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PUBLIC NUISANCE—A CRITICAL EXAMINATION

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WHY is making obscene telephone calls like laying manure in the street? Answer: in the same way as importing Irish cattle is like building a thatched house in the borough of Blandford Forum; and as digging up the wall of a church is like helping a homicidal maniac to escape from Broadmoor; and as operating a joint-stock company without a royal charter is like being a common cold; and as keeping a tiger in a pen adjoining the highway is like depositing a mutilated corpse on a doorstep; and as selling unsound meat is like embezzling public funds; and as garaging a lorry in the street is like an innkeeper refusing to feed a traveller; and as keeping treasure-trove is like subdividing houses which so "become hurtful to the place by overpestering it with poor." All are, or at some time have been said to be, a common (alias public) nuisance. The definition of this offence, according to *Archbold's Criminal Pleading and Practice*, is as follows: "Every person is guilty of an offence at common law, known as public nuisance, who does an act not warranted by law, or omits to discharge a legal duty, if the effect of the act or omission is to endanger the life, health, property, morals, or comfort of the public, or to obstruct the public in the exercise or enjoyment of rights common to all Her Majesty's subjects."[1] The person who commits a public nuisance incurs liability to life imprisonment and unlimited fines. He can be made vicariously liable for the offence if it is committed by his servants. He can be ordered to stop it by an injunction, and made to pay damages in tort if it causes anyone loss. With such a broad concept in existence, backed with such broad remedies, what need have we of any other criminal offence?—or torts?—or remedies in administrative law?

Everything in public nuisance runs contrary to modern notions of certainty and precision in criminal law—and indeed, in civil law as well. How ever did we get an offence of such incredible breadth?

* I am most grateful to Professor J. H. Baker for helping me with some of the ideas and much of the detail. The errors are entirely my own.

[1] 42nd ed., (1985), para. 27–44.

Why is it called "public nuisance" and treated at length in tort books in the same chapter as private nuisance, with which at first sight it seems to have nothing much in common? Does it serve any useful purpose, or is it just an archaic monster which should be painlessly destroyed by Parliament on the advice of the Law Commission, like barratry, praemunire, and being a common night walker? This paper seeks to answer some of these questions.

A. History of The Crime of Public Nuisance

(i) Nuisance—a chameleon word

The word "nuisance"—spelt "nusans" until the spelling was deliberately archaised in the eighteenth century—comes from the Norman-French word "*nuisance*," which in turn comes from the dog-Latin *nocumentum*. The word originally meant no more than "harm." In a sense it was the antithesis of "trespass." Trespass originally meant wrongdoing, and nuisance meant the same thing, but viewed from the receiving end. Over the years lawyers stole both of these words from ordinary speech, assigned them technical meanings, and then accused the man in the street of misusing them. Trespass they completely appropriated, and it is now solely a legal term of art. With nuisance they were less successful, because although it has acquired a technical legal sense it retains its original meaning in everyday speech as well. In consequence it is a chameleon word, with a meaning technical or general, depending on who is using it when and where. Even lawyers often use it in its general sense, and indeed are not always clear in their own minds in which sense it is being used. Herein lies the key to much of the history of public nuisance.

(ii) Nuisance acquires a technical meaning in tort

In the earliest days of the common law, the King's courts provided a remedy for a freeholder dispossessed from his land. The original remedy, the Writ of Right, was supplemented from about 1166 by the more efficient Assize of Novel Disseisin, which together with other new remedies came to supplant it. But what of the man who was not actually dispossessed of his land, but merely prevented from using it? A person might block his entrance and stop him getting in, or stop him using the right of way he must use to get to it; or he might dam a nearby river to get water-power and accidentally flood him out—a recurrent situation before the birth of the steam age. To cover these cases, variants of the Assize of Novel Disseisin were developed. Whereas in the case of dispossession the legal form in

