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Empire and State

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The Atlantic world was defined by states but colonized by empires. The British, no less than the Spanish, Portuguese, French, and Dutch, negotiated their claims beyond Europe through institutions within Europe. However, as latecomers to the race for Atlantic empire, the British had to operate on terms set by their predecessors and competitors. As a result of the regularization of diplomatic relations in the Atlantic basin French and Spanish diplomats developed the concept of lines of amity; to the north and east of them lay Europe, to the south and west lay the extra-European world. The implications of this conceptual distinction were to be profound for the subsequent history of the Atlantic world. Men and women who settled beyond those lines were now thought to be proper subjects of European monarchs. In contrast, the Portuguese and Castilian monarchs had declared millions of Americans, Africans, and Asians to be their subjects. Henceforth, colonization would increasingly foster a distinction between native populations and settler-subjects. Moreover, this division of the world allowed other European powers to challenge Iberian claims, while at the same time creating a very clear distinction between the nature of European empires and of European states. Lines of amity in the Atlantic divided Europe from the rest of the world far more profoundly than did the Mediterranean Sea or an unmapped marchland between Europe and Asia. This distinction was of central importance to the development of tensions between colonists and the British state in the eighteenth century and had a profound impact on the development of the internal structure of the metropolitan state. An Atlantic history of
interstate negotiation offers crucial new perspectives both on how the British empire (and others) developed in the sixteenth and seventeenth centuries, and on how imperial developments shaped the United Kingdom and the United States in the eighteenth century.

These developments can be explored through an examination of how early modern empire building affected British state formation. The scholarly literature tends to treat them as quite distinct phenomena, and indeed the two processes can be viewed as antithetical. European states tried to define their territorial boundaries more precisely, though at the same time they issued charters to establish colonies with imprecise boundaries. Overseas expansion spawned new institutional forms, while European authorities worked within their polities to create greater institutional articulation if not uniformity. Monarchs reined in the private armies of the nobility, but gave chartered companies, colonial promoters, and hundreds of sea captains the right to wage war in the Americas, Africa, and Asia. In short, empire building and state formation seem to be parallel more than interdependent phenomena, related coincidentally rather than consequentially.

At the level of foreign policy, however, empire building and state formation were interdependent, and thus international relations offers a starting point for analyzing the dialectical relationship between the two. The restructuring of international relations in response to overseas expansion, this essay argues, reinforced state formation because it reinforced one of the most centralized parts of government, foreign affairs. In the sixteenth and seventeenth centuries, the English metropolitan government initially institutionalized much of the oversight of transoceanic ventures as a part of foreign policy. Thus empire building was not just a problem of how to govern a larger, more dispersed, and more diverse composite polity. As the early institutional manifestations of empire within the metropole suggested, the problem was also one of negotiating a shifting and ambiguous international order. Indeed, a key element in understanding early modern British empire building is to determine the extent to which the metropolitan government treated the overseas activities of British subjects as a problem of external affairs or of imperial governance, or some combination of the two.

Empire building also influenced state formation through the networks of economic and political power that overseas expansion engendered. Some of these networks had quasi-public institutional expressions, as colonial ventures or joint-stock companies. Others, such as business partnerships, never did. Scholars have tended to
discount the relationship between private networks and the metropol-
itan state and to argue instead that they demonstrate the lack of
state involvement in empire building. At the level of the state’s
financial commitment this point is, of course, true. Yet at the diplo-
matic level, state-to-state negotiations frequently focused on new
networks of power in the extra-European world, their relationship
to one or another state, the willingness of a state to regulate, if not
restrain, these networks, and the necessity of some international
coordination in defining the world within which they operated.
Many of those state-level discussions did not find permanent expres-
sion in new fiscal extractions or institutions, but they gradually
redefined the international role and relationship of states, especially
those with overseas empires.

The analysis in this essay is in three parts. The first part sketches the
shifting and novel nature of international relations that developed
among the expanding European powers to negotiate their interests in
the extra-European world. The second looks at how the various
sectors of British overseas commerce and colonization reflected different
combinations of external affairs and internal governance, and the
implications for the structures of power within the metropolitan state.
The third analyzes why developments in the mid-eighteenth century
unsettled the distribution of power both within the empire and within the
core of the British state itself.

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Over the course of the early modern era, empire building did begin
to exhibit characteristics associated with state formation. European
states with overseas interests began to control or suppress privatized
violence, to define the boundaries of overseas claims, and to coordinate
institutions within and between overseas dependencies. Much
of the impetus for these developments came from diplomatic pressures
and negotiations, and thus represents more than just internal
processes of coalescence. This observation applies to all the states
with early modern empires with the following caveat. Initially the
Spanish and Portuguese ‘domesticated’ overseas expansion by
defining their overseas jurisdictions as extensions of the realms of
Castile and Portugal. The French, English, and Dutch challenged
the Iberians by redefining extra-European space as initially ‘foreign’
to all Europeans and which could not be claimed through mere discov-
eries of a whole continent, royal fiat, or papal bull.

