

Lord *Burghclere.*

1601. The temporary palns or the permanent plans?—The plans for the temporary buildings.

Chairman.

1602. Does it mean that in this case you would make it a condition that plans for the buildings should be approved by the Local Government Board. The Education Departm: nt, I can understand, because they are concerned with it, but where do the Local Government Board come in as approving the plans?—All the plans for schools have to go before the Local Government Board as well as the Board of Education.

Lord *Stanley of Alderley.*

1603. That is really for the loan?—Yes.

1604. It is not on the structural conditions? —As to sanitary arrangements.

1605. The Local Government Board pass the loan, and not the Education Department, therefore they go to the Local Government Board?—Yes.

Lord *Kenyon.*

1606. Have you followed the evidence given before this Committee?—Not very closely.

1607. There has been a suggestion that there should be an appeal to the county council?—I am aware of that.

1608. Do you think they would be willing to act in such a case?—I do not know that I am entitled to say so, as the matter has not been before the association, but, personally, I should think that they would.

1609. You would hardly like to go into details as to how they would act?—No; I do not think I would be entitled to do that.

1610. Can you tell me whether the county councils, as a rule, have an expert surveyor who is sufficiently an architect to be able to decide on such questions?—Certainly.

Lord *Kenyon*—continued.

1611. You think they mostly have?— Yes.

1612. Therefore you think there would not be much difficulty, on their part, in forming a tribunal of appeal?—No, not if it was a professional tribunal, as suggested.

1613. Have they generally a medical officer of health?—Most of them, not all.

1614. Can you say how many?—I cannot say off-hand. I should think, at least, thirty or thirty-five. I could supply the information.

1615. We have had evidence given that possibly the procedure would be rather slow, because the councils do not meet very frequently. Do you think that would be a reason against appeal to such a body?—As a rule the county councils only meet quarterly.

1616. The tribunal could be a standing committee?—Exactly.

Chairman.

1617. Would the county councils have the power to delegate authority of that kind to a standing committee?—I imagine not, without legislation.

Lord *Hylton.*

1618. Where time is of the essence of the matter, like these temporary schools that you are speaking of, surely the fact of the county councils only meeting quarterly would be detrimental to the object that you had in view?—Our suggestion would not be affected by that. Our suggestion is that temporary schools should always be exempt.

1619. But if Lord Kenyon's suggestion were adopted, of an appeal to a county council in a case where you are very anxious to put up a temporary school—such as you come here to-day to ask us to put in some exemption in respect of—there the loss of time, owing to the county council only meeting four times a year, would be detrimental to the object you have in view?—I do not quite see how there could be an appeal to the county council in that case, because the county council is the first party.

1620. You desire that temporary schools should be buildings exempted from the bye-laws?—Yes.

1621. But the question of what would constitute the best court of appeal, in cases where there was an appeal, you say is a different question?—Exactly.

Lord *Stanley of Alderley.*

1622. I see in the model bye-laws, both for rural and urban districts, amongst the exemptions there is this: "(*l*) Any building erected or intended to be erected for use solely as a temporary hospital for the reception and treatment of persons suffering from any dangerous infectious disorder." I suppose you would say, if they may exempt a building erected temporarily for a hospital, a building erected temporarily for a school would come in *pari materia*, and might be included in model bye-laws as an exemption?—Exactly. That would meet the case.

1623. Do

Lord *Digby.*

1623. Do not you think the county surveyor's time in most cases is already fully occupied?—I think most county officials are fairly busy but I dare say means might be found to meet that.

Lord *Kenyon.*

1624. Would you suggest that the appellants should pay fees?—I do not think I am entitled to express an opinion upon that.

Lord *Stanley of Alderley.*

1625. If you say there is no power in the bye-laws to put up temporary buildings, how is it that these temporary churches of iron, that we see about, are constantly being put up? There is a constant and brisk demand for iron buildings going on throughout the country?—I cannot answer that question.

1626. Are churches and chapels exempt?—I cannot say.

The witness is directed to withdraw.

Mr. ARTHUR JOHN LEES, is called in; and Examined as follows:—

Chairman.

1627. You are, I understand, a solicitor and Parliamentary agent?—I am.

1628. You are a member of the firm of Lees and Butterworth, of 9, Bridge Street, Westminster? —Yes, I attend here as Honorary Secretary of the Rural District Councils' Association. For the last eleven years I have been a member of the Beckenham Urban District Council, on which I have had experience in the passing of plans in addition to being the Honorary Secretary of this Association.

1629. Has this Bill been considered by your association?—In this way. The Bill itself was considered at a meeting of the Executive Council held in April last. Certain resolutions were then passed and that subject was dealt with in the report of the Executive Council which came before the annual meeting of the association which was held on the 7th of last month, and that report was adopted unanimously. Therefore, in that sense the Bill itself has been before the association, because the Report of the Executive dealing with it has been adopted by the Association.

1630. Was the Bill approved?—No. The association disapproved the Bill. I have here a verbatim copy of the proceedings at the annual meeting, which contains the Report of the Executive Council, not only on the question of this Bill, but also on building bye-laws. I have copies for your lordships, and I will hand them in.

1631. What is this intended to convey to us? —The objections of the Executive Council, as I understand them, to the Bill, are, in the first place, that its provisions are proposed to be applied to every rural district council throughout the country, whether they may be applicable or not, and it is not proposed to allow a council to adopt its provisions, if they think fit, or let the councils give the exemptions in their own particular bye-laws. Further, the Local Government Board can now, in proper cases, if they think fit, carry out most of these proposals by giving exemptions in the bye-laws, which they have done. I have here bye-laws which have been made recently, in which special exemptions have been given, applicable to one particular parish, and different exemptions to another particular parish, all in the same rural district.

