

officer was in nature of Lord Chief Justice of *England*. *Spelm.* Alderman was one of the degrees of nobility among the Saxons, and signified an earl; sometimes applied to a place, it was taken for a general, with a civil jurisdiction as well as military power; which title afterwards was used for a judge, but it literally imports no more than elder.

There was likewise *aldermannus hundredi*: which dignity was first introduced in the reign of Hen. 1. Among his laws, *cap.* 8. we read, *præsit autem singulis hominum novenis decimus, et toti simul hundredo unus de melioribus, et vocatur aldermannus, qui Dei leges et hominum jura vigilantè studeat observantia promoverè.* Du Fresne. Cowel.

*Alæ Ecclesiæ*, The wings or side-isses of the church, from the French *Les ailes de l'Église*.—*Ad bases pilariorum murus erat tabulis marmoreis compositus, qui eborum cingens & presbyterium, corpus ecclesiæ lateribus, quæ alæ vocantur, dividebat.* Gervas. Doroborn' in *descript. ccel. Cantuar.*

*Alcecuarium*, A sort of hawk called a *lanner*. See *Putura*.

*Alehouses*, Are to be licensed by justices of peace, who take recognizances of alehouse-keepers not to suffer disorders in their houses, and they have power to put down *alehouses*, &c. But the act is not to restrain selling of *ale* in fairs. 5 & 6 Ed. 6. c. 25. *Alehouse-keepers* are liable to a penalty of 20s. for keeping *alehouses* without licence; not exceeding 40s. nor under 10s. for selling *ale* in short measure; and 10s. for permitting tippling, &c. and persons retailing *ale* or beer, *alehouse-keepers*, &c. shall sell their *ale* by a full *ale* quart or pint, according to the *standard* in the *Exchequer*, marked from the said *standard*; and sub-commissioners, or collectors of excise, are to provide substantial *ale* quarts and pints in every town in their divisions; and mayors and chief officers to mark measures, or forfeit 5*l.* by statute 1 Jac. 1. c. 9. 3 Car. 1. c. 3. 11 & 12 W. 3. c. 15. See *Inns, Brewers*.

By the 17 Geo. 2. c. 17. *sect.* 18. A penalty is inflicted on *alehouse-keepers* having licence to retail spirituous liquors, exercising particular trades, during the continuance of such licence. And by the 30 Geo. 2. c. 24. *sect.* 14. A penalty likewise is inflicted on publicans permitting journeymen, &c. to game in their houses.

By the 2 Geo. 2. c. 28. *sect.* 11. Licences are to be granted at public meetings of the justices only.

By the stat. 26 Geo. 2. c. 31. Justices on granting licences are to take recognizances in 10*l.* with sureties in the like sum for the maintaining good order. Licences to be granted to none, not licensed the preceding year, unless they produce certificates of their good character. Licence only to extend to that place for which it was granted. Licences to be granted on the first of *September*, or within twenty days after, yearly, and to be for one year only; penalty of selling *ale*, &c. without a licence, first offence 40*s.* second offence 4*l.* third offence 6*l.*

By the 6 Geo. 1. c. 21. *sect.* 56. *Ale-licences* are to be duly stamped, before recognizances taken.

By 26 Geo. 2. c. 13. *sect.* 12. Justices being brewers, malsters, distillers, or victuallers, are restrained from granting licences.

The stamp duty by stat. 9 Ann. c. 23. is one shilling, and by stat. 29 Geo. 2. *sect.* 1. every licence is charged with a further duty or stamp of 20*s.* And by last-mentioned act, *sect.* 20. If any person shall write any licence without such stamp, he shall forfeit 10*l.* with costs, to be recovered as stamp penalties; and the licence shall not be available till the duty shall be paid, and also a penalty of 5*l.*

By the statutes 16 Geo. 2. c. 8. *sect.* 8. and 24 Geo. 2. c. 40. *sect.* 9. No person shall retail any distilled spirituous liquors, without a licence from the officer of excise, taken out ten days before, for which he shall pay 40*s.* yearly. And by statutes 16 Geo. 2. c. 8. *sect.* 11. and 29 Geo. 2. c. 12. *sect.* 22. Such persons shall be first licensed to sell *ale* or spirituous liquors by two or more justices of the peace. And by the statutes 9 Geo. 2. c. 23. *sect.* 14. and 24 Geo. 2. c. 40. *sect.* 28, 29. The justice's clerk shall have 2*s.* 6*d.* and no more for such licence.

