

v. Madisten, 1 Salk. 206, though it seems to be still the law that costs are not recoverable where *double* or *treble* damages are given by a subsequent Statute in cases where *single* damages were not before recoverable, as for driving a distress out of the county on Stat. 1 & 2 P. & M. c. 12; 2 Inst. 189.

But the Statute did not extend to cases where *no* damages were recoverable at common law, as *scire facias*, some kinds of waste, &c., provision for which cases is made by Stat. 8 & 9 W. 3, c. 11, (which, however, is said by Kilty not to have extended to Maryland,) nor to real actions. Damages, however, and consequently costs are given in actions of a mixed nature. There are no costs under it in *popular* actions, where the whole or part of the penalty is given to a common informer, unless they are expressly given him by the Statute; nor are costs given on the traverse of an inquisition, for under this Act there must be a plaintiff and defendant, R. v. Inhabitants of Glastonbury, 2 Str. 1069.

Legislation in Maryland.—There are one or two instances in which our legislation has also given the prevailing party costs; as by the Act of 1715, ch. 40, sec. 4, Code, Art. 10, sec. 14,² the plaintiff in attachment shall recover such costs against the garnishee, as the latter shall put him to by denying indebtedness to the defendant and contesting the same; by Art. 54, sec. 33³ of the Code, (1797, ch. 114, sec. 8,) the successful party in the decision of any caveat in the Land Office recovers his costs; by 1816, ch. 187, Code, Art. 75, sec. 61,⁴ a party obtaining a *certiorari* for the removal of proceedings between landlord or tenant, or in cases of inquest of forcible entry and detainer or forcible detainer, is to give bond for the payment of all costs and damages incurred by the delay, if the matter in controversy be decided against him; it having been queried in Ashton v. Duvall, 4 H. & McH. 4, whether the person suing out a writ of *certiorari* in such a case, which was quashed for irregularity, was liable to costs; by Art. 48, sec. 19⁵ of the Code, costs are allowed to the successful party upon allegations of fraud made by a creditor against an insolvent and issues tried thereon, or on objection to his release upon interrogatories or otherwise, and if any one interested appeal from the decision in such matter, he must by sec. 20⁶ of the same Article give bond to prosecute with effect or pay costs. And by Art. 59, secs. 7, 8,⁷ upon a traverse of the answer to a petition for a mandamus, if a verdict be found for the petitioner, or he have judgment on demurrer or by *nil dicit*, he shall recover damages and costs as in an action for a false return; and if the defendant succeed he shall likewise have his costs. Costs on amendments are in the discretion of the Court, Art. 75, sec. 33,⁸ and on continuances the costs of the term are to be paid by the party applying for the continuance.⁹

² Code 1911, Art. 9, sec. 14.

³ Code 1911, Art. 54, sec. 43.

⁴ Code 1911, Art. 75, sec. 57.

⁵ Code 1911, Art. 47, sec. 21.

⁶ Code 1911, Art. 47, sec. 31.

⁷ Code 1911, Art. 60, secs. 7, 8.

⁸ Code 1911, Art. 75, sec. 45.

⁹ Code 1911, Art. 75, sec. 69.