

## CAP. XXVI.

*An act for settling and establishing a court of Exchequer in the north part of Great Britain called Scotland.*

5 Annæ, c. 8.

**W**HEREAS in and by the nineteenth article in a late act of parliament made in the fifth year of her now Majesty's reign, intituled, *An act for an union of the two kingdoms of England and Scotland, it is amongst other things provided, That there should be a court of Exchequer in Scotland after the said union, for deciding questions concerning the revenues of customs and excise there, having the same power and authority in such cases, as the court of Exchequer has in England, and that the said court of Exchequer in Scotland, have power of passing signatures, gifts, tutories, and other things, as the court of Exchequer in Scotland then had, and that the court of Exchequer that then was in Scotland, should remain until a new court of Exchequer be settled by the parliament of Great Britain in Scotland after the union; which union took effect upon the first day of May, in the sixth year of her now Majesty's reign, one thousand seven hundred and seven, and thereby the said two kingdoms of England and Scotland became united into one kingdom, by the name of Great Britain; to the intent therefore that there may be a court of Exchequer settled and established in Scotland, pursuant to the purport and meaning of the said recited act, and of the nineteenth article therein contained; be it enacted by the Queen'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 first day of May, one thousand seven hundred and eight, a court of Exchequer, to be called and known by the name of *The court of Exchequer in Scotland*, shall be, and by authority of this act is hereby erected, constituted, and established in and for that part of *Great Britain* called *Scotland*, and that the said court of Exchequer shall be and is hereby enacted to be a court of record, revenue, and judicature, for and within *Scotland*, and to have continuance for ever, and to be held within the city of *Edinburgh*, at such place or places where the former Exchequer of *Scotland* before the said union was usually held, or at such other place or places in *Scotland*, as by authority from the Queen's majesty, her heirs or successors, and in default thereof, by the judges of the said court of Exchequer for the time being, shall from time to time be directed, limited or appointed.*

From first May, 1708, a court of Exchequer to be erected in Scotland.

And to be a court of record for ever, lord treasurer, and such others as Queen shall appoint to be chief baron

II. And it is further enacted by the authority aforesaid, That the lord high treasurer of *Great Britain* for the time being, and such other person and persons as by commissions from the Queen's majesty, her heirs and successors, under the seal which by the said articles of union is appointed to be kept in *Scotland*, from time to time, shall be ordained, constituted, or appointed to be the chief baron, and other barons of the said court of Exchequer in



in *Scotland*, shall be the judges of and in the said court; and the said lord high treasurer and barons, and the said barons in the absence of the said lord high treasurer, shall have and put in execution all and every the judicial and other powers and authorities of or belonging, or which shall or may appertain or belong to the said court, or wherewith the said court shall be invested, and the said barons shall remain, and have continuance in their respective offices and places *quam diu se bene gesserint*; which barons of the *Exchequer* are to be made of such as have been, are or shall be serjeants at law, or barristers of law of five years standing in some of the four inns of court in *England*, or else of such persons as shall have been, are or shall be advocates in the college of justice in *Scotland* for five years; and the said barons of the *Exchequer* in *Scotland* shall respectively take the same oaths of office, *mutatis mutandis*, and other oaths, as the barons of the court of *Exchequer* in *England* have used, or ought to take, upon their admissions into their respective offices, the said oaths to be taken for the first time before the court of session in open court, in case the said court be sitting, or otherwise, in case the said court be not then sitting, before any three of the lords of session, and at all times hereafter before the said court of *Exchequer*; and the said chief baron and barons shall use and wear such robes and habits as the chief baron and barons of the court of *Exchequer* in *England* do use and wear, or such other robes or habits as her Majesty, her heirs or successors, shall appoint.

and barons of the *Exchequer*, shall be judges of the said court.

And continue in their offices *quam diu se bene gesserint*.

7 Geo. 2. c. 16.

f. 4.

And take the same oaths of office as the barons in *England*.

And wear such robes, &c.

Other offices to be in the said court.

III. And it is further enacted by the authority aforesaid, That there shall be in the said court of *Exchequer* in *Scotland*, the several offices following, that is to say, The office of Queen's remembrancer, the office of lord treasurer's remembrancer, the office of clerk of the pipe, and such other offices now in being in the court of *Exchequer* in *England*, or are now in being in *Scotland*, relating to signatures, gifts, and tutories, as the Queen's majesty, her heirs and successors, shall from time to time think fit and proper, to be constituted and appointed under the seal which by the said articles of union is appointed to be kept in *Scotland*; and that such persons shall be the masters or chief officers of and in the said respective offices, and for such term, estate, and interest therein, as the Queen's majesty, her heirs and successors, shall from time to time by letters patents under the seal aforesaid, ordain or appoint, and that the said masters or chief officers of the aforesaid several offices shall have and appoint from time to time under them, and in their respective offices, such and so many attornies and clerks as shall be fit and proper for the business in their respective offices; which said masters and chief officers, as also the said attornies and clerks, shall, before their admissions into their offices or places respectively, take such oath or oaths in the said court, or before the chief baron, or one of the barons of the said court, for their faithful and honest carriage and behaviour in their said offices respectively, as the like officers, attornies and clerks in the court of *Exchequer* in *England* have used



used and ought to do, or as by the barons of the said court of *Exchequer* in *Scotland* shall for that purpose be devised and appointed.

Officers, &c.  
may be pun-  
ished for neg-  
lect of duty.