*Aler san jour*, (Fr.) To go without day, viz. to be finally dismissed the court, because there is no further day assigned for appearance. *Kitch.* 146.

*Ale-Silver*, A rent of tribute annually paid to the lord-mayor of *London*, by those that sell *ale* within the liberty of the city. *Antiq. Purvey.* 183.

*Alestake*, A may-pole called *alestake*, because the country people drew much *ale* there; but it is not the common may-pole, but rather a long stake drove into the ground, with a sign on it, that *ale* was to be sold.

*Ale-taster*, Is an officer appointed in every court leet, sworn to look to the assize and goodness of *ale* and beer, &c. within the precincts of the lordship. *Kitch.* 46. In *London* there are *ale-comers*, who are officers appointed to *taste* *ale* and beer, &c. in the limits of the city.

*Alstet*, (Sax. *alsteth*) A cauldron or furnace, wherein boiling water was put for a criminal to dip his arm in up to his elbow, and there hold it for some time. *Du Cange*.

*Alias*, A second or further writ, issued from the courts at *Westminster*, after a *capias*, &c. sued out without effect.

*Alias dictus*, Is the manner of description of a defendant, when sued on any speciality, as a bond, &c. where after his name, and common addition, then comes the *alias dict.* and describes him again by the very name and addition, whereby he is bound in the writing. *Dyer* 50. *Jenk. Cent.* 119. 'Tis unnecessary to set forth the *alias dict.* therefore better to omit it, as a variance may be fatal. See *Misnomer*.

*Alien*, (*alienus, alienigena*) One born in a strange country, out of the allegiance of the king: but a man born out of the land, so as it be within the limits of the king's obedience beyond sea; or born of *English* parents out of the obedience of the king, if the parents at the time of the birth were of such obedience, is no *alien*.

If an *English* merchant goes beyond sea, and takes an alien wife, the issue shall inherit him; so it is if an *English-woman* goes beyond sea and takes an alien husband, the children there born shall inherit her; for though the statute 25 Ed. 3. c. 2. be in the conjunctive, yet it hath been construed in the disjunctive to hinder this disability; and the word *and* being taken instead of *or*, as sometimes it is, it being unreasonable that the child should not inherit the parent that is of ability, for the defect of the other that is not. *Cro. Car.* 601, 602. *Lit. Rep.* 22, 24. *S. C.* 1 *Sid.* 198. *S. C.* cited. See *Lit. Rep.* 27. and *Bro. tit. Denizen* 6.

There are two incidents regularly that are necessary to make a subject born; first, that his parents, at the time of his birth, be under the actual obedience of the king; Secondly, that the place of his birth be within the king's dominions. 7 *Rep.* 18. *Calvin's case* And it is the place of the birth that makes the disability of an *alien* to have lands, &c. The blood is not the disability, but the place where born. *Cro. Jac.* 539. And if one born out of the king's obedience come and reside in *England*, his children, begotten and born here, are not *aliens* but *denizens*. 7 *Rep.* 18. *Calvin's case*.

Children of an ambassador in a foreign country, by a wife being an *English* woman, by the common law, are natural-born subjects, and not *aliens*. 7 *Rep.* 11. And if an *English* merchant living beyond sea marries a wife there, and hath a child by her, and dies, this child is born a *denizen*, and shall be heir to him, notwithstanding the wife be an *alien*. *Cro. Car.* 605. *March* 91. Those who are born in the *English* plantations, are subjects born. *Dunv. Abr.* 324.

