

such business, either in any building or vault or in the open air, at a less distance than 40 ft. from any public way, or than 50 ft. from any other such buildings of the 1st or dwelling-house class:—and if any such business be now carried on in any situation within such distances, then, from the expiration of the period of 30 years from the passing of this Act, it shall cease to be lawful to continue to carry on such business in such situation, save as is hereinafter provided:—and if any person erect any building in the neighbourhood of any such business contrary to this Act, then, on conviction thereof before two justices, he shall forfeit a sum not exceeding 50*l.* for every day during which such building shall remain near to any such offensive or noxious business;—or if any person establish anew any such business, or carry on any such business contrary to this Act, then, on conviction thereof before two justices, such person is hereby made liable to forfeit for every day during which such business shall be carried on a sum not exceeding 50*l.* as the said justices shall determine; and the justices may award to the prosecutor such costs as shall be deemed reasonable:—and if the offender either fail or refuse to pay such penalty and costs immediately after such conviction, then they may be levied by distress of the goods and chattels of the person convicted; or if there be no such distress, then such person shall be committed to the common gaol or house of correction for any time not exceeding 6 calendar months, at the discretion of such justices, and that by warrant under the hands and seals of two or more justices of the peace. s. 55.

**Penalty enforceable only of a Special Sessions.—Mitigation of noxiousness of businesses.** Every such penalty hereinbefore imposed shall be enforceable only at a special sessions of the peace summoned for that purpose, or on an appeal as hereinafter provided; or on a trial as hereinafter provided; and notwithstanding the said term of 30 years shall have expired, if any party charged with carrying on such business shew that in carrying on such business all the means then known to be available for mitigating the effect of such business in any such respect have been adopted, then such justices may receive evidence thereof, and according to such evidence mitigate the penalty, notwithstanding the said period of 30 years shall have expired, if it shall appear to the justices, whether at petty sessions as aforesaid, or on appeal, or on trial by jury, as herein provided, that the party carrying on any such business shall have made due endeavours to carry on the same with a view to mitigate, so far as possible, the effects of such business, then, although he hath not adopted all or the best means available for the purpose, yet justices may suspend the execution of their order or determination, upon condition that within a reasonable time, to be named, the party convicted do adopt such other or better means as to the said justices shall seem fit, or before passing final sentence, and without consulting the prosecutor, to make such order touching the carrying on of such business as shall be by the said Court thought expedient for preventing the nuisance in future. s. 56.

**Mitigation of penalty by superior Courts.**—But if the matter in respect of which, such penalty shall be incurred come before any superior Court it shall be lawful for such Court to exercise such power of mitigating such penalty or of suspending the execution of any judgment, order, or determination in the matter, or to make such order touching the carrying on of such business, as to the Court shall seem fit in the case. s. 56.

**Conviction and appeal as to certain trades and specialities.** If any person be dissatisfied with the decision of such justices with regard to any business offensive, noxious, or dangerous, and to any building erected or continued within any such distance as aforesaid therefrom, and if within 4 days after such decision, notice be given to the party appealed against, by or on behalf of such person, of his intention to appeal, and if he enter into a recognizance, with two sufficient securities, conditioned to try such appeal, and to abide the order of the Court, and to pay to the party appealed against such costs (if any) as shall be awarded against him, then it shall be lawful for such party so dissatisfied to appeal against such conviction to the justices of the peace at their general Quarter Sessions of the peace to be holden within 4 months after such conviction for the place in which such premises shall be situated:—and if the premises be situate within the city of London and liberties thereof, then the appeal must be to the Quarter Sessions thereof; or if the premises be situate in the counties of Middlesex, Kent, or Surrey, or in the city and liberties of Westminster, or in the liberties of her Majesty's Tower of London, then to the Quarter Sessions thereof respectively, as the case shall be:—and if within the above-mentioned period such appellant shall have entered into such recognizance as herein required, and if within one calendar month thereafter he give notice of the grounds of such appeal, then it shall be lawful for such justices, and they are hereby empowered, to proceed to hear and examine on oath into the causes and matters of such appeal, and to determine the same, and to award such costs to be paid by the said parties as they think proper:—and the order, judgment, and determination of the said justices in their respective sessions shall be binding and conclusive upon all parties. s. 57.

