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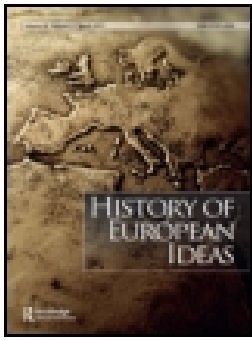
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Debating the Free Sea in London, Paris, The Hague and Venice: the publication of John Selden's *Mare Clausum* (1635) and its diplomatic repercussions in Western Europe

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ABSTRACT



Politics, religion and legal argumentation were inextricably intertwined in the reception of John Selden's *Mare Clausum*/The Closed Sea (1635). The work's writing and printing history is closely tied to Stuart foreign policy, particularly James I's and Charles I's attempts to tax the Dutch herring fisheries. *Mare Clausum*'s immediate impact on European international relations has received little attention from historians so far. It is clear, however, that government authorities in London, The Hague and Venice expected an official reply from Hugo Grotius, author of *Mare Liberum*/The Free Sea (1609) and Swedish ambassador in Paris. Yet the latter declined to assist the Dutch authorities in this matter, blaming them for his imprisonment in 1618–1621 and his second banishment from Holland in 1632. The antipathy was mutual. The Dutch authorities abhorred Grotius' pleas for religious tolerance and commissioned his Calvinist kinsman Dirk Graswinckel to respond to Selden instead. Graswinckel had already published *Libertas Veneta*/Venetian Liberty (1634), a learned defense of the Republic of Venice's political interests. In 'Vindiciae maris liberi'/Vindication of the Free Sea (written 1636–1637), he tried –but arguably failed – to reconcile Dutch claims to freedom of navigation, trade and fishing with Venetian claims to the Adriatic. It never appeared in print.

KEYWORDS

John Selden; Hugo Grotius; *Mare Clausum*; *Mare Liberum*; Dirk Graswinckel; early modern diplomacy

1. Introduction

Hugo Grotius (1583–1645), the Swedish ambassador in Paris, sat down in his study in early January 1636 to write a long letter to the Swedish chancellor Axel Oxenstierna. He conveyed his New Year wishes, of course, but also noted a recent publication by John Selden (1584–1654), 'the most erudite man in England.' As he explained, *Mare Clausum sive De Dominio Maris*/The Closed Sea or On the Dominion of the Sea (1635) took aim at 'the writings by me and others in defense of the freedom of the sea.' Grotius was referring, of course, to *Mare Liberum*/The Free Sea, first published in 1609. It has never been out of print and remains a foundational text of international law today. Yet Selden asserted –in Grotius' words – that it was possible for the sea 'to be occupied' and to be subjected to full ownership (*asserit mare occupari et in jus proprium concedere posse*). The English lawyer and polymath claimed furthermore that the sea had been occupied by his countrymen –both in fact and in law– as far as the coasts of Spain, France, the Low Countries, Germany and Denmark, 'and indeed with such supreme power' (*quidem tanto imperio*) that nobody had been allowed to

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‘fish, navigate or engage an enemy’ without the express permission of the King of England. Although the Swedish ambassador in Paris expected many rejoinders to be published, he did not intend to write one himself. Selden had been careful not to argue anything damaging to Swedish rights and spoken ‘altogether courteously’ of the envoy in a private capacity. The latter was content to be a spectator of the ensuing political fallout. Yet Grotius’ correspondence shows that *Mare Clausum*’s impact on European international relations was a topic of great interest to both the Swedish ambassador and other diplomats in the middle of the 1630s.¹

With the notable exceptions of Samuel Muller (1848–1922) and Thomas Wymysse Fulton (1855–1929), historians have paid little attention to the international context of *Mare Clausum*.² Modern-day scholars have tended to analyze the work either from the perspective of English domestic politics or as part of the history of political theory. Kevin Sharpe relates it to the English crown’s efforts to reassert royal authority – at sea as well as on land – following Parliament’s dissolution in March 1629. The claim that the sovereignty of the seas was inherent in the English crown quickly became associated with Charles I’s attempts to collect taxes without parliamentary approval. As Sharpe and others note, *Mare Clausum* was cited by the prosecutors of John Hampden in the Ship Money Case of 1637.³ Selden plays a different role in the history of political theory. He is identified as the ‘missing link’ between Grotius and Thomas Hobbes in Richard Tuck’s publications on early modern rights and contract theories. *Mare Clausum* was hardly a frontal attack on *Mare Liberum*, but rather ‘a deeply Grotian work.’ As Tuck explains, Selden accepted ‘his opponent’s premises’ regarding the gradual emergence of private property. According to Grotius, the growth of human populations had rendered communal living increasingly impracticable in various parts of the world, leading to the enclosure of land for cultivation and the rearing of livestock. As Helen Thornton, Mónica Brito Vieira and Gerald J. Toomer point out, where Selden differed from Grotius was on the question whether the sea could be turned into private property, and whether this had been done already. Drawing on a wealth of manuscript and printed sources, Selden argued that European rulers had, in fact, claimed the sea as their own in classical and medieval times, and that the King of England had enjoyed *dominium maris* in the ‘British Ocean’ since time immemorial.⁴

These are all valuable insights regarding *Mare Clausum*’s place in the history of political theory and English political history. What is missing from the historiographical debate is a detailed discussion of the work’s international context. This is a strange omission. As Muller and Fulton pointed out over a century ago, *Mare Clausum* was intended as a shot across the bows of the Dutch and French governments. Charles I’s so-called ship money fleets – launched in summer 1635 – carried instructions not just to rid the sea of pirates and protect English merchantmen, but also to force all other nations to recognize English sovereignty of the seas. Muller and Fulton did extensive research on Anglo-Dutch and Scotto-Dutch disputes over whaling at Spitsbergen and the herring fisheries in Scottish and English waters. According to Muller and Fulton, it was this particular combination of maritime and political conflict in the first half of the seventeenth century – involving clashes at sea and at the negotiating tables in London and The Hague – that generated several responses to *Mare Liberum*, of which those by John Selden and William Welwood, a law professor at the University of St. Andrews, have become the most famous. While comprehensive, the analyses of Muller and Fulton are based largely on Dutch and British state papers and make no reference to Grotius’ correspondence, thus missing an essential part of the picture. For the Swedish ambassador in Paris was well-placed to document and, indeed, shape *Mare Clausum*’s impact on European international relations in the middle of the 1630s.⁵

How did Grotius conceptualize the diplomatic repercussions of *Mare Clausum*’s publication? Why was his authorship of *Mare Liberum* a complicating factor in the response of the Dutch government? And how did Dutch attempts to confront English claims of *dominium maris* affect other governments in Europe in the middle of the 1630s, particularly the Republic of Venice? The possibility that Grotius would reply to Selden exercised the political and intellectual elites in Paris and The Hague for a long time. Yet the Swedish ambassador ruled himself out, on account of Sweden’s exclusive claims to the Baltic Sea. The Dutch States General, the federal government of the Dutch

Republic, commissioned his kinsman and former secretary Dirk Graswinckel (1600–1666) to write an official reply. Graswinckel's religious persuasions were reliably Counter-Remonstrant. Grotius, by contrast, had been a champion of the Remonstrant cause during the Twelve Years Truce (1609–1621), and, in his capacity as Swedish ambassador in Paris, continued to advocate religious reconciliation throughout Europe – an abhorrent thought to quite a few members of the Dutch States General. Its reaction to *Mare Clausum* is a vivid illustration of the intertwining of politics, religion and legal argumentation in seventeenth-century Europe.⁶ Before we investigate this further, we need to say something about Grotius' checkered life and career prior to his appointment as Swedish ambassador, and about the writing and printing history of *Mare Clausum*, which started long before its publication in 1635.

