

# Weak at the Center, Strong at the Periphery:

## Core – Periphery Relations and Federal State-Building in American Political Development

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*Abstract: Distinctions between core polity and territorial periphery point to an important spatial dimension in the exercise of federal governing authority. In the core polity, the Constitution divided governing authority between the federal government and the states. At the periphery, the federal government exercised broad powers outside of the limitations that federalism imposed on federal governing authority. Extensive authority and the need for government institutions made the territorial periphery a central site for 19<sup>th</sup> century federal state-building. After exploring the historical roots of federal authority over the territorial periphery, the article discusses the role of the U.S. Army, the Indian Office and the General Land Office in the establishment of governing authority in U.S. territories during the antebellum republic. A territorial analysis of federal state-building during the 19<sup>th</sup> century revises prevalent conceptions of the 19<sup>th</sup> century American state. While federal authority was restrained in the core polity, sweeping federal authority and the need for the establishment and enforcement of governing institutions made the territorial periphery a major site of federal state-building. A revised account of 19<sup>th</sup> century federal state-building acknowledges the weaknesses of the federal government at the core and emphasizes its strengths at the periphery.*

## 1. Introduction

In 1783 the United States did not only gain formal independence but also territorial claims from Great Britain. The Treaty of Paris added territory to the United States demarcated by the western boundaries of the thirteen former colonies in the east, the Great Lakes in the north, the Mississippi River in the west and Florida in the south. The status of this territory within the Union was the source of great dispute. Those states that exerted claims to western territory argued over boundaries, while smaller states such as Maryland and Delaware feared further territorial aggrandizement of large states such as Virginia, Pennsylvania and New York. These jurisdictional conflicts were resolved by the transfer of exclusive jurisdiction over western territory to the federal government.<sup>1</sup> Individual states ceded their territorial claims to the federal government whose exclusive authority over territory was affirmed by the Constitution and the Northwest Ordinance of 1787.

The distinction between statehood and territory refers to an important spatial dimension in the exercise of federal governing authority.<sup>2</sup> While the Constitution divided governing authority between the federal government and states, federal governing authority was exercised unmediated by the constraints of federalism in the territorial dependencies of the United States. Thus national governing authority was weak at the center, where it was constrained by the federalist structure of the core polity, and strong at the periphery, where national governing authority exhibited imperial features.<sup>3</sup> Territorial populations were subjected to the governing authority of government officials whom they did not partake in electing. Thus the distinction between state and territory coincides with the distinction between core polity whose population enjoyed constitutionally protected rights and representation in national government and periphery whose population was legally and politically subordinated to the core.

Albeit important, the distinction between core and periphery goes beyond the recognition of imperial structures of government in the American state. The exercise of unrestrained federal authority over the periphery constituted the basis of a larger state-building project.<sup>4</sup> Territorial expansion posed great challenges to what I regard as core pillars of state-building: the establishment of governing authority and the build-up of administrative capacities. I argue that territorial expansion focused federal state-building on the periphery. This was a dynamic process. The acquisition of new territory and the political incorporation of territories as new states shifted the boundaries between core polity and periphery throughout the 19<sup>th</sup> century.

This paper begins with a discussion of accounts of federal state-building in the 19<sup>th</sup> century, criticizing their ignorance of the territorial nature of American state structures. This critique leads to an exploration of the historical roots of core – periphery relations. British imperial policies shaped important features of the Constitution and the Northwest Ordinance of 1787 which defined the basic structures of the relationship between territoriality and governing authority in American political development.<sup>5</sup> The strength of federal governing authority at the periphery produced important state-building effects. I argue that federal state-building was focused on the periphery. The Army, the Indian Office and the General Land Office led federal state-building efforts at the periphery during the antebellum era. Representing the interests of the national government, federal officials organized the government and the eventual political incorporation of peripheral territories into the Union.<sup>6</sup> A territorial analysis of federal state-building during the 19<sup>th</sup> century revises prevalent conceptions of the 19<sup>th</sup> century American state. National state-building was constrained by federalism in the core polity. However, the weaknesses of the 19<sup>th</sup> century American state were confined to the center. Unconstrained federal authority made the periphery the focus of 19<sup>th</sup> century state-building. At the periphery federal authority was not only unimpeded by American federalism, but the need for the exercise of this authority was also the greatest. The reproduction of national political, legal, cultural and social institutions in western territories required a strong presence of federal officials. Both factors, constitutional authority and the need for the exercise of this authority, made the periphery – and not the center – the focus of federal state-building.