**Trial by jury at Quarter Sessions.** If before conviction by two such justices the party complained against desire to have the matter tried by a jury, and enter into a recognizance to try such matter without delay, and to pay all costs of trial if a verdict be found against him, then such matter may be tried at the next practicable Court of Quarter Sessions, or whenever the court shall appoint; and thereupon, or on the application of such party, the said Court of Quarter Sessions shall issue their warrant or precept to the sheriff or other proper officer (as the case may be), requiring him to return a competent number of persons qualified to serve on juries according to the provisions of 6 Geo. 4; and the said Court of Quarter Sessions shall, by precept, from time to time as occasion may require, call before them respectively every person who shall be thought proper or necessary to be examined as a witness before them on oath concerning the premises.

**View of the premises.** And if the Court think fit, they may authorize the jury to view the place in question in such manner as they shall direct, and command the attendants of such jury, and of all such witnesses and parties as shall be necessary or proper;—and the said jury shall inquire and try, and determine by their verdict whether the business in question be offensive or noxious, and whether the party in question have done any act whereby the penalty hereby imposed in respect thereof has been incurred:—and, subject to the power hereinbefore conferred of mitigating such penalty, or suspending their judgment, order, or determination thereon, or making such order touching the carrying on of the business aforesaid, the said Court of Quarter Sessions shall give judgment according to such verdict, and shall award the penalty (if any) incurred by the defendant, and shall and may (if they see fit) award to either of the parties such costs as they may deem reasonable: which verdict, and the judgment, award, order, or determination thereupon, shall be binding and conclusive. s. 58.

**Appeals to Quarter Sessions for Surrey, to Sessions at Southwark; for Kent, to Sessions at Greenwich.** If an appeal be made to the General Quarter Sessions of the peace for the county of Surrey or the county of Kent, the jury (if any) to be impanelled in pursuance of this Act, and all parties required to attend the Quarter Sessions for the said counties, pursuant to such application, shall be impanelled and required to attend at some general or special adjournment of the said Quarter Sessions to be held within 6 weeks next after the original sessions:—and if the matter relate to the county of Surrey, such adjournment shall be to some convenient place in the borough of Southwark; and if the matter relate to the county of Kent, such adjournment shall be to some convenient place in the borough of Greenwich:—and such times and places shall be appointed by the justices of the said counties respectively assembled at such original sessions; and from time to time every further meeting of the said sessions, for any thing to be done upon such application, shall be appointed at or within the space of 3 weeks from the last meeting; and from time to time the justices of the peace for the said counties of Surrey and Kent respectively, shall make such adjournment and hold such sessions as there shall be occasion. s. 59.

**Common law and statutory remedies not affected.** This Act shall not be deemed to authorize any person to carry on any such business either within such limits or otherwise, or any business which it is unlawful to carry on within any limits or in any manner contrary to any public, local, or private Act of Parliament, or otherwise contrary to law; or to affect, abridge, or restrain the right, the duty, or the power of any person, whether private person or public officer, to prosecute, either civilly or criminally, any person who shall carry on within the limits of this Act any offensive, noxious, or dangerous business. s. 60.

**Regulation or removal, by purchase, of trades deemed nuisances.** If two-thirds in number of the inhabitant householders of any parish in which any offensive, noxious, or dangerous business shall be carried on, present a memorial to her Majesty in Council, stating the existence of such offensive, noxious, or dangerous business in such parish or the neighbourhood thereof, and praying the removal of such business therefrom, and thereby engaging to provide compensation to the persons carrying on the same, either at the expense of the memorialists, or by means of a rate to be levied on the inhabitants of the said parish, or such part thereof as may be affected by such business, it shall be lawful for her Majesty to refer the matter to the Lords of the Committee of Privy Council for Trade to consider the character of such business, whether it be offensive, noxious, or dangerous; and if it appear to be so, and that there are no means of rendering it otherwise by the adoption of methods available, without unreasonable sacrifice on the part of the person by whom it is carried on, then it shall be lawful for her Majesty, by order in Council, to direct that the removal of such business may be purchased, either at the expense of the memorialists or by means of a rate as aforesaid, as to her Majesty shall seem fit, and also to direct the sheriff of the county or other proper person in the parish or liberty in which such business is carried on to summon a jury, according to the provisions of an Act, 4 Vict., intitled "An Act to enable her Majesty's Commissioners of Woods to

