

ence is allowed when it can be said that both parties must have used the words in the sense attached to them by custom, and that each party had good reason to believe that the other party so understood them. (11)

Great Britain immemorially has claimed and exercised exclusive property and jurisdiction over the bays or portions of sea cut off by lines drawn from one promontory to another and called the King's Chambers. (12) A similar property and jurisdiction is and has been claimed by the United States over the Delaware Bay, and other bays and estuaries forming portions of their territory. (13) Chancellor Kent in his commentaries says: "It is difficult to draw any precise or determinate conclusion amidst the variety of opinions as to the distance to which a State may lawfully extend its exclusive dominion over the sea adjoining its territories, and beyond those portions of the sea which are embraced by harbors, gulfs, bays and estuaries, and over which its jurisdiction *unquestionably* extends. . . . The executive authority of this country, in 1793, considered the whole of Delaware Bay to be within our territorial jurisdiction; and it rested its claim upon those authorities which admit that gulfs, channels and arms of the sea belong to the people with whose lands they are encompassed." In 1806, the United States Government insisted that the extent of neutral immunity, terms equivalent to maritime territory, should correspond with the claims maintained by Great Britain around her own territory, and that no belligerent rights could be exercised within "the chambers formed by headlands, or anywhere at sea within the distance of four leagues, or from a right line from one headland to another." (13)

It is to be remembered also, that the United States have inherited from Great Britain the principle now maintained in this affair by the latter State. The doctrine of bays, no matter of what size, being subject to the territorial jurisdiction of the State owning the headlands and shores, was fully admitted in Great Britain previous to the

(11) 2 Parsons on Con., pp. 55 and 56. *Gorissen vs. Perrin*, 2, C. B. N. S. 681. Vattel pref. p. lxx. § 26. 2 Phillimore § 73. Heffter § 94, 95. Petrushevecz art. 68, 69. 12 Phil. § 73.

(12) 1 Phillimore § 199. Heffter § 76. Abdy's Kent p. 114.

(13) L's Wheaton, pt. 2, c. 4, § 7. 1 Attys Gen. op. p. 33. 1 Kent p. 30.

(15) 1 Kent p. 30.