An *alien* cannot hold land by descent or purchase, or be tenant by the curtesy, or in dower. 5 *Rep.* 502. But all persons, being the king's natural-born subjects, may inherit, as heirs to their ancestors, though their ancestors were *aliens*, by statute 11 & 12 W. 3. c. 6. In case an *alien* purchase land, the king upon office found shall have it. *Co. Lit.* 2. So if an *alien* purchase any estate of freehold in houses, lands, tenements or hereditaments, the king upon office found shall have them. If an *alien* be made *denizen* and purchase land, and die without

without issue, the lord of the fee shall have the escheat, and not the king. But as to a lease for years, there is a difference between a lease for years of a house for the habitation of a merchant stranger being an alien, whose king is in league with ours, and a lease for years of lands, meadows, pastures, woods, and the like. For if he take a lease for years of lands, meadows, &c. upon office found the king shall have it. But of a house for habitation, he may take a lease for years as incident to commerce, for without an habitation he cannot merchandize or trade. But if he depart or relinquish the realm, the king shall have the lease. So it is if he die possessed thereof, neither his executors or administrators shall have it, but the king: for he had it only for habitation, as necessary to his trade or traffick, and not for the benefit of his executor or administrator. But if the alien be no merchant, then the king shall have the lease for years, tho' it were for his habitation, and so it is if he be an alien enemy. *Co. Lit. 2 b.* This doctrine is rather obsolete.

As an alien cannot inherit himself, so he cannot be inherited; the grandfather born in England, the son an alien, the grandson born in England, the grandson shall not inherit the grandfather, because he must then represent the father, who cannot be represented; but if the father be an alien, and two brothers born in England, they may inherit each other, because the descent is immediate, and they don't take by representation of the father. *1 Sid. 193, 198. 1 Vent. 413 to 429. Hard. 224. Co. Lit. 8. Cont.*

If the eldest son be an alien, the younger brother born in England shall inherit the father; otherwise it were if the eldest son were attainted, because the eldest son and all his descendants are before the younger brother, and the younger cannot inherit before that line is extinct; and it is a foreign presumption, to suppose that any of that line should come over and have children in England; but the person at is supposed to have all his children residing in England under the king's allegiance; therefore there is a line continuing before that of the younger brother. *1 Vent. 417. Co. Lit. 8. a. 1 Sid. 195.*

For the same reason, if an alien hath four sons, the two eldest aliens, and the two younger naturalized, and one of the younger sons purchase lands and dies, the eldest brother having issue born within the realm, the younger brother, and not the issue of the eldest, shall inherit. *Hard. 224.*

If an alien hath a son an alien, and afterwards is made a denizen, and hath a second son, the second son shall inherit though the eldest son be alive. *Cro. Jac. 539. Vide Co. Lit. 8. a. &c.* very full on this subject.

If an alien enemy comes here *sub salvo conductu*, he may maintain an action. So if an alien amy come hither in time of peace *per licentiam domini regis*, as the French protestants did, and lives here *sub protectione*, and a war afterwards happens between the two nations, he may maintain an action, for suing is but a consequential right of protection; and therefore an alien enemy, that is here in peace under protection, may sue a bond; *aliter* of one commorant in his own country. *1 Salk. 46.*

*Aliens* may obtain goods and personal estate, by trade, &c. And may maintain actions for the same; they may also have actions of assault and battery, and for support of their credit. *2 Bulst. 134.* But they cannot bring any real action, unless it be for an house for necessary habitation, being for the benefit of trade. *7 Rep. Calvin's Case.* And an alien enemy cannot maintain any action whatsoever, nor get any thing lawfully within this realm. *Terms de Ley 36.*

An alien friend may be an administrator, and shall have administration of leases, as well as personal things, because he hath them in another's right, and not to his own use. *Cro. Car. 8. 1 Vent. 417. S. C. cited.*

But it has been long doubted, whether an alien enemy should maintain an action as executor; for on the one hand it is said, that by the policy of the law, alien enemies shall not be admitted to actions to recover effects which may be carried out of the kingdom, to weaken ourselves and enrich the enemy; and therefore publick utility must be preferred to private convenience; but on the other hand it is said, that these effects of the testator

are not forfeited to the king by way of reprisal, because they belong not to the alien enemy, for he is to recover them for others; and if the law allows such alien enemies to possess the effects as well as an alien friend, it must allow them power to recover, since in that there is no difference, and by consequence he must not be disabled to sue for them; if it were otherwise it would be a prejudice to the king's subjects, who could not recover their debts from the alien executor, by his not being able to get in the assets of the testator. *Cro. Eliz. 683. Molloy 870. Carter 49, 191. Skin. 370.*