IV. Provided nevertheless, That the said several chief officers in the respective offices aforesaid, as also the said attornies, clerks, and other officers of or belonging to the said court of *Exchequer* in *Scotland* for the time being, shall all of them be subject and obedient to the said court of *Exchequer*, and may be suspended, punished, or amoved by the said court for neglect of duty, or for crimes and misdemeanors in their respective offices and places, or other just causes.

Queen to af-  
sign a seal, for  
the court.

V. And be it further enacted by the authority aforesaid, That there shall be a seal to be assigned or appointed by the Queen's majesty, her heirs and successors, for the sealing all such letters patents, grants, commissions, writs, precepts, and other process and proceedings, which shall issue out of or be awarded by the said court of *Exchequer* in *Scotland*, or ought or shall be directed to pass under the seal of the said court; which seal shall be kept in the custody of the chief baron of the said court of *Exchequer* in *Scotland*, for the time being; and the said chief baron or such person or persons as he shall depute, and for whom he will be answerable, shall therewith seal all letters patents, grants, commissions, writs, precepts, and other process and proceedings before-mentioned, which shall be brought to be sealed; and for that purpose shall attend at proper and convenient times and places to be directed by the said court of *Exchequer* in *Scotland*, or any of the barons thereof (in case any question shall arise touching the same;) and the said court of *Exchequer* in *Scotland* is hereby impowered from time to time to depute and appoint all such other officers, ministers, clerks, servants, and attendants for the constituting of which there is no other provision made by this act, as shall be thought convenient for the use and service of the said court, and for the carrying on and dispatch of the business therein, subject and liable nevertheless to be suspended, punished, and amoved, and to the taking of such oaths, *mutatis mutandis*, for the faithful execution of their respective offices, places, and employments, as herein before is provided for any the officers, attornies or clerks in the said court of *Exchequer* in *Scotland*; and all and every the sheriffs, by themselves or their sufficient deputies for whom they are to be answerable, and other officers, ministers, and subjects in *Scotland*, are hereby enjoined and required to be from time to time aiding, assisting, obedient to, and attendant upon the said court of *Exchequer* in *Scotland*, and the judges and jurisdiction thereof, in all things relating to the said court of *Exchequer*, which do, may, or shall any ways touch or concern their respective offices or duties in any manner of wise, and shall be liable and subject to such penalties and punishments for neglect of their duties, or for any contempts or disobedience to the said court, or the process thereof, or for any other neglect, contempt, or offence, as shall be

Chief baron to  
keep the same.

Court may  
constitute  
other officers,  
&c. for service  
of the court.

Who shall take  
the oaths, &c.

All sheriffs,  
&c. to be at-  
tendant.



set or imposed upon them respectively by the said court of *Exchequer*.

VI. And be it further enacted by the authority aforesaid, <sup>Its jurisdiction</sup> That all and every the revenues and duties of customs and ex- <sup>and authority.</sup> cise, and all and every other the revenues, debts, duties, and profits of what nature or kind soever, any ways appertaining, or which hereafter shall appertain to the Queen's majesty, her heirs or successors within *Scotland*, either as Queen of *Great Britain*, or as prince and steward of *Scotland*, and all honors, castles, manors, lands, tenements, and hereditaments in *Scotland*, which now do, or hereafter shall appertain to the Queen's majesty, her heirs or successors, by force or virtue of any attainder, outlawry, seizure for any crime or cause of forfeiture, debt, or duty, or upon any extent, commission, or otherwise, or by force and virtue of the royal prerogative, or by any other right or title whatsoever, and all and every the rents, issues, and profits thereof, or of any of them, and also all and every the goods, chattels, debts, credits, rights, titles, and personal estate within *Scotland*, any ways accruing or belonging, or which hereafter shall belong to the Queen's majesty, her heirs and successors, by force or virtue of the royal prerogative, or of any attainder, outlawry, extent, inquisition, debt, duty, or forfeiture, or by any other right, title, ways, or means whatsoever, and all the remedies and means for the recovering the same, or the possession thereof, and all accounts relating thereto, and also all and every forfeitures and penalties which have been incurred, or shall or may incur or become any ways due and payable in *Scotland*, by force or virtue of any law or statute touching or relating to the customs or excise, or by force or virtue of any penal or other laws or statutes whatsoever, and also all fines, issues, forfeitures, or penalties, of what nature or kind soever happening, arising, or accruing to the Queen's majesty, her heirs or successors within *Scotland*, and all informations, actions, suits, or demands, and also all obligations, recognizances, specialties, and other securities, touching or concerning the before-mentioned matters and things, and all prosecutions, remedies, and accounts, for or concerning the same or other the premises, shall be within the jurisdiction and authority of the said court of *Exchequer* in *Scotland*, and hereby are annexed to the said court; and the barons of the said court for the time being shall have and exercise, and by virtue of this act are and shall be invested with all powers, authorities, and jurisdictions as well judicial as otherwise, for the hearing and determining of all actions, suits, and questions in law or equity, touching the aforesaid revenues, honors, castles, manors, lands, tenements, goods, chattels, debts, duties, forfeitures, penalties, profits, and all other matters or things herein before-mentioned, and annexed to the said court of *Exchequer* in *Scotland*, or the jurisdiction thereof; and that the said court of *Exchequer* in *Scotland*, shall and may act, do, and proceed therein and thereupon in every respect whatsoever, as by law, or as the court of *Exchequer* in *England*, by the constitution, course,

Power vested  
in the barons.



