

be nonsuited, or that any Verdict happen to pass, by lawful Trial against the Plaintiff or Plaintiffs in any such Action, Bill, or Plaint, that then the Defendant or Defendants in every such Action, Bill, or Plaint, shall have Judgment to recover his Costs against every such Plaintiff or Plaintiffs; (8) and that to be assessed and taxed by the Discretion of the Judge or Judges of the Court where any such Action, Bill, or Plaint shall be commenced, sued, or taken; (9) and also that every Defendant in such Action, Bill, or Plaint shall have such Process and Execution for the Recovery and having of his Costs against the Plaintiff or Plaintiffs, as the same Plaintiff or Plaintiffs should or might have had against the Defendant or Defendants, in case that Judgment had been given for the Part of the said Plaintiff or Plaintiffs, in any such Action, Bill, or Plaint.

II. Provided alway, That all and every such poor person or persons being Plaintiff or Plaintiffs in any of the said Actions, Bills, or Plaints, which at the Commencement of their Suits or Actions be admitted by Discretion of the Judge or Judges, where such Suits or Actions shall be pursued or taken, to have their Process, and Counsel of Charity without any Money or Fee paying for the same, shall not be compelled to pay any Costs by vertue and force of this Statute, but shall suffer other **289** *Punishment, as by the Discretion of the Justices or Judge, afore whom such Suits shall depend, shall be thought reasonable, anything afore rehearsed to the contrary hereof notwithstanding.

Hutt. 22, 69, 78. 1 Roll. 63. 2 Roll. 213. Hetley, 146. 5 R. 2, Stat. 1, c. 7. 8 El. c. 2. 2 Inst. 651. Cro. El. 177, 300, 465, 503. 3 Bulstr. 248. Moor. 625. Pl. 857. Costs, Br. 23. 3 Leon. 92. 1 Salk. 207. Hob. 219. 2 Leon. 9, 52. Further provisions relating hereto, 4 Jac. 1, c. 3. Mod. Cases in Law, 344. Dyer, f. 32, 371. Bro. Costs, 23. He that sueth *in forma pauperis* shall be otherwise punished. 1 Roll. 88.

The provisions of this Act are further extended by 4 Jac. 1, c. 3, to nonsuits of the plaintiff, or verdicts for the defendant, in all cases where the plaintiff would have recovered costs, and by 8 & 9 W. 3, c. 11, to the defendant succeeding on demurrer; and if the judgment of an inferior Court for the plaintiff on a special verdict be reversed in error, the defendant is entitled to his costs in the lower Court, it being the same judgment which that Court ought to have given, *Gildart v. Gladstone*, 12 East, 668.

Costs against executors and administrators.—It is under this Statute that executors and administrators suing as plaintiffs were formerly held not