which the complaint was cast was "*Questus est mihi N. quod R. iniuste et sine iudicio desaisivit eum de libero tenemento suo . . .*"—"N. has complained to me that R. unjustly and without a judgment has disseised him of his freehold . . .",[2] the formula where the defendant had merely prevented the plaintiff from using his land was this: "*Questus est mihi N. quod R. iniuste at sine iudicio exaltavit stagnum molendi sui in illa villa ad nocumentum liberi tenementi sui in eadem villa . . .*"—"N. has complained to me that R. unjustly and without a judgment has raised the level of his mill-pond in such a vill *to the nuisance* (i.e. harm) of his freehold in the same vill . . .".[3] Because of the use of the word *nocumentum*, this variant of the assize eventually became known as the Assize of Nuisance. Bracton, writing in the early thirteenth century, took the appropriation of the word "nuisance" a stage further. Having discussed dispossession from land and the remedies available, he then went on to discuss interference with occupation short of actual dispossession. "*Nocumenta sunt infinita*," this passage begins, and in it he uses the word "nocumentum" to describe stopping up private rights of way to land and flooding it out.[4] So the word nuisance, used in a particular context, began to mean a particular type of harm. When later an action on the case was invented to supplement the assize of nuisance—a form of action which later expanded and supplanted it altogether—this new action understandably enough became known as the "action on the case for nuisance." Later still the courts allowed yet further actions on the case for less serious forms of interference with land-use which would have been beneath the notice of the assize of nuisance: behaviour which did not make P's land uninhabitable but merely rendered it less convenient, like blocking the light to windows and keeping pigs next door; and by analogy these were called actions for "nuisance" too.[5] So by the seventeenth century we reach the point where, in the context of disputes between neighbours, the word "nuisance" has come to mean a particular type of harm—namely interference with an occupier's use and enjoyment of land, or his rights over or in connection with it.

[2] Glanvill, *De Legibus et Consuetudinibus Regni Angliae*, ed. G. D. G. Hall (1965), lib. 13 cap. 33; translation by Fifoot, *History and Sources of the Common Law* (1949), p. 11.

[3] *Ibid.*, cap. 36. For the early history of the Assize of Nuisance, and when it first was called this, see Janet Loengard, "The Assize of Nuisance: Origins of an Action of Common Law" [1978] C.L.J. 144.

[4] Bracton, *De Legibus et Consuetudenibus Angliae*, f. 232 (b); ed. Thorne, Vol. 3, p. 191; Fifoot, *History and Sources of the Common Law* (1949), pp. 18–19.

[5] *Aldred's Case* (1611) 9 Co. Rep. f. 57b, 77 E.R. 816, Baker and Milsom, *Souces of English Legal History* (1986), p. 599, where the defendant had erected a pig-sty which blocked the plaintiff's windows and stank him out, "and at the assizes in Norfolk he was found guilty of both the said nuisances, and damages assessed."

(iii) The link between private and public nuisance

When Bracton thought of *nocumenta*, the stopping up of private rights of way was in the forefront of his mind. This inevitably led him to think what the legal position was where a *public* right of way was stopped. This he describes as "*nocumentum iniuriosum propter communem et publicam utilitatem*"—a legal nuisance by reason of the common and public welfare; and he says that if someone, in order to make a fishery or a mill-pond, blocks up a waterway, the obstruction can be removed for the benefit of the general public, although no adjoining occupier is adversely affected.[6] Britton, writing towards the end of the thirteenth century, seems to follow the same process of thought. After discussing nuisances in the sense of matters which prevent the enjoyment of land, and which are civil matters for the King's courts, he adds:

> There are however some nuisances which sheriffs are authorised to redress, as are also our hundreders, and many other freemen, who have view of francpledge for the common benefit; *as is the case of a way being stopped*, in order that passengers may not be too long deprived of their way, and in the case of several other nuisances.[7]

Later writers followed Bracton and Britton, and it became usual for legal writers who were explaining private nuisance to add a discussion of nuisances to public rights of way either immediately before or afterwards.[8] When the concept of private nuisance later grew to include stinking neighbours out with pigs as well as flooding them and blocking up their access, the writers naturally added to their discussion of obstructing the highway a sentence or two on depasturing pigs in city streets—a practice all too common in days when citizens used the streets as dustbins as well as highways—and which like blocking the highway was a criminal matter for the local courts.[9]

The sort of things that amounted to a private nuisance, when so committed against the community in general, were naturally described as "common nuisances." Later, when the word "common" began to mean "ordinary" rather than "of the community," they were usually called "public nuisances" instead.[10] So it is that we find in tort books

[6] Item notandum quod poterit esse nocumentum iniuriosum propter communem et publicam utilitatem quod quidem non esset propter utilitatem privatum, ut si quis firmarverit piscariam vel stagnum habens praeda ex utraque parte aquae, cum fundus suus liber sit ex omni parte quod nihil debeat fundo vicino, subtus nec supra, per hoc licent damnum faciat vicinis, non tamen facit iniuriam: sed tamen propter publicam utilitatem quae privatae praeferetur sustinenda sunt haec ad tollendum publicum damnum. Bracton, *ibid.*, f. 232b; Thorne ed. (1977), vol. 3, p. 190.