2. Grotius' life and times

Hugo Grotius was born into a prominent patrician family in Delft on Easter Day 1583. Just two years earlier, the Dutch States General had abjured Philip II of Spain and Portugal as the ruler of the Low Countries, thus creating a new state, the Dutch Republic. At the tender age of sixteen, Grotius started his professional life as a private solicitor. In 1604, the directors of the Dutch East India Company or VOC asked him to write a defense of the Company's privateering campaign in Asian waters. The resulting treatise of 163 folios remained in manuscript, only to be published in 1868 as *De Jure Praedae/On the Law of Prize and Booty*. At the directors' request, chapter twelve did appear in print in 1609 as *Mare Liberum*.⁷

Thanks to the patronage of Johan van Oldenbarnevelt, *de facto* political leader of the Dutch Republic, Grotius was appointed to a series of high-level positions. In June 1613, he became Pensionary (i.e. chief legal adviser) of the town of Rotterdam and joined its delegation in the States of Holland. In May 1617, he took his seat in the Dutch States General as one of the Holland delegates. By all accounts, it was a meteoric political career. Grotius would undoubtedly have succeeded the elderly Oldenbarnevelt, had it not been for a serious religious and political conflict that brought the new state to the brink of collapse during the Twelve Years Truce (1609–1621). Orthodox Calvinists – also known as Counter-Remonstrants – squared off against the followers of the Leiden theologian Jacob Arminius, the so-called Remonstrants. Although the latter were a minority in the Dutch Reformed Church, they enjoyed the support of the States of Holland, in particular of Oldenbarnevelt and Grotius. The theological bickering became enmeshed with the political standoff over the Twelve Years Truce, pitting Oldenbarnevelt and the States of Holland against Prince Maurice, commander-in-chief of the country's naval and military forces, Stadtholder (e.g. governor) of six of its seven provinces and, from 1617 onwards, sovereign ruler of the principality of Orange. Prince Maurice had opposed the conclusion of a truce with Philip III of Spain and Portugal in 1609 and advocated a resumption of the war. A dangerous cocktail of religious and political tensions endangered the existence of the Dutch Republic. In August 1618, the Stadtholder sought to break the political deadlock by means of a regime change, which landed Grotius in prison for almost three years.⁸

Yet Grotius' political career was far from over. In March 1621, just before the expiration of the Twelve Years Truce, he escaped from Loevestein Castle in a book trunk and headed south to Paris, where he lived in exile and received a pension from the French Crown. As a *quid pro quo*, he dedicated *De Jure Belli ac Pacis/ On the Law of War and Peace* (1625) to Louis XIII of France. For a long time, he believed that he would be reinstated as Pensionary of Rotterdam once Prince Maurice's younger brother and heir, Prince Frederic Henry, came to power. He returned to Holland in October 1631 in order to force a breakthrough in the negotiations about his possible rehabilitation. His ostentatious visits to Rotterdam and Amsterdam badly backfired, however. In April 1632, the States of Holland exiled him once more. After two unhappy years in Hamburg, he accepted the offer of Axel Oxenstierna to become the Swedish ambassador in Paris. In the context of the Thirty Years War, this was an important and sensitive position: after the death of King Gustavus Adolphus, the Swedish armies in Germany were essentially kept afloat with French subsidies. It was Grotius'

job to maintain good relations with the French ally, a task which he would discharge for nearly ten years, albeit with uneven success.⁹

3. *Mare Clausum*: from manuscript to printed text

As Gerald J. Toomer points out, *Mare Clausum* may not have been more than a sketch at first, written for the amusement of the author and his friends. Selden was a lifelong admirer of Grotius, whom he called ‘the great wonder of the Dutch’ as early as 1613.¹⁰ The draft treatise attracted the attention of George Villiers following his appointment as Lord High Admiral of England. Villiers was the favorite of King James I of England and VI of Scotland. At this time, the monarch sought to resolve long-standing fishing disputes between Scotland and the Dutch Republic. However, the Dutch envoys who met with the Privy Council in late December 1618 were unwilling to compromise, and even made oblique references to Grotius in defense of their position. Their compatriots had every right to fish in His Majesty’s seas, so they explained, ‘by the liberty due to them by the law of nations.’ This did not go down well with the King, who issued a sharp reply. As ‘an insular Prince,’ he did not need to be lectured about ‘the law of nations’ by the Dutch negotiators, nor by ‘their Grotius, whose misfortunes should be a warning to others not to accept his theories.’ The butt of James’ ire was indeed languishing in prison at that point. Yet Grotius’ natural law and natural rights theories continued to shape Dutch commercial statecraft. Did Villiers realize that Selden’s draft treatise could become a legal counterweight to Dutch claims to freedom of fishing? In summer 1619, Selden submitted a fair copy to the King, who, mindful of the potential reaction of his brother-in-law, Christian IV of Denmark, asked the author to remove the final chapter regarding British claims in the North Sea. This Selden did. Yet he was frustrated in all attempts to regain access to Villiers and submit his revisions for approval. At this point, he seems to have concluded that publication was impossible. It was the rising tide of international politics which rescued the work from oblivion fifteen years later, when Charles I of England and Scotland required a legal justification of his ship money fleets.¹¹

Toomer makes the important point that the publication of *Mare Clausum* in December 1635 was the result of an informal bargain between the author and the English Crown, securing Selden’s freedom. The jurist had played an important part in the Parliamentary opposition in the late 1620s and been arrested and imprisoned at the King’s orders. Released from prison in May 1631, he had to return to the Court of King’s Bench at the beginning of every Michaelmas and Hillary term in order to make a new application for bail.¹² Only in January 1635 was he finally discharged from this onerous obligation following a supplication to Charles I. Less than four months later, the latter was persuaded to authorize the publication of *Mare Clausum*, probably by Sir John Coke, a passionate champion of the Stuart navy. The Secretary of State referenced *Mare Clausum* in a letter of April 1635, addressed to William Boswell, English ambassador in The Hague:

First, we hold it a principle not to be denied, that the King of Great Britain is a monarch at land and sea to the full extent of his dominions, and that it concerneth him as much to maintain his sovereignty in all the British seas as within his three kingdoms; because without that these cannot be kept safe, nor he preserve his honour and due respect with other nations. But, commanding the seas, he may cause his neighbours and all countries to stand upon their guard whensoever he thinks fit. And this cannot be doubted, that whosoever will encroach upon him by sea, will do it by land also when they see their time. To such presumption, *Mare Liberum* gave the first warning-piece, which must be answered with a defence of *Mare Clausum* ...¹³

Selden submitted a revised text to the King in early August 1635. Printing began soon afterwards. *Mare Clausum* was entered into the register of the London Stationers Company on 18 September (o.s.) and appeared in early December.¹⁴ The publication was closely watched by the Dutch ambassador in London, Albert Joachimi. The first intimations of trouble had reached the Dutch States General in late summer. Four months later, Joachimi could report the work’s appearance in print ‘at the orders of the King,’ adding that ‘presumably, [the English] want to act upon its contents.’¹⁵

The publication of *Mare Clausum* did not come as a surprise to Grotius. The English government – in particular William Laud, the Archbishop of Canterbury – had no wish to antagonize the Swedish ambassador and, feeding him with news and blandishments, sought to forestall a possible rejoinder to Selden. In a letter of late May 1635, the preacher Samson Johnson first thanked Grotius for recommending him to Laud and then explained that Selden, ‘who holds you in the highest esteem,’ was preparing a publication ‘on the dominion of the sea’ at Charles I’s behest. In early July, Grotius passed on the news to his brother-in-law Nicolaas van Reigersberch (1584–1654) and to Axel Oxenstierna and Ludwig Camerarius, the Swedish envoy in The Hague. He wrote to Van Reigersberch in late November that the book was in press. However, he doubted its usefulness for English foreign policy – ‘this is not the way to get back the Palatinate.’ The next day, he sent a letter to his younger brother Willem de Groot (1597–1662), in which he noted that the printers had reached the halfway point at page 180. The chapter headings had been communicated to Grotius as well, probably by the new English ambassador in Paris, Viscount Scudamore, another protégé of Laud. (The two envoys quickly became fast friends.) Grotius predicted that the work would be both ‘comprehensive’ and ‘erudite.’ Copies of the folio edition must have reached Paris in December. Grotius mentioned in a letter addressed to his brother early in the New Year that he had read the entire work and inquired after the reaction of the Dutch government authorities. There was no doubt in his mind that Dutch trade and navigation was the butt of attack. He could report to Van Reigersberch in late December that Valdemar Christian Volckmar, a bastard son of Christian IV of Denmark, was in Paris in order to persuade the French King to instruct the latter’s subjects to obtain explicit permission from the Danish monarch for whaling off the coast of Norway – all in an effort, so Grotius thought, ‘to use Selden’s maxims, now in press, against the Hollanders everywhere.’¹⁶

4. Dutch responses to Selden

At that point, rumors were already flying around The Hague that Grotius would prepare a rejoinder to *Mare Clausum*, either speaking for himself or on behalf of the Dutch Republic. Van Reigersberch wrote to Grotius at the end of December 1635 that the Prince of Orange could not think of anybody better qualified to counter Selden’s arguments. Van Reigersberch was of a different opinion, however. He urged his brother-in-law to refrain from publishing anything, ‘even if intended for the good of the country,’ that could give offense to ‘many and powerful friends in a state [e.g. England] which is well-disposed towards you.’ In other words, Grotius should remain silent and prioritize his good relations with the Stuart court in London. Yet Willem de Groot seems to have assumed the opposite. Fully aware of Grotius’ penchant for polemics, he offered his assistance. In the middle of January 1636, he informed his brother that he and Jan de Groot – their eighty-two-year-old father – were perusing the first volume of *Mare Clausum*, ‘in which the author refutes you especially.’ He also wondered whether *Defensio capitis quinti Maris Liberi*/Defense of the Fifth Chapter of *Mare Liberum* had been found among his brother’s papers in Paris, ‘either in outline or as a written-out treatise.’ (Grotius had written it in 1615, in reply to William Welwood’s criticism of *Mare Liberum*.) By implication, should Grotius have mislaid the manuscript treatise, his brother would be happy to search for it among his own papers and, if retrieved, send it on to France.¹⁷