## **2. American Political Development and the West**

Scholars of American political development have missed the significance of the west and more specifically territorial expansion to federal state-building.<sup>7</sup> I will abstain from speculating about the reasons, but the fact is that neither federal governing authority over western territories nor western territories as sites of federal state-building have received attention from those who claim to study “durable shift[s] in governing authority.”<sup>8</sup> Instead, scholarship on the 19<sup>th</sup> century American state focuses on two points. First, federalism and the constitutional system of checks and balances put strict institutional bounds on the exercise of federal governing authority. Second, the absence of a large centralized national bureaucracy is seen as indicative of a comparatively weak national state.

Both arguments support Skowronek's claim that courts and parties but not a national state apparatus were the core pillars of the 19<sup>th</sup> century American state.<sup>9</sup> However, Skowronek's conception of a "state of courts and parties" has come under growing scrutiny. Critics point out that important national state capacities were built prior to the progressive era.<sup>10</sup> But the thrust of my argument is quite different from those who reject the "courts and parties" thesis. I agree with Skowronek's core argument that institutional structures weakened national authority in the federal core polity. Unlike the other afore mentioned critics, I present no new evidence of federal administrative capacities in regard to the core polity. Instead, I argue that Skowronek and others have missed realms of great federal authority, capacity and strength because they fail to recognize the spatial dimension of the American state and the distinction between core polity and territorial dependency that characterizes it. The division of governing authority between federal government and states and strong states' rights doctrines constrained federal governing authority and thus the room for the build-up of national administrative capacities only in regard to the core polity.<sup>11</sup> But these constraints did not apply to federal governing authority over the periphery. Thus an account of federal state-building that solely focuses on the core polity must be considered incomplete. Simply put, it misses the imperial structures of the American state. Studying the 19<sup>th</sup> century American state from its territorial periphery does not only reveal the imperial authority of the core over the periphery but also the administrative capacities that were built to translate federal authority into policies intended to govern, administer and eventually incorporate the territorial periphery. However, imperial federal authority was confined by space and time. Admission to statehood constituted a crucial shift in governing authority throughout the 19<sup>th</sup> century. Admission ended the imperial authority of the national government and fully incorporated a territory into the federal core polity.

A further problem of Skowronek's approach is his conceptualization of state-building as build-up of administrative capacities and the professionalization of the bureaucracy.<sup>12</sup> Such an approach presumes governing authority but does not explain its origins. When the American state expanded its administrative and regulatory capacities in the late 19<sup>th</sup> century, it already had achieved a basic level of stateness in the sense that government officials exercised the monopoly on the legitimate use of force within the territorial boundaries of the United States. In contrast, territorial expansion raised fundamental problems of state-building in the sense that governing authority had yet to be established. The territorial periphery of the American state was plagued

by the absence of strong governing institutions. Thus the establishment of governing institutions by the central state and their enforcement at the periphery are state-building challenges that are closely linked to territorial expansion. A conceptualization of state-building in terms of building rational, bureaucratic administrative structures cannot capture the fundamental state-building problems that arise from core periphery relations.<sup>13</sup>

### **3. The Historical Origins of Core-Periphery Relations**

The United States government inherited the problem of empire from its British mother country. During the War of Independence Americans did not only struggle for republican self-government free of British domination but also for the realization of their own expansionist ambitions in the west.<sup>14</sup> While military campaigns to conquer the Canadian provinces, though frequently discussed in the Continental Congress, ended in utter failure and schemes to take possession of Florida were quickly abandoned, the revolutionaries never lost sight of their claims to western lands. Negotiations with France and Spain, both eager to strike the British Empire a blow, were complicated by American insistence on claims to the Ohio Valley.<sup>15</sup> France provided crucial support for the revolutionary war, but preferred to confine the emerging independent nation to the eastern seaboard, fearing that an expansionist U.S. would quickly dominate North America. The alliance with Spain was shakier due to Spanish claims to the navigation of the Mississippi and eastern Louisiana. When peace was finally made in 1782, Spain and France opposed claims to western lands asserted by the American negotiators. However, the shift in British policy towards conciliation which had already facilitated armistice enabled the American delegation to win recognition of some of its claims. In the treaty of Paris Britain granted the territory located between the Alleghenies and the Mississippi to the United States.