Causés triable  
by juries.

course, or practice of or in the said court, hath been or is enabled, or hath used or practised to do in the like cases in *England*, and upon and in all such informations, actions, suits, or demands, or touching or concerning any the premises, or any the proceedings thereupon, shall and may make all such orders and rules, and direct, award, and issue all such writs, precepts, process, and methods of proceedings, as hath or have been, is, are, or may be done or practised in the same or like cases in the court of *Exchequer* in *England*; all which informations, actions, suits, and prosecutions, process, and proceedings relating thereto, or to any the premises shall be had, made, and done in the office of the remembrancer of the Queen's majesty, her heirs or successors, in the said court of *Exchequer* in *Scotland*; and the said barons of the court of *Exchequer* in *Scotland* are hereby authorized and required, in case of any neglect or default by any the plaintiffs or defendants in any the said informations, actions, or suits, or in any other informations, actions, or suits, which shall be commenced, sued, or prosecuted in the said court of *Exchequer* in *Scotland*, for any matter or cause whatsoever within the jurisdiction of the said court, to give and cause judgments to be entered against any the parties making default to plead or proceed to trial, and for recovery and condemnation of any goods, chattels, or other things seized as forfeited, and for which no claim shall be duly entered, and to give and cause judgments to be entered in cases of demurrers joined in any the said causes depending before them, and to do, act, and proceed in and about all and every the premises, as fully to all intents and purposes, as the barons of the court of *Exchequer* in *England*, by law, or by the course and method of proceedings in that court, should or might, or could do, or order to be done in such or the like cases, matters, or things, in case the same were or should be depending in the said court of *Exchequer* in *England*, and upon any issues joined in any the said causes, or in any other causes triable in the said court upon matters of fact, or which would be triable or inquirable by juries (if the same were in *England*) the barons of the *Exchequer* in *Scotland*, are hereby authorized and required to cause the same to be tried, either at the bar of the said court, or elsewhere, at such times and places as shall be for that purpose by the court appointed, by a jury of twelve persons of that county, shire, city, or place in *Scotland*, where the said matters in issue to be tried did arise, or of such other county, shire, city, or place in *Scotland*, where the said court of *Exchequer* shall order or direct the same to be laid and tried; each of which jurymen shall at the time of such trial have and be seized in his own right, or right of his wife, of lands or tenements of an estate of inheritance, or for his or her life, within the county, shire, city or place from whence the jury is to come, of the yearly value of five pounds at the least, or shall be then worth in goods, chattels, and personal estate, the sum of two hundred pounds sterling at least, and for want thereof, or for any other just and reasonable cause, shall be subject to be challenged and set



set aside; and in all verdicts to be given by the juries the whole number of twelve must agree; and the said barons of the court of *Exchequer* in *Scotland*, and such of them before whom any such trials shall be, or shall be appointed to be, shall, by virtue of this act, have full power and authority to proceed to such trials, and to make, award, and issue all such orders, rules, writs, and other process, and do or cause to be done all other acts, matters, and things of what nature soever, as well in order to any such trials and notices for the same, as in, upon, and after the said trials, in every respect whatsoever, whether with relation to sheriffs and other officers, parties, jurors, witnesses, challenges, or other matters or proceedings in, about, or relating to any such trials, or the verdicts to be taken thereupon, or nonsuits therein, and have and execute as fully and amply, to all intents and purposes, all powers, authorities, and jurisdictions, relating to, or proper for any such trials, or the matters for which such trials shall or ought to be, in every respect whatsoever, and for awarding costs upon the account of any such trials, or for not proceeding to trial, and for awarding any new or other trials, as the barons of the court of *Exchequer* in *England*, or any of them, before whom any trials, either at the bar, or otherwise, have been or should have been by the laws of *England*, or by the constitution, power, or practice of the said court of *Exchequer* in *England*, or by virtue of any law or statute, commission or authority whatsoever, hath or have been, is or are enabled, or have used to make, do, or execute in or concerning any such or the like trials or cases in *England*, and after any such trials had, the said barons of the said court of *Exchequer* in *Scotland*, and the officers, attornies, and clerks in the said court, shall and are hereby enabled and required to give rules, and do all other things in order for judgments to be entred in the said court of *Exchequer* in *Scotland*, upon the records of trials at bar, and of the returns of records of *Nisi prius* in case of trials in the countries, as are, have been, or may be used or practised in like cases in the court of *Exchequer* in *England*; and the barons of the said court of *Exchequer* in *Scotland* may and shall proceed to give judgment according to the right of the causes, and to award executions upon such judgments, and to do and award all and every act, matter, and thing touching and relating to any such trials, judgments, or executions, as by law, or the rules, orders, or directions of the court of *Exchequer* in *England*, or by the laws or statutes in *England*, or hath or have been or ought to be used in such or the like cases.

VII. And it is hereby further enacted and declared by the authority aforesaid, That the said barons of the court of *Exchequer* in *Scotland*, or any one or more of them, either in court or out of court, shall have full power and authority to take all manner of recognizances and securities for debts, and that all obligations, recognizances, specialties, and other securities for any the revenues, rents, debts, duties, accounts, profits, or other things accruing, or which shall or may become due or accrue to the Queen's majesty, her heirs or successors, within *Scotland*, or which shall

Barons in or out of court, to take recognizances for debts, &c.



33 H. 8. c. 39.

All suits and  
prosecutions,  
&c. thereupon  
to be in Ex-  
chequer court.

No debt, &c.  
to the crown  
in Scotland, to  
subject any  
real estate  
there, other-  
wise than by  
the laws of  
Scotland.

