

knowledge of it. A general lien may be created by express agreement.

Particular liens are favored in law; and, as a general rule, every bailee for hire, who, by his labor and skill, has imparted an additional value to the goods, has a lien upon the property for his reasonable charges. This is equally so, whether there be or be not an agreement for the price, unless there be a future time of payment fixed.

30. *What is necessary to create a lien?*—638.

Possession of the goods, actual or constructive; and the right does not extend to debts which accrued before the character of factor commenced; nor where the goods of the principal do not, in fact, come to the factor's hands, even though he may have accepted bills upon the faith of the consignment, and paid part of the freight.

31. *What persons have a general lien on goods in their possession?*—640-642.

A factor has a general lien for the balance of his general account, arising in the course of dealings between him and his principal; and this lien extends to all the goods of the principal in his hands in the character of factor. The factor has a lien, also, on the price of the goods which he has sold as factor, though he has parted with the possession of the goods; and he may enforce payment from the buyer to himself, in opposition to his principal. This rule applies when he becomes surety for his principal, or sells under a *del credere* commission, or is in advance for the goods by actual payment. Attorneys and solicitors, as well as factors, have a general lien upon the papers of their clients in their possession, for the balance of their professional accounts. Dyers have likewise a general lien on the goods sent to them to dye, for the balance of a general account. A banker has also a general lien on all the paper securities which come to his hand. So has an insurance broker. A wharfinger has also a general lien.

32. *By what acts may an agency cease?*—643-646.

It may terminate by the death of the agent; by the limita-

tion of the power to a particular period of time; by the execution of the business which the agent was constituted to perform; by a change in the condition of the principal; by his express revocation of the power; and by his death. The agent's trust is not transferable, either by the act of the party, or by operation of law. According to the civil law, if the agent had entered upon the execution of the trust in his lifetime, and left it partially executed, but incomplete, at his death, his legal representatives would be bound to complete it. An authority given for private purposes to two persons can not be executed by the survivor, unless it be so expressly provided, or it be an authority coupled with interest.

A power of attorney, or any naked authority, is, in general, from the nature of it, revocable at the pleasure of the party who gave it, unless it constitutes part of a security for money, or is given for a valuable consideration, in which cases it is not revocable by the party himself, though it is necessarily revoked by his death. The agent's power is determined, likewise, by the bankruptcy of his principal. If the principal or his agent was a *feme sole* when the power was given, it is determined by her marriage. The authority of an agent may be revoked by the lunacy of the principal; but the better opinion would seem to be, that the lunacy must have been previously established by inquisition before it could control the operation of the power. The authority of an agent determines by the death of his principal, and a joint authority to two persons terminates by the death of one of them.

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LECTURE XLII.

ON THE HISTORY OF MARITIME LAW.

1 *Is the marine law a municipal, or international law?*—1.

It is a part of the general law of nations, and not the law of a particular country. The marine law of the United States is the same as the marine law of Europe; and Lord Mansfield



applied to its universal adoption the expressive language of Cicero, when speaking of the eternal laws of justice: *Nec erit alia lex Romæ, alia Athænis; alia nunc, alia posthac; sed et omnes gentes, et omni tempore una lex et sempiterna, et immortalis continebit.*

2. *What is known of the marine legislation of the ancients?—2.*

There is no certain evidence that either the Phœnicians, Carthaginians, or any of the States of Greece, formed any authoritative digest of naval law. Those powers were distinguished for navigation and commerce, and the Athenians in particular were very commercial, and they kept up a busy intercourse with the Greek colonies in Asia Minor, and on the borders of the Euxine and the Hellespont, in the islands of the Ægean Sea, and in Sicily and Italy. They were probably the greatest naval power in all antiquity. Themistocles had the sagacity to discern the wonderful influence and controlling ascendancy of naval power. It is stated by Diodorus Siculus, that he persuaded the Athenians to build twenty ships annually. He established the Piræus as a great commercial emporium and arsenal for Athens, and the cultivation of her naval superiority and glory was his favorite policy; for he held the proposition, which Pompey afterward adopted, that the people who were the masters of the sea would be masters of the world. The Athenians encouraged, by their laws, navigation and trade; and there was a particular jurisdiction, at Athens, for the cognizance of contracts and controversies between merchants and mariners.

3. *Who were the earliest people that actually created, digested and promulgated a system of marine laws?—3.*

The Rhodians. They obtained the sovereignty of the seas about nine hundred years before the Christian era, and were celebrated for their naval power and discipline. Their laws concerning navigation were received at Athens, and in all the islands of the Ægean Sea, and throughout the coasts of the Mediterranean, as a part of the law of nations.

4. *Where are the marine laws of the Rhodians to be found?—4, 5.*

One solitary title, in the Pandects, contains all the fragments

that have floated down to modern times of their once celebrated maritime code, and we are to look to the collections of Justinian for all that remains to us of the commercial law of the ancients

5. *By whom was the earliest code of modern sea laws established?—9.*

By the republic of Amalphi, in Italy, toward the end of the eleventh century.

