

THE LAWS OF WISBUY.

[Reprinted from 1 Pet. Adm. Append. lxvii.]

Wisbuy was the ancient capital of Gothland, an island in the Baltic sea. It formerly belonged to Sweden, but was afterwards annexed to Denmark, to whose crown it still continues an appendage. In Gothland there are several fine ports, the access to which is easy and safe. It is rich in cattle, of which it affords immense numbers, and abounds in venison, fish, forests of fine timber for building ships, naval stores, and excellent marble. In the north-west part of the island Wisbuy was situated, a fair and noble sea-port, built by foreigners, and whose first settlement in the country was opposed by the Gothlanders, but who successfully resisted them, and, in the year one thousand two hundred and eighty-eight, obtained an important victory over them; after which the citizens, to defend themselves against their enemies, obtained a permission from Magnus king of Sweden, to wall their city, and erect bastions and other fortifications. They flourished more and more, and grew great by their trade and navigation, to which they entirely gave themselves up; insomuch, that this town was a long time the most celebrated market of Europe; there being no city so full of merchants, and so famous for its commerce. Either came Swedes, Russians, Danes, Prussians, Livonians, Germans, Finlanders, Vandals, Flemings, Saxons, English, Scots and French to trade. Each nation had their quarter, and particular streets for their shops or warehouses. All strangers were safe and welcome there, and enjoyed the same privileges as the townsmen themselves. The magistrates of this city had the jurisdiction, or rather the arbitrement of all causes or suits relating to sea affairs. Their ordinances were submitted to in all such cases, and passed for just on all the coasts of Europe from Muscovy to the Mediterranean. In this account we are supported by Olaus Magnus, lib. x, cap. 16, and Baron Herbestain in *Rerum Muscovitarum Commentario*, p. 118. In the course of time, this town was entirely destroyed, except the citadel, which stands to this day. The Gothic historians do not tell us when, nor how its destruction came upon it, only that it was through civil dissensions which arose from trifles, but occasioned great factions; which set them so against one another, that it ended in the entire ruin of them all, city and citizens. The ruins of it are now to be seen, and under them are often found tables of marble, porphyry and jasper; evidences of the ancient splendor and magnificence of the citizens. The houses were covered with copper, the windows gilt with gold, and all that is said or that is discovered of it, shews the inestimable riches of the former inhabitants. The citizens who survived the ruin of the city, retired to the country of the Vandals and eastern Saxons, who were enriched with their wealth. Albert, king of Sweden, rebuilt the city, and granted great privileges to all that should come and in-

habit it; but it never could recover its trade and former magnificence.

It was in this city of Wisbuy that the sea laws and ordinances which the Swedes brought into credit, were composed; they were received as righteous and just, and are kept in the Teutonic language till now. The Germans, Swedes, Danes, Flemings, and all the people of the north observe them; but none have been so curious as to preserve the date and the remembrance of the time when they were composed and published.

Northern writers have contended that the laws of Wisbuy are more ancient than the *Roll d'Oleron*, and have even asserted the *Consolato del Mare* to have been composed subsequent to them. These claims are opposed with some irritation by *Oleirac*, who denies their having been promulgated prior to the year 1266. In this opinion he is supported by many historical facts. But at whatever period they may have been composed, these laws have been for ages, and still remain, in great authority in northern Europe. *Lex Rhodia navalis, pro jure gentium in illi mari Mediterraneo vigeat, sicut apud Galliam leges Oleronis, apud omnem transcribannos, leges Wisbuensis.* *Grotius de Jur. Bel. lib. ii, c. 3.*

ARTICLE I.

Whatever mariner, whether pilot, mate, or sailor, binds or hires himself to a master, if he afterwards leaves him, he shall refund what wages he has received; and besides that, pay half as much as the master had promised him for the whole voyage. And if a mariner has hired himself to two several masters, the first that hired him may claim him, and force him to serve him. Nevertheless he shall not be obliged to pay him any wages at all for the whole voyage, unless he does it of his own good will.

ART. II.