Barons, &c.  
to execute the  
powers here-  
by granted.

shall in any wise concern or relate thereto, or any the officers, ministers, or accountants thereof, or for the same, or which shall be taken in or by the order of the said court of Exchequer in *Scotland*, or upon any other account for the use or benefit of the crown, or for securing any the revenues, debts, or duties of the crown, shall be taken in the name of the Queen's majesty, her heirs and successors, and to be paid to the Queen's majesty, her heirs and successors, with other proper words, and with and under such conditions as shall be suitable to the matter for which they shall be taken, and shall have the full force and effect of any obligations, recognizances, and specialties, which have been or may be taken or acknowledged in the court of Exchequer in *England*, according to the purport, true intent and meaning of the statute in that behalf made in *England* in the three and thirtieth year of the reign of King Henry the Eighth, or any other law or statute, or any practice, custom, or usage in the court of Exchequer in *England*, or by virtue of the royal prerogative; and that all suits and prosecutions upon any the said obligations, recognizances, and specialties, or for any revenues, debts, or duties any ways due or payable to the Queen's majesty, her heirs and successors, within *Scotland*, shall be in the said court of Exchequer in *Scotland*, and her Majesty, her heirs and successors, shall be preferred and have preference in all suits and proceedings in the said court of Exchequer in *Scotland*, according to the said statute of the three and thirtieth year of King Henry the Eighth, and according to the usage, course, and practice of the court of Exchequer in *England*, and shall have and enjoy such and the same prerogatives, as well in and about pleadings, and in all other matters and things, as by any the laws in *England*, or course of Exchequer in *England*, have been, are or ought to be allowed; and as well the bodies, as the lands and tenements, debts, credits, and specialties, goods, chattels, and personal estate of all debtors or accountants to the crown, or their debtors in *Scotland*, shall be subject and liable, and shall and may be made subject and liable by extent, inquisition, and seizures, or by any other process, ways, or means, to the payment of such debts, duties, or revenues to the crown, and in such and the same manner and form, to all intents and purposes as hath been, or is used in the court of Exchequer in *England* in like cases.

VIII. Provided nevertheless, That no debt or duty from any the debtors or accountants to the crown in *Scotland*, shall affect or subject any real estate in *Scotland*, of any such debtors or accountants, to the payment or satisfaction of any such debt or duty, further or otherwise, or in any other manner or form, than such real estate may or ought to be subject and liable thereto by the laws of *Scotland*, and that the laws of *Scotland* shall, in all such cases, and for all such purposes, hold place and be observed; any thing in this act contained to the contrary notwithstanding: and for all the purposes in this act mentioned, the said court of Exchequer in *Scotland*, and the barons, and other officers thereof and therein, shall have, exercise, and put in



in execution within *Scotland*, all and every the powers, authorities, and jurisdictions, as to all matters and things whatsoever, arising or happening, or which have or shall arise and happen within *Scotland*, touching or concerning any the aforesaid revenues or duties of customs and excise, and other revenues, debts, or duties, obligations, securities, judgments, or specialties, or the recovery of the same, or of any other the premisses, which the court of Exchequer in *England*, or the barons or officers thereof, by virtue of the said statute made in *England* in the said three and thirtieth year of the reign of King *Henry* the Eighth, or of any other statute made and in force in *England*, or by the constitution, course, or practice used in the court of Exchequer in *England*, have or ought to have performed or put in execution in *England*, as fully and amply, to all intents and purposes, as if the same powers, authorities, and jurisdiction were in this act particularly expressed and thereby enacted; yet so nevertheless, that nothing be done to make the real estate in *Scotland* of any debtor or accountant to the crown there, subject or liable to the payment of any debts or duties to the crown, farther or otherwise than they may or ought to be by the laws of *Scotland*, according to the purport of the proviso last herein before-mentioned; and the barons of the said court of Exchequer in *Scotland*, shall and may act and do in respect to any the parties in law or equity to any action, information, suit, or prosecution in the said court of Exchequer in *Scotland*, in such cases, sort, and manner, as by any the laws or statutes in *England*, or the use and practice of the court of Exchequer there, touching the awarding of costs, and issuing process and execution for the same, hath or have used to be done.

IX. And be it further enacted by the authority aforesaid, That the several statutes in *England* of jeofails, and for amendments, shall extend to all such actions, informations, and suits, to be brought in the court of Exchequer in *Scotland*, for the recovery of any debt, duty or revenue due to the crown, as fully and amply, to all intents and purposes, as they do or ought to extend to the court of Exchequer in *England*, or any causes or proceedings therein in such or the like cases; and that in the said court of Exchequer in *Scotland*, there shall be kept and observed four terms in every year, whereof one of them shall be called *Martimas Term*, and shall yearly commence upon the third day of *November*, and end on the twenty ninth day of *November*; and another of them shall be called by the name of *Candlemas Term*, and shall yearly commence upon the twenty third day of *January*, and end upon the twelfth day of *February* yearly; and another of them shall be called by the name of *Whitsuntide Term*, and shall yearly commence upon the twenty fifth day of *May*, and shall end on the fifteenth day of *June* following; and the fourth of them shall be called by the name of *Lammas Term*, and shall yearly commence on the twentieth day of *July*, and shall end on the eighth day of *August* following; and if any of the said days on which any of the said terms shall begin or end, shall happen to be a *Sunday*, then such term respectively shall begin

All statutes in *England* of jeofails, &c. to extend to all actions brought in court of Exchequer in *Scotland*, &c. Four terms to be kept every year.

During which, barons to hear and determine causes, &c.