[7] Britton, lib. II ch. xxx cap. 8 (de nusaunses); ed. F. M. Nichols (1865), vol. I, p. 402.

[8] Brooke's *Abridgment* (1573), f. 103b; Rolle's *Abridgment* (1668), 138/139.

[9] Blackstone, *Comm.*, Bk. IV, ch. xiii. The case about keeping pigs in the street is *Wigg*, (1705) 2 Salk. 460, 91 E.R. 397; 2 Ld. Raym. 1163, 92 E.R. 269.

[10] In *Viner's Abridgement*, 2nd ed. 1793, vol. 16, p. 19 title "nusance," an attempt is made to

a concept called public nuisance, which as described there centres in practice (although not in modern theory) around blocking up highways and running noisome trades.

The judges as well as the writers had occasion to talk about common nuisance in the same breath as private nuisance. This was because it was at one time a defence for someone sued for private nuisance to show that it was really a public one. Then as now, blocking up and interfering with the highway was primarily a matter for the local criminal courts, and the King's courts early decided that the jurisdictions were mutually exclusive.[11] If what the defendant had done affected the plaintiff only, this was a matter for the courts of common law, but if it affected the whole community it was exclusively a matter for the local criminal courts, and the common law courts had no jurisdiction over it. In the sixteenth century the common law courts relented to the extent of allowing a person who had suffered special damage from a common nuisance to bring an action on the case,[12] and so ensured that judges in civil cases continued to talk about common nuisance.

(iv) Public nuisance in the court leet

The local criminal courts to which the King's courts originally relegated nuisances affecting the community in general were the hundred courts. Important in Saxon times, under the Normans they were reduced to handling minor matters. They either operated under the direction of the sheriff, when the court was often known as the "sheriff's tourn," or under the direction of some local magnate who had appropriated the job, in which case they were known as "the court leet." Latterly they were usually all called "leets," and that is what I shall call them here.

The main business of the leet in later life—apart from fining people for not attending it—was a rag-bag of odds and ends which we should nowadays call "public welfare offences." An idea of what was covered is given by Jonas Adams in his book *The Order of Keeping a Court Leete* (1593).[13] Central to leet jurisdiction were highways. The leet could amerce people for blocking them up,

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distinguish between common and public nuisance. "Nuisance is threefold; 1. Publick or general. 2. Common. 3. Private, or special. Publick is that which is to the nuisance of the whole realm. Common is that which is to the common nusance of all passing by. Private is that which is to a house or mill & etc." This is based on a statement in Coke's Institutes, vol. 2, p. 406; ch. 24, para. 6; but lawyers have generally used the terms public and common nuisance interchangeably.

11 See page 73 below.

12 See page 74 below.

13 *The Order of Keeping a Court Leete, and Court Baron; with the charges appertayning to the same;* by Jonas Adams. Published by Thomas Orwin and William Kirkham, London 1593. See also W. Hudson, *Leet Jurisdiction in the City of Norwich*, Selden Society No. 5 (1892), especially xxxiv–xxxvii.

encroaching on them, dumping garbage and offal in them, and for failing to scour ditches on their property as a result of which a highway was liable to flood. The leet also dealt with pollution from noxious trades: for example, washing hemp or flax in streams or ponds used for watering cattle. It also fined those who let animals wander suffering from the scab, and victuallers who sold unwholesome food; fine purveyors who sold short measure or broke the assize of bread and ale; punished those who caught immature fish or hunted out of season; and put down bawdy-houses, disorderly ale-houses, night-walkers, eavesdroppers and common scolds. Its criminal jurisdiction shaded into administrative duties; thus it was also supposed to make sure the locals practised archery, destroyed crows' nests and maintained the parish stocks. Finally it had legislative functions as well: it could enact bye-laws for the hundred, which it enforced by fining those who broke them.

