

that are strayed do come. Aliens are either in a publick or Private Capacity. Aliens in a publick Capacity are Embassadors, Envoys &c. concerning which vide supra p. Aliens in a Private Capacity are either Friends or Enemies. An Alien Friend is one whose Sovereign is in League or at Peace with our King. Alien Enemies are either Temporary or Perpetual Enemies. A Temporary Alien Enemy is one whose Sovereign is ^{at the time} at War with our King, but may be a Friend. Perpetual Alien Enemies are Infidels, betwixt whom and Christians, there a constant War: seeing Law presumes not, that they will be converted to Christianity 2. Co. 6. 15. Coke 7. Rep. 17. Calvin's case.

In France the King seizes the Estates of Aliens and Strangers who they die par droit d'aubaine pure albinatus i. e. alibi natorum, unless they marry Natives and have Children by them or have a Privilege to be exempt; that is the Privilege of Natives and natural born, for they succeed to no body, and no Body succeeds to them not even their nearest Relations. This is so established, to prevent the Riches and Wealth of the Kingdom from being carried out of it and from passing into the Hands of the Subjects of other Princes. Aliens are excluded from all publick Offices, because they are not of the Body of the Society which composes the State of the Nation; and these Offices require a Fidelity and Affection to the Prince and to the Laws of the Kingdom which it is not to be presumed that a Stranger has. In the Year 1550 while Q. Mary ~~was~~ of Scotland was married to the Dauphin of France, the Scots were naturalized in France by a royal Ordinance recorded among our Acts of Parliament Act 66. Par. D. L. M. and the French were naturalized in Scotland Act 65. ibid.

The ancient Differences between Strangers and Subjects of other Nations are observed by Craig Feud. lib. 1. tit. 14. §. 2. 3.

By the Law of England an Alien Friend so long as he lives there under the Kings Protection is subject to the Laws thereof. He may traffick buy and sell, dispose of his goods and Chattels by Will, and these if he die intestate will belong to his nearest Relations. He may purchase a House to dwell in during his Residence, as necessary for Commerce and Trade; and consequently may maintain personal Actions: but he can hold no Lands by Descent or Purchase, nor be Tenant by Courtesy or in Dower; nor can he maintain real Actions. Coke 1 Inst. 129. a. A Temporary Alien Enemy cannot bring any Action till the Nations are in Peace. And whether an Aliens Sovereign be in League with our King, is tried in a Plea of Alien born by the Record of Chancery: for every League is of Record.

The Distinction of the Condition of Strangers from that of Natural or naturalized Subjects, is not only founded on the Roman Law l. 6. §. 2. ff. de hered. inst. l. 1. Cod. Ulpian l. 17. §. 1. l. 22. §. 2. but also from the Order of Nature, distinguishing the Society of Men into different States Kingdoms or Commonwealths: of which it is a natural Consequence, that each State may regulate by its proper Laws, whatever relates to Successions, and the Commerce of Goods, which depend on Arbitrary Laws.

By the Law of Scotland, Aliens or Strangers are not barred from inheriting Lands here, whether by Descent or Purchase, Craig Feud. lib. 1. tit. 14. §. 3. lib. 2. tit. 10. §. 17. McKenzie observ. on Act 65. Par. D. L. M. and Observ. on Act 7. Par. 2. Sep. 1. Ch. 2. And if Merchants who not naturalized were not allowed to enjoy heretable Rights, granted to them for Security of Money owing to them by Merchants or others in Scotland, or to affect their Lands by real Diligence for such Debts; there would be no Commerce, and no Foreigner would trust our Merchants or Countrymen. bid. Appendix pag. 128.

Subjects 2^o are divided into the Clergy and Laity.

Tit. 5. Of the Clergy.

The Clergy are those set apart for the Ministry and Service of God. They are so called from the Greek Κληρος a Lot or Portion: either because these are the Lot or Portion of the Lord, or because the Lord is their Lot and Inheritance; or for that anciently both among the Jews and Gentiles, Persons used to be chosen into sacred Offices by Lot.

The Clergy of Scotland have, in different ^{period of} Times been of different Denominations and Characters.

Sect. 1.

The Clergy in Time of Popery.

While Popery swayed in Scotland, there was both a Regular and Secular Clergy here who all owned the Pope as their Spiritual Monarch.

The Regular Clergy, were Monks who lived in Monastries so called because put under the Vows, and Rules of Mortification and Devotion, according to their several Orders and Institutions. Monks at first were a Parcel of Men whom the Heat of Decians Persecution