1632. You mean the Local Government Board have now the power when bye-laws are made,

Chairman—continued.

and with the assent and consent of the local authority, to grant exemptions which, in your opinion, go very far to meet the case put for the Bill?—Yes. The Local Government Board have not only the power, but have exercised it with very great success. The Bromley Rural District Council, which is perhaps one of the most important rural districts round London, within nine miles of London, and one of its parishes actually adjoining the metropolis, have a set of bye-laws applicable to six contributory parishes —that is six parishes in their district. These particular bye-laws, applicable to these six parishes, all contain this special exemption. It is Clause 3 of the bye-laws and it provides that "any domestic building such as hereinafter described shall, subject to the exceptions provided, be exempt from the operation of the bye-laws 13 to 36, both inclusive." Those are with regard to walls, hearths, fireplaces, chimneys and the structural details. All these six parishes, therefore, are exempt from the more stringent bye-laws of that character. The parish of Mottingham, which actually adjoins the County of London, has the same set of bye-laws—with the exception of that Clause 3. That exemption is not in for them, because it was not thought desirable in a parish actually adjoining the metropolis, and rapidly obtaining a large urban population. Again the Bromley Rural District Council have been so careful to consider the requirements, not only of their district, but of every individual parish in the district, that they consulted all the parish councils before they applied for these bye-laws, and, as I say, they have one set for Mottingham which does not give the exemption. They have a similar set with the exemption and one other clause for six contributory places. In addition to that they have rural parishes like Knockholt, Cudham, and Downe, and there they are now applying to the Local Government Board for an even less stringent set of bye-laws, those parishes being wholly rural. In each case, before settling the bye-laws for each particular contributory place, they consulted the parish council, and asked the Local Government Board for nothing but what they thought was absolutely required in each individual parish. It is now therefore possible for the Local Government Board, in making these bye-laws, not only, as I say, to give different

sets

Chairman—continued.

sets of bye-laws to different parishes in a rural district, but also to give these exemptions in cases where they think they are required.

1633. Would you say the Local Government Board in recent times, has shown a disposition to meet those cases more freely than formerly ?—Yes, certainly, that has been so. The Bromley Rural District Council themselves suggested to the Local Government Board that certain exemptions should be given. This was in 1899. The Bromley Rural District Council then suggested a modification of the existing code, so as to permit the erection of wooden buildings in Knockholt, which is an exclusively rural parish. The Local Government Board acceded to that, and wooden buildings have been put up under that. In 1901, the Local Government Board, on their own initiative, suggested to the rural council a further modification, giving still further latitude in the erection of these buildings.

1634. Was that agreed to ?—It was, and that shows, not only have the Local Government Board this power, but they exercise it in two ways—on their own initiative and by acceding to the suggestions made to them by a rural district council.

1635. Of course, they have the power only with the consent of the local authority ?—That is so. They have a great deal of power with the local authorities because the local authorities have to go to them for other matters besides bye-laws, and it is open to the Local Government Board to get their requirements met in other ways. As your Lordship knows, frequently the Local Government Board have refused a loan until certain other details with which they are not satisfied are complied with. It is quite open to the Local Government Board to refuse any rural district council a loan until they have put their bye-laws into such a form as the Local Government Board think necessary.

1636. Do you think it is generally known that the Local Government Board are willing to make these modifications of the bye-laws in any district where it is desired they should be made ?—I think it is. Of course it is only during recent years. This new model code is dated 1903, but every rural district council I have come in contact with knows that they can get different bye-laws applicable to their different parishes.

Lord *Hylton.*

1637. They have not all applied to be allowed to have the new model ?—No.

1638. And do not seem likely to, some of them ?—The rural district councils, I am afraid, do not move as fast as larger urban district councils, but 133 have applied for and obtained this new model code, and, considering it has only been in force two years—and I think nearly 300 had bye-laws before—that shows fairly well that they are adapting themselves to the circumstances.

Chairman.

1639. Do you know if there has ever been a circular issued by the Local Government Board calling attention to the fact that these exemptions might be obtained ?—I have never seen one.

Lord *Hylton.*

1640. Did not Mr. Hobhouse, the other day, in the House of Commons, move for a Return to ask how many rural district councils had adopted this code ?—I did not see what Mr. Hobhouse did, and I do not think any circular has been issued. The clerk to the Croydon Rural District Council informs me that a circular was issued, and he received one from the Local Government Board.

1641. Was that in response to Mr. Hobhouse's inquiry ?—Yes, asking for a Return as to what bye-laws had been made.

Chairman.

1642. But has there been the issue of a circular by the Local Government Board ?—No, my Lord, that has not been done.

1643. Would you think, if they were willing to do that, that that would draw more and more public attention to it ?—I certainly think it would.

1644. Your case is, I understand, that you think the Bill is unnecessary because all the powers necessary for practical purposes can be obtained from the Local Government Board with the consent of the local authority ?—That is so in cases where there are no bye-laws at the present time.

1645. Take the case of a local authority which is unwilling to apply for the modification. Do not they feel themselves hampered by the fact that the bye-laws are rigid and impose upon them the obligation of enforcing them ?—Is your Lordship referring to a case where bye-laws are now in force ?