Acquisition of western territory was not only a diplomatic problem. The ratification of the Articles of Confederation, which had been drafted to provide the Continental Congress with a firmer institutional structure, stalled as small states such as Delaware and Maryland feared to be dominated by large states such as Virginia and Pennsylvania. The extensive claims to western territory by these large states threatened to further increase the disparities. During the Revolutionary War the conflict over western land claims did not set the south against the north, the cleavage that would shape territorial expansion up to the Civil War, but rather states with large land claims against those without them. The conflict was resolved by an agreement that all

states would cede their claims to western territory to the common national government.<sup>16</sup> Thus the Congress of the newly independent states became heir to the British Empire. The centralization of the control of western lands in the hands of Congress concluded a process that the British had begun during the last two decades before the revolution.<sup>17</sup> However, western lands were not supposed to remain in the hands of the national government indefinitely. Instead new states were to be formed out of western territory.

The new Congress established by the Articles of Confederation, which were finally ratified in 1781, can be regarded as heir of British imperial rule in other respects as well. It assumed central governing functions formerly exercised by the British. Formed as a “firm league of friendship [with each other], for their common defense” the 13 states charged Congress to coordinate military policy.<sup>18</sup> The Confederate Congress was also empowered to represent the states in foreign affairs and to enter into commercial treaties. Thus authority over the core domains of imperial government, trade, foreign affairs, and defense formerly exercised by London, was now vested in the confederate assembly of the American states.

However, the Confederate Congress was plagued by even greater problems than British imperial rule had faced during the 1760s and 1770s. The American Revolution had led to the victory of forces of local autonomy over British loyalists who supported strong imperial authority. The Articles of Confederation reflected the desire of revolutionaries to strengthen local and state governments which they perceived as the backbones of republicanism vis-à-vis a central government which they feared for its tyrannical potential. While Congress was supposed to assume important governing functions formerly exercised by the British, its powers were narrowly defined. Sovereignty was located in the individual states which only for defensive purposes agreed to coordinate trade, defense and foreign policy. The states were unwilling to grant supreme authority in these domains to Congress. The greatest shortcoming was that Congress neither had the constitutional mandate nor the executive capacity to enforce its policies against the opposition of any individual state.<sup>19</sup>

While federal governing authority was weak at the center, it was nearly absent at the periphery. Even though the treaty of Paris had given the United States a firm title to the land located between the Mississippi river and the western boundaries of the eastern states, the government had only a weak grip on western territory and the populations inhabiting it.<sup>20</sup> Spanish control of the Mississippi and the continuing presence of British posts in the Ohio

Valley and near the Great Lakes were perceived as threats to American control over its western domain. The relationship with Spain had already deteriorated during the War of Independence over Spain's demand for exclusive control of the navigation of the Mississippi. The strong presence of Spain and Britain made American government officials particularly nervous in the light of the threat of western separatism.<sup>21</sup>

When the United States secured title to western territory north and south of the Ohio River in 1783, the pressing problems were questions of how to govern this territory and how to define the relation between the settlers in these territories, eastern states and the Confederate Congress.<sup>22</sup> Eastern politicians worried about separatist attitudes of western frontiersmen who had grown accustomed to handle their local affairs without interference from eastern governments.<sup>23</sup> Easterners also looked with contempt on western farmers who they perceived as rugged, unrefined and uncultured.<sup>24</sup> The distrust was mutual. The grievances of western settlers about a lack of protection against Indian raids, the absence of civil government, absentee land owners and the need for trade routes to ship their crops to distant markets made them susceptible to separatism. Eastern elites feared that without better economic and political integration international competitors like Britain and Spain could lure western settlers to their side. In the northwest the problem was further complicated by the presence of French settlements whose loyalty to the American government was questioned by many Anglo-Americans, whereas in the southwest large land grants by Virginia, North Carolina, and Georgia and boundary disputes with Spain constituted the most pressing challenges.<sup>25</sup>

