ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

****

C A P. LXXXV.

An Act for the Regulation of Chimney Sweepers and Chimneys. [7th *August* 1840.]

WHEREAS an Act was passed in the Fifth Year of the Reign of His late Majesty, intituled *An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for the safer Construction of Chimneys and Flues*, to continue in force until the First Day of *January* in the Year One thousand eight hundred and forty, and from thence until the End of the then next Session of Parliament; be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Act shall continue and remain in full Force until the First Day of *July* in the Year One thousand eight hundred and forty-two.

4 & 5 W. 4. c. 35.

Continuance of 4 & 5 W. 4 c. 35.

II. And be it enacted, That from and after the First Day of *July* in the Year One thousand eight hundred and forty-two, any Person who shall compel or knowingly allow any Child or young Person under the Age of Twenty-one Years to ascend or descend a Chimney, or enter a Flue, for the Purpose of sweeping, cleaning, or coring the same, or for extinguishing Fire therein, shall be liable to a Penalty not more than Ten Pounds or less than Five Pounds.

Penalty for compelling or allowing Children to climb Chimneys.

III. And be it enacted, That from and after the passing of this Act it shall not be lawful to apprentice to any Person using the Trade or Business of a Chimney Sweeper any Child under the Age of Sixteen Years, and that every Indenture of such Apprenticeship which may be entered into after such Date shall be null and void.

No Child under Sixteen Years to be apprenticed to a Chimney Sweeper.

IV. And

Apprentices may apply to be discharged.

IV. And be it enacted, That upon the Application of any Child apprenticed to any Person using the Trade or Business of a Chimney Sweeper, at any Time after the First Day of *July* One thousand eight hundred and forty-one and previously to the First Day of *July* One thousand eight hundred and forty-two, to any Justice of the Peace having Jurisdiction where the Master or Mistress of such Child shall reside, it shall be lawful for such Justice to summon such Master or Mistress to appear, at a reasonable Time to be named in the Summons, not being sooner than Seven Days from the Time of granting the Summons, before any Two Justices having Jurisdiction as aforesaid; and upon Proof made upon Oath, to the Satisfaction of the Justices by whom the Case shall be heard, that such Apprentice is desirous of being discharged from his or her Apprenticeship, it shall be lawful for such Justices forthwith to discharge such Apprentice by Warrant under their Hands and Seals, for which Warrant no Fees shall be paid; and no Writ of Certiorari or other Process shall issue to remove any Proceedings under this Enactment into any of Her Majesty's Superior Courts of Record in *England* or *Ireland*, or into the Court of Session in *Scotland*.

Indentures of Children under 16 Years to cease after 1st July 1842.

V. And be it enacted, That from and after the First Day of *July* One thousand eight hundred and forty-two all existing Indentures of Apprenticeship to the Trade or Business of a Chimney Sweeper of any Child who shall then be under the Age of Sixteen Years shall be null and void.

Regulating Construction of Chimneys.

VI. And whereas it is expedient, for the better Security from Accidents by Fire or otherwise, the improved Construction of Chimneys and Flues provided by the said Act be continued; be it enacted, That all Withs and Partitions between any Chimney or Flue which at any Time after the passing of this Act shall be built or rebuilt shall be of Brick or Stone, and at least equal to Half a Brick in Thickness; and every Breast-back and With or Partition of any Chimney or Flue hereafter to be built or rebuilt shall be built of sound Materials, and the Joints of the Work well filled in with good Mortar or Cement, and rendered or stuccoed within; and also that every Chimney or Flue hereafter to be built or rebuilt in any Wall, or of greater Length than Four Feet out of the Wall, not being a circular Chimney or Flue Twelve Inches in Diameter, shall be in every Section of the same not less than Fourteen Inches by Nine Inches; and no Chimney or Flue shall be constructed with any Angle therein which shall be less obtuse than an Angle of One hundred and twenty Degrees, except as is herein-after excepted; and every salient or projecting Angle in any Chimney or Flue shall be rounded off Four Inches at the least, upon pain of Forfeiture, by every Master Builder or other Master Workman who shall make or cause to be made such Chimney or Flue, of any Sum of not less than Ten Pounds nor exceeding Fifty Pounds: Provided nevertheless, that notwithstanding this Act Chimneys or Flues may be built at Angles with each other of Ninety Degrees and more, such Chimneys or Flues having therein proper Doors or Openings not less than Six Inches Square.

Before whom Convictions may be had.

VII. And be it enacted, That all Convictions for Penalties for any Offence against this Act may be had before Two or more Justices of the Peace acting for the County, Riding, City, Borough, Division, or Place where the Offence shall happen, or before the Sheriff or

Stewart of any County or Stewartry in *Scotland*; and such Penalties, and the Costs and Charges attending the Recovery thereof, shall be levied by Distress and Sale of the Goods and Chattels of the Offender or Person liable or ordered to pay the same respectively, by Warrant under the Hands and Seals of Two or more of the said Justices, or under the Hand of any such Sheriff or Stewart, rendering the Overplus of such Distress and Sale (if any) to the Party or Parties, after deducting the Charge of making the same, which Warrant such Justices or Sheriffs or Stewarts are hereby empowered and required to grant, upon Conviction of the Offender by Confession, or Oath of One or more credible Witness or Witnesses; and the Penalties, Costs, and Charges, when so levied, shall be paid, the one Half to the Informer, and the other Half to the Overseers or Managers of the Poor of the Parish, Township, or Place where the Offender shall dwell and inhabit, to be by such Overseers or Managers applied in aid of the Rate or Assessment raised for the Relief of the Poor of such Parish, Township, or Place, and in *Scotland*, in Parishes where there shall be no Assessment for the Relief of the Poor, as the said Managers shall direct, or to Her Majesty in case there shall be no such Overseer or Manager.