An alien enemy coming into this kingdom, and taken in war, shall suffer death by the martial law; and not be indicted at the Common law, for the indictment must conclude *contra ligeantiam suam*, &c. And such was never in the protection of the king. *Molloy de jur. Marit. 417.* Aliens, living under the protection of the king, may have the benefit of a general pardon. *Hob. 271.* No alien shall be returned on any jury, nor be sworn for trial of issues between subject and subject, &c. but where an alien is party in a cause depending, the inquest of jurors are to be half denizens, and half aliens: but in cases of high treason, this is not allowed. *2 Inst. 17.* An alien shall not have any vote in choice of knights of the shire, or burgeses to parliament. *Hob. 270.* And persons that are aliens, or born out of the realm, are incapable to be members of parliament, enjoy offices, &c. *Stat. 12 W. 3. cap. 2.*

Aliens are to take an oath to be true to the king, and obedient to his laws. *Vide 14 H. 8. 21 H. 8. cap. 16. 32 H. 8. c. 16.* No alien shall be a factor abroad, in the English plantations, under penalties. *Stat. 12 Car. 2. cap. 18. See Artificers. See Stat. 11 & 12 W. 3. c. 6.* for enabling subjects to inherit, notwithstanding their father and mother were aliens. And *Stat. 25 Geo. 2. c. 39.* for obviating some doubts thereupon. See farther titles Denizen Naturalization, *Vide also, Com. Dig. 1 V. 320. tit. Alien, & Seq.*

The most useful and best pleading in actions brought by an alien, is both exclusive and inclusive, viz. *extra ligeantiam domini regis*, &c. *et infra ligeantiam alterius regis.* *7 Rep. 16. b. cites 9 E. 4. 7. et Lib. Intrat. fo. 244.* But for the pleadings under this title see title Abatement.

**Alienation**, (from *alienare* to alien) A transferring the property of a thing to another: It chiefly relates to lands and tenements; as to alien land in fee, is to sell the fee-simple thereof, &c. And to alien in mortmain, is to make over lands or tenements to a religious house or body politick; for which the king's licence is to be obtained. *Stat. 15 R. 2. c. 5.* Fines for alienations are taken away by statute; except fines due by particular customs of manors. *12 Car. 2. c. 24. §. 1. Danv. Abr. 327.* All persons who have a right to lands may generally alien them to others: but some alienations are forbidden: as an alienation by a particular tenant, such as tenant for life, &c. which incurs a forfeiture of the estate. *Co. Lit. 118.* For if lessee for life, by livery aliene in fee, or make a lease for the life of another, or gift in tail, it is a forfeiture of his estate: so if tenant in dower, tenant for another's life, tenant for years, &c. do aliene for a greater estate than they lawfully may make. *Co. Lit. 233, 251.* Conditions in feoffments, &c. that the feoffee shall not aliene, are void. *Co. Lit. 206. Hob. 261.* And it is the same where a man possessed of a lease for years, or other thing, gives and sells his whole property therein, upon such condition: but one may grant an estate in fee, on condition that the grantee shall not aliene to a particular person, &c. And where a reversion is in the donor of an estate, he may restrain an alienation by condition. *Lit. 361. Wood's Inst. 141.* Estates in tail, for life, or years, where the whole interest is not parted with, may be made with condition not to aliene to others, for the preservation of the lands granted in the hands of the first grantee.

**Alimony**, (*alimonia*) Signifies nourishment or maintenance: and in a legal sense, it is taken for that allowance which a married woman sues for and is entitled to, upon any occasional separation from her husband. *Terms de Ley 38.* Where a woman is divorced *a mensa & thoro*, she may sue her husband in her own name for alimony or maintenance out of the husband's estate, during the separation