The peace of 1783 completely ignored Native Americans who posed another important challenge to American territorial ambitions. Most of them had fought alongside the British, but contrary to their promises the British did not represent their interests at the peace talks. As the victors of the war Americans regarded the indigenous allies of the British as conquered people whose rights they did not need to respect. However, Indians still posed a significant military threat and encroachment upon their lands had plunged the frontier into violent turmoil.<sup>26</sup> Even though a further influx of settlers from eastern states could potentially increase ties with the east, it also would inevitably aggravate the conflict with Native Americans, a conflict many easterners feared after just having fought a costly war against Britain.

The western territory posed multiple problems of governance, but it also held great potential as a resource for Congress. The "Army Plan," providing veterans of the Revolutionary War with

western lands as compensation for their service, and the “Financiers’ Plan,” intending to sale Western Lands to pay off war debts, shaped early discussions on Confederate policies for the west.<sup>27</sup> As the state legislatures passed Acts of Cession to the United States, the need to act became more pressing and the Continental Congress charged a committee chaired by Thomas Jefferson with the first draft of a plan for the governance of the west.

The move for the creation of a stronger central government occurred on two fronts. While Federalists lobbied for the strengthening of federal authority in the core polity constituted by the confederation of thirteen former British colonies, the Continental Congress began to define the relationship of the core polity to the national domain in the west.<sup>28</sup> Early on Congress settled on the plan to create new states out of the national domain in the west.<sup>29</sup> The debate focused on how territories were to be created and governed until admission to statehood would fully integrate them into the core polity. The Northwest Ordinance of 1787 formulated the basic principles of the relationship between core polity and territorial periphery.<sup>30</sup>

The territorial system was the response to the federal government’s lack of control of the frontier. It established imperial federal governing authority over western territories. During the first stage of territorial government, governing authority was concentrated in the hands of a territorial governor, a secretary and a court of three judges all to be appointed by Congress. High property qualifications narrowly restricted the pool of people who would be eligible for these territorial offices.<sup>31</sup> Territorial residents were granted neither political participation nor formal institutional mechanisms that would allow them to appeal the decisions of territorial officials. Once a territory contained five thousand free males, it could petition for the election of representatives to a general assembly, moving the territory to second grade territorial government. Electors had either to be citizen of one of the original States and resident in the territory or they had to have resided in the district for at least two years. In addition, all electors were to possess a freehold of fifty acres of land in the district. The property requirement disenfranchised many who either did not own enough land or lacked clear legal titles to their land, a problem which was very common during early stages of settlement. While during the first stage all executive, legislative and judicial power was held by the territorial governor, the secretary and three judges, the second stage authorized the formation of a general assembly, consisting of elected representatives and the legislative council. However, until admission to



statehood all territorial legislation was subject to Congressional approval and Congress could always directly legislate for the territories.

General assembly and legislative council were modeled upon the British bicameral system with an upper and lower house. The second stage also allowed the territorial legislature to elect a delegate with the right of debating but not of voting to Congress. During the second stage of territorial government some democratic features were inserted into the institutional structure of territorial government. However, the high property qualifications led to oligarchic forms of rule as economic elites in the territories held most political offices.<sup>32</sup> In fact, the territorial system established by the Northwest Ordinance was more authoritarian than the British colonial system, since in the first stage it did not contain any element of popular government. The second stage closely resembled the British colonial system in North America after 1763. Thus in order to meet the challenges in the west, James Monroe and his colleagues in the Continental Congress reverted to their experiences with the British Empire.<sup>33</sup> The great innovation, and most arguably the one that made this system so effective in the long run, was the temporary confinement of the territorial system. Jack Eblen equates the eventual admission to the Union on equal terms with the gain of political rights in the American Revolution and further argues that “the Ordinance sought to avoid rebellion by providing for quasi-independence through statehood as the third stage.”<sup>34</sup> The territorial system was an integrative nation-building devise. The Northwest Ordinance defined an institutional pathway for the eventual political incorporation of western settlers through the admission of their territories as equal states within the Union.

