

Selden said: "There are among foreign writers, who rashly attribute your Majesty's more southern and eastern sea to their princes. Nor are there a few, who following chiefly some of the ancient Caesarian lawyers, endeavor to affirm, or beyond reason too easily admit, that all seas are common to the universality of mankind." The thesis of Selden was twofold: first, "that the sea, by the law of nature or nations, is not common to all men, but capable of private dominion or property as well as the land"; second, "that the King of Great Britain is lord of the sea flowing about, as an inseparable and perpetual appendant of the British Empire."

In this battle of books, to use the happy expression of Professor Nys, the Dutch Scholar has had the better of his English antagonist. If it cannot be said that Grotius wears his learning "lightly like a flower", the treatise of Selden is, in comparison, over-freighted with it; the *Mare Liberum* is still an open book, the *Mare Clausum* is indeed a closed one, and as flotsam or jetsam on troubled waters, Chapter XII of the Law of Prize rides the waves, whereas its rival, heavy and water-logged, has gone under.

In the leading case of *The Louis* (2 Dodson 210), decided in 1817, some two hundred years after Selden's book was written, Sir William Scott, later Lord Stowell and one of Selden's most distinguished countrymen, said, in rejecting the claim of his country to the exercise of jurisdiction beyond a marine league from the British shore:

72, deals with the community and property of the seas. Two years later Welwod published a second work, this time in Latin, entitled *De Dominio Maris Juribusque ad Dominium praeicipue Spectantibus Asserta Brevis ac Methodica*.

Grotius prepared, but did not publish, a reply to Welwod's first attack, entitled *Defensio Capituli Quinti Maris Liberi Oppugnati a Gulielmo Welwodo Juris Civilis Professore, Capite XXVII ejus Libri Scripti Anglica Sermone cui Titulum Fecit Compendium Legum Maritimarum*. It was discovered at the same time as the commentary *De Jure Praedae* and was published in 1872 in Muller's *Mare Clausum, Bijdrage tot de geschiedenis der rivaliteit van Engeland en Nederland in de zeventiende eeuw*.