ANNO QUARTO & QUINTO

# GULIELMI IV. REGIS.

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## CAP. LXXXIII.

**An Act to amend an Act passed in the Third Year of His present Majesty, intituled *An Act for shortening the Time required in Claims of Modus Decimandi, or Exemption from or Discharge of Tithes.* [15th *August* 1834.]**

WHEREAS by an Act passed in the Third Year of the Reign of His present Majesty, intituled *An Act for shortening the Time required in Claims of Modus Decimandi, or Exemption from or Discharge of Tithes*, certain Provisions were made limiting the Period within which in Cases of Claims of a Modus Decimandi the Payment or Render of such Modus, and in Cases of Claim of or to any Exemption from or Discharge of Tithes by Composition Real or otherwise, the Enjoyment of the Land without Payment or Render of Tithes or Money, or other Matter in lieu thereof, should be shown to have taken place: And whereas it was by the said Act further enacted, that nothing therein contained should be prejudicial or available to or for any Plaintiff or Defendant in any Suit or Action relative to any of the Matters therein mentioned, then commenced, or which might be thereafter commenced during the then Session of Parliament, or within One Year from the End thereof: And whereas since the passing of the said Act a great Number of Suits have been instituted for the Recovery of Tithes, under the Apprehension on the Part of the Plaintiffs that they would be precluded by the said Act from recovering the Tithes to which they claim to be entitled unless

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unless they prosecuted their Claims within the Periods limited by the said Act: And whereas it is deemed advisable to enable the Defendants in such Suits to cause all further Proceedings therein to be suspended until the End of the next Session of Parliament, upon the Terms hereinafter expressed: 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 from and after the passing of this Act it shall and may be lawful for the Defendant or Defendants in any Action or Suit which may have been commenced or instituted since the passing of the said recited Act for the Recovery of Tithes, or for invalidating Claims of a Modus Decimandi, or an Exemption from or Discharge of Tithes, for Lands in respect whereof no Tithes, nor any Composition in lieu thereof, shall have been actually rendered or paid within the Space of Sixty Years previous to the passing of this Act, with the Consent of the Plaintiff or Plaintiffs in such Action or Suit, to pay the Amount of the Costs and Expences (to be taxed as between Party and Party) which may have been incurred by or on the Part of the Plaintiff or Plaintiffs in such Action or Suit into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Chancery or of the Court of Exchequer, or of the proper Officer of the Court in which such Action or Suit shall have been brought, to the Credit or on account of such Action or Suit; and in every Case where such Costs and Expences shall be so paid into Court, all further Proceedings in such Action or Suit (except as herein-after provided) shall be stayed and suspended until the End of the next Session of Parliament.

Proceedings stayed on Defendant's paying Costs into Court.

II. And be it further enacted, That from and after the End of the next Session of Parliament it shall and may be lawful for the Plaintiff or Plaintiffs in any Action or Suit, in which the Defendant or Defendants shall have caused the Proceedings to be stayed or suspended under the Provision herein-before contained to give Notice to the Defendant or Defendants of his, her, or their Intention to proceed in such Action or Suit and to proceed therewith accordingly; and then and in every such Case the Defendant or Defendants shall, immediately after such Notice shall have been so given, be entitled to receive out of Court the Sum or Sums which such Defendant or Defendants shall have previously paid into Court on account of the Costs of the Plaintiff or Plaintiffs.

Plaintiff may give Notice to Defendant of his Intention to proceed; in which Case the Defendant may have his Costs out of Court.

III. Provided always, and be it further enacted, That it shall and may be lawful for the Plaintiff or Plaintiffs in any Action or Suit in which the Defendant or Defendants shall have paid into Court the Costs of such Plaintiff or Plaintiffs under the Provision herein-before contained, to take the Sum or Sums which may have been so paid for such Costs out of Court, for his, her, or their own Use, and then and in every such Case all further Proceedings in such Action or Suit shall be for ever abandoned and relinquished.

If Plaintiff accepts the Costs, all Proceedings to be abandoned.

IV. And be it further enacted, That it shall and may be lawful for the Successors, Heirs, Executors, Administrators, or Assigns of any Plaintiff or Plaintiffs, whose Action or Suit may be so stayed or suspended

Executors, Heirs, &c. may act in case of Death.

pended as aforesaid, to revive and proceed with such Action or Suit after the End of the next Session of Parliament, or to take such Costs as aforesaid out of Court, and cause all further Proceedings to be abandoned and relinquished, in the same Manner in every respect as the original Plaintiff or Plaintiffs might or could have done.

Judges may, upon sufficient Cause shown, permit Actions to be proceeded with.

V. Provided always, and be it enacted, That notwithstanding the Provision herein-before contained it shall and may be lawful for any Party to any Action or Suit so suspended, upon adducing sufficient Proof to the Satisfaction of a Judge of the Court in which such Action or Suit shall have been commenced that there is Danger of some material Evidence in support of the Right or Claim of such Party being lost in consequence of such Suspension, to proceed in such Action or Suit to the Extent of proving such Fact or Facts the Evidence respecting which shall be so shown as aforesaid to be in danger of being lost through such Suspense.

As to previous Claims.

VI. Provided always, and be it enacted, That nothing in this Act contained shall prevent the Prosecution of any Suit in Law or Equity for the Recovery of any Tithes claimed or demanded previous to the passing of the said recited Act, or for the Recovery of the Value thereof.

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