The Venetian ambassador in London, Anzolo Correr, was still under the impression in late March 1636 that Grotius would write a rejoinder to Selden. In a letter to the Doge and Senate of Venice, he explained that the Swedish ambassador in Paris was the author of *Mare Liberum*, ‘written many years ago,’ and that *Mare Clausum* sought to disprove Grotius’ argument that ‘no bounds can be set to the sea, and that no prince can claim special jurisdiction there.’ The ambassador, who had already dispatched a copy of *Mare Clausum* to Venice, was able to forward a copy of *Mare Liberum* in early April. He promised to send a copy of Grotius’ reply to Selden as well – ‘as soon as it [was] printed.’ The ambassador also intimated that the political fallout of *Mare Clausum* was perhaps not what Charles I had hoped or wished for. According to Correr, the publication had run into serious

opposition already from the Danes, the French, and the Spanish as well as from the Dutch, who made a hue and cry ‘because of the fisheries.’¹⁸

Yet the Venetian ambassador was mistaken in his assumption that the author of *Mare Liberum* would enter the lists against Selden. Grotius informed his brother in late January 1636 that he would delegate this task to his friend Petrus Cunaeus, Professor of Roman Law at the University of Leiden and the States of Holland’s special adviser for trade policy. In late May, Grotius mentioned in a letter to his brother-in-law that he possessed materials ‘suitable for a reply to Selden,’ but did not intend to part with any of these, ‘seeing how I am treated by those whom I once served faithfully’ – a veiled reference to his conviction for high treason by the Dutch States General in May 1619 and the States of Holland’s decree of banishment of April 1632. He expressed the pious hope that, one day, posterity would give due recognition to his writings in the service of the Dutch Republic. Yet he admitted to Willem de Groot that, unwittingly, he had contributed a few lines of poetry to *Mare Clausum*, celebrating the naval prowess of the Kings of England. (The lines were taken from a poem composed on the occasion of James I’s coronation in London in 1603.) Grotius recalled in a letter in early May that he had lent a copy of his *Poemata Collecta* (1617) to the English ambassador in Paris, who had failed to return it, for obvious reasons!¹⁹

How did the Dutch government authorities react to the publication of *Mare Clausum*? When Joachimi’s letter and its enclosure, a copy of *Mare Clausum*, reached The Hague on 21 December 1635, the Dutch States General immediately passed the materials to the States of Holland. As the economic powerhouse of the Dutch Republic, Holland tended to formulate trade policy for the country at large. According to the minutes, the States of Holland decided to consult the University of Leiden and immediately dispatched the copy of *Mare Clausum* to Cunaeus.²⁰ Pirated editions of *Mare Clausum* soon appeared in quarto, octavo and duodecimo formats in both Leiden and Amsterdam – an indication that Selden’s challenge was taken seriously in Dutch academic and political circles. Van Reigersberch kept Grotius abreast of the latest developments. He noted in a letter of late December that the States of Holland were at pains to keep his brother-in-law out of the affair. At the insistence of its Counter-Remonstrant members, Cunaeus could not consult with anybody outside of the Dutch Republic regarding a possible reply to Selden. Van Reigersberch commented wryly: ‘[t]hus these people indulge their passions; at such great cost do they nurture their hatred that they do not hesitate to display it even when it is to the detriment of the country.’ The Counter-Remonstrants need not have feared a possible collusion between Grotius and Cunaeus. There is no indication in Grotius’ extant correspondence that the Leiden professor contacted him at this juncture.²¹

Still, *Mare Liberum* and its author were never far removed from the surface of political debate in The Hague. When Cunaeus reported back to the States of Holland in early April 1636, he summarized Selden’s argument as

declaring the King of England to be lord [i.e. *heere*, in the sense of *dominus*] of the British Sea, to which neither France nor the Low Countries nor Zeeland could lay claim, nor were allowed to navigate without the King’s consent and express permission; more generally, seeking to prove that natural right does not cover the sea, but pertains to individual lords.²²

The good news was that it should not be too difficult to disprove Selden, who had contradicted ‘many other writers, including Hugo Grotius.’ The States of Holland were not so sure. Unwilling to involve the exile in Paris or give offense to Charles I, the States of Holland decided after careful deliberation to treat *Mare Clausum* as ‘the work of a private person,’ which required no official refutation. The States of Holland did ask Cunaeus to put his thoughts to paper, though, and keep his rebuttal ready for such occasions ‘as it might be necessary.’ It is unclear whether the Leiden professor did, in fact, deliver the goods. Van Reigersberch wrote at the end of April that the Dutch States General sought to persuade Dirk Graswinckel to write the official reply to Selden instead. According to Willem de Groot, Cunaeus wished to excuse himself ‘on account of his English friendships.’ Grotius replied to Van Reigersberch in late May that he had already received a request for assistance from

Graswinckel. Nothing more was heard of Cunaeus' treatise against Selden – if it was ever written. The Leiden delegates in the States of Holland enquired after the state of play in early August. They pointed out that the States of Holland had commissioned Cunaeus to establish 'the free and general use of the sea,' but that the Dutch States General had meanwhile appointed somebody else. Clearly, the Dutch authorities failed to deal effectively with *Mare Clausum* and the very real threat which it posed to Dutch maritime and commercial interests. There seems to have been little coordination between the States of Holland and Dutch States General. Why did the federal government of the Dutch Republic decide to ask Graswinckel to write the official reply to Selden?²³

Just how far Charles I intended to press his claims to lordship of the British seas became clear to the Dutch States General in the middle of April 1636. In an urgent letter, its envoys in London – Joachimi and Cornelis van Beveren, burgomaster of Dordrecht (e.g. Dordt) – reported a joint visit of the two Secretaries of State, Coke and Sir Francis Windebank. The purpose of the Secretaries' visit earlier that month was to notify the envoys of Charles' decision to launch the ship money fleet 'in order to maintain and preserve his lordship over and inherited right in his sea.' The King would provide convoys for the 'protection and preservation of commerce.' Yet fishermen who wished to practice their trade 'in the aforesaid sea' were now required to take out a royal license. The Secretaries emphasized the policy's benefits for the Dutch Republic. Had Dutch commerce and fishing not suffered from the onslaught of the Dunkirk pirates, for example? In reply, the envoys politely observed that their aim had always been to cultivate good relations with the English Crown. The proposals of Coke and Windebank puzzled them, however. Would the Secretaries say something more about Charles' intentions? What was the true extent of the royal claims? Could the Secretaries put their proposals in writing? Coke and Windebank refused to play along. They testily declared that 'they were not authorized to hold a disputation' and that, moreover,

the entire world was aware of the King's inherited right in the four seas [surrounding the British Isles], which could also be sufficiently deduced from a recent publication, entitled *Mare Clausum*.

The envoys were insistent, however. They wanted to have the proposals in writing in order to determine their meaning. In the annals of diplomacy, 'just one word could make all the difference.' By way of example, they noted that only the other day Joachimi had informed His Majesty of the decision of the Dutch States General to tighten the maritime blockade of the Flanders ports and prohibit the shipment of any 'contraband goods' to the Spanish Netherlands. This measure was completely legitimate according to *jus gentium* and, indeed, common practice among 'Kings and Princes.' The Dutch States General could not be denied a right that pertained to all other rulers. Although the envoys pretended to mention this bye-the-bye, it is hard to escape the suspicion that they engaged in a political tit-for-tat, countering Charles' assertion of maritime sovereignty with claims of exclusive Dutch control and jurisdiction in Flemish coastal waters. Did they realize that the author of *Mare Liberum* and *De Jure Belli ac Pacis* deemed maritime jurisdiction and control to be permissible under natural law? In Grotius' view, it was the equivalent of 'actual possession' on land: it existed only in sections of the sea regularly patrolled by warships or within shooting range of land-based guns. Still, the envoys shied away from openly questioning the tenets of *Mare Clausum*, which they tried to dismiss as the work of a private person. They were disabused of this notion by the two Secretaries, who pointed out that '*Mare Clausum* had been written at the orders of His Majesty.' Otherwise, the Secretaries were unwilling to go into any kind of specifics. Yet the little that they had said was sufficiently alarming. After the Secretaries' departure, the envoys fired off a letter to the Dutch States General, requesting new instructions for this 'important, perilous and far-reaching affair.'²⁴