The diplomacy that ensued from these oppositional positions
produced a distinct chronology of international relations that provides
a framework for understanding 300 years of developments. The first
period stretches from 1492 to the 1640s, during which time the
Iberians refused to recognize non-Iberian rights in the extra-
European world. A new period opened in the 1640s when the
Iberians began to acknowledge the claims of the Netherlands,
England, and France. Diplomacy shifted to multilateral concerns over
questions of the control of privatized violence, conflicting land
claims, and boundaries. These matters of oversight and regulation
were ones that metropolitan states seldom delegated, but handled
directly. For the French and British, they complemented the emerg-
ence of institutions and policies for governing and defending overseas
dependencies. In the eighteenth century, the question of
oceanic control and Spain’s continued claims to suzerainty, if not sover-
ignity, over the Atlantic and Pacific oceans resurfaced as an issue of
international debate and marks a third period of international rela-
tions. The Spanish finally relinquished their claims to the Atlantic
and Pacific oceans in 1750 and 1790 respectively, completing the
emergence of a global international order defined and controlled by a
few European states.

Exclusive Iberian claims to the extra-European world, based on
papal bulls issued in 1493 and the Treaty of Tordesillas in 1494,
explicitly defined the transoceanic ventures of other Europeans as
adversarial. The Portuguese and Spanish division of the extra-
European world drew on practices used to adjudicate their conflicting
claims to the Canaries, Azores, Madeiras, and Cape Verde Islands. In
dose cases, they had appealed for adjudication to the pope, whose
authority in such disputes had been legitimated, in part, through the
precedent of deciding similar cases during the Crusades. Other
Europeans accepted Iberian claims to these Atlantic islands, at times
validating them in treaty negotiations. There was, however, no
immediate reaction to the Treaty of Tordesillas, although Henry VII’s
charter to John Cabot in 1497 suggests he either did not consider the
treaty to apply to north Atlantic waters, or that in those waters he
could ignore Iberian claims with relative impunity.

In the 1520s, the French crown began disputing the Iberians’
claims in diplomatic exchanges, often precipitated by Iberian com-
plaints about the transoceanic voyages of French subjects. The French,
and later the English, challenged the legitimacy of the terms of the
Treaty of Tordesillas, the papal bulls that preceded it, and
the Luso-Spanish treaties that followed it. Consequently, they also rejected existing practices for sanctioning the extension of European spheres of influence and power. The foreign relations that evolved to address transoceanic expansion were more secular, more exclusive, and more state-oriented than were intra-European foreign relations. The rejection of the papacy's role in adjudicating claims to new lands effectively secularized this branch of European diplomacy a full century before the Peace of Westphalia did the same for continental relations. Over the early modern period, only five states regularly participated in negotiations over transoceanic affairs: Spain, Portugal, France, England, and the Netherlands. While other powers made the occasional overseas foray, such as Scotland and Sweden, they had modest roles in defining this branch of international relations.

The exclusivity of this arena of international relations was further reinforced by the criteria for legitimating overseas land claims. The general outcome is well known: discovery, occupation, or conquest became the three dominant criteria. Discovery could be superseded by occupation, and the abandonment of occupation (as happened on St Lucia in 1605) could extinguish a claim, as could conquest, in which case the conquerors became the acknowledged claimant. The need of the English, French, and Dutch to challenge the Spanish and Portuguese hegemonic claims biased their initial activities in extra-European lands and with non-European peoples. Confronting Iberian claims, they paid little heed to grappling with the rights of native peoples. Rather, the English, French, and Dutch concentrated on establishing their claims vis-à-vis other Europeans. All Europeans excluded non-European claims from multinational negotiations. Instead they were treated as matters of negotiation between agents of the expanding powers and indigenous leaders, and thus not within the arena of European multilateral adjudication and negotiation. The separation of relations between Europeans and non-Europeans from European foreign affairs had the effect of colonizing, if not domesticating, the former, of making them an aspect of internal relations more than external relations. Europeans often expressed the exclusion of non-Europeans in religious terms, but the criteria Europeans used to legitimate sovereignty over land were primarily secular in definition. As well, the institutions of Christianity, whether the papacy or the newly emergent Protestant and national churches, played little direct role in shaping these criteria at the international level.

The distinction between Europe and the extra-European world was expressed spatially with the conceptualization of 'lines of amity'.

