

ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

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CAP. XXIV.

An Act to repeal Part of an Act of the Forty-third Year of the Reign of Queen *Elizabeth*, intituled *An Act to avoid trifling and frivolous Suits in Law in Her Majesty's Courts* in Westminster, and of an Act of the Twenty-second and Twenty-third Year of the Reign of King *Charles* the Second, intituled *An Act for laying Impositions on Proceedings at Law*; and to make further Provisions in lieu thereof. [3d *July* 1840.]

WHEREAS an Act passed in the Forty-third Year of the Reign of Queen *Elizabeth*, intituled *An Act to avoid trifling and frivolous Suits in Law in Her Majesty's Courts* in Westminster, and another Act in the Twenty-second and Twenty-third Years of the Reign of King *Charles* the Second, intituled *An Act for laying Impositions on Proceedings at Law*, which recites that many good Subjects of this Realm have been and daily are undone by such Suits, contrary to the Intention of the said Statute of Queen *Elizabeth;* but the same Evil, notwithstanding, doth still prevail and increase, and it is expedient to make further Provisions for the Prevention thereof: Now be it enacted by the Queen's most Excellent Majesty,

43 Eliz. c. 6.

22 & 23 Car. 2. c. 9.

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 recited Act of the Forty-third of *Elizabeth*, so far as it relates to Costs in Actions of Trespass, or Trespass on the Case, and so much of the Twenty-second and Twenty-third of *Charles* the Second as relates to Costs in Personal Actions, be and they are hereby repealed.

Recited Acts in part repealed.

Costs not to be recovered in Action of Trespass, or of Trespass on the Case, where Damages recovered are less than 40*s.*, unless upon Judge's Certificate, &c.

II. And be it enacted, That if the Plaintiff in any Action of Trespass, or of Trespass on the Case, brought or to be brought in any of Her Majesty's Courts at *Westminster*, or in the Court of Common Pleas at *Lancaster*, or in the Court of Common Pleas at *Durham*, shall recover by the Verdict of a Jury less Damages than Forty Shillings, such Plaintiff shall not be entitled to recover or obtain from the Defendant, in respect of such Verdict, any Costs whatever, whether it shall be given upon any Issue or Issues tried, or Judgment shall have passed by Default, unless the Judge or presiding Officer before whom such Verdict shall be obtained shall immediately afterwards certify on the Back of the Record, or on the Writ of Trial or Writ of Inquiry, that the Action was really brought to try a Right besides the mere Right to recover Damages for the Trespass or Grievance for which the Action shall have been brought, or that the Trespass or Grievance in respect of which the Action was brought was wilful and malicious.

Act not to extend to deprive Plaintiffs of Costs in Actions for Trespass.

III. Provided always, and be it enacted, That nothing herein contained shall extend to or be construed to extend to deprive any Plaintiffs of Costs in any Action or Actions brought for a Trespass or Trespasses over any Lands, Commons, Wastes, Closes, Woods, Plantations, or Enclosures, or for entering into any Dwellings, Outbuildings, or Premises in respect of which any Notice not to trespass thereon or therein shall have been previously served, by or on behalf of the Owner or Occupier of the Land trespassed over, upon or left at the last reputed or known Place of Abode of the Defendant or Defendants in such Action or Actions.

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