And appoint  
days and  
times for re-  
turns of writs.

And take  
bails, &c.

And hold plea  
in equity by  
English bill,  
&c.

And award  
process there-  
on.

And make  
orders and de-  
crees.

gin or end the next day following; in and during which terms the barons of the said court shall sit therein, and hear and determine the business, causes, matters, and things depending, or which shall, may, or ought to be prosecuted in the said court either in law or equity, or which shall or may concern the revenues, debts, duties, matters, or things within the jurisdiction of the said court, and that either with or without any adjournment to or for any time or place; and that the said barons shall and may order and appoint the days and times for the returns of writs or process issuing out of, and returnable in the said court and set and impose upon all such sheriffs and other officers and persons, bodies politick or corporate, to whom the execution of such writs or process do or shall appertain, such issues, fines, amerciaments, and penalties, as to the said court shall seem fit and reasonable; and the said barons in court, or any of them out of court, shall take bails, recognizances, and other securities, informations, bills, answers, and affidavits, and take and declare accounts, and do and execute all matters and things relating to the business or jurisdiction of the said court, as fully to all intents and purposes as the barons of the Exchequer in *England*, or any of them, have or do use in such or the like cases in or out of court there; and the barons of the court of Exchequer in *Scotland*, are hereby also authorized and enabled to hold plea in equity by *English* bill, petition, or suit to be brought or exhibited in the said court by or against the attorney or advocate general of the Queen's majesty, her heirs and successors, on her or their behalf, or for her or their interest, or by or against any other person or persons any ways concerned in or about any the revenues, debts, or duties, before-mentioned, touching the said revenues, debts, or duties, for any discovery or relief in equity; and in and upon such bills, petitions, and suits, the said court of Exchequer shall and are hereby enabled to issue and award process of *Subpœna* or *Distringas*, and all other usual and proper process for compelling the parties defendants to or in such suits, to put in their answers, and make their defences to such bills, petitions, or suits, and for the parties to such suits to proceed therein and thereupon, according to such rules or orders, and in such manner and form as the court of Exchequer in *England* hath used to proceed by; and upon issues joined in any the said causes or suits in equity, the court of Exchequer in *Scotland* is to cause witnesses to be examined (if desired on either side) by commissions to be awarded for that purpose, or by sworn examiners, and after publication of the depositions of the witnesses, to proceed to the hearing of the said causes, and upon the proofs and evidence therein or thereupon, or upon bill and answer where no witnesses shall be examined or proofs made, to make such orders and decrees either for the relief of plaintiffs, or for directing any issue or issues at law to be tried for the information of the conscience of the court, or for dismissing of the said plaintiffs bills, or otherwise, as to the said court shall seem just and reasonable, and as is or hath been used in the court of Exchequer



chequer in *England*; save only that all issues at law directed, as aforesaid, for the information of the conscience of the court, shall be and are hereby ordered to be made up and proceeded upon in the said Queen's remembrancer's office in *Scotland*, in such manner as such issues are used to be made up and proceeded upon in the office of pleas in the court of Exchequer in *England*; and the said court shall award such process for the enforcing any of the parties to such suits to perform and yield obedience to such orders or decrees as shall be made in the said causes, and in case of non-performance thereof, or disobedience thereunto, the said court shall award all such process of contempt against the persons and estates of him, her, or them that shall be in contempt, or refuse obedience to any the said orders or decrees, as hath been used and practised in like cases, in or by the court of Exchequer in *England*, and make and execute like process, orders, and proceedings thereupon, as are used in the court of Exchequer in *England* in like cases.

X. And be it further enacted by the authority aforesaid, That the barons of the court of Exchequer in *Scotland*, and all and every the officers and members of the said court of Exchequer, shall be entitled to, and have and enjoy such and the same privileges and immunities, as the members of the college of justice have and enjoy by the law, custom, and practice in *Scotland*, excepting only that they may be pursued in justice before the lords of session for causes not competent to the court of Exchequer.

XI. And be it further enacted by the authority aforesaid, That all the officers and persons employed or to be employed in or about the collecting, receiving, managing, paying, answering, or accounting for any the revenues or duties of customs or excise, or other crown revenues, debts, or duties in *Scotland*, shall be under and subject to the rules, orders, directions, authority, power, and jurisdiction of the said court of Exchequer in *Scotland*, in all things touching the said revenues, debts, duties, or accounts, and touching the collecting, ordering, and management thereof, and the paying and answering the same, and concerning any securities to be given, or oaths to be taken relative thereto, which are not or shall not be contrary to, or inconsistent with the commands, orders, and directions in force, of or from the Queen's majesty, her heirs or successors, or of or from the lord high treasurer of *Great Britain*, or the lords commissioners of the treasury in *Great Britain* for the time being; and that all and every such person and persons, as is, or are, or shall be appointed under the aforesaid seal, which by the articles of union is appointed to be kept in *Scotland*, to be the auditor or auditors of the said revenues of customs or excise, or other crown revenues or duties whatsoever in *Scotland*, or any part thereof, shall take the same, or like oath, *mutatis mutandis*, for the due execution of his or their office or offices, before the barons of the said court of Exchequer in *Scotland*, as any auditor of any the crown revenues in *England* hath or have used or ought to take; and such auditor or auditors shall have the tak-

Barons to enjoy the same privileges as members of the college of justice, &c.

All officers of the revenues in *Scotland*, to be subject to the jurisdiction of the court of Exchequer.