1646. Yes. That would cover the majority of the country ?—It would. I understand there are about 400, out of 659 rural districts, which have bye-laws. I can conceive a case where bye-laws have been adopted in the past, where possibly, some particular bye-law may be unnecessary owing to the rural character of the district, and may inflict unnecessary hardship, and possibly unnecessary cost in building, but I think those cases might be met in this way; it is only a suggestion, but I think it is a suggestion that might be carried out. It is open to any landowner or builder who feels that any particular bye-law is unnecessary in that particular district, and is working a hardship, to write to the Local Government Board stating the circumstances why it is not necessary, and why he thinks it might be dispensed with. It would then be open to the Local Government Board to call the attention of the rural council to that suggestion and ask for the observations of the council on any such communication.

Lord *Hylton.*

1647. I am afraid they would have to double their staff on the Local Government Board if that were done ?—I think they will have to increase their staff a great deal if a certain clause in this Bill is passed. I think my suggestion will really lead to less work.

Lord *Hylton*—continued.

Chairman.

1648. You have not overcome the difficulty; you have only made a suggestion ?—I quite see at present that I have not overcome the difficulty. Further, if the Local Government Board should agree with the representation made to them, it would be open to them to call on the rural council to apply for modification or alteration of their bye-laws. I cannot conceive that rural district councils would neglect to comply with that request from the Local Government Board. I have had a good deal of experience, both with urban and rural district councils, and I have not found any tendency to go contrary to the Local Government Board. For one reason, apart from any other, it does not pay. It is to the advantage of the rural district council to act in accordance with the wishes and desires of the Local Government Board.

Lord *Hylton.*

1649. We have had witness after witness here on both sides telling us, over and over again, that the district councils absolutely decline to meet the recommendations of the Local Government Board. We have had nothing else ?—With every respect I do not entirely agree with that, because I know so many cases where suggestions have been acceded to.

Chairman.

1650. Have you ever known a case where they have refused ?—They will refuse possibly, but if pressure is put on them I think in the end they will give way.

Lord *Hylton.*

1651. How can you put pressure on them ?—Every rural district council must go to the Local Government Board to borrow money for some purpose, and it is always open to the Local Government Board to refuse a loan until the rural district council have complied with what they think is right.

Chairman.

1652. Because they have not complied with something which has no relation to the loan ?—They have done it in other cases.

Lord *Hylton.*

1653. Do you mean that the Local Government Board would refuse a loan to a rural district council, supposing they wanted it for one object, because the rural district council refused to meet their wishes in some totally different object, perhaps a year or two before ?—They have done so.

Chairman.

1654. Are you justified in saying they have done so for that reason ?—No, I will not put it like that, but I will put it like this, that there are cases where applications have been made for loans for certain purposes, and the Local Government Board have said, and very properly, that, until certain other matters have been dealt with, they do not see their way to sanction those loans.

Lord *Stanley of Alderley.*

1655. You put it that it is generally felt by the people you come in contact with—the officials of the local districts—that it is much wiser for them to do what the Local Government Board want in other things in order to get their goodwill in what they want ?—I am sure not only the rural, but the urban councils, recognise that it is not to their interests to go contrary to the Local Government Board. I am quite willing to assume a case where a local authority will not comply with the suggestion of the Local Government Board, and then I would suggest a point to meet that. In such a case as that, where the Local Government Board have called upon a local authority to alter their bye-laws, and they have refused, let it be possible for any aggrieved ratepayer to get a rule *nisi* calling on the local authority to show cause why their bye-laws should not be cancelled, or any particular bye-law discharged because it is unnecessary and undesirable.

Lord *Zouche.*

1656. Do you think all that expensive legal procedure would facilitate matters ?—I do not think these difficulties are in operation to the great extent that is suggested. I, with great respect, venture to think that, in regard to new cases the Local Government Board can meet them by granting such exemptions as are required under the circumstances of each particular case, the exemptions being put in the bye-laws.

Chairman.

1657. If the local authority require them, but the particular case is where the local authority does not wish to have the bye-laws altered, and their action, founded upon that, is, in the opinion of some of the people, injurious to the interests of the district ?—I say if, after the Local Government Board have pointed out reasons why they think they should be altered, the local authority will not alter them, then it is very little expense to get a *mandamus.*

1658. But you would put the Local Government Board in operation, in the first instance, by calling their attention to it ?—Yes, because I am satisfied that that would save a great deal of expense, and I think if the local authority had the knowledge that if they did not accede to the suggestions made by the Local Government Board, they would be liable to have a *mandamus* applied for against them, there would be very few cases where it would be necessary to adopt

Chairman—continued.

adopt that extreme course, but it would be a weapon to be put in force if the local authority were unreasonable.

1659. Would you see any objection to, or any advantage in, legislation, which would give to the Local Government Board power, in the event of the local authority and the Local Government Board disagreeing about a bye-law, to withdraw its assent, so that from that time the local bye-laws should become inoperative?—That is a case where the bye-laws have been made.

1660. And the circumstances have altered and, in the opinion of the Local Government Board, they are no longer applicable to the particular case or to the district?—Possibly that might be if the Local Government Board held an inquiry first before they took that action.

1661. But, assuming the Local Government Board have satisfied themselves, and are of the opinion that that bye-law might, and should be modified, and the local authority does not adopt that view, would you see any advantage or any disadvantage arising from legislation which would give the power to the Local Government Board to withdraw their assent to that bye-law, and therefore to place the district, as regards that bye-law, in the position it was before the bye-law was adopted?—That is a point that has not been considered by the association, and therefore, as honorary secretary, I should hardly like to express the opinion of the association upon it.