During the negotiations for the 1559 Treaty of Câteau-Cambrésis, French negotiators tried to persuade the Spanish to acknowledge the right of French merchants to trade in the Caribbean basin. Spain refused, unwilling to acknowledge non-Spanish rights in the area. French subjects from trafficking in American waters. Rather than have American concerns threaten peace in Europe, Spain and France made an oral agreement that the treaty would only apply within European space, defined by 'lines of amity', one a north–south line west of the Azores and the other an east–west line on the Tropic of Cancer. By defining the Azores, Madeiras, Canaries, and surrounding waters as part of Europe, the treaty obliged France to restrain its corsairs who had been plundering Spanish shipping in these waters. Extra-European space was outside the lines of amity, i.e. west of the Azores and south of the Tropic of Cancer, territory in which the treaty was not applicable.

In the sixteenth century, the most active French, English, and Dutch agents against Spanish and Portuguese claims were merchant adventurers, explorers, privateers, and pirates, men willing to take risks for the promise of wealth and glory. Often operating at the boundaries of legitimacy, they absorbed the risks that governments could not afford directly, but which needed to be taken if France, England, and later the Netherlands were to establish claims to the potential wealth that overseas ventures promised. In turn, adventurers needed a modicum of political backing to legitimate their undertakings and to negotiate with Spain and Portugal over access to markets or the return of seized ships, men, and cargoes. Occasionally crown support included a financial investment. Elizabeth I invested in John Hawkins's slaving voyages to West Africa from 1562 to 1568, a pointed challenge to Portuguese claims to Africa. Foreign policy concerns could also make a monarch cautious. After the death of Philip II of Spain in 1598, Elizabeth I did not charter the East India Company in hopes of improved Anglo-Spanish relations. Within two years relations had worsened rather than improved, and she granted the company its first charter.

Iberian charges of piracy engendered international disputes over trading rights and navigation on the high seas, which in turn required governments to define their role in protecting the observation of those rights. One of the most consequential incidents of piracy occurred in 1603 when the Dutch East India Company (VOC) seized a Portuguese vessel in the Straits of Malacca. The Spanish,
who controlled the Portuguese throne at the time, charged the Dutch with violating Portuguese waters. The VOC hired the legal theorist Hugo Grotius to defend their interests. His resulting treatise, *Mare Liberum* (1609), argued for freedom of the seas, and became the foundational text in shaping the modern debate over the international law of the sea, especially freedom of navigation, the extent of territorial waters, and fishing rights. As well, the Iberian-Dutch dispute had an immediate collateral impact on Anglo-Dutch relations. The English interpreted the Dutch position, as articulated in *Mare Liberum*, as an ill-disguised attempt to redefine territorial waters in such a way that Dutch fishermen could fish in English waters.14

While international debates over the criteria for land claims, the extent of territorial waters, or the rights of freedom of navigation did not increase appreciably the costs of state infrastructures, they did redefine a state’s functions relative to other states and to the activities of subjects outside a state’s territorial boundaries. The relationship between overseas expansion and the reordering of international society is under-studied and under-theorized.15 These international debates contributed to the increasing regulation of foreign trade by states, and thus enhanced central state authority. In the sixteenth and early seventeenth centuries, trading rights in foreign countries were negotiated primarily by associations of merchants, often under royal charter, rather than by crown-appointed diplomats. Among the English, a chief reason for chartering firms such as the Spanish Company (1577), the Eastland Company (1579), and the Muscovy Company (1555) was so they could negotiate commercial rights with foreign governments, a privilege which the crown also granted to chartered companies organized for transoceanic ventures. By the late seventeenth century, chartered companies operating within Europe had been disbanded largely because commercial diplomacy had been assumed by state-appointed diplomats.16 The expanded scope of international relations that trade negotiations represented may not have substantially increased the costs of a central government, but it did enlarge its power as governments became involved in regulating economies. Merchants participated in that shift of diplomatic responsibilities because it transferred the cost of commercial diplomacy onto the state, as well as created the conditions for transferring more expensive protection costs to states.17

Europeans operating in the extra-European world also relied on the appearance of a strong state. The non-governmental funding of English overseas commerce and colonization has been interpreted as weak state involvement in expansion, which, of course, it was in a direct sense. But the willingness of investors to undertake that financial risk was predicated, in part, on some confidence in the crown’s diplomatic support and its unwillingness to accept Iberian charges of piracy. Indeed, maintaining those mutual bonds of confidence between a metropolitan government and its overseas subjects was critical to sustaining expansion. Retaining overseas possessions depended, in part, on people believing that a metropolitan government had the power to protect overseas interests and the will to use it, even if it seldom did.18