make a new Street from Coventry-street to Long Acre, and for other improvements in the Metropolitan," to determine what compensation shall be paid to the party carrying on such business for the removal thereof, and to the owner and occupier of the premises for the restriction of the use of his buildings for such purpose; and if within 3 calendar months after the verdict of such jury shall be given, and judgment thereon, the inhabitants of such parish or neighbourhood pay or tender such compensation, then within 3 calendar months from the payment or tender of such compensation it shall cease to be lawful for the party carrying or such business to continue the same, and for any owner or occupier thereof either to carry on or to permit to be carried on such business in the same or any part of the same premises. s. 61.

**Funds for defraying compensation.** If her Majesty by such order direct the compensation to be paid by means of a rate, it shall be lawful for the overseers of the parish to raise such sum as shall be necessary, either as a separate rate in the nature of poor's rate, or as part of the poor's rate; or if in pursuance of the memorial of the inhabitants of each part of the said parish as shall be affected by the said business it be appointed by such order in Council that such last-mentioned inhabitants defray such compensation, then it shall be lawful for the said overseers to raise such sum as shall be necessary for that purpose. s. 62.

**Exemption of public gas-works.** The provisions of this Act in reference to businesses dangerous in respect of fire or explosion, or offensive or noxious, shall not be deemed to apply to any public gas works heretofore established within the limits of this Act; and if by any Act of Parliament now in force relating to gas companies to which such works belong, any extension of such works, or any additional works, or any other works, be authorized to be erected or substituted, such provisions shall not be deemed to apply to any such extension, addition, or substitution within the limits of the district now lighted from such first-mentioned works.

**Distilleries.** And such provisions shall not be deemed to apply to any premises entered or used for the purpose of distillation or the rectification of spirits under the survey of the Commissioners of Excise or their officers. s. 63.

**VACANT districts,** justices to appoint new surveyors to, within one calendar month. s. 74. See *Justices of the Peace, also Official referees*, for appointment, permanent and temporary.

**VENTILATION.** See *Back yard*.

**VERANDAHS.** See *Roof coverings*.

**VESTIBULES** of 3rd class buildings, floors of, must be fire-proof. Schedule C, Part VI.

**VINEYARDS.** See *Attached buildings and offices*.

**WAINSCOT,** expenses of pulling down for performing party structures recoverable. s. 46.

**WANDSWORTH parish** included within the operation of the Act. s. 3.

**WARRE,** damage to be made good by neighbours, parts of whose buildings may fall thereon. See *Chimneys, ruinous*.

**WAREHOUSE.** See *Second class*.

**WATER-CLOSETS.** See *Drains, also Privy*.

**WHARF-walls** are under special supervision. Schedule II, Part I.

**WIDTHS** (measured at right angles to the course of the way from front to front, in every part thereof): of streets (excepting any mews) to be 40 feet at least; but if the buildings fronting any street be more than 40 feet high from the level of the street, then such street must be of a width equal at the least to the height of the buildings above such level; alleys and every mews must be of the width of 20 feet at the least, but if the buildings fronting any alley, or to any mews, be more than 20 feet high from the level of the alley or mews, then such alley or mews must be of a width equal at the least to the height of the buildings above such level. Schedule I.

**WILL,** tenants at, not considered by the Act as owners. s. 2.

**WINDOWS** of rooms more than 3 feet under ground, and to cellars let as separate dwellings must be at least 9 superficial feet, and be glazed, of which 4 feet must open for ventilation. Schedule K.

**Windows.** See *Back yard*.

**WINDOW-FRAMER** and sashes of turrets, dormers, lantern-light, and other erections on roofs, may be of wood. See *Roof coverings*.

**WOODWICH parish** included within the operation of the Act. s. 3.

**WORKMANSHIP,** questions relative to, official referees are to decide, being thereto required in writing. s. 67.

**WORKMEN** may be fined, and, in default, sent to gaol. See *Penalty*.

**YARDS,** open. See *Back-yard*.

**YEARLY** tenants, and tenants for less terms, not considered under the Act as owners. s. 2.

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