

ANNO QUARTO & QUINTO

GULIELMI IV. REGIS.

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CAP. XXXIX.

An Act to give Costs in Actions of Quare impedit. [30th *July* 1834.]

WHEREAS the Delay and Expence of recovering Advowsons, and the Rights of Patronage and Presentation to Ecclesiastical Benefices, by Actions of Quare impedit, are much increased by reason of the Defendants in such Actions not being liable for the Payment of Costs, and the true Patrons are thereby frequently deterred from the Prosecution of their just Rights; and it is also expedient to afford further Protection to Incumbents of Advowsons from vexatious and unfounded Proceedings to disturb them in the Enjoyment thereof: Be it therefore enacted by the King'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 in all Writs and Actions of Quare impedit issued or brought from and after the passing of this Act in *England*, *Wales*, or *Ireland*, where a Verdict shall pass or be given for the Plaintiff or Plaintiffs in any such Writ or Action, the Plaintiff or Plaintiffs in every such Writ or Action, in addition to the Damages to which he or they is or are by Law now entitled, shall also have Judgment to recover his or their full Costs and Charges against the Defendant or Defendants therein, to be assessed, taxed, and levied in such Manner and Form as Costs in personal Actions are now by Law assessed, taxed, and levied; and where in any such Writ or Action the Plaintiff or Plaintiffs therein shall discontinue, or be nonsuited, or a Verdict shall be had against him

Costs may be recovered in Actions of Quare impedit.

If Plaintiff is nonsuited, &c. Defendant to have Judgment.

him or them, that then the Defendant or Defendants in every such Writ or Action shall have Judgment to recover his or their full Costs and Charges against the Plaintiff or Plaintiffs therein, to be assessed, taxed, and levied in manner aforesaid: Provided always, that no Judgment for Costs shall be had against any Archbishop, Bishop, or other Ecclesiastical Patron or Incumbent, if the Judge who shall try the Cause, or if there shall be no Trial by a Jury, the Court in which Judgment shall be given, shall certify that such Archbishop, Bishop, or other Ecclesiastical Patron or Incumbent had probable Cause for defending such Action; but in no Case when the Defence to any such Action shall be grounded upon a Presentation or Presentations, Collation or Collations, previously made to any Benefice, shall such Presentation or Presentations, Collation or Collations, be deemed or considered probable Cause for defending such Action.

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