The envoys' letter caused much disquiet in the Dutch States General and States of Holland – so Thomas Howard, Earl of Arundel, reported to Coke. The high-ranking aristocrat had been dispatched as Charles' special ambassador to the imperial court in Vienna in order to negotiate the return of the Palatinate to the King's nephew, Prince Charles Lewis. Arundel's first stop was The Hague, where he was warmly received by Charles Lewis' mother, Princess Elizabeth Stuart. The

ill-fated Queen of Bohemia and Electress Palatine had been living in exile in the Dutch Republic since 1621. The earl met with the Dutch States General next. It did not escape his notice that, although the Dutch authorities were supportive of his mission to the imperial court, they seemed deeply troubled by the envoys' letter. At his audience on Monday, 11 April 1636 (o.s.), he sought to reassure the Dutch States General that 'His Ma.tie of his owne Princely moderation had confined himself within the bounds of that which iustly belonged unto him.' Indeed, the King considered it his task to defend not just his own 'Dominions & subjects,' but also 'allies coming within the limites of his Jurisdiction.' This was a significant concession. Nobody could object to Charles exercising jurisdiction in coastal waters or in stretches of sea, such as the English Channel, patrolled by his warships. That was quite different from claiming royal ownership of four ill-defined British seas, as Selden did in *Mare Clausum*. The earl even went a step further in private conversations, expressing concern that the Dutch authorities attached greater importance to *Mare Clausum* than the King had either wished or intended.²⁵ The States of Holland were ill at ease, however. Three days after Arundel's audience, the Dutch States General accepted the proposal of the Holland delegates to recall Joachimi to The Hague for consultation and talk to the earl again about the '*dominium maris* business.' The States of Holland wished to show Arundel that it had been a controversial issue for many years, going back to the reigns of Elisabeth I and James I of England, in fact. Charles I's predecessors had forbore to press it, in the knowledge that they risked a rupture between the two countries. The Dutch authorities expected a similar, lenient treatment from the King. Arundel's correspondence with Coke does not reveal whether this point ever came across. The envoys' letters received a second reading in the Dutch States General in late April. Following a report from Zeeland delegate Caspar van Vosbergen, a distant relation of Grotius' wife, the Dutch States General outlined the two most pressing problems:

- (a) it remained uncertain whether Charles would allow the visitation by Dutch navy ships of English merchantmen which sought to enter Flemish ports, and
- (b) Charles' use of *Mare Clausum* to justify his 'pretended right in the pretended four seas.'

Promising adequate recompense, the Dutch States General authorized its president, Nicolaes van den Bouckhorst, to identify a scholar able to refute Selden's arguments and get to work straight-away. Before the month was out, Van Reigersberch could report to Grotius that Graswinckel had been selected for the job.²⁶

The measures taken by the Dutch States General were not sufficient to reassure the States of Holland. Charles' avowed intention to tax Dutch herring busses and his claim to lordship of the British seas gave rise to profound policy discussions in the States of Holland in June 1636. Like Grotius, the States of Holland believed freedom of trade and navigation to be absolutely essential for the political and economic survival of the Dutch Republic. Following Joachimi's return from London, the Holland delegates in the Dutch States General met with the ambassador and with Stadtholder Frederic Henry. (The latter was consulted regularly on foreign policy issues by the Dutch States General and States of Holland.) The delegates then reported back to the States of Holland. In their view, it was no coincidence that the King of England and Scotland had sent Arundel on a mission to Vienna and simultaneously launched a fleet of thirty-eight warships to target, first, the Dutch herring busses, 'being the weakest,' and then, presumably, the Republic's 'entire commerce and navigation.' Yet the delegates admitted that the Stadtholder was more sanguine about the matter. According to Prince Frederic Henry, the Dutch ambassadors in London should do all they could to prevent the practical execution of Charles' claims to *dominium maris*, both by 'making friends in England' (e.g. bribing courtiers and high officials of state) and by intimating to the King that the Dutch Republic could and would 'defend itself against violence and injustice.' In the meantime, as many navy ships as possible would have to be put to sea, if only to show that the Dutch Republic had no intention of backing down. If necessary, new instructions could be sent to the Dutch navy

commanders, authorizing them to defend ‘the [herring] busses and other Dutch ships’ against ‘any kind of violence and molestation.’²⁷

The report provoked extensive discussions in the States of Holland. The Pensionary of Delft, Govert Brasser, took a dim view of Charles I’s policy aims. A man of experience –he had visited England as an extraordinary envoy in 1625 – Brasser warned the States of Holland that the English sought ‘to make themselves masters of the entire sea and make the whole country [i.e. the Dutch Republic] their tributary.’ The quick and easy way to achieve such nefarious ends was to attack the Dutch herring busses. If successful, the English could soon be in a position to ‘ruin the entire commerce’ of the Dutch Republic and lure away ‘all the trades and inhabitants.’ In Brasser’s view, the question at hand was whether to ‘submit to this servitude’ or risk ‘a break with England.’ Either way, the winner would be the Spanish agent in London, Juan de Neocolalde, whom he suspected of playing a very long game. The Dutch Republic was still at war with its former overlord, the Habsburg ruler of Spain and Portugal. Allegedly, the King of England had fallen completely under Neocolalde’s spell and would ‘much rather lose his crown than fail to preserve his dominium maris.’ Brasser pleaded with the States of Holland to mount a vigorous defense, rather than allow the Dutch Republic to lose its ability to resist the Habsburg enemy. The minutes of the meeting show that the other delegates took Brasser’s advice to heart. Yet they declined to issue new instructions to the Dutch navy captains until they had received authorization from their ‘principals’ (*principalen*), meaning the town governments which they represented in the States of Holland. It was a tried and tested tactic to postpone difficult decisions.²⁸

In the meantime, the Earl of Northumberland put out to sea with forty sail in order to ‘take advantage of the publication of *Mare Clausum* –so the *Gazette de France* informed its readers in early June 1636. As admiral of the ship money fleet, Algernon Percy succeeded in his mission to impose the sale of licenses on Dutch herring busses. Insufficiently protected by Dutch warships, the fishermen preferred the purchase of licenses to having their nets cut. They did, of course, complain about their treatment by Northumberland on arrival back home. Joachimi and the Dutch States General brought their grievances to the attention of Charles I in late summer, requesting the withdrawal of the licenses and a negotiated solution. Yet the monarch had no taste for compromise: he declared that to ask him to abdicate his *dominium maris* was as absurd as if Spain should ask him to give up Ireland. Indeed, the publication of any books in the Dutch Republic contesting his rights –a veiled reference to the Dutch States General commissioning Graswinckel’s rejoinder – would require him to vindicate his *dominium maris* even more forcefully. These were strong words. Yet as luck would have it, the political storm blew over later that year. The disappointing outcome of Arundel’s embassy to the imperial court in Vienna forced Charles I to reassess his foreign policy options and seek a closer alliance with France and the Dutch Republic in order to support his nephew’s claims to the Palatinate. It also explains why Graswinckel’s reply to Selden never appeared in print.²⁹

5. Dirk Graswinckel and the Republic of Venice

Who was Dirk Graswinckel? Why did the Dutch States General select him to write a reply to Selden? The jurist had been born into a prominent Delft family. One of his cousins, Alida Graswinckel, was married to Grotius’ brother. Graswinckel obtained a law degree from the University of Franeker –a Counter-Remonstrant bulwark– in September 1621, and then set out on a grand tour of Europe. When he arrived in Paris in June 1624, he assisted Grotius in preparing the printer’s copy of *De Jure Belli ac Pacis*. Following his grand tour, he established himself as a very successful lawyer in The Hague. He was a voracious reader: in the 1650s, his library was reputed to be worth 40,000 Dutch guilders (e.g. £ 4,000). He completed his first work of political theory, *Libertas Veneta*, at the end of the 1620s. It was a well-documented justification of the ‘myth of Venice’: allegedly, the city republic had never been mastered by any empire –whether Roman, Byzantine, or Holy Roman – and its aristocratic political structure had remained stable and unchanging since the

(mythical) days of its founding. Circulated in manuscript, *Libertas Veneta* was widely praised by scholars in the Dutch Republic and attracted the attention of Alvise Contarini, the Venetian ambassador in The Hague. At his suggestion, the Venetian Senate decided to honor the author with a gold chain worth a thousand ducats and even considered having the work translated into Italian. The bulky, 500-page volume was published in Latin in Leiden in 1634. No wonder, then, that the Dutch States General entrusted the task of answering Selden to the author of *Libertas Veneta*, a rising intellectual and political star who, conveniently, lived and worked in The Hague. More importantly, his religious persuasions were reliably Counter-Remonstrant.³⁰

In refuting Selden, the Dutch States General probably expected Graswinckel to take advantage of his connections with Grotius, whom he had cultivated assiduously – ‘the phoenix of the century,’ as he called the Swedish ambassador in one of his letters. Moreover, he was in possession of some of Grotius’ working papers and manuscript treatises, including the early work *De Republica Emendanda* (ca. 1600). Not surprisingly, he adopted various Grotian tenets in *Libertas Veneta*, emphasizing man’s natural liberty and *appetitus societatis* (e.g. a desire to live in well-ordered communities). Like Grotius, he cited the sixteenth-century Catholic theorists of natural law as his authorities. The Swedish ambassador was not insensible of Graswinckel’s intellectual capacities. He praised *Libertas Veneta* in a letter to his brother as an erudite work, which testified to its author’s wide reading and hard work. In the middle of May 1636, Graswinckel contacted Grotius about the reply to Selden. He reminded his correspondent of their ‘most fruitful and delightful’ discussions in Paris a decade earlier and requested that arguments for and against freedom of trade and navigation be put to paper and sent to The Hague. Yet Grotius kept his distance from the ambitious young man, whom he owed little more than a ‘polite apology,’ so he informed Van Reigersberch at the end of May. Graswinckel, then, did not receive any useful advice from Grotius in writing his reply to Selden. He nevertheless tried to follow his teacher’s example as much as he could. Yet he soon discovered that it was difficult to reconcile a vigorous defense of the freedom of the seas with his record of service to the Republic of Venice.³¹