Every pilot, mate or mariner that does not understand his business, shall be obliged to repay to the master whatever wages he had advanced him, and be besides bound to pay half as much more as he had promised him.

ART. III.

A master may turn off a mariner without any lawful cause given, before he sets sail, paying him half what he had promised him for the voyage. After he has set sail, and

is gone out of his port, that master who turns off a mariner without lawful cause given, is obliged to pay him all his wages as much as if he had performed the voyage.¹

ART. IV.

² No mariner shall lie or stay a night ashore without the master's leave, on pain of forfeiting two deniers, nor shall he unmoor the ship's boat in the night, under the same penalty.³

ART. V.

The mariners shall have three deniers a last for loading, and three for unloading, which is to be reckoned only as their wages for guindage or hoisting.⁴

ART. VI.

It is not lawful to arrest or imprison the master, pilot or mariners of a ship in an action of debt, when they are ready to sail; but the creditor may seize and sell any thing he finds in the ship that belongs to his debtor, l. i, de Navicularis, lib. iv, cod.⁵

ART. VII.

A ship being freighted for all the summer, the season shall end on the feast of St. Martin, or the eleventh of November.

ART. VIII.

Whoever shall make use of another man's lighter, without his leave, shall pay the owner four sols a day, unless it was in a case of necessity, as of fire or the like.

ART. IX.

If any one has occasion to have a debt witnessed, he need not carry strangers aboard; but may make use of the people in the ship. The same he may do in all acts where witnesses are necessary, lib. x. cod.

ART. X.

It is not lawful to sell or mortgage a vessel let out to freight; but it is lawful to freight it or underlet it to others for the same time, and the same voyage.⁶

¹ Laws of Oleron, arts. 12, 13, 20.

² Laws of Oleron, art. 5.

³ By deniers here are understood, those of which twenty-four make an ounce of silver. The double deniers are now called carolus's or grand blancs, by the French and other nations.

⁴ These duties are never fixed on account of the dearness of provisions, and the value of money, which changes and increases daily. The rate of *guindage or reguindage, is commonly in France five sols a last. Which is two sols six deniers tournois a tun.

⁵ Ord. Louis XIV. Mariners and Ships, tit. 1, art. 14.

⁶ The words of this article are, "de le fretter ou sous-louer à d'autres pour le même temps, et pour même voyage": which we think we have rendered right, notwithstanding the difficulty there seems to be in the sense, or the equity of this law.

* Hoisting up and down, or loading and unloading.

ART. XI.

If a ship that was freighted for a voyage is sent upon another longer than that, or upon several voyages; if there is no protestation or dissent entered against it, the freighter shall pay but half the damages that may happen to the ship in such longer voyage or voyages.

ART. XII.

If a mast, sail or any other tackling is unfortunately lost when the ship is under sail, or otherwise, the loss shall not be brought into an average. But if the master is obliged to cut his mast by the board, or spoil any of his tackling for the preservation of the ship, the bottom and the cargo shall make good the damage by an average.⁷

ART. XIII.

The master shall not sell the ship, nor any part of her tackling, without the consent of the owners; but if he wants victuals he may pawn his cables and cordage: always observing to have the advice of the mariners.⁸

ART. XIV.

The master being in port, ought not to depart and set sail without the advice and consent of the major part of the mariners; if he does, and there happens any loss, he is bound to make satisfaction.⁹

ART. XV.

The mariners are obliged to the utmost of their power to save and preserve the merchandize, and for doing it, ought to be paid their wages, but not otherwise. It is not lawful for the master to sell the ship's cordage, without the consent of the owners or factors: but he is bound to preserve all, as much as in him lies, on pain of making satisfaction.¹⁰

ART. XVI.

The mariners are obliged to save as much as they can, and the merchants may take away their goods, paying the freight or satisfying the master; otherwise the said master may fit out his ship if he can do it in a little time, in order to accomplish his voyage; if he cannot do it he may relade the merchandize upon other vessels, bound for the port to which he was to carry them, paying freight for them.

ART. XVII.

The mariners shall not go out of the ship without leave of the master, on pain of paying the damage that may happen in their absence, unless it is when the ship lies ashore moored with four cables. In such

⁷ Laws of Oleron, art. 9.