In the 1640s, civil war in England diverted government and commercial interests from overseas concerns, and in turn encouraged an existing propensity for colonists in the Caribbean and the Chesapeake to rely on Dutch shipping and financial services. Parliament passed the 1651 Navigation Act partly in response to aggressive Dutch competition with English shipping and commerce both in Europe and overseas. The English government recognized that if it did not define a trade policy that provided essential services to colonists by English subjects and directed colonial products into English ports then it risked losing those colonies to nations that could provide reliable services. Conversely, lack of colonial observance of those regulations could also jeopardize the long-term maintenance of colonies. In 1651, the Commonwealth government sent naval forces to Barbados and Virginia to oblige colonists to recognize Parliament’s suzerainty and the Navigation Act; colonists accepted the first but not the second and negotiated free trade. Charles II was more insistent that colonists obey the Navigation Acts, which he partially achieved without an overt show of force. Colonial acceptance of metropolitan policy without coercion was, of course, preferred, but there was also an awareness that the application of metropolitan policy might include the use of force, though always with the attendant risk of colonial resistance.19

The English capture of New Netherland in 1664 was facilitated by the persistently weak support of the colony by both the Dutch West India Company and the Dutch metropolitan government. For was pointless if neither the company nor the government could come to their aid.20 Thus the belief of colonists in the strength of their home state and the ability and willingness of that state to craft policy to support colonists was probably as critical to imperial development as the manifestation of state strength in measures such
Diplomatic negotiations frequently dealt with the responsibility of states for the actions of their subjects in extra-European arenas. Throughout the sixteenth century, the Iberians resisted acknowledging the legitimacy of any non-Iberian ventures and generally interpreted all of them as some form of piracy. In negotiations for the Treaty of Vervins (1598) and the Treaty of London (1604), diplomats for Henri IV and James I respectively pressed the Spanish to recognize the rights of their subjects to engage in commerce and colonization in those parts of the extra-European world where the Iberians were not physically present. The Spanish refused. Nevertheless, Spain's weakening power after long years of international war and continuing civil war in the Netherlands allowed the French and the English to exploit the inroads their privateers and merchants had made in the 1580s and 1590s. Henri IV began issuing charters for overseas commerce and colonization, and by 1608 the French had established permanent settlements in Acadia and Canada. James I chartered the Virginia Company in 1606 and the Newfoundland Company in 1610.

The success of some overseas ventures by the French, English, and Dutch shifted international dynamics. In the first instance, success created more volatility, particularly in the Atlantic basin. The French, English, and Dutch now attacked each other, as well as the Spanish and Portuguese. For example, Samuel Argall, sailing out of Virginia in 1612, attacked the French in Acadia. In 1623, the Dutch killed ten East India Company employees at Ambon. Sir William Alexander, a Scot with a charter to Nova Scotia, seized Port Royal, Acadia, in 1627. The Kirke brothers, sons of the English merchant Gervais Kirke, occupied Canada from 1629 to 1632 when the Treaty of St Germain-en-Laye returned it to the French. These new incidences of violence created the diplomatic conditions for the English, French, and Dutch to negotiate their respective claims without involving the Iberians. Thus even if the Iberians would not recognize their legitimacy, they now legitimated each other.

French, English, and Dutch successes, coupled with Iberian problems in Europe, finally forced the Portuguese and the Spanish to abandon their hegemonic claims to the extra-European world. In 1641, the Portuguese negotiated treaties with the French and the Dutch that recognized their overseas commercial and colonial rights in partial exchange for legitimating the 1640 Portuguese revolt against the Spanish and the restoration of the Portuguese crown. The English followed suit in a 1642 Anglo-Portuguese treaty. Spain first acknowledged non-Iberian claims in the 1648 Treaty of Munster when it recognized both Dutch independence and overseas claims. That treaty served as the basis for the Spanish acknowledgment of English claims in the 1667 Treaty of Madrid. The Iberian recognition of non-Iberian claims shifted the focus of diplomatic negotiations among expanding states. The right of non-Iberians to engage in overseas commerce and colonization ceased to be the primary issue. Rather, shared concerns such as privatized violence, conflicting claims, and ambiguous boundaries became matters of multilateral negotiation.

Resolving these concerns in a transoceanic context posed enormous problems for European governments, which often found themselves maneuvering between diplomatic commitments and overseas subjects who had enormous autonomy of action. One of Spain's objectives in recognizing English claims to Jamaica in 1667 was to oblige the English government to restrain privateering attacks on Spanish shipping in the Caribbean. The governor of Jamaica, Thomas Modyford, ignored metropolitan orders to refrain from issuing letters of marque, contending that the security of the island depended on the protection provided by privateers. The 1668 Treaty of Whitehall established Anglo-French neutrality in the Americas, but did not keep French naval forces in Canada from attacking Hudson's Bay Company forts. International pressure, as well as complaints from the East India Company, contributed to the crackdown on piracy spearheaded by the Board of Trade after the Treaty of Ryswick in 1697. It expanded the power of the admiralty courts in the colonies, and when colonial courts proved unwilling to help curb piracy, Parliament passed the Act for the More Effectual Suppression of Piracy (1700), which allowed for the transportation to England of persons charged with piracy in the colonies. The legislation had its intended effect, though within a year renewed hostilities with France prompted a royal pardon that released men in prison to return to the high seas.