1662. Are you able to answer this question—Do you think it would be of advantage to have some right of appeal at the initial stage, where a person had deposited plans, and those plans had been disapproved or not approved by the local authority, either because, in the opinion of the local authority they did not comply with the bye-laws, or because the local authority was unreasonable as regards its requirements?—I should hardly have thought that that was necessary.

1663. Is it not the fact that at present there is no appeal at that stage. The only method provided by the law by which a difference of opinion can be decided, is that the person may go on building his house, disregarding the fact that has not got the local authority's approval to his plans, and then the local authority by means of a prosecution, because he has disregarded the bye-laws, has the ultimate remedy of pulling down the building. Would it not be well to try and get a little common sense and discretion brought in at a little earlier stage than that, before the money has been spent and the friction increased?—I take it that your Lordship has two points in your mind; one is a case where there is a difference of opinion as to the construction of a bye-law.

1664. The person who deposited the plans says, "I believe that this plan complies with the reasonable requirements of your bye-laws." The local authority says, "We reject your plans because they do not comply with our bye-laws." That is a question of interpretation?—On a question of that kind, which again is a question

Chairman—continued.

which has not been considered by the association, for myself I should have thought it would be an advantage if there was an officer or a tribunal to whom the question of the construction of bye-laws or plans may be referred.

1665. Therefore your answer is that you think it might be an advantage to have some appeal at that stage?—My personal opinion is that it might be an advantage. I do not know what the tribunal would be, but it ought to be, if possible, a tribunal dealing with that particular matter throughout.

1666. After all it is a question which may be determined at a later date after the building has been partly erected, and after proceedings have been taken by the local authority for non-compliance with the bye-laws. It is an appeal to the magistrates, or rather a prosecution takes place before the magistrates, and the question is determined by them?—Yes, then as a further remedy he can go for a *mandamus* to compel the local authority to approve the plan.

Lord *Stanley of Alderley.*

1667. I understand you are in favour of an efficient court which could settle the point?—Yes.

Chairman.

1668. Where would he have to go to apply for a *mandamus*?—To the High Court.

Lord *Burghclere.*

1669. Is the form of using a *mandamus* a common one?—There are a great many *mandamuses* applied for and granted every term—a great number.

Lord *Zouche.*

1670. Could you indicate to us the nature of such a tribunal as you have referred to?—What I would be against would be an appeal to the magistrates, because you would get different decisions in different districts. I think I would go on the lines of the report of the Royal Commission with regard to sewage disposal, that you want a sort of central authority with men of experience in the construction of the bye-laws to be the judges. If that could be carried out, I think it would be on the right lines.

1671. When you say "central," do you mean central for each county or district?—I would sooner centralise it even more than that. The question of the construction of bye-laws is a particular subject. Let people who have to deal with bye-laws determine what the construction of the bye-laws is. If you have one central authority for the country, so much the better. If it must be for a county, I would have one for a county than a great number for districts in that county, because you will only get different decisions applying in different places.

1672. It

Chairman.

1672. It would be of the essence of the thing for practical purposes that it should be a court where a prompt decision could be obtained?—Yes.

1673. And where not much delay would take place between the application and the decision?—That would be essential, and also the tribunal should be composed of gentlemen experienced in this particular class of legislation.

1674. Does your experience enable you to answer this question—Supposing there was an appeal from the decision of the rural district council would the rural district authority prefer that that appeal should be made to the county council or to the magistrates?—I am quite sure they would not desire it to be made to the county council for three reasons; in the first place, time.

1675. That is to say, the infrequent meetings?—Possibly that could be got over, but you have no doubt heard that county councils meet once in every three months. I think time would be a bar to the county council. But the local authority have had the enforcement of these bye-laws and the passage of these plans for years and are experienced. They have a professional adviser in the shape of a surveyor and architect who is generally a member of the institution, and the county councils, so far as I understand, have no official of that kind at all. Again, I do not think it is advisable to bring the district councils into conflict with the county councils any more than you can help. In my own county I do not think the county council would desire it. The Kent County Council interfere with the local authorities as little as possible. I do not think they would feel it was desirable.

Lord *Hylton.*

1676. Surely there are innumerable cases in which nothing can prevent certain clashing, for instance, as regards roads and other matters?—That I quite recognise.

1677. It is inevitable, but we cannot help that?—I quite recognise that, and I say it is not desirable to extend it. This is the last case in which an appeal should be made to the county council, because you are appealing from a body who have had experience in this and who are advised by an officer who is an officer of experience and is a professional man, to a body who have had nothing whatever to do with it.

1678. Do you say all rural district councils have an officer who is thoroughly competent to advise them in matters of architecture and so on?—I should say nearly all the urban councils have, and most of the large rural councils. My own urban district council has an officer of the highest possible standing.

1679. I said rural councils—I did not ask about urban councils?—Yes. With regard to the larger rural councils, I do not know whether you have any idea of what the population of some of the rural districts is. There are some with a population of 70,000.

Lord *Stanley of Alderley.*

1680. There are some of 8,000 and 10,000?—There is a great difference.

1681. Take Norfolk as an instance?—I quite admit you cannot enact the same law throughout the whole of rural England.

Lord *Burghclere.*

1682. Have they good professional men employed?—In the smaller rural districts I do not know whether they have a professional adviser.