⁸ See art. 10; and Laws of Oleron, art. 1.

⁹ Laws of Oleron, art. 2.

¹⁰ Laws of Oleron, art. 3.

case they may go out of her for a little time, taking care not to transgress in it.¹¹

ART. XVIII.

A mariner being ashore in the master's or the ship's service, if he should happen to be wounded, he shall be maintained and cured at the charge of the ship: but if he goes ashore on his own head to be merry, and divert himself, or otherwise, and happens to be wounded, the master may turn him off; and the mariner shall be obliged to refund what he has received, and besides to pay what the master shall be forced to pay over and above to another whom he shall hire in his place.¹²

ART. XIX.

If a seaman falls ill of any disease, and it is convenient to put him ashore, he shall be fed as he was aboard, and have somebody to look after him there; and when he is recovered, be paid his wages; and if he dies, his wages shall be paid to his widow or heirs.¹³

ART. XX.

If by stress of weather it is thought necessary to throw any goods overboard to lighten the ship; and the supercargoes or merchants aboard, will not consent to it, the merchandize shall nevertheless be thrown overboard, if the rest of the people aboard think it safest to do so. In such case as soon as the ship puts into port, a third part of the mariners must go ashore, and purge themselves by oath, that they were forced to do it for the preservation of their own lives, the ship, and the rest of the cargo. The merchandize so thrown overboard, shall be brought into a gross average, and be rated at the same price the other merchandize of the same sort, that was saved, was sold for.¹⁴

ART. XXI.

Before the master throws any goods overboard, he is bound, in the absence of the merchant, to ask the pilot and mariners' advice, and the loss shall be made good by contribution: the ship and cargo being accountable towards it.¹⁵

ART. XXII.

The master and mariners are obliged to shew the merchant the cordage that is used for hoisting his goods in and out of the ship; if he does not do it, and there happens any accident, they shall stand to the loss; but if

the merchant has seen and approved of it, the damage he sustains shall be borne by himself.¹⁶

ART. XXIII.

If a ship is ill trimmed, and it happens that the wine she has aboard is lost through the master's ignorance or negligence in governing her, the said master is bound to pay for it; but if the mariners clear him upon oath, the leakage or loss shall be borne by the merchant.¹⁷

ART. XXIV.

No man shall fight, or give another the lie aboard. He who offends in this kind shall pay four deniers; and if the mariner gives the master the lie, he shall pay eight deniers: but he who strikes him shall pay 100 sols, or lose his hand.¹⁸ If the master gives the lie he shall pay eight deniers; if he strikes he ought to receive blow for blow.¹⁹

ART. XXV.

The master may turn off a mariner for a lawful cause; but if the said mariner compensates for his fault, and the master nevertheless refuses to admit him again: the mariner may follow the ship to her destined port, and he shall be paid his wages, as much as if he had made the voyage in the same ship. If the master hires a less able seaman in his place, and there happens any damage by it, the master is to make good the loss.²⁰

ART. XXVI.

If a ship riding at anchor in a harbour, is struck by another ship which runs against her, driven by the wind or current, and the ship so struck receives damage, either in her hulk or cargo, the two ships shall jointly stand to the loss; but if the ship that struck against the other might have avoided it, if it was done by the master on purpose, or by his fault, he alone shall make satisfaction. The reason is, that some masters who have old crazy ships, may willingly lie in other ships' way, that they may be damnified or sunk, and so have more than they were worth for them. On which account this law provides, that the damage shall be divided, and paid equally by the two ships, to oblige both to take care, and keep clear of such accidents as much as they can.²¹

¹⁶ Laws of Oleron, art. 10.

¹⁷ Laws of Oleron, art. 11.

¹⁸ Per dignitatem injuriam preferentis, crescit culpa facientis. Salvianus lib. sexto, de gubernatione Dei. Lose his hand. This was a common punishment among the Scythians and the people of the north. Lucianus de Toxari. And also among those in the east. Harmonopolus de Pœnis.

¹⁹ Laws of Oleron, art. 6.