Auditors of the revenues to take the same oath as auditors in *England*. And have the making up of the accounts, &c.



ing and making up all the said accounts, which being sworn to by the respective accountants as to the truth thereof, and allowed and declared by and before the said court of Exchequer in *Scotland*, or before the chief baron, or some other of the barons of the said court of Exchequer, the same shall be examined, entred, and enrolled in the offices of remembrancer of the Queen's majesty, her heirs and successors, and particulars and vouchers of such account, contained in a bag for that purpose, shall be there left, and such account shall be also entred in the office of the lord treasurer's remembrancer, in such and the like manner as is and hath been used in the like offices in *England*, and then shall be delivered into the pipe office in the court of Exchequer in *Scotland*; and the clerk of the pipe or chief officer in that office, or his deputy (in case that office shall be executed by deputy) shall cause the said accounts to be examined, and if found true, to be entred and inrolled in the said office, and shall make and give a *quietus* or discharge to the accountant thereupon, which shall be a discharge to and for such accountant, as to all the revenues, duties, matters, and things therein, and thereby accounted for, paid, and answered; and if any supers or arrears shall be set upon the accountant, or any other person or persons, bodies politick or corporate, by or upon the said account, the court of Exchequer in *Scotland* shall award all proper and effectual process to be made and issued out of such one of the two remembrancers offices, as the court shall direct, for the speedy accounting for levying and receiving of all such supers and arrears, and answering the same to the use of the crown, in such sort and manner as in like cases may by law be done, or hath been used, in the court of Exchequer in *England*.

Party to any judgment given in court of Exchequer, may bring a writ of error upon such judgment returnable in parliament, &c.

XII. Provided always, and be it enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons, bodies politick or corporate, party or parties to any judgment which shall be given in the said court of Exchequer in *Scotland*, his, her, or their heirs, executors, or administrators, or such other person or persons, bodies politick or corporate, who shall be privy to, and affected by such judgment, and who by law is or are entitled to bring and maintain a writ or writs of error thereupon, to sue and prosecute out of the court of Chancery in *England* a writ or writs of error, to be made in usual manner upon any such judgment, returnable in the parliament of *Great Britain*, and such and the like securities, matters, and things, way and method of proceedings, shall and may be had therein and thereupon, and relating thereunto, as have been, are, or may be used and practised upon, or concerning writs of error returnable in parliament, upon any judgment in any the courts in *England*, and upon or relating to the affirming or reversal of such judgments, and the proceedings thereupon in like cases; and every person or persons, against whom any orders or decrees in *English* causes shall be made in the said court of Exchequer in *Scotland*, shall and may have and pursue such and the like relief and redress therein, as any person or persons, against whom any orders or decrees in the court of Exchequer



chequer in *England* have been or shall be made, may have and pursue in like cases.

XIII. Provided also, That the lord high treasurer of *Great Britain* for the time being shall have and exercise all such powers, authorities, and jurisdictions, about or relating to any the revenues or duties of custom and excise, and other the crown revenues, duties, or treasure within *Scotland*, and the getting in, paying, issuing, and accounting for the same, or any part thereof, as fully and amply, to all intents and purposes, as the lord high treasurer of *Great Britain* for the time being, by virtue of such his office, hath, or may, or can have or exercise about or concerning any the crown revenues, debts, or duties in *England*; any thing herein contained to the contrary in any wise notwithstanding.

Lord treasurer to have the same powers relating to the revenues, &c. of *Scotland*, as he hath relating to those of *England*.

XIV. Provided also, and be it enacted by the authority aforesaid, That all and all manner of fines, issues, amerciaments, forfeited recognizances, or penalties, and other forfeitures, of what nature or kind soever, which shall or may be set, imposed by, or incurred, or become forfeited in the said court of *Exchequer* in *Scotland*, shall be levied by the authority and process of the said court, and paid and answered to the use of her Majesty, her heirs and successors, although the persons or their lands or tenements, goods, or chattels, liable to the same fines, issues, amerciaments, penalties, or forfeitures be or remain in any part of *Scotland* whatsoever.

How all fines, issues, &c. shall be levied and paid.

XV. Provided nevertheless, That in case any person or persons, bodies politick or corporate, his, her, or their heirs, successors, executors, or administrators, shall alledge, plead, declare, or shew in the said court of *Exchequer* in *Scotland*, good, perfect, sufficient cause and matter in law, reason, or good conscience, in bar or discharge of any fines, issues, amerciaments, forfeited recognizances, or any other forfeitures, debts, or duties due or payable to the crown, or why such person or persons ought not to be charged or chargeable to or with the same, and the same cause and matter so alledged, pleaded, declared, or shewed, sufficiently proved in the said court of *Exchequer* in *Scotland*, That then the said court shall have full power and authority to accept, adjudge, and allow the same, and wholly and clearly to acquit and discharge all and every the said persons, which shall be impleaded or sued for the same, or to make and take any fitting and reasonable composition for the same, as in the judgments and discretions of the barons of the said court of *Exchequer*, upon hearing of the attorney or advocate general, or other learned counsel of her Majesty, her heirs and successors, shall be found and thought just and reasonable, and to proceed and act therein, and give discharges thereupon, in such sort and manner as hath been and is used and practised in the like cases in and by the court of *Exchequer* in *England*; any thing herein contained to the contrary notwithstanding.

Persons shewing good cause in court, in bar of any fines, &c. payable to the crown, court to allow the same, &c.

XVI. And be it further enacted by the authority aforesaid, That the barons of the court of *Exchequer* in *Scotland*, shall have

Barons to pass sheriffs accounts, full



and charge  
and discharge  
them, &c.