Lord *Kenyon.*

1683. Are not they the places where the hardships occur?—But then in those smaller rural districts, the stringent bye-laws are not, as a rule, adopted.

Lord *Hylton.*

1684. Where you say you cannot adopt the law you do not dispute the right of Parliament to pass a law?—What I meant to convey was that you cannot, with a satisfactory result, enact the same law with regard to bye-laws throughout the whole of England.

1685. That is your opinion?—That is my opinion. I quite recognise Parliament can do anything.

Lord *Burghclere.*

1686. At the present moment the bye-laws are different in different districts?—They are.

1687. Are there any appeals from district councils to county councils now?—Not on the questions of bye-laws or plans.

1688. But on other subjects?—Yes, in regard to highways.

1689. Highways alone. You represent the District Councils' Association. Can you say if district councils object to the existing appeals from the district council to the county council?—They prefer to have as few conflicts with the county council as possible, but in the case where appeals exist with regard to highways, for instance, the county council is the highway authority, and their experience with regard to highways is no doubt greater than the experience of the rural district council, but in the case of bye-laws, where the local authority have been the authority sanctioning plans since 1875, and earlier than that, I think it is on a different footing.

1690. Then you prefer an appeal to the magistrates?—I should prefer a tribunal of the kind I indicated, but, as between the county council and the magistrates I think, though this has not been considered by the association, the local authority would prefer the magistrates.

Lord *Stanley of Alderley.*

1691. Quarter Sessions or Petty Sessions?—An appeal to Petty Sessions would be quicker.

1692. But you would have a dozen authorities in one county?—That is so. Quarter Sessions would be more expensive and take longer, but, for the reason that it covers a wider area, Quarter Sessions would be better.

Chairman.

1693. It would only decide the particular case?—That is all. I suggest if there is to be an appeal, let it if possible be to a specially selected tribunal.

Lord *Stanley of Alderley.*

1694. A board of experts sitting in London is what you suggest to deal with every question coming up for every part of the country?—No, I do not suggest that, but what I suggested is in order to get uniformity.

Lord *Hylton.*

1695. But you said just now you did not want uniformity?—I am not talking of uniformity of bye-laws throughout the whole country; but if you are going to have a question of construction of bye-laws disputed between a builder and a landowner you want the same interpretation put upon them in different districts.

Lord *Zouche.*

1696. As to this new tribunal, would they confine themselves to considering whether particular plans were or were not in conformity with an existing bye-law, or, assuming they decided certain plans were not in conformity with such bye-laws, would they give them exemption?—The two functions would be rather different?—They would. I quite recognise that there are cases where it is desirable not to apply the bye-law too strictly. We cannot give exemption at the present day. We really have to carry out the bye-laws.

1697. My question is as to how far you would go?—I think there are cases where it is desirable to give exemption in special cases.

Lord *Burghclere.*

1698. You admit that even a district council may go wrong sometimes?—Certainly. Nobody is infallible.

1699. Would not the appeal in these circumstances be better to a local authority than to some body sitting in London who knows nothing of the circumstances of the district?—It is an appeal on two points. If it were on a question of construction of a bye-law no one is better than an architect or someone advising the Local Government Board.

1700. But on the question of exemption, which you said yourself you thought was desirable, it would certainly turn a good deal upon legal matters. Supposing a district council were not satisfactory and an appeal necessary, would not that appeal be rather better to a local body who know all about it than to a body sitting in London who know nothing about the circumstances of the case except by calling witnesses in a very expensive manner?—The circumstances may be put before the Local Government Board in writing by both parties, and they could decide whether it was desirable to make the exemption.

1701. But you yourself suggested a special authority?—Yes, in case the Local Government Board were unable to undertake the work.

Lord *Burghclere*—continued.

1702. Would it be better that such a tribunal should sit in London or be a local body knowing the circumstances of the case?—My view is to get an authority covering as wide an area as possible, not necessarily the whole country. Perhaps it is desirable that people in the immediate vicinity should decide the question where it depends on local circumstances; but there are very many cases where there would be no difficulty whatever about the exemption. Councils are willing enough to give it if they can.

Chairman.

1703. Do you think there are many cases where exemptions should be granted in order to provide cheaper dwellings in agricultural districts?—I am sure the association recognise that in agricultural districts certain exemptions might well be granted in some cases. For instance, with regard to hearths, chimneys and fire-places, and walls which are not structural walls and details of that kind, but I do not think it would be desirable to grant exemptions from notice to erect and the deposit of a plan. I think no building ought to be put up anywhere of a permanent character of which notice is not given and a plan deposited.

Lord *Kenyon.*

1704. Detail plans?—Detail plans. Nor do I think exemptions ought to be granted with regard to foundations and structure of walls. Of course, the sanitation of a house must depend on its foundations.

Chairman.

1705. You go so far as to say that you would not grant any exemption from providing detail plans and you would not grant any exemption as regards structure or material?—I would not grant any exemption as regards deposit of plans. How much detail is to be given is a question, I think, for the bye-laws in the particular case.

1706. You would require at all events a block plan?—Yes, I think so. With regard to foundations, I think certainly the bye-laws ought to be complied with. There is the case of ventilation also, which I think is a very important matter in any house, no matter what district it is in. As to some of the provisions which are mentioned here, rural district councils have already got exemptions in their byelaws with regard to building detached houses in sparsely populated districts.