All the things that were traditionally punishable in the leet seem to have been pieces of misconduct harmful to the community: "common nuisances" in a non-technical sense. When the King's courts at Westminster began to supervise leet jurisdiction they held that it was limited to such matters, and when a person was prosecuted in the leet the presentment was required to state that his behaviour was "*ad commune nocumentum.*"[14] Thus it was that the term "common nuisance" came in the context of the court leet to mean virtually any offence which that court could try. When William Sheppard described the jurisdiction of the court leet in the 1660s he ranged the bulk of the offences with which it could deal under the heading "common nuisances." Under this heading he put matters affecting public highways and waterways; polluting the air "with houses of office, laying of garbage, carrion or the like, if it be near the common high way"; victuallers, butchers, bakers, cooks, brewers, maltsters and apothecaries who sell products unfit for human consumption; running "lewd ale-houses"; and subdividing houses in good neighbourhoods "that become hurtful to the place by overpestring it with poor."[15]

Courts leet were already in decline by the time Coke wrote his Institutes. The business of these ancient courts was quietly taken

[14] "A presentment was made in a leet for erecting a glass-house, which was said to be *ad magnum nocumentum* . . . But this presentment was clearly ill, because it was not *ad commune nocumentum* . . . " Anon (1669) 1 Ventris 27, 86 E.R. 19.

[15] William Sheppard, *The Court-Keeper's Guide, or a Plain and Familiar Treatise needful and useful for the help of many that are imployed in the keeping of Law-days, or courts Baron*, 5th ed., 1662. From Rolle's *Abridgment* (1668), p. 139, who cites the case of *Brown* (1634) Pasch. 10 Car. B.R., it seems that the courts condemned the subdivision of properties because they thought the impoverished inhabitants would catch the plague, not because they thought they were one.

over by the justices of the peace at their quarter-sessions, which took over the terminology "common nuisance" with it.

(v) Public nuisance, public mischief, and the power of the King's Bench to create new offences

The Star Chamber, and in more recent times the King's Bench and its successor the King's Bench Division of the High Court, were assumed to have a residual power to punish any misconduct that threatened the public good.[16] Applying this doctrine the King's Bench repeatedly extended its jurisdiction to punish throughout the course of modern legal history. Sometimes it held it could punish behaviour previously thought punishable only in other courts—like blasphemy,[17] indecent behaviour[18] and publishing obscene books,[19] which were originally matters for the ecclesiastical courts, or selling unwholesome food, which was a matter for the court leet.[20] But occasionally it made criminal some piece of misbehaviour previously not punishable at all—like wasting the time of the police,[21] or bathing in the nude.[22]

Modern writers generally talk in terms of the court's inherent jurisdiction to create new offences, and treat each example of its exercise as a separate offence. Thus we find separate sections in the books on incitement, made punishable in *Higgins* in 1801[23] and on blasphemy, which the King's Bench poached from the ecclesiastical courts in *Taylor's* case in 1676;[24] and until the offences were abolished, we also used to find separate sections on cheating and on concealment of treasure trove. Some writers and judges in the past, however, talked of the court having an inherent power to penalise *any public*

[16] William Hudson, *A Treatise of the Court of Star Chamber*, (in Hargrave, Collectanea Juridica) (1792), vol. II, 1, 107: "Leaving now the particulars, I come to express the great and high jurisdiction of this Court, which, by the arm of sovereignty, punisheth errors creeping into the Commonwealth, which otherwise might prove dangerous and infectious diseases, and giveth life to the execution of laws, or the performance of such things as are necessary in the Commonwealth, yea although no positive law or continued custom of the common law giveth warrant to it." *Bagg's Case* (1615) 11 Co. Rep. 93(b), at 98(a), 77 E.R. 1271, 1277. "And in this case, first, it was resolved that to this Court of King's Bench belongs authority, not only to correct errors in judicial proceedings, but other errors and misdemeanours extra-judicial, tending to the breach of peace, or oppression of the subjects, or to the raising of faction, controversy, debate, or to any manner of misgovernment; so that no wrong or injury, either public or private, can be done but it shall be here reformed and punished by due course of law." *Cf. Shaw* v. *D.P.P.* [1962] A.C. 220, *per* Viscount Simonds at p. 268: "In the sphere of the criminal law I entertain no doubt that there remains in the courts of law a residual power to enforce the supreme and fundamental purpose of the law, to conserve not only the safety and order but also the moral welfare of the state, and that it is their duty to guard it against attacks which may be the more insidious because they are novel and unprepared for."