Acts of parlia-  
ment made in  
England, con-  
cerning cu-  
stoms or sub-  
sidies there, or  
excise, &c.  
not contrary  
to the articles  
of union to ex-  
tend to Scot-  
land,

and cogniza-  
ble in the  
court of Ex-  
chequer.

Queen to ap-  
point what  
further places,  
ports, &c.  
in Scotland,  
shall be lawful  
for landing or  
shipping  
goods, &c.

full power and authority, by virtue of this act, to take and pass the accounts of all sheriffs, and other officers in *Scotland*, who have or shall have the execution of any the process issuing out of and returnable in the said court of *Exchequer*, for the levying of any revenue or money for the crown, and to charge and discharge them according to right and justice, and that in such manner and form, as the said sheriffs and officers before the said union were used to be charged and discharged, and to have their accounts passed, or as the barons of the said court of *Exchequer* shall order, direct, or appoint.

XVII. And be it further enacted by the authority aforesaid, That all and every act and acts of parliament made in *England*; and in force there, touching and concerning any customs or subsidies there, and also all and every act and acts of parliament made in *England*, and now in force, touching and concerning any excises there, and all and every the authorities, powers, jurisdictions, qualifications of officers and seizers, directions for navigation, and for carrying goods coastwise, forfeitures, penalties, duties, and the ways and means for the recovering of them, or any of them, and all other matters and things in them, or any of them contained, which are not contrary to or inconsistent with the aforesaid articles of the union of the two kingdoms of *England* and *Scotland*, or any of them, shall extend to *Scotland*, and shall and may be cognoscible in, and put in execution by the court of *Exchequer* in *Scotland*, as to all matters and things happening or arising in *Scotland*, as fully and amply, to all intents and purposes, as the same, or any of them, do extend, or may, or might be put in execution, as to any matters or things touching and concerning customs and excises, or any other the matters or things aforesaid, happening or arising in *England*; and all offences and offenders in any the said matters, shall and may be sued and prosecuted for the same in the said court of *Exchequer* in *Scotland*; and the merchants and other persons entitled to any benefits, allowances, advantages, or remedies touching or concerning any the said customs or excises in *Scotland*, shall have and enjoy the same in *Scotland*, as fully and amply, to all intents and purposes, as they may or might if the same were or arose in *England*; and the officers of the customs and excise in *Scotland* are required to make and allow the same accordingly; and the barons of the court of *Exchequer* in *Scotland* are required and enabled to cause right to be done by and to all persons concerned therein.

XVIII. And for the better and more effectual ascertaining the ports, members, creeks, and havens in *Scotland*, where goods and merchandizes have been or may be exported and imported, and the several keys, wharfs, and other places where the same may be put on board any ship or vessel for transportation, or be unshipt or unladen upon importation; be it further enacted by the authority aforesaid, That the Queen's majesty, her heirs and successors, shall and may, from time to time, by commission or commissions out of the court of *Exchequer* in *Scotland*, assign and appoint



appoint all such further places, ports, members, and creeks in *Scotland*, as shall be lawful for the landing and discharging, lading, or shipping of any goods, wares, or merchandizes in *Scotland*, and to what ancient and head ports respectively such places, members, or creeks shall respectively appertain; and where any such place, member, or creek shall be so appointed, as aforesaid, the customer, collector, comptroller, and searcher of the head port, shall by themselves, or their sufficient deputy or deputies, servant or servants, reside and inhabit, for the entring, clearing and passing, shipping and discharging of ships, goods, and merchandize, and by virtue of the said commission or commissions may likewise set down and appoint the extents, bounds, and limits of every port, haven, or creek in *Scotland*, whereby the extents, limits, and privileges of every port, haven, or creek in *Scotland* may be ascertained and known; after which appointment so made, the said ports, members, and creeks so appointed, shall be observed and used for importation and exportation, in the same manner, and subject to and under such orders and regulations, and to the same effect, as the like ports, creeks, and members appointed in *England* for exportation or importation there, are or ought to be by the laws of *England*.

Officers of customs to reside at such places.

XIX. *And whereas by the aforesaid recited article of the treaty of Court impow-*  
*union it is provided, That the court of Exchequer in Scotland have er'd to receive*  
*power of passing signatures, gifts, tutories, and in other things as the resignations*  
*court of Exchequer in Scotland at the time of the said treaty had; of baronies,*  
*be it therefore enacted by the authority aforesaid, That the court lands, &c.*  
*of Exchequer in Scotland shall have power to receive resignations which were in*  
*in her Majesty's name of all baronies, lands, lordships, tithes, use to be re-*  
*jurisdictions, offices, and all other rights which were in use to be signed, &c. in*  
*resigned and received in her Majesty's name in the Exchequer, the court of*  
*at the time of the said treaty; and that signatures, gifts, tuto- Exchequer.*  
*ries, and other things which were presented, revised, and com- pound- ed, or which were passed or given by the lord high trea- surer, or commissioners of the treasury, or court of Exchequer there at the time of the said treaty, shall be given in, resigned, presented, revised, compounded, and expedited as formerly, with this alteration only, That the presenter of signatures shall present the said signatures, gifts, tutories, and other things to the said chief baron and barons of the Exchequer in Scotland, who are hereby authorized and empowered to revise and compound the same, in the same manner, and with the same powers as the said lord high treasurer or commissioners of treasury of Scotland might have done, and thereafter in a court of Exchequer, to hear parties concerned, and to pass all such signatures, gifts, tutories, and other things aforesaid, and especially to declare and appoint fines, as the court of Exchequer might have done at the time of the said treaty, and such signatures, gifts, tutories, and other things aforesaid being passed in the Exchequer, shall be recorded by the proper clerks and thereafter be expedited at the proper seals, as at the time of the said treaty by the law and practice of Scotland was required: reserving ne-*



vertheless full power to her Majesty, her heirs and successors, to receive resignations immediately in her or their royal hands, and to grant all signatures, gifts, and other things, in the same manner as her Majesty could have done at the time of the aforesaid treaty.

