in regard to them we find a rescript of Pope Innocent III. to the king of Scots,@@1 and thereupon the statute Alex. II. c. 6, which is among the earliest regulations on the subject in the Scotch law. There were of old divers sanctuaries, or, as they were termed, *girths,* (1469, c. 35 ; 1535, c. 23 ; 1555, c. 31), and mostly ecclesiastical ; there being a constant rivalry at all times between the sovereign power and the ecclesiastical. But the only one now in use, is the sanc­tuary of Holyrood, which, besides usage, has two main foundations, namely, a religious house, and a royal palace, especially the former, the precincts being usually called the sanctuary of Holyroodhouse, and the court there the Abbey court. The jurisdiction of the place is administered by a bailie, who holds a court for debt, and other civil obligations, where the debtor dwells within the precincts.

Regalities were another species of exempt territory. They were rights of exclusive power and jurisdiction, civil and criminal, real and personal, granted by the crown to the higher nobility ;@@2 and though the impolicy of such grants had long been perceived, yet they were not altogether abolished till the passing of the jurisdiction act, in the middle of last century. By 1455, c. 43, it was enacted that all regalities in the king’s hands should be annexed to the royalty and made subject to the king’s courts and officers. It was about the date of that act that the great district of Kirkcudbright fell to the crown by the forfeiture of its lord ; and a *senes- challis* being thereupon appointed, it has ever since remain­ed the stewartry of Kirkcudbright. But neither this nor the islands of Orkney and Zetland, which were also erected into a stewartry,@@3 differs materially from a shire ; each having a court perfectly of the nature of a sheriff or county court. Besides these, there were other stewartries, such as Strath- em and Menteith in Perthshire, and Annandale in Dum­fries ; but by the jurisdiction act, they merged into their re­spective shires.

Burghs form yet another species of exempt territory ; the principal character of a burgh being its separate jurisdiction and independent government, but upon reasons altogether different from either sanctuaries or regalities. They arise neither from superstition nor princes’ favours. They have their origin in the wants and social tendencies of our na­ture ; they are the chosen seats of civilization and the arts of life ; and the distinction between them and shires per­vades the entire political constitution of the country. There are three sorts of burghs, namely, burghs of barony, burghs of regality, and burghs of royalty or royal burghs ; and in establishing these last, it would seem to have been the gene­ral policy of government to divide the realm into districts, in each of which a royal burgh was placed. Several of the burghs are counties of themselves, or counties corporate, such as Edinburgh, Stirling, Perth, Aberdeen, and Inver­ness ; and these obviously contain within themselves all the elements of government and judicature. But it has unfor­tunately happened, that none of the burgh courts has kept pace with the advance of intelligence, the progress of trade, or the increase of commercial transactions. Justice continues to be administered there just as it was centuries ago. The consequence is, that the peculiar feature of the burghs as independent jurisdictions has in many cases given way ; the burgh courts have been forsaken for the sheriff and justice of peace courts ; and it seems to have become a public question of policy, whether they should not be alto­gether abolished. The same causes, however, which gave origin to burghs, remain ; and therefore it would seem to be the wiser policy to improve the burgh courts, rather than to abolish them ; to improve them, by relieving the magis­trates of all, or at least the more important judicial duties, and to devolve these upon fixed and qualified judges.

The superintendence of the royal burghs was in the king’s chamberlain, who held *ogres,* or itinerant courts, at which the magistrates and burgesses of burghs were bound to give attendance, and where he heard and determined all charges made against them. He was also in use from the earliest times, to hold, in the southern part of the kingdom, courts of four boroughs ; which were so called because composed of delegates from the four burghs, originally of Edinburgh, Stir­ling, Berwick, and Roxburgh, but afterwards of Edinburgh, Stirling, Lanark, and Linlithgow. These delegates assem­bled before the chamberlain, and formed for appeals from the chamberlain ayres, and the different burgh courts, a tri­bunal which was to burgesses what the high court of par­liament was to the other inhabitants of the kingdom, the last and highest court of appeal. The northern burghs had been long under a peculiar government of their own. They formed a sort of Hanseatic league ; for as early as the reign of William the Lyon, a royal charter was granted to the king’s burghers *of* Aberdeen and of Moray, and all be­yond the Grampians, to hold their free “ansum” or hanse, as freely, quietly, fully, and honourably, as their prede­cessors had done in the time of the granter’s royal grand­father.@@4 In the beginning of the fifteenth century, a court of four boroughs was holden at Stirling, where it was re­solved that deputies from each of the royal burghs south of the Spey should convene yearly to consider and conclude on all matters affecting the commonweal of the royal burghs, their liberty and court. This convention was in all likelihood formed in imitation of the northern Hanse. The inconve­nience of having two separate yet similar assemblies in the kingdom, however, must have been quickly felt ; and, at the same time, the ease and propriety of uniting them, and thus assimilating the regimen of all the burghs, obvious. Accordingly, in the end of the same century, an act of parliament was passed, (1487, c. 3.) appointing deputies from all the royal burghs, “ *baith north and south"* to meet in convention yearly, thus forming the convention of royal burghs which has been ever since continued. The place of meeting was fixed at Inverkeithing, on the north of the Forth, probably from its central situation ; but the conven­tion soon removed to Edinburgh, which had long been the seat of the court of four boroughs, and was now become the metropolis of the kingdom. On the institution of the Court of Session, the court of four boroughs and the cham­berlain ayres quickly fell into disuse, their judicial, and many of their ministerial functions having been engrossed by that court ; and from the time of Malcolm lord Fleming, who fell at Pinkey in 1547, the office of chamberlain, or, as he was now styled, lord great chamberlain, ceased to be ex­ercised. The convention, however, continued its yearly meetings ; indeed, its records begin only at this time, when the Lord Provost of Edinburgh became by devolution its standing preses, and the Town-Clerk of Edinburgh its standing clerk.

Let us now return to the general and ordinary courts of the kingdom ; the Court of Justiciary and Court of Session, the Sheriff Court, and the Bailie Courts of burghs.

The Court of Justiciary was originally the great pattern followed in the administration of justice throughout the king­dom ; but soon after the institution of the Court of Session, an act passed (1540, c. 72.) requiring all sheriffs and other temporal judges to copy the proceedings, not of the justices, as before@@5 but of the Lords of Session ; and the principle of this enactment was adopted in the recent judicature act regulating the forms of process in civil matters. The course of proceeding in ordinary actions is now generally as follows. The defendant, or, as he is called, the defender, is first sum­moned on the original writ to compear in court peremptorily

**@@@\* Decret. Greg. 46 3. Tit. 49. c. 6.**

***@@@\* Regales,* Cod. Theod. vii. 1, 9.**

**@@@• See 1669, c. 13.**

**@@@, Kennedy's Annals of Aberdeen, vol. i. p. 8.**

**@@@\* Stat. Rob. III. c. 33.**