

In 1608 Spain and Holland began negotiations which, on April 9, 1609, resulted in the truce of Antwerp for the period of 12 years, and, in the course of the negotiations, Spain tried to secure from the United Provinces a renunciation of their right to trade in the East and West Indies. The Dutch East India Company thereupon, it would appear, requested Grotius to publish that part of his brief dealing with the freedom of the seas. This was done under the title of *Mare Liberum*, with such changes as were necessary to enable it to stand alone.

It will be observed that the *Mare Liberum* was written to refute the unjustified claims of Spain and Portugal to the high seas and to exclude foreigners therefrom. The claims of England, less extensive but not less unjustifiable, were not mentioned, and yet, if the arguments of Grotius were sound, the English claims to the high seas to the south and east of England, as well as to undefined regions to the north and west, would likewise fall to the ground. Therefore the distinguished English lawyer, scholar, and publicist, John Selden by name, bestirred himself in behalf of his country and wrote his *Mare Clausum* in 1617 or 1618, although it was not published until 1635, to refute the little tractate, *Mare Liberum*.<sup>1</sup> In the dedication to King Charles I,

For a fuller account of the circumstances under which the treatise on the law of prize was written, see Hamaker's edition of the *De Jure Praedae*, pp. vii-viii. The distinguished historian and scholar, Robert J. Fruin, after an exhaustive examination of the evidence, informed Hamaker that Grotius was retained by the Company to prepare the commentary on the law of prize. The English translation of Hamaker's exact statement reads as follows: "Fruin is of the opinion that he [Grotius] undertook this work at the instance of the Company, and that he appeared in it as their spokesman."

For an analysis of the commentary *De Jure Praedae* and the circumstances under which it was written, see Jules Basdevant's study on Grotius, pp. 131-137, 153-179, in Pille's *Les Fondateurs du Droit International* (1904).

<sup>1</sup> Selden's *Mare Clausum* was not the only defense of England, nor was the *Mare Liberum* the only lance which Grotius broke for the freedom of the seas. In 1613 William Welwod, professor of Civil Law at the University of Aberdeen, published a little book entitled *An Abridgement of all the Sea-Lawes*, in which he maintained the English side of the question, of which Title XXVII, pp. 61-