4° The forein Laws most regarded in determining Marine Affairs in Scotland for which our own Laws have made no provision, are the Sea Laws of Rhodes, of Oleron, of Wisbuy, of the Hanse towns, and of France.

Rhodian Laws

The Rhodian Laws are delivered to us by Dechius in his Commentar re nautica in two different Fragments; whereof the first obtained the Sanction of the Roman Emperors Tiberius, Adrian, Antoninus and others, and the last we find in the fourteenth Book of the Digests of the Roman Law. To which Rhodian Laws the Romans made some explanatory Additions.

Laws of Oleron

The Laws of Oleron (called the Roll of Oleron) a small Island situate in the Bay of Aquitain, are so called because made there by K. Richard 1 of England, Duke of Aquitain, the holy Land, of which Island he was then in Possession; tho it belong now to the French King. Which Laws agree in many Things with the ancient Laws of Rhodes, and tho published at Oleron, did not only take Place there and in the adjacent Countrys, but likewise in all the Seas and maritime Places in this Part of the World.

Wisbuy Laws

The Laws of Wisbuy once a most famous Town for Trade and Commerce in the Island of Gotland, are observed by the Germans, Swedes, Danes, and all the People of the North, and are fuller than the Roll of Oleron. But we have no Certainty of the Time when these excellent Laws were composed and published.

Hanse Towns

The Laws of the Hanse towns are founded on those of Oleron and Wisbuy. The Hanse towns are free and imperial Towns associated in Point of Commerce and enjoying a Community of Privileges. They were at first but four viz. Lubeck, Brunswick, Dantzick and Cologne. But the Number afterwards increased to 72 and some reckon 81 of them. This Communication of Burgership was called Henzee Steden, that is Towns upon the Sea: Which was afterwards pronounced shortly Anseche, the French call it Hanze and the Britains Hanse. These confederate Towns have, for the Conveniency of Trade, Factories or Houses of Commerce at Novogrod in Russia, Bergen in Norway, Antwerp in Flanders. It was in Lubeck the chief of the Hanse towns, that their Deputies in the Year 1597 made and promulgated Sea Laws.

Ordonnance of Louis 14.

In the Year 1681 Lewis the 14 King of France published an Ordinance concerning the Marine composed by his Prime Minister of State the famous Colbert which is the most accomplished System of Laws for Navigation in Europe containing all that is material in the Ancient and Modern Sea Laws, with a great many excellent Additions and Amendments suitable to the Nature and Importance of the Subject.

Author's Abstract

An Abstract of the abovementioned Sea Laws with Notes and Observations thereon is published in English by Mr Justice.

Sect. 4.

Old Books of the Law of Scotland.

These are the Laws of K. Malcom 2. Regiam Majestatem, quoniam Attachiamenta, and other old pieces of our Law.

The Laws of K. Malcom 2. Son to Kenneth who began to reign in the Year 1004 and according to Bishop Leslie (de reb. gest. Scot. Lib. 5.) Lancellarium, Conestabilem, Mariscallum Camerarium, Justitiariumque instituit. The Bishop of Carlisle (afterwards of Londonderry) doubts if these Laws be right fathered on Malcom 2, and thinks they rather belong to Malcom 3. or Canmor Scot. Hist. Lib. Page 260. These Laws are clear to be authentick by Act 113. Par. 14. J. 3. Which refers to interprets and declares one of Malcolms Laws (C. 3. N. 4.) and is marked on the Margin thereof.

Regiam Majestatem, so called from the first Words of it, in Imitation of Justinian's Institutions, which in like Manner begin with Imperatoriam Majestatem, and the Doctors of the Civil Law who make their Citations sometimes by the first Words of the cited Law to guard against any Failure or Mistake in the Printer. So Ralph Glanville Earl of Chester's Book de legibus et consuetudinibus regni Angliæ written in the Reign of Henry 2. might for the same Reason take the Name of Regiam Potestatem from the initial Words thereof. Craig (Feud. Lib. 1. Tit. 8. §. 7. Lib. 2. Tit. 6. §. 9. in fin.) rejects the Authority of Regiam Majestatem with Indignation, as being either writ by the foresaid Ralph Glanville, or transcribed by some Plagiary out of his Book de legib. et Consuet. Angl. Seeing most Cases in Regiam Majestatem resolve into English Customs, Which Opinion the Lord Stair (Inst. Lib. 1. Tit. 1. §. 16. in fin. Lib. 3. Tit. 9. §. 27.) goes into. But notwithstanding these great Authorities Regiam Majestatem seems to be an Authentick Collection of our Laws compiled by Order of K. David 1. (called Saint David) out of a vast Number of Law-Books (Pref. Reg. Maj. §. 10. & Index ad.) to be a Rule to his Judges in the Administration of Justice. For K. David in whose Time it was writ died in the Year 1153, and K. Henry 2. under whose Reign the Earl of Chester wrote, came not to the Crown of England till the Year 1154 after King David's Death. This Book is clear to be our Law not only by an unprinted Act of the 19 Parliament of K. James the Sixth Anno 1607 approving and acknowledging it as such; but also from a Commission granted by K. Charles 1. with Consent of Parliament, for compiling a new Body of the Laws of Scotland wherein it is mentioned in the Number of our Laws and Customs (vid. Catalogue of the unprinted Acts of Parliament 1633) and from Acts of Parliament expressly asserting its Authority

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