6. *What code of marine law is the oldest now extant?—10, 11.*

The *Consolato del mare*. This is a compilation of the usages and laws of the Mediterranean powers, and is said to have been digested at Barcelona, in the Catalan tongue, during the middle ages, by order of the kings of Arragon. Its origin, however, is doubtful, and the precise time of its publication not known; but it is certain that it became the common law of all the commercial powers of Europe. The marine laws of Italy, Spain, France and England, were greatly affected by its influence; and it formed the basis of subsequent maritime ordinances.

7. *What collection is next in point of antiquity and celebrity?—12, n. (b.)*

The laws of Oleron. They were collected and compiled in the island of Oleron, on the coast of France, in or about the time of Richard I. They were borrowed from the Rhodian laws, and the *Consolato*, with alterations and additions, was adapted to the trade of western Europe. They have been admitted as authority on admiralty questions in the courts of justice in this country, and are to be found in the appendix to the first volume of Peters' Admiralty Decisions. There is likewise annexed to these reports a copy of the laws of Wisbuy, of the Hanse Towns, and of the Marine Ordinance of Louis XIV.

8. *By whom were the laws of Wisbuy compiled?—13.*

By the merchants of the city of Wisbuy, in the island of Gothland in the Baltic Sea, about the year 1288. They were in many points a repetition of the judgments of Oleron, and became the basis of the Hanseatic League.



9. *About what time was the Hanseatic League formed?*—14, 15.

This renowned association was begun at least as early as the middle of the thirteenth century, and it originated with the cities of Lubec, Bremen and Hamburg. The free and privileged Hanse Towns became the asylum of commerce and the retreats of civilization, when the rest of Europe was subjected to the iron sway of the feudal system, and the northern seas were infested by "savage clans, and roving barbarians." Their object was mutual defense against piracy by sea and pillage by land. They were united by a league offensive and defensive, and with an inter-community of citizenship and privileges. The association of the cities of Lubec, Brunswick, Dantzic, and Cologne, commenced in the year 1254, according to Cleirac, and in 1164, according to Azuni; and it became so safe and beneficial a confederacy, that all the cities and large towns on the Baltic, and on the navigable rivers of Germany, acceded to the union. A digest of nautical usages and regulations was framed by the consuls and deputies of the Hanseatic League, under the title of *Jus Hanseaticum Maritimum*, and was published at Hamburg in 1667, with a commentary by Kuricke. It was founded on the laws of Oleron and Wisbuy, and, from the great influence and character of the confederacy, has always been deemed a compilation of authority.

10. *At what time was the French Ordinance upon commerce promulgated?*—15-17.

In 1673, and the Ordinance of the Marine in 1681. This ordinance, called The Marine Ordinance of Louis XIV., it having been framed in his reign, was, says Valin, executed in a masterly manner. It was so comprehensive in its plan, so excellent in the arrangement of its parts, so just in its decisions, so wise in its general and particular policy, so accurate and clear in its details, that it deserves to be considered as a model of a perfect code of maritime jurisprudence. Every commercial nation has rendered homage to the French Ordinance of the Marine; and they have regarded it as a digest of the maritime law of civilized Europe. Valin has written a commentary upon every part of it, which almost rivals the ordinance itself.

11. *Where is the English maritime law to be found?*—18, 19.

The English nation never had any general and solemnly-enacted code of maritime law, resembling those which have been mentioned as belonging to the other European nations, and promulgated by legislative authority. This deficiency has been provided for, not only by several extensive private compilations, but has been more eminently, and more authoritatively, supplied by a series of judicial decisions, commencing about the middle of the last century. Those decisions have shown, to the admiration of the world, the masterly acquaintance of the English judiciary with the principles and spirit of commercial policy and general jurisprudence, and they have afforded undoubted proofs of the entire independence, impartiality, and purity of the administration of justice. The numerous cases in the books of reports, which have arisen upon maritime questions, resemble elementary treatises in the depth, extent, and variety of their researches. The English maritime law can now be studied, in the adjudged cases, with at least as much profit, and with vastly more pleasure, than in the dry and formal didactic treatises and ordinances professedly devoted to the science.

12. *Where do we find the marine law of the United States?*—19, 20.

As in England, in private treatises and judicial decisions. Our improvement has been rapid and our career illustrious, since the adoption of the present Constitution of the United States. There have been several respectable treatises on the subjects of commercial law. The decisions in the federal courts, in commercial cases, have done credit to the moral and intellectual character of the nation; and the admiralty courts, in particular, have displayed great research, and a familiar knowledge of the principles of the marine law of Europe. The decisions in Gallison's and Mason's reports, may be regarded as specimens of preëminent merit.