Given Venice’s claims to the Adriatic, it should not surprise us that the Venetian ambassador in The Hague kept the Doge and Senate informed about Graswinckel’s progress. Francesco Michiel reported in the middle of July 1636 that he had spoken at length with the jurist about the latter’s reply to Selden. His summary of their conversation reveals that Graswinckel heavily relied on *De Jure Belli ac Pacis* in refuting Charles I’s claims to *dominium maris*. As Graswinckel explained to the ambassador, *dominium maris* must be ‘either natural or acquired.’ It could not be natural in the case of England: otherwise it would apply equally to France and the Dutch Republic. It could not be acquired either: that would be a question of fact, which was, however, ‘not apparent.’ Graswinckel agreed with the author of *De Jure Belli ac Pacis* that natural law mandated the freedom of the seas, but also accepted a significant change in Grotius’ argument as compared to *Mare Liberum*. In the knowledge that ‘the King of England has no gulf,’ Graswinckel was happy to distinguish between the open sea and stretches of water controllable from the land and therefore liable to possession and perhaps even dominium. This distinction left Venice’s claim to the Adriatic intact – or so Graswinckel thought. It was not sufficient, however, to satisfy the Venetian ambassador.³²

The writing and (abortive) printing history of Graswinckel’s reply to Selden can be reconstructed from Grotius’ correspondence and the letters of the English ambassador in The Hague. Graswinckel’s work was the product of political exigency. It would remain in manuscript for that reason. Yet the possibility of publication was uppermost in the minds of quite a few diplomats, who realized that it could have profound political consequences. In late January 1637, Willem de Groot reported that the work was nearly finished, but unlikely to appear in print ‘with public approval.’ The Dutch ambassador in London considered *Libertas Veneta* and its support for ‘Venetian dominion in the Adriatic Sea’ to be harmful to the Dutch cause, not to mention the fact that it undermined Graswinckel’s credibility as a champion of *Mare Liberum*. Grotius endorsed the criticism of Joachimi in his reply of the middle of February. Yet he remained confident that Graswinckel’s reply to Selden would appear in print, writing a month later: ‘we will expect Graswinckel’s publication.’ At that

time, Boswell informed Coke that he had laid his hand on the ‘first 3 bookes, amounting to above 50. sheets of paper [written] in a close hand.’ Boswell asked the Secretary of State whether he should send the manuscript materials to London and repeated his question in two follow-up letters in April. He professed to have forked out a great deal of money in order to obtain a scribal copy ‘before any other thereof be made, much less presented [by Graswinckel] but [to] the [Dutch] States General.’ Could the copy purchased by Boswell be the same as the one extant among Selden’s papers in the Bodleian Library?³³

It was only in late April 1637 that the federal government of the Dutch Republic finally received a manuscript copy of ‘*Vindiciae maris liberi adversus Virum Clarissimum Janum Seldenum*’. After ‘extensive discussion,’ the Groningen delegate Wolter Schonenborch agreed to examine the work and report back in good time. In addition, the Dutch States General decided to contact three experts on English affairs – Joachimi, Van Beveren (still in England), and François van Aerssen, elder statesman and confidant of the Stadtholder – in order to obtain their opinions on ‘the freedom of navigation and fishing.’ In the middle of May, the English ambassador in The Hague could report that Joachimi had criticized ‘diverse passages in Advocat Graswinckel’s Booke, as unfitting &c.’ The resolutions of the Dutch States General show that Joachimi submitted ‘several extracts pertaining to the fisheries and the ownership of the sea,’ which were passed to Graswinckel for incorporation in ‘*Vindiciae maris liberi*’. In early June, Van Aerssen received a reminder to submit his considerations ‘regarding *Mare Clausum*.’ The Dutch States General, then, was engaged in a thorough examination of the legal premises of its naval policy. Clearly, it was important to get this right. Yet Graswinckel would have great difficulty revising his reply to Selden to the satisfaction of both the Dutch States General and the Doge and Senate of Venice.³⁴

The correspondence of the Venetian envoys in The Hague reveals the extent to which Graswinckel tried – and failed – to serve two masters. Francesco Michiel and Girolamo Giustinian importuned him incessantly, demanding the removal of any passages which could be read as undermining Venice’s claim to the Adriatic. Indeed, the envoys would prefer to have the work suppressed in its entirety. In late May 1637, Graswinckel provided Michiel with sections of the manuscript that allegedly demonstrated the city republic’s ‘absolute dominion’ of the Adriatic. At the author’s behest, the envoy dispatched the sheets to his superiors in Venice, in order to have these ‘revised and corrected.’ Michiel wrote in early July that the Dutch States General expected Graswinckel to resubmit the manuscript as soon as possible. Yet the jurist wanted to wait until ‘the sheets sent to Your Serenity’ (meaning the Doge of Venice) had been returned to him. The Venetian government officials seem to have taken their time. Only in early May 1638 did Giustinian receive instructions with regard to ‘the printing of [Graswinckel’s] book.’ He replied that he had made a note of ‘all the passages which require alteration,’ supplied them to the author, and asked the latter ‘to carry out Your Serenity’s commands.’ The envoy knew how to keep up the pressure. Two weeks later he reported a second conversation with Graswinckel, whom he had tried to dissuade from going into print. The jurist had rejected the suggestion outright, on the grounds that the work had been commissioned by the federal government of the Dutch Republic. Giustinian had nevertheless prevailed upon Graswinckel to reconsider ‘the passages which concern Your Serenity’s dominion over the sea.’ In early July, he confidently predicted that ‘*Vindiciae maris liberi*’ would not go to press without a new chapter on Venice’s ‘indubitable claims’ to the Adriatic. Given these political complications, not to mention the delaying tactics on the part of Venice, it is hardly surprising that Graswinckel’s reply to Selden never appeared in print. Although Venice and the Dutch Republic were close allies, the two states justified their maritime and economic interests in diametrically opposed legal terms.³⁵

The political tide turned against Graswinckel in other ways as well. The outbreak of the Prayer Book Rebellion in Scotland in July 1637 forced the Stuart monarchy to recalibrate its foreign policy priorities. Following Maarten Tromp’s defeat of a Spanish fleet in the Battle of Downs of October 1639, Charles I would seek a closer alliance with the Dutch Republic and House of Orange, marrying his eldest daughter to Prince William II, the Stadtholder’s only son and heir. The States of Holland and Dutch States General were careful to reward Graswinckel for his services, though, realizing

they might require his help again at some point in the future. During the first Anglo-Dutch War (1652–54), the jurist would publish *Maris liberi vindiciae contra Velvoodum*/The free sea vindicated against [William] Welwood (1653), for example, and toy with the idea of issuing his reply to Selden as well. In early May 1639, Willem de Groot wrote to his brother that the States of Holland had prevailed upon the Dutch States General to grant Graswinckel an annuity of five hundred Dutch guilders. Yet he doubted that their kinsman's 'defence of the free sea' would ever appear in print – 'unless I am very much mistaken.' Replying a fortnight later, Grotius agreed that the publication of *Maris Liberi Vindiciae* had become unlikely. He was furious at the lavish reward promised to Graswinckel, whom he considered a political weathervane. If one unpublished manuscript could earn its author an annuity of five hundred Dutch guilders, what did the States of Holland owe Grotius for a series of famous publications such as *Mare Liberum*, *De Antiquitate* (1610), and *Inleiding tot de Hollandsche rechts-geleertheyd*/Introduction to Dutch Jurisprudence (1631), each of which eloquently defended the States of Holland's policies and authority? As Grotius knew only too well, life was not fair. The echoes of the political and religious conflicts of the Twelve Years Truce continued to rumble on. When the Dutch government authorities enlisted Graswinckel as the vindicator of *Mare Liberum*, instead of Grotius' equally capable Remonstrant relatives, one set of deeply felt convictions clearly trumped another.³⁶