The Treaty of Utrecht ending the War of the Spanish Succession (1713) marked a significant transition in international relations. It was the first major multilateral treaty in which the expanding powers attempted to sort out their conflicting overseas claims, and critical issues of the previous two centuries were resolved. Spain and Portugal were forced to accept French and British pretensions that colonization and conquest, and at times discovery of a specific place, should be the bases of land claims in the extra-European world, not
Pacific, however, happened quite differently from the erosion of Iberian claims in the rest of the extra-European world. In the Atlantic and Indian Ocean basins the pressure had started to build in the sixteenth century and had largely been achieved through non-state agencies, albeit generally operating under an official charter. In contrast, the important expeditions had been directly planned and funded by the French or British navies. While the Anglo-Spanish confrontation over Nootka Sound had been precipitated by the presence of British merchants, and not the British navy, the expeditions of exploration that demonstrated the viability of commercial ventures in the Pacific, particularly James Cook's third voyage (1776–81), had been state funded and sponsored. As well, even though the Nootka Sound Agreement was bilateral, by the end of the eighteenth century these agreements had multilateral implications based on international practices worked out in the Atlantic.

Over three centuries a global system of international relations emerged that was strikingly different from the two hegemonic systems that the Iberians had defined at the end of the fifteenth century. In many respects it was an extension of the European interstate system with its emphasis on the equality of sovereign states. Yet the global system did not emerge from the coalescence of states within Europe, but rather from a protracted struggle over the terms of empire building in the extra-European world. Significantly, most of the issues had been articulated in the eighteenth or early seventeenth centuries, in particular the principles for claiming overseas territory and freedom of navigation, though it took two centuries of contestation before they were applied globally. The combination of their early articulation and their eventual application made them seem foregone conclusions, and hence scholars have done little to analyze the impact of international negotiations on early modern empire building or on how expanding powers understood the evolving functions of the state at the international level.

While the principles underlying international negotiations were defined relatively early, great ambiguity existed over how European polities should be internally structured in response to the challenges posed by overseas expansion. Indeed, to the extent that the five European powers with large overseas empires—Spain, Portugal, France, Great Britain, and the Netherlands—developed ‘imperial states’ in the early modern era, they were widely divergent. Within Britain the political and constitutional integration of overseas expansion was a slow, highly differentiated, and generally reactive process.
Unlike the Iberians, and particularly the Spanish, the Tudor Stuart monarchs could not effectively declare extra-European space an extension of the realm and thereby establish dominium by royal fiat. As well, English overseas expansion did not produce the immediate wealth that the gold and silver from the Americas and the pepper from Asia generated for Spain and Portugal respectively, and which allowed for the relatively rapid centralization of those states.

For the English, the beginnings of empire were closely tied to foreign policy. Early overseas ventures were generally challenges to the Portuguese and Spanish, whether directly, such as the voyages of Sir Francis Drake, or indirectly, such as the Arctic explorations to find a northern passage to Asia that the Iberians did not control. Through the seventeenth century, the granting of most charters was calibrated against foreign policy concerns. The voyages of Hawkins to Africa and the Caribbean in the 1560s under the auspices of the Guineas Company were an explicit challenge to the Portuguese and the Spanish. As we have seen, Elizabeth I delayed from 1598 to 1600 in granting a charter to the East India Company in hopes of improved relations with Spain. The Virginia Company received its charter in 1606, two years after the Treaty of London ended the war with Spain. James I revoked the Amazon Company charter in 1619 to appease Spain. English adventurers planted proprietary colonies in the Caribbean in the 1620s while Spain was preoccupied with war in Europe. Charles II gave his brother, the Duke of York, the authority to attempt taking the colony of New Nederland from the Dutch. The Hudson's Bay Company (established 1670) challenged French dominance in the North American fur trade, while the Royal African Company (established 1663) challenged Dutch dominance in the slave trade. In a few instances, the crown granted charters where the English already had claims: Maryland was carved out of Virginia, and the land granted to the Massachusetts Bay Company had previously been granted to the Council of New England. Even in these colonies, the problems of foreign challengers could not be ignored.

A number of issues derive from this basic observation about the connection between empire building and foreign affairs, but three are important here. First, for the British the early stages of empire building depended on multilateral state pressure on the Iberians. Thus empire building was linked to the international redefinition of the community of states. For now, it is enough to note that the ability of colonies to wage wars of independence depended on their being able to claim a right to membership in that community of states that was the creation of Europe, but not confined to Europe. Second, foreign affairs were a matter of crown prerogative, and thus the growing involvement of the English in overseas expansion reinforced the central executive authority of the state. Adventurers needed connections in court that would yield royal charters, if not financial support, as well as diplomatic backing in the event of seizure of people or property. Success did not obviate foreign policy concerns, as colonists in places such as St Christopher, Jamaica, or New York knew. Thus for the English, empire building required a concomitant increase in the departments of state concerned with foreign affairs. Third, and more problematically, ongoing ventures, whether the East India Company, the colony of Virginia, or sugar colonies in the West Indies, had to be domesticated, connected to domestic affairs rather than just foreign affairs. The English government had no plan or policy for that transformation, and the diversity of overseas ventures made the formulation of policies and their effective application extremely difficult.