English counsellors, &c. may plead in Exchequer court in Scotland.

XX. And be it further enacted by the authority aforesaid, That all barristers at law, advocates or counsellors, who may plead and practise before the court of *Exchequer* in *England*, or before the court of session in *Scotland*, have and shall have right and privilege to plead and practise before the said court of *Exchequer* in *Scotland*.

How offices for life shall be enjoyed.

XXI. Provided always, and be it enacted, That the two principal clerks of *Exchequer* in *Scotland*, and other officers in that court, who have grants of their offices during life, or of inheritance, shall enjoy their offices according to the nature of their gifts, except in so far as these offices are inconsistent with the constitution of *Exchequer*, as the same is settled by this act: in which case, be it enacted by the authority aforesaid, That any person having right to any such office, shall be provided in one or other of the offices established by this act, equal in value to what they now enjoy, to hold for life, or in fee respectively, or have some other equivalent recompence for the loss of such office.

Crown title to lands, &c. to be tried by court of session.

XXII. Provided always, That the validity or invalidity and preference of the title of the crown, to any honors, manors, lands, tenements, or hereditaments, or to casualties belonging to the crown, shall continue to be tried and decided in the court of session as was used, and of right ought to have been by the law and practice of *Scotland*, at the time of the union, and not otherwise; any thing in this act contained to the contrary notwithstanding.

Table of officers fees to be hung up in Exchequer court.

XXIII. And be it further enacted by the authority aforesaid, That no officer, minister, clerk, or other person employed in the said court of *Exchequer* in *Scotland*, shall ask, demand, receive, or take from any of her Majesty's subjects, or from any other person or persons whatsoever, any greater or other fee, reward, profit, advantage, matter, or thing whatsoever, for or in respect of any business, matter, or thing transacted, dispatched, made, or done in the said court of *Exchequer*, than such only as shall be settled and allowed by the barons of the said court of *Exchequer*, or any three or more of them (whereof the chief baron to be one) under their hands: which fees or allowances shall be contained in a table to be hung up in the most publick and visible place of the said court of *Exchequer*, and to which any of her Majesty's subjects, or others, may have free liberty to resort, and to have a view and perusal thereof, without fee or reward; and each of the masters or chief officers in the offices of Queen's remembrancer, lord treasurer's remembrancer, clerk of the pipe, and clerk of the pleas, and auditor, shall take care, that a table of the fees and allowances relating to their respective offices and places and business therein transacted, and so allowed

Like tables to be hung up in remembrancers offices, &c.



allowed and signed, as aforesaid, shall be hung up in some publick and visible place in their said respective offices, to which any of her Majesty's subjects, or others, may have free liberty to resort, and to have a view and perusal thereof, without fee or reward; and if any person or persons shall offend in any the premises, the barons of the said court of *Exchequer*, upon complaint thereof to them made in that behalf, shall cause right to be done to the party complaining, and to punish the offenders by fine, suspension, or deprivation of office, or as to them shall seem just and reasonable, and to recompense the complainer with costs in that behalf.

Penalty on offenders.

XXIV. And be it further enacted by the authority aforesaid, That the number of the said barons of her Majesty's said court of *Exchequer* in *Scotland*, shall not at any time exceed the number of five.

Number of barons not to exceed five.

### C A P. XXVII.

*An act to enlarge the time for returning the certificates of all ecclesiastical livings, not exceeding the yearly value of fifty pounds; as also for discharging all livings of that value from the payment of first-fruits; and for allowing time to archbishops and bishops, and other dignitaries, for payment of their first-fruits.*

**W**HEREAS by an act made in the fifth year of the reign of her present Majesty, intituled, An act for discharging small livings from their first-fruits and tenths, and all arrears thereof, it is provided, That the said act, or any thing therein contained, shall not extend to discharge any benefices with cure of souls, the tenths whereof were granted away by any of her Majesty's predecessors to any person or persons, bodies politick and corporate, in perpetuity, before the third day of November in the third year of her Majesty's reign; which clause was intended only to save the rights of such persons who had grants of tenths from the crown before the said third day of November, and not otherwise: but forasmuch as the first-fruits of the aforesaid benefices with cure of souls, the tenths whereof were so granted, as aforesaid, were notwithstanding the said grants, reserved to the crown, and are now granted by her Majesty to the governors of the bounty of *Queen Anne* for the augmentation of the maintenance of the poor clergy, and their successors: and forasmuch as the discharging of the first-fruits and arrears thereof of small livings, the tenths of which are not vested in the said governors, will be a present proper augmentation of the same; be it therefore enacted by the Queen'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 all ecclesiastical benefices with cure of souls, not exceeding the clear yearly value of fifty pounds by the improved valuations of the same, the tenths whereof are not vested in the corporation of the said governors, and the incumbents thereof for the time being, and every of them, their

5 Annæ, c. 24.

Enforced by 1 Geo. 1. stat. 2. c. 10.

All ecclesiastical benefices not exceeding 50 l. per. ann &c.