6. Conclusion

A range of political and maritime interests were at stake in the publication and reception of John Selden's *Mare Clausum*. The work's writing and printing history was closely tied to Stuart foreign policy, particularly the attempts of the Stuart monarchs to tax the Dutch herring fisheries on Britain's north and east coasts. The work's impact on international relations in Western Europe has received little attention in the historiography so far. *Mare Clausum* caused much soul-searching in the political establishments of Venice and the Dutch Republic. Government authorities contemplated the possibility of Grotius or his kinsman Graswinckel replying to Selden, and they instructed their envoys accordingly. It was not just the Swedish claim to the Baltic which reduced Grotius to silence, but also his close contacts with English envoys in Paris. Scadamore kept him up to date on the progress of Selden's work and passed on the advice of the Archbishop of Canterbury to stay clear of the matter. Since Grotius had set his sights on an ambassadorial appointment in London, he could ill afford to dismiss Laud's warning. Moreover, he had no intention of lending his assistance to the Dutch States General, which he believed had wrongfully convicted him in August 1619, or to the States of Holland, which had banished him from his homeland for a second time in April 1632. Consequently, he refused to part with any papers that might be relevant for the case against Selden or comment meaningfully on Graswinckel's enterprise. The federal government of the Dutch Republic commissioned Graswinckel – an ambitious jurist with impeccable Counter-Remonstrant credentials – to write a reply to Selden. Consequently, the English and Venetians ambassadors in The Hague made great efforts to obtain (sections of) Graswinckel's manuscript prior to its submission to the Dutch States General. The envoys also worked assiduously to prevent its appearance in print, and, in Venice's case, to make sure that the manuscript gave due consideration to the city republic's maritime and economic interests. They were largely successful in this. Their efforts to suppress Graswinckel's reply to Selden also indicates that, nearly thirty years after its first printing, *Mare Liberum* remained, in David Armitage's words, 'a shot heard around the world.'³⁷ Claims to freedom of navigation, trade and fishing would continue to be flashpoints of European diplomacy for a long time to come.³⁸

Notes

1. *Briefwisseling van Hugo Grotius* (hereafter *BW*), also available electronically at <<http://grotius.huygens.knaw.nl/years>> VI no. 2432 (Grotius to Axel Oxenstierna, 10 Jan. 1636); Grotius, *Mare Liberum sive de iure quod*

- Batavis competit ad Indicana commercia dissertatio; Bibliographie des écrits imprimés de Hugo Grotius*, 210–222.
2. Muller, *Mare clausum*; A. Graafluis, ‘Muller Fzn., Samuel (1848–1922)’, in *Biografisch Woordenboek van Nederland*. URL:<http://resources.huygens.knaw.nl/bwn1880-2000/lemmata/bwn1/mullerfzn> [12-11-2013]; Fulton, *The Sovereignty of the Sea*; Samuel Pyeatt Menefee, ‘Fulton, Thomas Wemyss [formerly Wemyss Alexander Thomas Fulton] (1855–1929), fisheries authority and ocean law publicist’, *Oxford Dictionary of National Biography*. 23 Sep. 2004.
 3. Sharpe, *The Personal Rule of Charles I*, 97–104, 155, 653, 717–730; Mendle, ‘The Ship Money Case, The Case of Shipmony, and the Development of Henry Parker’s Parliamentary Absolutism’, 513–536. The complete title of Selden’s work is *Mare clausum seu De dominio maris libri duo. Primo, mare, ex iure naturæ seu gentium, omnium hominum non esse commune, sed dominii privati seu proprietatis capax, pariter ac tellurem, esse demonstratur. Secundo, serenissimum Magnæ Britanniae Regem maris circumflui, ut individuae atque perpetuae imperii Britannici appendicis, dominum esse, asseritur*. It was printed in London by William Stansby for Richard Meighen. The Universal Short Title Catalogue (USTC) number is 3018258. As Michael Mendle points out, *Mare Clausum* was cited in the Ship Money Case by the King’s solicitor, Sir Edward Littleton, and by the judges Sir Humphrey Davenport, Sir John Finch, and Sir John Bramston. See Howell, ed., *A Complete Collection of State Trials*, III, cols. 928, 1210, 1226, 1247.
 4. Tuck, *Philosophy and Government, 1572–1651*, 212–7, quotation on p. 213, see also Tuck, *Natural Rights Theories: Their Origin and Development*, 87–91; Brito Vieira, ‘Mare Liberum vs. Mare Clausum’, 361–377, at p. 374; Thornton, ‘John Selden’s Response to Hugo Grotius’, 105–128; Toomer, *John Selden*, 395–433.
 5. Muller, *Geschiedenis der Noordsche Compagnie and Mare clausum*, 72–85, 101–5, 244–306, 324–361; Fulton, *Sovereignty of the Sea*, 148–377; Sharpe, *Personal Rule*, 101–4; Toomer, *John Selden*, 435–7; Hugo Grotius, *The Free Sea*, 65–74; Ittersum, ‘Mare Liberum versus The Propriety of the Seas? The Debate between Hugo Grotius (1583–1645) and William Welwood (1552–1624) and Its Impact on Anglo-Scotto-Dutch Fishery Disputes in the Second Decade of the Seventeenth Century’, 239–276. In October 1634, Charles I decided to impose an annual levy on English coastal towns in order to raise funds for the English navy. The annual levy –called ship money– was extended to English inland towns the next year and continued to be collected until 1640. The levy had not been approved by the English Parliament, however, which made it a highly contested tax. See Sharpe, *Personal Rule*, 545–600.
 6. Nellen, *Hugo Grotius*, 209–293, 494–9, 517–540, 602–618, 643–656.
 7. Nellen, *Hugo Grotius* 14–94; Leiden University Library (henceforth UBL), Ms. BPL 917 (‘De Jure Praedae’); Grotius, *Commentary on the Law of Prize and Booty*; Grotius, *The Free Sea*; Ittersum, *Profit and Principle* and ‘Preparing Mare Liberum for the Press: Hugo Grotius’ Rewriting of Chapter 12 of De Jure Praedae in November-December 1608’ in: *Property, Piracy and Punishment*, 246–280.
 8. Nellen, *Hugo Grotius*, 94–312; Tex, *Oldenbarnevelt*.
 9. Nellen, *Hugo Grotius*, 323–330, 367–387, 437–478, 541–556; Grotius, *De Jure Belli ac Pacis Libri Tres. In quibus ius naturæ & gentium; Bibliographie des écrits imprimés de Hugo Grotius*, 222–7; Thomson, ‘The Dutch Miracle, Modified’, 107–130 and ‘Swedish Variations on Dutch Commercial Institutions, 1605– 1655’, 331–346.
 10. Toomer, *John Selden*, 388 (quotation taken from footnote 3).
 11. Toomer, *John Selden*, 388–9; ‘Verbaal van de onderhandelingen door de Nederlandsche gezanten van december 1618 tot augustus 1619 in Engeland gevoerd’, 112–8; National Archives of the United Kingdom at Kew (henceforth NAK), SP 84/87 f. 219r (the King’s answer to the Dutch commissioners, 21/31 December 1618); Ittersum, ‘Mare Liberum Versus The Propriety of the Seas?’, 256–271.
 12. Toomer, *John Selden*, 320–332; on Selden’s opposition to royal policy in the late 1620s, see also Kishlansky, ‘Tyranny Denied’, 53–83.
 13. Sir John Coke to Boswell, 16 April 1635 (o.s.), as cited by Fulton, *Sovereignty of the Sea*, 257–8; Alan Stewart, ‘Boswell, Sir William (d. 1650)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Oct 2009. Sir John Coke had been deputy treasurer of the navy from 1599 until 1604 and navy commissioner from 1618 until 1622. Appointed Master of Requests in 1622 and Secretary of State in 1625, Coke remained Villiers’ right-hand man in naval affairs while climbing the career ladder at Court. See Young, *Servility and Service*, 186–204.
 14. Toomer, *John Selden*, 393–4; Barratt, ‘The Publication of John Selden’s *Mare Clausum*’, 204–5; Lucas, ‘Printing Anglo-Saxon in Holland and John Selden’s *Mare Clausum seu de Dominio Maris*’, 120–136, at 124.
 15. Fulton, *Sovereignty of the Sea*, 367 (footnote 5); National Archives of The Netherlands at The Hague (henceforth NAH), access no. 1.01.02, inventory no. 5893 (‘Lias Engeland’, incoming letters, unfoliated –Albert Joachim to the Dutch States General, 13 Dec. 1635).
 16. BW V no. 2092 (Grotius to Samson Johnson, 11 May 1635), no. 2093 (Grotius to William Laud, 11 May 1635), no. 2126 (Samson Johnson to Grotius, 31 May 1635); BW VI no. 2178 (Grotius to Axel Oxenstierna, 10 July 1635), 2179 (Grotius to N. van Reigersberch, 10 July 1635), no. 2181 (Grotius to Ludwig Camerarius, 10 July 1635), no. 2226 (Grotius to Willem de Groot, 10 Aug. 1635), no. 2360 (Grotius to N. van Reigersberch, 22 Nov.