1707. You do not think there is any great grievance existing?—I do not think there is such a great grievance throughout the whole country as is imagined.

1708. It is desirable to be able to build as cheaply as possible?—Certainly; there is no doubt about that.

1709. Do you think relaxation in the particulars to which you have referred would not tend to make building a little cheaper?—I hope it would; but I am not sure that the evidence goes to show that more building goes on or that it is done

Chairman—continued.

done cheaper in districts where there are no bye-laws. There are cases of rural districts which have bye-laws in part of their district and no bye-laws in another part of their district, but I do not understand that in those cases the evidence is that building is going on faster or cheaper in a place where there are no bye-laws than it is in a place where there are bye-laws.

Lord *Kenyon.*

1710. You must take into consideration the requirements of the population?—Certainly.

Lord *Zouche.*

1711. I do not think it would follow entirely from the existence of building bye-laws whether building is going on much or not?—No, but I was speaking as to the cost.

Lord *Stanley of Alderley.*

1712. I see it is stated that less than half the rural districts have bye-laws. Could the Local Government Board furnish us with information as to the populations in rural districts without bye-laws and the populations in rural districts with bye-laws?—I could have obtained that information for you. I could have done, as we did before the Highways Committee and got the information from each individual council. I shall be pleased, if you like, to obtain that information now and put it in in the form of a schedule later.

Lord *Hylton.*

1713. When you said just now you agreed it was a great object to get cottages cheaply built you had in your mind, as you suggested before, that people could apply for *mandamuses* and Rules *nisi* and appeals to tribunals in London. All that would not go in the direction of cheapening the building of cottages?—No; what I suggest is that under the new model code of the Local Government Board there is nothing to complain of. I have really not heard of any complaint with regard to building under that model code. I have not read the evidence given before your Lordships, but I do not understand that there is any serious complaint of any hardship under that code; and that is the code which has been adopted in the last two years in 133 rural districts.

Lord *Burghclere.*

1714. How many district councils are there?—656.

1715. Only 133 have adopted the new model?—There are 200 without any bye-laws at all.

1716. Is not it a fact that as a rule district councils would not apply for bye-laws?—Two-thirds of them have got them.

1717. But not the ones you wish them to have. You have said yourself that the only reason the law did not want altering was because the new model bye-laws issued by the Local Government

Lord *Burghclere*—continued.

Board satisfied the matter. You then told us they have some bye-laws already which are not those bye-laws. That cannot be so very satisfactory?—This new model code has, I think, been out two years, and in the two years 133 authorities have adopted it. I think that is evidence that they are taken up.

1718. They are taken up by 133 districts?—Local authorities do not move very fast, and I think 133 in two years is a very fair number. In cases where the Local Government Board think existing bye-laws ought to be modified I have endeavoured to indicate what I suggest might be a solution of the difficulty, by giving any ratepayer the right to represent to the Local Government Board, and letting the Local Government Board call upon the local authority.

Lord *Hylton.*

1719. I see on page 12 of the Minutes of Proceedings of your association which you have handed in, this Bill was discussed. I gather that your association, or at all events your president, was not very averse to the Bill, because all he said was: "They recommend that if the Bill should pass the House of Lords, and be introduced in the House of Commons such action should be brought or the council should request your president to take such action as the council after considering the Bill deem desirable"?—That was purposely worded like that.

1720. Are you here to-day to tell us the association disapproves of the Bill?—The Executive Council at their meeting on the 12th April by the Resolution which I have read to the Committee disapproved of the Bill, and instructed me to send the Resolution to the Lord Chancellor and the Lord Chairman of Committees of the House of Lords, which I did. The president of the association in making that speech pointed out to the meeting that he could not possibly tell, nor could anybody tell, the form in which the Bill would leave your Lordships' House. It might be that the Bill would be so altered by your Lordships that we might not have the same objections to it as we have now. The Resolution was purposely worded in that way because we thought we ought not to condemn a Bill, the details of which when it should get to the House of Commons we had no possible means of knowing.

1721. My point is that your association do not disapprove so strongly of the Bill as you rather led me to believe when you came into the chair that you did?—I am sure I have put it fairly from the point of view of the association. I may also say that our president, Sir Edward Strachey, who was in the room five minutes ago, has read through my evidence, and he told me he entirely approved it. Other members of the council are here, and I am quite satisfied they would tell your Lordship that the Executive Council did disapprove the Bill for two reasons, and their report which came before the association on the 7th June was adopted unanimously.

 1722. Looking

Lord *Stanley of Alderley.*

1722. Looking at page 13 of the minutes of your meeting it is quite clear that the general feeling of the association was against the Bill, that is obvious?—Yes.

Lord *Burghclere.*

1723. I should like to know whether Clause 5 was approved or not approved by your society?—If there is one clause in the Bill to which the Rural District Councils Association desire to offer the most strenuous opposition it is Clause 5, for these reasons: the result of the clause would be that any five ratepayers, not only in any rural district, but in any county borough, urban district, or rural district, could force the Local Government Board to hold an inquiry as to the operation of the bye-laws. It would be the easiest possible thing in the world to get five ratepayers in any borough, urban district, or rural district in England and Wales to sign a petition to the Local Government Board.

Lord *Hylton.*

1724. Would it be easy to get them to put down £50 and guarantee the expenses?—There is a discretion in the Bill left to the Local Government Board. It requires the Local Government Board to hold an inquiry, but it does not require them to call on the applicants to put down £50. It only enables them to do so if they desire to do so.