Penalties how to be levied and applied.

VIII. And be it enacted, That the Justices of the Peace or Sheriffs or Stewarts by whom any Person shall be convicted and adjudged to pay any Sum of Money for any Offence against this Act may adjudge that such Person shall pay the same, together with Costs, either immediately or within such Period as the said Justices shall think fit; and that in default of Payment at the Time appointed such Person shall be imprisoned in the Common Gaol or House of Correction (with or without hard Labour), as to the said Justices or Sheriffs or Stewarts shall seem meet, for any Time not exceeding Two Calendar Months; the Commitment to be determinable upon Payment of the Amount of the Penalty and Costs.

In default of Payment of Penalty the Parties convicted to be sent to Prison.

IX. And be it enacted, That no Inhabitant of any Parish, Township, or Place shall be deemed an incompetent Witness in any Suit, Action, Information, Complaint, Appeal, Prosecution, or Proceeding to be had, made, prosecuted, or carried on under the Authority of this Act, for any Offence committed within such Parish, Township, or Place, by reason of such Person being rated or assessed to, or liable to be rated or assessed to, or being otherwise interested in, the Rates or Assessments of any such Parish, Township, or Place.

Inhabitants not incompetent Witnesses by reason of paying Rates.

X. And be it enacted, That where any Distress shall be made for any Sum or Sums of Money to be levied by virtue of this Act the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on account of any Default or Want of Form in any Proceedings relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers from the beginning on account of any Irregularity which shall be afterwards done by the Party or Parties distraining, but the Person or Persons aggrieved by such Irregularity may recover full Satisfaction for the special Damage in an Action on the Case, to be brought in some of the Courts of Record at *Westminster* or *Dublin*, or by Action raised or Complaint preferred in the Court of Session in *Scotland*: Provided always, that no Plaintiff or Plaintiffs shall recover in any Action for any such Irregularity, Trespass, or wrongful Proceeding if Tender of sufficient Amends for any such special

Distress not to be deemed unlawful for Want of Form.

Tender of Amends.

special Damage shall be made by or on behalf of the Party or Parties who shall have committed or caused to have been committed any such Irregularity or wrongful Proceeding before such Action or Complaint brought; and in case no such Tender shall have been made it shall be lawful for the Defendant or Defendants in any such Action, by Leave of the Court where such Action shall depend, at any Time before Issue joined, to pay into Court such Sum of Money as he or they shall see fit, whereupon such Proceedings or Orders and Judgments shall be had, made, and given in and by such Court as in other Actions where the Defendant is allowed to pay Money into Court.

Appeal.

XI. And be it enacted, That any Person who shall think himself or herself aggrieved by any Conviction by any Justice or Justices of the Peace under this Act may appeal to the next Court of General or Quarter Sessions of the Peace which shall be holden not less than Twelve Days after the Day of such Conviction for the County, Stewartry, Riding, City, Borough, Division, or Place wherein the Cause of Complaint shall have arisen; provided that such Person shall give to the Complainant a Notice in Writing of such Appeal, and of the Cause and Matter thereof, within Three Days after such Conviction, and Seven clear Days at the least before such Session, and shall also either remain in Custody until the Session, or enter into a Recognizance, with Two sufficient Sureties, before a Justice of the Peace, conditioned personally to appear at the said Session of the Peace, and to try such Appeal, and to abide the Judgment of the Court thereupon, and to pay such Costs as shall be by the Court awarded; and upon such Notice being given, and such Recognizance being entered into, the Justice before whom the same shall be entered into shall liberate such Person, if in Custody, and the Court at such Session shall hear and determine the Matter of the Appeal, and shall make such Order therein, with or without Costs to either Party, as to the Court shall seem meet, and in case of the Dismissal of the Appeal or Affirmance of the Conviction shall order and adjudge the Offender to be punished according to the Conviction, and to pay such Costs as shall be awarded, and shall, if necessary, issue Process for enforcing such Judgment; and all Judgments, Determinations, and Proceedings of such Justices not appealed from as aforesaid, and of such Sheriff or Stewart or Quarter Sessions, shall be final, and not subject to Review by any Process of Law or Court whatever, any Law or Usage to the contrary notwithstanding.

Conviction not to be quashed for Want of Form.

XII. And be it enacted, That no Conviction or Adjudication made on Appeal therefrom shall be quashed for Want of Form, or be removed by Certiorari or otherwise into any of Her Majesty's Superior Courts of Record; and no Warrant of Commitment shall be held void by reason of any Defect therein, provided it be therein alleged that the Party has been convicted, and there be a good and valid Conviction to sustain the same.

Act may be amended this Session.

XIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

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