In the early seventeenth century, neither the crown nor its ministers foresaw the extent to which many of the newly chartered ventures, such as those to Virginia or Massachusetts, would deviate institutionally from existing overseas ventures. Rather, crown officials assumed that new overseas ventures would have an institutional presence in London, such as the Muscovy Company, the Levant Company, and the East India Company had with a governing council in England, as well as subsidiary councils overseas. Indeed, the Virginia Company did have a governor and directors resident in England, and when it was royallized in 1624, James I (d. 1625) and then Charles I drew on the company model to envisage two governing councils, one in London and one in Virginia. The former, however, never evolved beyond a temporary commission. So accepted was the perception that colonies needed an institutional presence in England that when the Puritans took the Massachusetts Bay Company's charter to North America in 1630 royal officials immediately saw it as an affront to royal authority. Indeed, Puritans in New England sought institutional autonomy, but other colonies achieved it through unintended developments. Whether colonial autonomy developed intentionally or unintentionally, in the early modern era the metropolitan government never devised adequate ways to overcome it. When the King's Bench tried to revoke the Massachusetts charter in the 1630s it could not complete the proceedings because the charter was not physically present in England and Governor John Winthrop would not send it
Crown attorneys faced the same problem in the 1680s, though this time the King's Bench succeeded in revoking the Massachusetts Bay Company charter on a procedural technicality. \(^{34}\) Beginning in the early seventeenth century, commercial and colonial expansion had divergent patterns of institutional development relative to the metropolitan government.

Commercial ventures that did not rely on colonies promised greater returns on investments than did colonial ventures. Only from the Caribbean colonies could absentee investors anticipate any profit-taking, and consequently West Indian colonists had closer ties with England than did North American colonists. The cost of settling North American colonies quickly exhausted the working capital of metropolitan-based ventures, discouraged further investment, shifted the costs of long-term capital investments onto the colonists themselves, and thus attenuated the already fragile ties with England. No export commodity from the mainland colonies ever produced wealth comparable to that in many other sectors of overseas trade. Tobacco dominated mainland colonial trade, but on the eve of the revolution it accounted for only 29.5 percent of British North American exports. The average annual value of tobacco shipped from the Chesapeake from 1768 to 1772 was £756,128; the value of sugar, by comparison, was £3,910,600. \(^{35}\)

From the perspective of the metropole, as overseas ventures North American colonies were economically and politically marginal. Not until the end of the seventeenth century did these colonies begin to send agents to London to represent their interests. \(^{36}\) In contrast, merchants involved in the fishery, the African trade, the Asian trade, and the Caribbean trade had long had agents in London who manipulated all the levers of power in Whitehall and Westminster to protect their interests. The profitability of these trades engendered fierce commercial competition and particularly heated political contests if monopoly rights or other restrictions on trade were at stake. By the early eighteenth century, the Newfoundland fishery, the African trade, and the East India Company operated under parliamentary legislation or charters, and a diverse range of governing bodies, including the Privity Council, Parliament, the Treasury, and the navy, participated in the regulation and oversight of one or more of them. In 1698, Parliament revoked the Royal African Company's monopoly on the slave trade and opened it to all English merchants. From then until dissolution of the company in 1750, Parliament made most governmental policy affecting trading in Africa. The Newfoundland fishery came under parliamentary legislation in 1699 with the passage of the Newfoundland Act, and every summer the navy sent out a fleet to provide governance for the fishing season. In 1709, Parliament chartered the United East India Company after the debilitating competition of two rival companies threatened their financial survival and the solvency of the British government, which had come to rely on East India Company loans. \(^{37}\)

By the early eighteenth century, overseas commercial ventures had been politically and institutionally linked to governing bodies within Britain, largely as a result of merchant pressure and by expanding the use of existing governmental institutions—such as the Royal Navy’s involvement in the fishery—rather than on the creation of new institutions. Forging institutional links with colonies was far more problematic and was complicated by their transatlantic separation from Britain, the lower profitability of most colonial ventures, and the need for civilian (not just company) governance. British claims to land overseas also created juridical ambiguity, particularly over questions of sovereignty and whether it was vested in the crown or the crown-in-Parliament. So long as colonies remained politically and economically marginal as overseas ventures, the implications of the juridical and institutional ambiguities could be contained as the problem of a particular colony or ignored without serious short-term consequences. The vesting of colonial oversight in the Board of Trade, created in 1696 after a series of committees, commissions, and councils, symbolizes that tension. \(^{38}\) A subcommittee of the Privy Council, the Board of Trade reported to the Secretary of State for the Southern Department, who handled foreign affairs with Spain, Portugal, and France, thus underscoring the intersection of colonization and overseas trade with international relations. Keeping colonial affairs under ministerial oversight had developed after James I and Charles I rebuffed Parliament’s suggestions that it provide some oversight. Charles II and James II followed suit during the Restoration. William founded the Board of Trade to maximize his control over the colonies and to minimize Parliament's. \(^{39}\) One consequence of ministerial oversight, however, was to keep colonies in a conceptual, spatial, and legal relationship between foreign and domestic affairs.