1725. Do you think you could get any five ratepayers to risk that?—Any five defeated candidates at the last election would be only too glad to do it.

Lord *Zouche.*

1726. Your point is that the deposit of the £50 is not compulsory?—It is not compulsory. If the Local Government Board require the £50 to be deposited the applicants might abandon the matter.

Lord *Hylton.*

1727. You think the applicants would risk that?—With every respect, they risk nothing. They merely require the Local Government Board to hold this inquiry. If the Local Government Board does say, "We must ask you to find £50" they might then say, "We abandon it; we will not go on with it." In the first instance they risk nothing. Your Lordships know it is the easiest possible thing in the world to get five or ten or twenty-five people to sign anything. You can get a petition signed in favour of a Bill and the same people will sign against it. I have had cases before me where petitions to Committees of Parliament have been signed for and against by the same people.

Lord *Stanley of Alderley.*

1728. One of the people who would like to fight very often would be a jerry builder who finds himself pinched. He would be prepared to put down £50 and get five people to sign with him, he financing the matter?—Exactly. But I suggest further than that that there are always people with a grievance or an axe to grind of some kind—any defeated candidate, for instance.

Lord *Hylton.*

1729. Have no successful candidates axes to grind?—Of course, they might want to alter the bye-laws. I am quite certain the Local Government Board will be called upon to hold 1,793 inquiries. I have a case in point to which I desire to call attention to show that this law was in operation on another matter and was altered by Parliament the year before last because it worked so much hardship. That is the Borough Funds Act of 1872 which enabled any ratepayer to demand a poll. Take Manchester, for instance. One ratepayer could demand a poll and the city had all the expense. That applied throughout the whole country and went on for twenty-one years. Then in 1903 the President of the Local Government Board introduced a Bill into Parliament to abolish that. The Borough Funds Act of 1903 provides that a poll cannot be demanded unless it is demanded by 100 electors or one-twentieth of the electorate whichever is the less. That was purposely done to abolish this.

Chairman.

1730. It was not to abolish it but to make it a more extended representation?—Yes. Of course if you have 100 electors or one-twentieth of the electorate it is a different matter.

1731. Is your objection to Clause 5 that five ratepayers is too small a number, or would the objection be the same if you had even 100?—Yes.

Lord *Burghclere.*

1732. Is not your objection against the central authority over-riding the opinion of a district, and imposing upon it laws which their own electors object to?—Yes; and further than that the Local Government Board are here called upon to disallow 1,793 sets of bye-laws which they have sanctioned.

1733. It is not a question of withholding their sanction, which they may rightly do, but it is that any set of bye-laws on the initiative of five electors may be imposed on a district against the will of the district council?—Yes, we object to that very strongly.

Lord *Stanley of Alderley.*

1734. I take it you have half a dozen objections to it?—The executive council feel very strongly against it, and nothing I can say will put their opposition higher than they want to put it.

Lord *Hylton.*

1735. Clause 5 would give the Local Government Board power to substitute. It would not abolish any

Lord *Hylton*—continued

any bye-laws. You said you thought rural district councils had everything to gain by doing what the Local Government Board wish them to do?—Certainly.

1736. Assuming that to be the case, the rural district council would gain very much by Clause 5 becoming law, because it would only enable the Local Government Board to give the rural districts those model bye-laws which in the opinion of the Local Government Board would be for the good of the district and therefore everybody would be happy. The rural district council, according to your own showing, would be happy to oblige the Local Government Board, the Local Government Board would be happy because they would get their model bye-laws in force; and the inhabitants would be happy because they would get these model bye-laws which the wisdom of the Local Government Board and its advisers had adopted as the best of all possible solutions?—But that is not my point at all. My point is that the Local Government Board are bound to hold these inquiries. No result may come of an inquiry at all. I am willing to conceive that they may hold 1,793 inquiries without any result, but I am against holding those inquiries on the application of five or twenty-five ratepayers.

Lord *Kenyon.*

1737. The inquiries might be multiplied time after time?—Yes, the Local Government Board are, upon application, to hold an inquiry if five people ask for it, and the result will be there will be 1,793 inquiries. I do not think much result would come from it.

Lord *Stanley of Alderley.*

1738. May I take it that from contact with your local authorities you are satisfied that they are dead set against this clause?—Yes, certainly.

Lord *Kenyon.*

1739. You say you are in favour of some dispensing power?—Yes, in favour of some dispensing power, not in the hands of the local authorities entirely to exempt in any particular case, but I would give exemption in the bye-laws as is given in Bromley.

1740. And as was done in the case of Maldon and Chelmsford?—Yes, I believe Bromley and Maldon bye-laws are very much the same.

1741. You think, speaking generally, councils would be in favour of that dispensing power?—I think they would. I am quite sure rural district councils are anxious very often not to enforce the bye-laws too stringently, but they are bound to enforce the bye-laws if they have them, and they would be glad to have exemption in many cases whereby certain of the more stringent bye-laws would not apply in sparsely populated districts.

1742. I take it you are in favour of some tribunal to settle questions of interpretation?—Yes, I think there are cases which may easily arise where possibly a more stringent set of bye-laws than

Lord *Kenyon*—continued.

necessary were enacted, and if the local authority cannot be got to apply for bye-laws less stringent I believe it would be desirable to have some means by which pressure could be brought on them.