[17] *Taylor* (1676) 1 Vent. 293, 86 E.R. 189.

[18] *Sedley* 1 Sid. 168, 82 E.R. 1036, 17 St. Tr. 155.

[19] *Curl* (1727) 2 Str. 788, 93 E.R. 849.

[20] *Dixon* (1814) 3 M. & S. 12, 105 E.R. 516.

[21] *Manley* [1933] 1 K.B. 529.

[22] *Crunden* (1809) 2 Camp. 89, 170 E.R. 1091.

[23] (1801) 2 East 5, 102 E.R. 269.

[24] See note 17 above.

mischief, and put some of the examples of criminal equity in action under this heading. This gave rise to the notion that there was a general offence called "public mischief," consisting of doing anything which the court thought damaging to the public welfare. Other lawyers have spoken of these judicial creations as examples of the court's inherent power to penalise a *common* or *public nuisance*, using the word nuisance in its widest and original sense, which is much the same as "public mischief." Indeed, when we open the packages labelled "power of the court to create new offences," "public mischief" and "public nuisance" we find that the contents of the packages are almost interchangeable.

A good example is *Higgins*, where it was first held that a person can be prosecuted for inciting another to commit a crime. This case is normally taken to have created a new crime; incitement. In the course of his judgment Lawrence J. said "all offences of a public nature, that is, all such acts or attempts as tend to the prejudice of the community, are indictable," and in *Manley*[25] his words were taken as authority for the existence of a crime of public mischief; they would have been equally apt to support the crime of public nuisance as the books at present define it. Another is *Dixon*,[26] where a man was convicted for supplying adulterated bread to the Royal Military Asylum. The case appears in many books as authority for the common law offence of cheating; but in *Brailsford*[27] the Attorney-General cited it as authority for the existence of an offence of *public mischief*,[28] and in the seventh edition of *Bacon's Abridgment* in 1832 it is given under the heading *common nuisance*.[29] In *De Berenger*[30] the defendant was convicted with others of an offence at common law for circulating false rumours of the death of Napoleon, in order to affect the price of shares. Lord Ellenborough described this as a conspiracy to effect a public mischief. Bayley J., however, said ". . . it is not necessary to constitute this an offence that it should be prejudicial to the public in its aggregate capacity, or to all the King's subjects, but it is enough if it be prejudicial *to a class of the subjects*"—which, of course, is supposed to be the test of whether conduct amounts to a public nuisance. In the early nineteenth century there was a campaign of prosecutions against the time-honoured practice of men bathing in the nude, which the King's Bench in *Crunden*[22] obligingly held to be a crime at common law. Some writers describe this decision as part of a new offence—indecency at common law. Defence counsel in the

[25] [1933] 1 K.B. 529.
[26] (1814) 3 M. & S. 12, 105 E.R. 516.
[27] [1905] 2 K.B. 730. The defendant had conspired to obtain a passport by using false pretences.
[28] *Ibid.*, at p. 739–740.
[29] Vol. V, p. 792.
[30] (1814) 3 M. & S. 67; 105 E.R. 536.

case objected that the prosecutor could not properly complain since he had "come to the nuisance," and on the strength of this other writers put the case under the heading "public nuisance," where it remains in some books to this day.[31]

Thus we have the expression "public nuisance" used more or less to describe the power of the King's Bench and its successors to punish any behaviour, whether previously thought criminal or not, which is felt to be harmful to the public.[32]

(vi) Parliament adds to the list

It was once settled constitutional law that the King had a dispensing power, by which he could absolve subjects in advance from the duty to comply with a statute. James II got into trouble not because he purported to have this power when he did not, but because he abused it by excessive use. When the power was generally recognised to exist it was said to be subject to a general limitation: the King could use the dispensing power to license *malum prohibitum*, but not *malum in se*.[33] A passage in the Year Book of 11 Henry VII[34] gave the following as an example of *malum in se*: "as if the King were to pardon someone [in advance] to kill another, *or license him to make a nuisance on the highway*, this would be void and yet when they have been done, the King may pardon them." This passage passed into general legal knowledge and gave rise to the doctrine that if something was a common nuisance the King could not use the dispensing power to permit it. Thus when Parliament was particularly anxious that the King should not covertly permit what Parliament wished to forbid it took to inserting a clause in the Act of Parliament

[31] See Archbold, *Criminal Pleading and Practice* (42nd ed., 1985), para. 27–62.