As more merchants plied Atlantic waters and as the colonies grew, the intensifying complexities of the Atlantic world spawned tensions and conflicts that could not be contained within a single colony, sector of trade, or empire. Multi-state negotiations to resolve shared problems contributed to the tendency of the imperial powers to
delegate fewer and fewer responsibilities to quasi-private agents, as had been the practice in the sixteenth and seventeenth centuries. In the eighteenth century, the British government appointed a broadening range of metropolitan officials to handle matters such as boundary disputes and relations with native peoples. Structural stresses within the empire demanded new solutions. When British traders from North American colonies began selling surplus provisions to planters in the foreign West Indies, the Caribbean lobby in London convinced Parliament to pass the Molasses Act (1733), which put high (though uncollectable) duties on foreign sugar products. Spain’s policing of Caribbean shipping routes led to merchant demands for naval intervention. At the end of the War of the Austrian Succession the British decided to establish a new naval port at Halifax, Nova Scotia, which complemented the ones in Bermuda and Antigua.  

The Seven Years War (1756–63) fed on, if it was not caused by, the growing tensions and complexities in the Atlantic world, and Britain’s straddling of European and overseas commitments further strained the points of stress. Ministerial decisions to fight the war at all costs created an enormous public debt. Treaty negotiations fueled vociferous political debates within Britain over the fidelity of negotiators to British interests. The acquisition of new colonies and territories with non-British peoples forced an examination of the nature of subjection and civil governance in the empire. The North American colonies assumed new importance as a reserve of military manpower, a vast consumer market, a source of settlers for new colonies such as Nova Scotia and Quebec, and a trove of potential revenues for a seriously indebted government. The magnitude and number of problems, however, meant that piecemeal and reactive decision-making could no longer be used to make plumb the structural misalignments in the extra-European world. The ensuing upheavals in the Atlantic world exposed both the strengths and weaknesses of the previous 250 years of empire building and state formation within Britain, within the larger British world, and within the international community of states.

Within Britain, attempts to address the problems engendered by the Seven Years War, especially those associated with the empire, reconfigured and challenged the distribution of power among the ministry, Parliament, and the Treasury. For decades the Treasury had shaped policy to maximize the self-financing of colonies and minimize expenses paid by the metropole. That policy was pursued as part of a broader practice of separating decision-making from revenue generation derived from acts of Parliament, from the hereditary revenues of the crown, and from the colonies. Then in the 1760s, it became necessary for the Treasury to involve Parliament in the raising of revenue from sources that had been left to colonial discretion. While the immediate impetus for the change arose from the financial exigencies of the Seven Years War, it also represents a relinquishment of Treasury and ministerial power over the colonies to Parliament, a legacy of the crown’s attempt, whether under the Stuart kings or under William and Mary, to minimize Parliament’s influence in shaping colonial policy. Partially in response to the ensuing colonial resistance to parliamentary legislation, the offices of the secretaries of state were reorganized. Colonial oversight was removed from the Secretary of State for the Southern Department and a third office of Secretary of State for the Colonies was created. That latter office lasted from 1768 to 1782, when the Board of Trade was abolished and the offices of the secretaries of state were again reorganized and a Home and Colonial Secretary and a Foreign Secretary were appointed. After nearly two centuries of the overseas settlement of British subjects, the oversight of colonies was institutionalized within Britain as a matter of domestic governance.  

The acquisition of numerous new colonies and territories in the Seven Years War, including the Trans-Appalachian West, Quebec, East and West Florida, the Ceded Islands (Dominica, Grenada, St. Vincent, and Tobago), and Bengal exposed the differential and asymmetrical ways in which empire building had affected state formation within Britain. The practice of regulating overseas colonies and territories through the Privy Council raised serious questions about the power it concentrated in the hands of a few ministers and the prerogative they had to govern more people overseas than lived in England, Wales, Scotland, and Ireland combined. The debates over the passage of the 1773 Regulating Act (which provided some civil institutions and locally appointed officials for Bengal) and the 1774 Quebec Act (which granted political rights to Catholics and preserved French civil law in Quebec) returned again and again to this problem.  

