immediate and principal officer. He seems to have been 'derived from Normandy; and agreeably to the mixed con­stitution of that country, he was here, as in England, *caput legis et militiœ,* at the head both of the law and of the mili­tary force of the kingdom. He accompanied the king in his progresses through the realm, or represented him in his ab­sence ; and he had thus powers and jurisdiction as universal in their nature as they were unlimited in extent. We find, accordingly, repeated instances of the military prowess as well as judicial firmness of our early justiciars ; and, not to men­tion other instances, in the middle of the thirteenth century, Durward, when thwarted in the project he had conceived of securing the throne to his descendants, joined Henry the Third in France, and served in his army, till, by the influence of the English monarch, he was re-instated in his high office of lord justiciar.

It does not appear, however, that the justiciar ever be­came here the formidable officer which he proved to be in England, where he was at one time a terror both to the king and to his subjects. Various circumstances concurred to limit his power. The chief of these, no doubt, was the influence of his adversary, the Lord Chancellor, as the head and organ of the ecclesiastics ; but much also was owing to the early partition of the office into a justiciary of ancient Scotland, or the territory north of the Forth, and of Lothian, or the territory south of the Forth. This partition of the office, indeed, is observed in the very earliest notice of our justiciars. The series begins in the reign of Malcolm the Fourth, and from that time we have distinct and separate justiciars for Scotland and for Lothian. In neither of these was Galloway comprehended, that district enjoying its own peculiar laws and customs;@@1 but in 1258 it also got a sepa­rate justiciar. This state of matters continued till the inva­sion of Scotland by Edward the First.

In 1296, Sir William de Ormesby, a justice of the com­mon pleas, and justice in ayre in England, was constituted lord justiciar of Scotland by Edward, who also associated with him William de Mortimer, an English justice of as­size ; and the next year the same king made Roger de Skotre, an English lawyer, justiciar of Galloway. But ip 1299, John earl of Buchan was *justiciarius Scotiœ;* he was son of the last regular justiciar of Scotland, Alexander earl of Buchan, who was upwards of thirty years in office pre­vious to his death in the year 1289. In 1305, however, Edward again put down the Scotch ; and thereupon distri­buted the kingdom into four districts, appointing for each district two justices, an Englishman and a Scotchman. These officers were of the nature of the English justices of assize ; and when we take into consideration the nature of the appointments which were at the same time made in the counties, the object in view cannot be mistaken. Edward evidently contemplated putting the whole island under one judicial system, which had shortly before been introduced in­to England, namely, that of having annual or temporary she­riffs with a limited jurisdiction, and confining the law busi­ness of the country to a few courts and judges ; a system very different from that which previously existed both in England and Scotland, where the great object was to bring justice home to every man’s door in permanent local courts. The project, however, was stopped by Edward’s death ; the justiciars of Scotland and Lothian were then displaced, and permanent sheriffs restored. Robert the Second also re­stored to the people of Galloway their ancient laws.@@1 Mat­ters appear to have generally continued in this state till the disastrous battle of Flodden. On that event, which united all classes of the community, the office of lord justiciar, or, as he was now styled, lord justice general, (in contradistinc­tion to the special justiciars now frequently appointed, as

well for particular trials as for particular places and districts,) came into the hands of a single individual, and comprehend­ed the whole kingdom. The High Court of Justiciary also began to be settled at Edinburgh, and from that time com­mence the regular series of its books of adjournal.

The Justiciar or Justice-General might now have become formidable; but circumstances again concurred to reduce his power. The office fell into the noble family of Argyll, where it continued hereditary for a century ; the Court of Session was established with a universal civil jurisdiction ; and as that court was co-ordinate with it on the land, the admiral of Scotland came to be co-ordinate with it on the seas. By statute 1587, c.82, eight senators or advocates of the College of Justice, were appointed as justiciar-deputes for the different quarters into which the realm was then divided ; and by 1672, c. 16, instead of the justice-deputes, five lords of session were constituted commissioners of justiciary, along withthelord justice-general,and the justice-clerk, which latter was now made vice-president of the court. By statute 1681, c. 16, too, the high admiral was declared the king’s lieuten­ant and justice-general on the seas. By a recent act, how­ever, the Court of Justiciary re-acquired a jurisdiction in crimes at sea ; and by Will. IV. c. 69, which entirely abo­lished the court of admiralty, the office of lord justice-general was made to devolve on, and remain with that of lord-presi­dent of the Court of Session. The effect of this seems to have been to place the justice-general at the head of the administration of the law ; and thus, by a singular revolution, to restore him, after the lapse of three hundred years, to his former situation as lord chief-justice of Scotland.

It may, in conclusion, be remarked here, that in the Court of Justiciary, which, being a superior or at least co-ordinate tribunal, was but indirectly affected by the changes in the law introduced by the Court of Session, several usages of our most ancient common law have been preserved to this day. The court meets about eleven o’clock, which was *the hour of cause* of old, (1587, c. 87) whereas the Court of Session, in direct contrast, rose at that time, meeting, agree­ably to the early hours of the ecclesiastics, at eight in the morning, (1537, c. 49). So also, jury trial, when laid aside by the other courts, continued here ; the verdict is still by a majority ; and in the *assizes oath,* we may trace at once the original character of a jury as an inquest of the vicin­age, and also the rhythmical measures of our old legal for­mulae. The circuits of the Court of Justiciary were ar­ranged in their present form by the act 1587, c. 82. Previ­ous to that time the justiciar made a progress through the realm, from shire to shire, successively ; but, by the above act, the realm was divided into four districts, or quarters. The present circuits are, besides the Lothians or home cir­cuit, the southern, western, and northern circuits. The as­size towns of the south, are Jedburgh, Dumfries, and Ayr ; those of the west, Glasgow, Inverary, and Stirling ; those of the north, Perth, Aberdeen, and Inverness.

The Court of Session, that is to say, the first court so called, was erected in 1425, the year following King James the First’s return from his long captivity in England. It was composed of the “ chancellor, and with him certain discreet persons of the three estates, chosen and depute by the king and was to have a like jurisdiction as that exercised by the king and his council. It was, however, but of short duration ; for, on the king’s death, or rather on that of Bishop Ward- law of St. Andrews, by whose influence it was in all likeli­hood erected, Bishop Cameron, the chancellor, was removed from office, and the court of the session expired. At­tempts were afterwards made to revive it by Bishop Horse- wood, secretary to king James II.; and, thirty years afterwards, by Bishop Elphinstone, whose zeal for the establishment of

**@@@1 Stat. Alex. II. c. § 1. fin.**

**@@@\* 2 Rob. I. c. 35.**