1743. But you would not wish that tribunal to be elected or brought into operation by county councils?—No.

1744. You think it should be brought into operation by some central authority?—Yes.

1745. The Local Government Board, I suppose, was in your mind?—Yes, I am sure the rural district councils would be against the county council being the Court of Appeal in this case.

Lord *Zouche.*

1746. Then would you object to this tribunal being the Local Government Board?—No, I do not think we should object at all.

Lord *Stanley of Alderley.*

1747. Would you like to have a standing tribunal appointed by the Local Government Board, something like what they have in London, for the whole country?—That was my suggestion. That is on the lines of the recommendation of the Royal Commission on Sewage Disposal; they would appoint a standing tribunal which they say would be a sub-department of the Local Government Board with an expert.

1748. It would not be a legal tribunal, but a professional tribunal?—A lawyer, an architect, and a surveyor.

1749. The majority would be trained common-sense?—Yes.

Chairman.

1750. They would have no power to modify the bye-laws?—No, only to settle disputes.

Lord *Burghclere.*

1751. With regard to the dispensing powers, as I understand from you the dispensing power would have to be the bye-law itself. You do not wish to have a dispensing power for the district council in individual cases?—That is my view. I think the exemption should be in the bye-law. I do not think it is desirable to give the local authority a discretion to relax a bye-law in the case of Smith, and not in the case of Jones. I am sure it opens the door to a lot of favouritism.

1752. You were telling us about the Bromley district just now, and you said the district authority had divided the district up according to the circumstances of the population, and had separate sets of bye-laws for each district?—That is so.

1753. Then if your dispensing power is in the bye-law and becomes a rigid law which the district council has to enforce in all cases, under every circumstance, will not cases arise within the sub-divided areas such as we are talking of, where there may be isolated individual cases where such buildings might be erected without injustice to anybody

Lord *Burghclere*—continued.

anybody, and it would be rather an injustice not to erect them; yet by your rigid bye-laws you would not be able to do that under the circumstances?—We had a case in my own district at Beckenham where under very special circumstances we thought it desirable to dispense with the bye-law, but we had no power. There would not be many cases of that kind if these exemptions were put in different parishes.

Lord *Hylton.*

1754. In that particular case what happened?—I think we said nothing.

1755. (*Chairman.*) You forgot all about it?—We did. It was a very peculiar case, and the circumstances were very special indeed.

Lord *Burghclere.*

1756. Then they have dispensing power?—Local authorities do now and then shut their eyes to a particular bye-law. In this particular case I think a dispensing power of that kind might be given to the Local Government Board. This case would not arise often if you have exemption in particular parishes.

Lord *Kenyon.*

1757. When you said the Local Government Board might be put into motion by one ratepayer what did you mean?—Take a builder who is going to build. He sends his plans to the council; he has a grievance; he can report the facts to the Local Government Board and then the Local Government Board can ask the district council for their observation on his statement of facts. If the Local Government Board are satisfied on that that there is a bye-law in force which is undesirable and unnecessary in the district, then it is very easy for them to represent that to the local authority.

1758. Do you not think there would be a great many cases like that, and would not that throw a very great deal of work on the Board?—I think not.

Lord *Hylton.*

1759. There may be no result from the representation of the Local Government Board—no legal result?—I cannot admit that there would be no result.

Chairman.

1760. But it might be there would be no result in that particular case. There might be a result as regards the bye-laws at some subsequent time, when as you already told us the refusal of a loan might bring the local authority round?—That is so.

Lord *Hylton.*

1761. It might be put in a postscript: "No loan, next time"?—I say if, after the Local Government Board are satisfied a particular bye-law is unnecessary and undesirable, the local authority will not modify it, then let the ratepayer have the right to go for a *mandamus* on that particular bye-law. That will not occur often.

Lord *Stanley of Alderley.*

1762. Do you find out from contact with your various local authorities that the Local Government do frequently make suggestions either when members come up for an interview or by letter as to modifications of bye-laws? Is it a usual thing for the Local Government Board to make such suggestions?—They do make suggestions frequently of their own initiative.

1763. Is it your experience also that as a rule these suggestions of the Local Government Board are apt to be paid attention to, or would you say they are apt to be resisted? Could you say which you think is the more prevalent attitude of your local authorities?—I should say in the majority of cases the suggestions of the Local Government Board are attended to.

1764. That is going on all the time in an informal sort of way; suggestions are being made and in the majority of cases they are being attended to?—That is my own private opinion.

Lord *Zouche.*

1765. Can you suggest any amendment to Clause 5?—Only to delete it. I would like to point out, if I may, that although it is suggested in Clause 4 of the Bill that buildings are not to be exempt from bye-laws with regard to water supply and drainage and that kind of thing, I do not think there is much value in that because of Clause 2.

Chairman.

1766. You think the clause is unnecessary?—The local authority does not get the plan and does not know the house is going to be built and has no means whatever of exercising supervision and seeing that the bye-laws as to water and so on are carried out.

1767. You think Clause 2 dispenses with plans?—I think it is clear. It definitely states so.

Lord *Zouche.*

1768. You said you thought plans ought to be deposited in the case of any building?—I do not think any permanent dwelling house ought to be erected anywhere without plans.

1769. Would you extend that to buildings which are not dwelling houses: for instance, a barn or that kind of thing?—That is not so important. It depends where it is put up. If it is built in close proximity to a dwelling house then I should say, yes.

The witness is directed to withdraw.

REPORT.

PUBLIC HEALTH ACTS (AMENDMENT) BILL [H.L.].

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