- 1635), no. 2362 (Grotius to Willem de Groot, 23 Nov. 1635), no. 2413 (Grotius to Axel Oxenstierna, 27 Dec. 1635), no. 2413 (Grotius to Axel Oxenstierna, 27 Dec. 1635), no. 2416 (Grotius to N. van Reigersberch, 28 Dec. 1635), no. 2431 (Grotius to Willem de Groot, 10 Jan. 1636); Brandt, and van Cattenburgh, *Historie van het Leven des Heeren Huig de Groot*, 2 vols., 193; Atherton, *Ambition and failure in Stuart England* 53, 171–219. In a letter addressed to ‘Mr. Peerse’ on 14 March 1636 (o.s.), Scudamore requested four more copies of Selden’s *Mare Clausum* (Bodleian Library, University of Oxford, MS Rawl. letters 108 f. 19). Presumably, Scudamore had received one shipment already. Did he pass a copy of *Mare Clausum* to Grotius in December 1635?
17. UBL, Ms. BPL 918 (‘Defensio capitis quinti Maris Liberi’); *BW* VI nos. 2411, 2418, 2427 (N. van Reigersberch to Grotius, 24 and 29 Dec. 1635 and 5 Jan. 1636) and no. 2439 (Willem de Groot to Grotius, 14 Jan. 1636); Nellen, *Hugo Grotius*, 494–9, 556–9; Ittersum, ‘Knowledge Production in the Dutch Republic’, 523–548 and ‘Mare Liberum versus The Propriety of the Seas’, 243–256; Grotius, *The Free Sea* ed. Armitage, 77–130. In August 1637, Grotius reported to Axel Oxenstierna that the English government would be glad to have him as Swedish ambassador in London (*BW* VIII no. 3196 (Grotius to Axel Oxenstierna, 6 Aug. 1637)).
 18. *Calendar of State Papers and Manuscripts, Relating to English Affairs, Existing in the Archives and Collections of Venice* [henceforth *State Papers Venetian*], nos. 625 and 631 (Anzolo Correr, Venetian Ambassador in London, to the Doge and Senate, 28 March and 4 April 1636); on Anzolo Correr, see Bergeron, ‘Venetian State Papers and English Civic Pageantry, 1558–1642’, 37–47, at 46, and Trimble, ‘The Embassy Chapel Question, 1625–1660’, 97–107, at 99.
 19. *BW* VI nos. 2450 and 2485 (Grotius to Willem de Groot, 24 Jan. and 21 Feb. 1636), no. 2449 (Grotius to Cornelis de Groot, 24 Jan. 1636); *BW* VII, no. 2583 (Grotius to Willem de Groot, 7 May 1636), no. 2613 (Grotius to N. van Reigersberch, 30 May 1636); Nellen, *Hugo Grotius*, 145–7, 494–9, 556–9; A.J. van der Aa, *Biographisch woordenboek der Nederlanden* (Haarlem, 1858) Vol. III, 914–18; on Cunaeus and his friendship with Grotius, see also Eric Nelson, *The Hebrew Republic*, 107–111.
 20. NAH, SG, 1.01.02, inv. no. 5893 (Joachimi’s letter to the Dutch States General of 13 Dec. 1635); *Register van Holland en Westvriesland, van de jaaren 1635, 1636 en 1637* 293 (resolutions of the States of Holland of 21–22 Dec. 1635); *Particuliere Notulen van de vergaderingen der Staten van Holland 1620–1640 door N. Stellingwerff en S. Schot*, 673 (minutes of the meeting of the States of Holland of 21 Dec. 1635). The resolutions of the States of Holland suggest that Joachimi may have written directly to the States regarding the publication of *Mare Clausum*, enclosing a copy thereof.
 21. NAK, SP84/151, f. 166r-v (Sir John Coke to William Boswell, 4 April 1636 (o.s.)); *BW* VI no. 2411 (N. van Reigersberch to Grotius, 24 Dec. 1635); Brandt and Cattenburgh, *Historie van het Leven des Heeren Huig de Groot*, 53–54; Toomer, *John Selden*, 435. According to Coke’s letter of 4 April 1636 (o.s.), two hundred copies of a pirated octavo edition of *Mare Clausum* had been shipped from Amsterdam to London. In all probability, Coke arranged for these to be confiscated and destroyed, in order that ‘they shall neither hinder the sale of Mr. Selden’s bookes nor doe otherwise preiudice to the cause hee [i.e. Selden] doth mainteyne.’ Pirated editions of Selden’s *Mare Clausum* were issued by three different publishers in the Dutch Republic in 1636. Two duodecimo editions were published by Abraham and Bonaventura Elzevir in Leiden. The USTC numbers are 1027917 and 3018465. Three quarto editions were published by Johannes Maire and Dirk Maire in Leiden. The USTC numbers are 1511072, 3018453 and 3018463. An octavo edition with a false imprint appeared in Amsterdam. The USTC number is 3018464. The publisher’s name on the title page is that of Richard Meighen in London, the man responsible for publishing the original folio edition. This is the pirated edition referenced by Coke in his letter of 4 April 1636 (o.s.). The pirated edition also contains Marcus Zuerius Boxhorn’s *Apologia pro navigationibus Hollandorum* (Amsterdam, 1636), with a separate divisional title, pagination, and register. On Boxhorn’s defense of Dutch claims to freedom of navigation, trade and fishing, see Jaap Nieuwstraten, *Historical and Political Thought in the Seventeenth-Century Dutch Republic*, 95–104, retrieved from <http://hdl.handle.net/1765/32176>.
 22. *Particuliere Notulen van de vergaderingen der Staten van Holland*, 762 (meeting of 10 April 1636):

De professor Cuneus advijserende op [s]eeker tractaet, bij eenen Johannes Sadenus [e.g., Seldenus], Engelsman, uytgegeven, genaempt ‘mare clausele’ [e.g., *Mare Clausum*], in ‘t Duyts geseyt ‘geslooten see’, omme de coning van Engelant daerdoor te believeen als denselven met wijtloopige redenen toeschrijvende heere van de Brittansche Zee, dat noch Vranckrijck noch de Nederlanden daerop yet hebben t pretendeeren, oock niet mogen bevaren sonder consent ende toelatinge van de voors. coning, gelijk mede niet die van Zeelant ende sulcx in ‘t generael soeckende te bewijse dat het recht der nature niet en streckt over de zee, maer dat deselve meestal parthiculiere heeren toecomen, ‘twelcke Cuneus voorn. secht bij een goedt ende welgelettert rechtsgeleerde wel can werden nedergeleyt, doordien ‘tselve is strijdich met veel andere schrijvers, oock met Hugo de Groot.
 23. *Particuliere Notulen van de vergaderingen der Staten van Holland*, 762, 937; *Register van Holland en Westvriesland, van de jaaren 1635, 1636 en 1637*, 383, 481; *BW* VII no. 2570 (N. van Reigersberch to Grotius, 28 April 1636), no. 2588 (Dirk Graswinckel to Grotius, 12 May 1636), no. 2589 (Willem de Groot to Grotius, 12 May