²⁰ Laws of Oleron, art. 13.

²¹ Laws of Oleron, arts. 14, 15.

¹¹ Laws of Oleron, art. 5.

¹² Laws of Oleron, art. 6.

¹³ Laws of Oleron, art. 7.

¹⁴ Laws of Oleron, art. 8.

¹⁵ Id.

ART. XXVII.

A ship being at anchor in a harbour where there is so little water that she touches; another ship comes and anchors near her; if the ship's company of the former vessel require those of the latter to take up their anchor, because it is too near them, and they do not do it, the former may take it up themselves; and if the latter hinders them, they shall make satisfaction for all the damage that may happen by that anchor.²¹

ART. XXVIII.

No master of a ship shall lie at anchor in a haven without fastening a buoy to his anchor, to give notice to others where it is. If he omits to do so, and any damage is sustained by it, he is obliged to make it good.

ART. XXIX.

In all voyages where wine is the trade, the master is obliged to find the seamen with it, and then he may give them but one meal a day; but where it is not to be had, and the mariners drink water, he shall give them two meals a day.²²

ART. XXX.

When a ship is let out to freight, the master ought to assign and shew the seamen where they are to have the stowage that belongs to them; and they must declare whether they will load it themselves, or will let the master freight it with the rest of the ship, and be paid for their proportion.²³

ART. XXXI.

A ship being arrived at her destined port, those seamen who would be paid their wages there, if they have no chest nor bedding, or other movables aboard, equivalent to their wages, they must give the master security that they will serve out the rest of the voyage, and see it completed, or he may refuse to pay them before.²⁴

ART. XXXII.

Those seamen who bargained for a certain proportion of the ship's freight, instead of wages in money, in case freight is not to be had for her when she arrives at the port for which she was bound, and she must go further in quest of it, they must go with her: but those seamen who agreed to be paid in money, shall have their wages there.²⁵

ART. XXXIII.

When a ship is safe at anchor, the seamen may go ashore one after another, or

²² Laws of Oleron, art. 17.

²³ Laws of Oleron, art. 16.

²⁴ Laws of Oleron, art. 18.

²⁵ Laws of Oleron, art. 19.

two together, and carry sufficient meat and bread with them for one meal, but no drink. Nor must they stay any long time ashore; for if through their absence any damage happens to the ship or goods, they are obliged to make satisfaction. And if any one of the crew is wounded, or comes by any other ill accident in doing the merchant's business, the merchant is bound to cure him, and indemnify the master, pilot and mariners.²⁶

ART. XXXIV.

A ship being let out to hire to a merchant to freight her, and he agrees to load her in a certain time; if he fails and exceeds that time, fifteen days or more, and by this means the master loses his opportunity to freight his ship; the said merchant shall make him satisfaction for his delays, and pay his damages and interest, a quarter of which belongs to the mariners, and three quarters to the master.²⁷

ART. XXXV.

If the master being upon his voyage wants money, he must send home for it; but ought not to lose a fair opportunity of proceeding; if he does, he shall satisfy the merchant for all the damage he may sustain by his delay; but in case of great necessity he may sell part of the merchandize, and when he arrives at his destined port, he shall pay the merchant for them at the same price the rest was sold at, and the merchant shall pay freight as well for the merchandize the master sold, as for those he delivered him.²⁸

ART. XXXVI.

When the master arrives in a port, he should be careful to place his ship well, to moor her well; for if by his neglect in this the merchandize aboard comes by any damage, he is obliged to make it good.

ART. XXXVII.

If a ship has been in a storm, and the merchant, master or crew think she ought to be refitted, to enable her to continue her voyage, they may do it, and then proceed. However, the master shall be paid his freight for the goods saved, which are for the merchant's profit only. If the merchant has no money, and the master will not give him credit, he may take his merchandize in payment at the market price.²⁹

ART. XXXVIII.

The master shall not throw any goods overboard, without first consulting the mer-

²⁶ Laws of Oleron, arts. 5, 6, 20.

²⁷ Laws of Oleron, art. 21.

²⁸ Laws of Oleron, art. 22.

