fendant's business as a blacksmith was a nuisance to the plaintiff as owner and occupier of an adjoining lot and of his house upon it; and that the defendant's business was carried on by him in the usual, and in a proper, manner. The evidence sustained the findings in both respects; and the result was, that the carrying on of the defendant's business, even in an ordinary, careful, and proper manner, could not be continued there.

The contention that because the shop was not upon a place forbidden by by-law of the municipality, the defendant could not be enjoined from committing a nuisance, so long as his business was carried on carefully, was quite without weight. The power of urban municipalities to regulate and control the location, erection, and use of buildings such as, among many others, blacksmith shops and forges, is a restrictive power, not one by which the right can be given to any one man to injure the property of another, or to deprive another of any of his property or other rights.

The form of the judgment should be changed, as was done in Shotts Iron Co. v. Inglis (1882), 7 App. Cas. 518, and Fleming v. Hislop (1886), 11 App. Cas. 686, so as to enjoin the defendant from carrying on the business of a blacksmith in the manner hitherto pursued by him or in any other manner so as to cause material discomfort and annoyance to the plaintiff; but the operation of the injunction may be stayed, at the defendant's request, for one month, to enable him to comply with it; and, if the defendant choose to remove his business to some other locality where it will not be a nuisance, the stay may be extended for six months more to enable him to do so, upon his request for such extension and his undertaking so to remove, within that time.

With this variation in form, the appeal should be dismissed with costs.

LENNOX, J., concurred.

RIDDELL and MASTEN, JJ., also agreed in the result, for reasons stated by each in writing.

Judgment below varied.