- 1636), no. 2613 (Grotius to N. van Reigersberch, 30 May 1636); *Nieuw Nederlandsch Biografisch Woordenboek* (hereafter *NNBW*), ed. P.J. Blok and P.C. Molhuysen, 10 vols. (Leiden, 1911–1937) Vol. III columns 489–490; Nellen, *Hugo Grotius*, 496–7.
24. NAH, SG, 1.01.02, inv. no. 5893 (unfoliated –letter of Van Beveren and Joachimi of 5 April 1636), inv. no. 8382, f. 35r-36v (a copy of the letter of 5 April 1636, as included in Cornelis van Beveren's *Verbael*), inv. no. 60 (resolutions of the Dutch States General, unfoliated –Cornelis van Beveren appointed as extraordinary ambassador to Charles I, 24 Dec. 1635); Grotius, *The Free Sea* ed. David Armitage (Indianapolis: Liberty Fund, 2004), 20–37, 87–122, 127; *The Rights of War and Peace* Book II 470; Brian Quintrell, 'Windebank, Sir Francis (bap. 1582, d. 1646)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004. Grotius argued in *De Jure Belli ac Pacis* that it was reasonable for 'those who shall take upon them the burden and charge of securing and assisting navigation' to impose a tax for such services. See *The Rights of War and Peace* ed. Tuck, Book II 470. To my knowledge, the English Crown did not cite Grotius in its negotiations with the Dutch States General in 1635–37.
 25. NAK, SP80/9 f. 125v (Earl of Arundel to the Secretary of State, 14 April 1636, o.s.); *Register van Holland en Westvriesland, van de jaaren 1635, 1636 en 1637* (resolutions of of the States of Holland of 23–24 April 1636); NAH, SG, 1.01.02, inv. no. 61 (resolution of the Dutch States General of 24 April 1636); Muller, *Mare clausum*, 244–251, particularly 250–251; Fulton, *Sovereignty of the Sea*, 302–3; Sharpe, *Personal Rule*, 519–523; Smuts, 'Howard, Thomas, fourteenth earl of Arundel, fourth earl of Surrey, and first earl of Norfolk (1585–1646), art collector and politician', *Oxford Dictionary of National Biography*. 23 Sep. 2004; Asch, 'Elizabeth, Princess [Elizabeth Stuart] (1596–1662), queen of Bohemia and electress palatine, consort of Frederick V', *Oxford Dictionary of National Biography*. 23 Sep. 2004; Asch, 'Charles Lewis [Karl Ludwig] (1618–1680), elector palatine of the Rhine', *Oxford Dictionary of National Biography*. 23 Sep. 2004.
 26. NAH, SG, 1.01.02, inv. no. 61 (resolutions of the Dutch States General of 24 and 28 April 1636, unfoliated) and inventory no. 8382 (Cornelis van Beveren's *Verbael*) f. 77r-v; *Particuliere Notulen van de vergaderingen der Staten van Holland*, 774–5; *Register van Holland en Westvriesland, van de jaaren 1635, 1636 en 1637* (resolutions of of the States of Holland of 23 and 24 April 1636); *BW VII* no. 2570 (N. van Reigersberch to Grotius, 28 April 1636) and no. 2591 (Grotius to Willem de Groot, 14 May 1636); Muller, *Mare clausum*, 250–2.
 27. *Particuliere Notulen van de vergaderingen der Staten van Holland*, p. 878 (meeting of 12 June 1636 –all quotations from this source); Muller, *Mare clausum*, 256; Israel, *The Dutch Republic*, 485–499, 508–546.
 28. *Particuliere Notulen van de vergaderingen der Staten van Holland*, p. 878 (meeting of 12 June 1636 –all quotations from this source); Van der Aa, *Biografisch woordenboek*, Vol. II-2 1202; on Necolalde's negotiations with Charles I in February 1634 to have the English navy secure the coasts of Flanders, see Sharpe, *Personal Rule*, 549.
 29. *BW VII* no. 2630 (Grotius to N. van Reigersberch, 12 June 1636); Chesne, *Histoire d'Angleterre, d'Escoce, et d'Irlande, contenant les choses plus dignes de memoire*, 1234; Drake, 'Percy, Algernon, tenth earl of Northumberland (1602–1668), politician.' *Oxford Dictionary of National Biography*. 23 Sep. 2004; Muller, *Mare clausum*, 252–297; Fulton, *Sovereignty of the Sea*, 301–321, 375; Loomie, 'The Spanish Faction at the Court of Charles I, 1630–8', 37–49; Sharpe, *Personal Rule*, 519–523, 537–541.
 30. *BW II* no. 905 (Grotius to Willem de Groot, 1 June 1624) and XVII, no. 622 (Willem de Groot to Dirk Graswinckel in Franeker, 25 March 1621); *NNBW* Vol. III columns 489–490; Vorsterman van Oyen, *Hugo de Groot en zijn geslacht*, 17; Fruin, 'Uit het Dagboek van een Oud-Hollander', vol. IV, 195–244; UBL, Ltk 858, 444; Dirk Graswinckel, *Libertas Veneta, Sive Venetorum In Se Ac Suos Imperandi Ius* (Leiden, 1634); Haitsma Mulier, *The Myth of Venice and Dutch Republican Thought in the Seventeenth Century*, 77–78, 83–85.
 31. Grotius, *De Republica Emendanda*, 7–8, 10–15; Haitsma Mulier, *The Myth of Venice*, 84, 103; *BW VII*, no. 2570 (N. van Reigersberch to Grotius, 28 April 1636), no. 2588 (Dirk Graswinckel to Grotius, 12 May 1636), no. 2589 (Willem de Groot to Grotius, 12 May 1636), no. 2591 (Grotius to Willem de Groot, 14 May 1636), no. 2613 (Grotius to N. van Reigersberch, 30 May 1636), no. 2624 (Willem de Groot to Grotius, 9 June 1636), no. 2682 (Grotius to Dirk Graswinckel, 24 July 1636), VIII no. 2985 (Grotius to N. van Reigersberch, 7 March 1637), no. 2994 (Grotius to Willem de Groot, 18 March 1637), and IX no. 3605 (Pieter de Groot to Grotius, 31 May 1638); Nellen, *Hugo Grotius*, 496.
 32. *State Papers Venetian* Vol. XXIV (1636–1639), no. 22 (Francesco Michiel, Venetian Ambassador at The Hague, to the Doge and Senate, 10 July 1636 –all quotes taken from this source); Grotius, *The Free Sea*, ed. Armitage, 20–37, 87–122, 127; *The Rights of War and Peace*, ed. Tuck, Book II, 420–432, 460.
The Venetian ambassadors in London and The Hague kept a close eye on the diplomatic repercussions of Selden's *Mare Clausum*. See *State Papers Venetian* Vol. XXIII (1632–1636) nos. 425, 460, 598, 613, 625, 631, 641, 647, 653, 656, and 663.
 33. *BW VIII* no. 2928 (Willem de Groot to Grotius, 22 Jan. 1637), no. 2947 (N. van Reigersberch to Grotius, 2 Feb. 1637), no. 2955 (Grotius to Willem de Groot, 12 Feb. 1637), no. 2978 (Willem de Groot to Grotius, 3 March 1637), 2985 (Grotius to N. van Reigersberch, 7 March 1637), 2994 (Grotius to Willem de Groot, 18 March 1637); NAK, SP84/152 f. 84–85 (William Boswell to Sir John Coke, 7/17 March, 1636/7), f. 123r-v (Boswell to Coke, 6/16 April 1637), f. 133r-v (Boswell to Coke, 13/23 April 1637); on the ease to obtain classified

information in the Dutch Republic, particularly from the clerks of the States of Holland and Dutch States General, see de Bruin, *Geheimhouding en Verraad*, 355–401; Bodleian Library, Oxford, Ms. Selden supra 108 (Selden's copy of Graswinckel's 'Vindiciae maris liberi adversus Virum Clarissimum Janum Seldenum').

34. NAK, SP84/152 f. 163r–164v (William Boswell to Sir John Coke, 13/23 May 1637); NAH, SG, 1.01.02, inv. no. 62 (resolutions of the Dutch States General of 21 and 23 April, 16 May, 8 June and 14 Aug. 1637, unfoliated) and inv. no. 9272 (scribal copy of Graswinckel's 'Vindiciae maris liberi adversus Virum Clarissimum Janum Seldenum'); NNBW Vol. III columns 11–12; Nieuwstraten, *Historical and Political Thought in the Seventeenth-Century Dutch Republic*, p. 104 (footnote 65). Van Aerssen traveled to London three times as extraordinary envoy in the period 1621–1625. He negotiated the marriage of William II of Orange and Charles' eldest daughter, Mary, in 1641, and drew up the marriage contract. It was no coincidence that the Dutch States General commissioned Wolter Schonenborch to evaluate Graswinckel's reply to Selden. Like his father, Wolter Schonenborch was a political heavyweight in Groningen. He had an abiding interest in Dutch naval power and overseas expansion and would be appointed as President of the High Council in Dutch Brazil by the Dutch West India Company in 1645. See van Winter, *De Westindische Compagnie ter Kamer Stad en Lande*, 124–5 and Bick, 'Governing the Free Sea', 162–5.
35. *State Papers Venetian* Vol. XXIV (1636–1639), nos. 228 and 252 (Francesco Michiel, Venetian Ambassador at The Hague, to the Doge and Senate, 28 May and 2 July 1637), and nos. 435, 441, 468 (Giolamo Giustinian, Venetian Ambassador at The Hague, to the Doge and Senate, 7, 21 May and 3 July 1638).
36. Sharpe, *Personal Rule*, 825–847; Groenveld, *Verlopend Getij*, 91–100 and 'The House of Orange and the House of Stuart, 1639–1650', 955–972; Waszink, 'The Praelium Nuportanum by Isaac Dorislaus', 1005–26, at 1013–15; BW X no. 4101 (Willem de Groot to Grotius, 9 May 1639) and no. 4119 (Grotius to Willem de Groot, 21 May 1639); *Bibliographie des écrits imprimés de Hugo Grotius* 210–220, 307–313, 349–366, 436–441; NNBW Vol. III columns 489–490; Fruin, 'Uit het Dagboek van een Oud-Hollander'; Leiden University Library, Ltk 858, 459–460 (Graswinckel claimed in conversation with Rataller Doubleth in Sept. 1654 that he had been responsible for the Latin text of the Dutch declaration of war with England two years earlier and that he had toyed with the idea of publishing his reply to Selden); Ittersum, 'The Long Goodbye', 386–411; Nellen, *Hugo Grotius* 571–580.
37. Grotius, *Mare Liberum*, ed. Armitage xviii.
38. In the context of the Brexit negotiations, European Commission President Ursula von der Leyen explained at a press conference in Brussels on 11 Dec. 2020 that there were still significant gaps between the UK and EU about fishing rights in the waters surrounding Great Britain. She emphasized 'the legitimate expectations of EU fishing fleets built on decades, and sometimes centuries of access.' See *The Guardian* Live Blog, 11 Dec. 2020, 10.29 AM GMT (retrieved from <https://www.theguardian.com/politics/live/2020/dec/11/news-updates-brexit-uk-eu-no-deal-boris-johnson-covid-coronavirus?page=with%3Ablock-5fd349ce8f08a2a93631e4c7>).

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