[32] In Rolle's *Abridgment* (1668), under the general heading "indictment," we find the heading "nusans," and under this he assembles a heterodox collection of bits and pieces which the judges at one time or another had ruled were indictable offences at common law; concealment of treasure trove, digging up the wall of a church, making off with the property of a Royal foundation; and also stopping up the highway, put here I would guess not because there was any doubt that it was punishable, but because Rolle wanted to point out that it was punishable at Assizes or in the King's Bench as well as in the obsolescent court leet. In the chapter on indictments in Hawkins's *Pleas of the Crown*, the author writes: "As to the third point, *viz.*, What matters are indictable: There can be no doubt, but that all capital crimes whatsoever, and also all kinds of inferior crimes of a public nature, as misprisions, and all other contempts, all disturbances of the peace, all oppressions, and *all misdemeanours whatsoever of a publickly evil example against the common law, may be indicted; but no injuries of a private nature, unless they in some way concern the King*" (my italics). This is much the same sort of language as lawyers use to distinguish between a public and a private nuisance. In East's *Pleas of the Crown* (1803) common nuisance at common law appears in a chapter XXII which is entitled "Malicious or Fraudulent Mischief."

[34] (1495) Y.B. Mich. 11 Hen. VII ff. 11–12, pl. 35. See Sir H. Finch, *Law* (1678), bk. 4, p. 234: "Prerogative. He [the King] may licence things forbidden by the Statutes. As to coin money which is made Felony by statute, and was before lawful, for that is but *malum prohibitum*. But *malum in se*, as to levy a nusance in the Highway, he cannot licence to do: but when it is done he may pardon it."

deeming the forbidden behaviour to be a common nuisance in order to make it proof against the dispensing power.

The most celebrated instance of this was in 1666 when, there being a feeling among English landowners that Irish beef was undercutting their products, Parliament passed an Act forbidding Irish cattle to be imported; and, lest Charles II—who was opposed to the measure in his capacity of King of Ireland—should license Irishmen to break the statute, also deemed the importation of Irish cattle to be a common nuisance.[35] The following year, when passing an Act for the rebuilding of London after the Great Fire, it deemed it to be a public nuisance to erect any building in London or Westminster except subject to conditions laid down in that Act.[36]

The dispensing power eventually disappeared as a result of the Bill of Rights Act 1689. That Act did not abolish it outright, however, but killed it off by degrees. The Bill of Rights condemned the dispensing power, but only partially, declaring it to be illegal "as it hath been assumed and exercised as of late." Section 12 of the Act said that ". . . no dispensation by *non obstante* of or to any statute, or any part thereof, shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more Bill or Bills to be passed during this present session of Parliament." The intention seems to have been that the King should retain some limited dispensing power, the limits of which were to have been laid out in a later statute. In the event no such statute was ever passed, and the dispensing power ceased to exist. But for some time afterwards people seem to have thought that there was a chance of a statute being passed to revive it, and Parliament went on deeming things it particularly disliked to be common nuisances just to be on the safe side. So in addition to the importation of Irish cattle and building in London or Westminster contrary to conditions laid down by Act of Parliament it became a common nuisance to make or sell fireworks;[37] to run a lottery;[38] as a reaction to the South Sea Bubble, to run a joint-stock company without a charter of incorporation;[39] and following the great fire there, to build a house with a thatched roof in the borough of Blandford Forum.[40]

[35] 18 Car. II cap. 2. See Carolyn A. Edie, *The Irish Cattle Bills*, Transactions of the American Philosophical Society (New Series), vol. 60, pt. 2 (1970).
[36] 19 Car. 2 cap. 3 s. 3.
[37] 9 & 10 Wil. III c. 7 s. 1 (1698).
[38] 10 & 11 Wil. III c. 17 s. 1 (1699).
[39] 6 Geo. I c. 18 s. 19 (1719).
[40] An Act for the Better and More Easy Rebuilding of the Town of Blandford Forum, 5 Geo. II c. 16 s. 8. (I suspect the nuisance clause was put there, not because anyone really thought the King would dispense the citizens of Blandford from their statutory duty to tile their roofs, but because there was a similar clause in the Act for the rebuilding of London (see note 36 above).)