²⁹ Laws of Oleron, art. 4.

chant; and if the merchant will not consent to it, yet if two or three of the most experienced mariners think it necessary, they may be thrown overboard, but the mariners must swear they thought it was expedient so to do. If there is no merchant or factor aboard, the master and major part of the mariners may resolve upon what is fit to be done.³⁰

ART. XXXIX.

The merchandize thrown overboard shall be valued in the average, at the price the rest was sold for, freight only deducted.³¹

ART. XL.

The master in the average shall pay his proportion for the goods thrown overboard, either by calculating what the ship is worth, or what the freight amounts to, at the choice of the merchant; and the merchant shall pay his, according to the value of the remaining merchandize. It shall be left to the merchant to leave or take the ship at the price the master rated her at.

ART. XLI.

³² If any one has plate or merchandize of great price in his chest, he is bound to declare it before hand, and so doing he shall be paid for his merchandize according to its worth, and the plate after the rate of two deniers for one.

ART. XLII.

If any one has money in his chest, let him take it out and carry it about him, and he shall pay nothing.

ART. XLIII.

If a chest is thrown overboard, and the proprietor does not declare what is in it, it shall not be reckoned in the average, but for the wood and the lock, if it is locked, according to their value.³³

ART. XLIV.

If it is thought convenient in any river, or off any dangerous coast to take aboard a pilot of the country, and the merchant opposes it, yet if the master, the ship's pilot, and the major part of the seamen are of another opinion, he may be hired, and the pilot shall be paid by the ship and cargo, as averages are calculated for goods thrown overboard.³⁴

ART. XLV.

If a master is reduced to straits for want of money or victuals, and for that reason

³⁰ Laws of Oleron, art. 8.

³¹ Laws of Oleron, art. 8.

³² Laws of Oleron, art. 8.

³³ Laws of Oleron, art. 22.

³⁴ Laws of Oleron, arts. 23, 24.

forced to sell part of his merchandize aboard, or borrow money at bottomry, he ought to pay within 15 days after his arrival, for the merchandize at a reasonable price, neither the highest nor the lowest; and if he does not, and the ship be sold, and another master put in her, the merchant to whom the merchandize belonged, or the creditor that lent the money on bottomry, shall at any time within a year and a day, have a good right to the ship, until satisfaction is made for the goods sold, or money borrowed.³⁵

ART. XLVI.

A ship being laden, the master ought not to take in any more merchandize, without leave of the merchant; if he does, and there happens any occasion to throw goods overboard, he shall pay as much as he took in goods over and above the ship's loading. Wherefore he ought when he is lading, to declare how much goods he has, and ought to have aboard.

ART. XLVII.

The seamen are obliged to keep and watch the merchandize at the request of the merchants, master and pilot.

ART. XLVIII.

If for the preservation of the commodity, the seamen turn up the corn aboard, they shall be allowed a denier a last for each time; and if they will not do it, they are liable for the damage that comes to it for want of it. They shall also be allowed a denier a last for unloading, and so for other merchandize.

ART. XLIX.

The mariners ought to represent to the master what condition their tackling for lading and unloading is in; that if the cordage is out of repair, or any other part of it, it may be mended. And if the master does not do it, he shall be accountable for whatever damage happens by that means; but if the mariners do not make their representation, the accidents that befall the merchandize shall be indemnified at their expense.³⁶

ART. L.

If two ships strike against one another and receive damage, the loss shall be borne equally between them, unless the men on board one of them, did it on purpose; in which case that ship shall pay all the damage.³⁷

ART. LI.

To prevent all inconveniences, all masters of ships are required to fasten buoys to their anchors, on pain of making satisfaction for all

³⁵ Laws of Oleron, art. 22.

³⁶ Laws of Oleron, art. 10.

³⁷ Laws of Oleron, art. 10.

the damage that may happen for want of them.³⁸

ART. LII.

When a ship arrives at her port of discharge, she ought to be unladen with all possible dispatch, and the master to be paid in eight or fifteen days at farthest, according to the circumstances of the voyage.³⁹

ART. LIII.