Supporters of both pieces of legislation argued that the acquisition of Quebec and Bengal, alone, intolerably increased the potential for both ministerial abuse and the violation of the rights of non-British subjects. One pamphleteer argued that the question of parliamentary involvement in defining a civil government for Bengal was whether Indians should live under the “despotic authority in a few? or limited authority in many?” Drawing an analogy to acquisitions of
the Spanish kingdoms under Ferdinand and Isabella, he argued that concentrating too much power in the crown would contribute to the undermining of the country. In the parliamentary debates on Quebec, the Solicitor-General noted that only the Romans and the English engaged in the ‘cruel and barbarous policy’ of forcing their laws on the conquered.’ Sir William Meredith, in a pamphlet styled a ‘letter to the Earl of Chatham’, who opposed the Quebec Act, noted that ‘a government by proclamation’ (i.e. the Proclamation of 1763) left the welfare of the Canadians to the whim of the crown. Parliamentary legislation, or imperium legis, would be superior to imperium hominis. At the heart of these debates were substantive issues about the distribution of power between the crown and Parliament and the control of patronage, as well as just ways to govern non-British people. After protracted debates inside and outside of Westminster, Parliament passed legislation for Quebec and Bengal which provided a political and constitutional domestication of these new territories in a way that had never happened with the colonies settled in the seventeenth century.

In the old British colonies, the domestication of the political culture had occurred almost entirely within the colonies, and in the long run had been more conducive to local state formation than empire building. For many metropolitan observers, the colonies were dependent polities; in the most negative analogy, they were little different from municipal corporations in Britain, and thus by definition incomplete polities. Politically and constitutionally, they believed, the colonies needed the British connection to be complete. In contrast, colonists throughout British America argued that colonies were discrete dominions of the crown and should have commensurate political autonomy. As resistance to parliamentary legislation deepened, North American colonists came to believe that they had acquired many of the characteristics of states, and in 1776, 13 of them claimed that status.46

Ironically, the transatlantic community of states in which the United States claimed a right of membership was also a product of empire building. One of the distinctive characteristics of the overseas empires that English, French, and Dutch built is that they depended on a reconfiguration of state relations at the international level. The international competition for empire contributed to redefining the role of governments in the oversight and regulation of commercial affairs, whether through intentional centralizing, as happened in France, or unintentional centralizing, as happened in Britain when merchants put pressure on Whitehall and Westminster to protect their interests. In Britain, the establishment of colonies overseas gave monarchical the illusion of the possibility of overseeing them without the undue involvement of Parliament, in ways that overseas commerce alone did not. Three factors abetted the crown. Overseas colonies could be defined as part of foreign affairs (and hence treated under the crown prerogative) as much as domestic affairs in which Parliament would have to be consulted. The political and economic marginality of colonies limited the ability of colonists to support agents in London and hence to draw in Parliament in the ways that merchants had involved Parliament in the regulation of long-distance trade. The Treasury kept the colonies largely self-financing so that Parliament did not have to raise monies for them, but it also meant that the crown received no revenues within the colonies, except insofar as colonies paid royally appointed officials. The financial and political autonomy of transatlantic colonies subtly reinforced the centralization of executive power within Britain, but it also proved to be the fatal flaw in empire building.

British-American colonists had long known that the Atlantic served as both a buffer against the metropolitan government and a conceptual marchland between Europe and the extra-European world, between the foreign and the domestic, between empires and states. In the late eighteenth century, colonists throughout the Americas challenged that conceptual divide, as they broke down empires and created new states. The Atlantic still served as a cultural divide between Europe and the extra-European world, but revolutionaries claimed successfully that states could exist not only within the imperial boundaries once defined by the lines of amity, but also beyond them in the Americas.
32. Davis, *Slavery in Western Culture*, chs. 10–12; idem, *Slavery in the Age of Revolution*, ch. 5.

Chapter 9: Empire and State

At various points in the writing of this essay I have benefited from the thought-provoking comments of David Armitage, Huw Bowen, Michael Braddick, Stephen Conway, John H. Elliott, Peter J. Marshall, James Muldoon, Malyn Newitt, and Christopher Tomlins. To each I am grateful for the improvements their suggestions prompted, while I alone am responsible for any shortcomings.

7. Suzerainty is the highest authority over a territory, while sovereignty implies the highest authority over and ultimate ownership of a territory.


26. The Treaty of Ryswick, which ended the Nine Years War (1689–97) had also been multilateral, but in most instances it provided for a return to status quo ante bellum — and thus ambiguity — rather than a reconciliation of claims; see Savelle, The Origins of American Diplomacy, pp. 135–40.


Chapter 10: Revolution and Counter-Revolution

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2. British and Irish historians increasingly use 'Atlantic archipelago' as a less metro-centric term for what is popularly known as the British Isles. Because the term has yet to take hold with American historians (or students), I have opted for the more familiar, if slightly less satisfactory, phrase 'British archipelago'.