If a ship freighted for one port, enters another, the master together with two or three of his chief mariners, ought to clear themselves upon oath, that it was by constraint and necessity that they went out of their way. After which he may proceed in his intended voyage, or ship the cargo aboard other ships, paying freight for the goods, which the merchant shall also pay him, and what else is due on account of the merchandize.

ART. LIV.

It is forbidden to any mariner to go out of the ship, and leave it, after the voyage is done and the ship discharged, unless her sails are all in, her furniture taken away, and she is sufficiently lightened of her ballast.⁴⁰

ART. LV.

If a ship strikes, the master may take out part of his cargo, and relade it aboard other ships, and the charges of it shall come into a general average upon ship and goods. However, the master and two or three of his seamen shall purge themselves upon oath, that they were forced to do it to save the ship and cargo.

ART. LVI.

When a ship arrives at the mouth of any river or harbour, and the master finds she is too heavy loaden to sail up, he may put part of the cargo aboard hoys, lighters, or barges, and an average shall be made for it, of which the master shall pay two thirds, and the merchant one third; but if after the ship is entirely discharged, the ship draws too much water, and cannot sail up, then the master shall pay all the charges.

ART. LVII.

The merchandize being put aboard lighters, in order to be landed, if the master has any jealousy of the merchant's ability or honesty to pay him, he may stop it at his ship's side, and refuse to let it go, till the merchant has paid him in full for his freight and charges.

ART. LVIII.

All lighters, open or close, shall be discharged in five days.

³⁸ Laws of Oleron, art. 14.

³⁹ Laws of Oleron, art. 21.

⁴⁰ Laws of Oleron, art. 5.

ART. LIX.

When a ship is at anchor before a harbour with which her pilot is not well acquainted, the master ought to hire one at the place to carry his ship into it, who shall be paid by ship and cargo.

ART. LX.

When a ship is in a harbour or river, and the master does not know the coast nor the river, he ought to take a pilot of that country to carry her up the river or harbour, which pilot shall be maintained by the master, and paid by the merchant.

ART. LXI.

If a seaman deserts his ship, and carries away what he has received of the master, and the master apprehends him, the fact being proved upon him by the depositions of two other seamen, he shall be condemned to be hanged, and executed.

ART. LXII.

If a master discover that a mariner is infected with any contagious distemper, he may put him ashore on the first land he makes, without being bound to pay him any wages, provided the case be proved by the attestation of two or three of the other mariners belonging to his ship.

ART. LXIII.

If a pilot or mariner buys a ship, or is made master of one, he shall be discharged from his own master, paying him back what he received of him; and it shall be the same if he marries.

ART. LXIV.

If the master, merchant and owners have any difference, and the owners will not furnish their quota of the charge of the out-set; the master may nevertheless proceed in his voyage or voyages with the said ship, paying the seamen what he thinks reasonable.

ART. LXV.

If the master lays out any money in repairing or refitting his ship, or buys any tackling, or any thing else for her use, he shall be reimbursed, and every owner pay his part.

ART. LXVI.

If the merchant obliges the master to insure the ship, the merchant shall be obliged to insure the master's life against the hazards of the sea.

ART. LXVII.

If two ships strike against one another, and one of them unfortunately perishes by the blow, the merchandize that is lost out of both of them, shall be valued and paid for pro rata by both owners, and the damage of the ships shall also be answered for by both according to their value.

ART. LXVIII.

In case of necessity the merchant may sell part of the merchandize to raise money for his ship's use; and the ship happening to be lost afterwards, the master shall however be obliged to pay the merchant for the said merchandize so sold, without pretending to deduct any thing for the freight.

ART. LXIX.

When the master is forced to sell any of the merchandize, he is obliged to pay the same

price for them, as the same goods were sold for at the market for which they were designed, and the master shall be paid his freight for what goods are sold.

ART. LXX.

If a ship under sail does damage to another, the master and mariners of the ship doing the damage must swear they did not do it designedly, and could not help it, and then the damage shall be borne by both ships in equal proportion; and if they refuse to swear, the damage shall be paid by the ship that did it.

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