The Constitution which was debated at the same time as Congress passed the Northwest Ordinance further strengthened the authority of the core polity over the periphery. Article IV, Section three stated that “Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” This clause constituted the legal basis for Congressional supremacy over territorial affairs. It was complemented by the power to admit new states into the Union. The Constitution and the Northwest Ordinance defined territories as political dependencies of the core polity represented by the federal government.<sup>35</sup> Congress created territories, appointed territorial governors and judges, subsidized territorial government, approved or rejected territorial legislation and determined the conditions and point of time of admission to statehood. Federal authority was exercised unrestrained by local laws. The Northwest Ordinance specified the general framework

that linked federal supremacy to an institutional pathway for the gradual political incorporation of the territorial periphery.

Federal supremacy over territorial affairs was complemented by constitutional structures that gave the federal government jurisdiction over all policy domains crucial to territorial expansion. While many Americans were skeptical of a strong, central state, they nevertheless concentrated national powers in policy domains that were central to the conquest, acquisition, administration and incorporation of additional territory in the federal government. Jurisdiction over foreign affairs empowered Congress and the president to pursue expansionist ambitions with diplomatic means. Control over a national defense policy empowered the federal government to build the military capacities in order to pursue its territorial ambitions. A strong military was especially needed on the western frontier where federal governing authority was weak. Indian affairs, a central policy domain for territorial expansion, were also put under exclusive federal jurisdiction, drawing on a loose interpretation of the commerce clause.<sup>36</sup>

[Place Table 1 about here]

Federal ownership of all western lands wrested from foreign powers and Indian nations further strengthened federal powers at the periphery. The public domain was a source of great power and revenue since land was the most coveted commodity in the antebellum republic. Federal land policies shaped settlement patterns and economic development in the territories. The execution of federal land policies also required the build-up of administrative capacities. Finally, the Constitution strengthened the federal government's ability to acquire and govern territory because it strengthened federal authority in general, giving the federal government the ability to raise its own revenues.<sup>37</sup> In sum, the Constitution gave the federal government exclusive jurisdiction over foreign affairs, defense, Indian affairs and territorial affairs, creating the legal preconditions for turning the periphery into a major site of 19<sup>th</sup> century federal state-building.

Federal governing authority was the greatest in the territories since the periphery was located outside of the constitutional framework that constrained federal governing authority in the core polity. Nominal claims of authority are important, especially in a society where governing authority derives its legitimacy from legal and constitutional sources. But governing authority cannot be effectively exercised without proper enforcement. Federal state-building at the periphery was driven by the need to establish governing authority. The execution of any federal

policies on distant frontiers rested on the premise that the federal government was able to implement and enforce them.

Taking a closer look at the process of military and administrative conquest of western lands further underscores the importance of the federal government to territorial expansion. Table 2 lists a set of functions that the federal government assumed on the territorial frontier. These functions were related to the specific needs of the periphery. Not only constitutional authority over territories but also the needs of the periphery shaped federal state-building. Table 2 lists different steps in the process of turning new territories in the west into politically and economically fully integrated parts of the United States. Table 2 can be understood as a break down of different layers of federal government activity which step by step incorporated the territorial periphery into the core polity.

[Place Table 2 about here]

The process began with mapping. The American government sent numerous expeditions to explore the continent far beyond existing settlements and trade routes.<sup>38</sup> Supporting the expansionist urge of the settler population, the United States aggressively asserted claims to western land against rival states and indigenous nations. Diplomats and Indian agents negotiated land cessions through treaties and the U.S. army backed claims with force. Over time administrative conquest took precedence over security. The Indian Office managed the containment and tutelage of the native population. Territorial governments established basic legal and political structures for the growing number of settlers. The Treasury organized surveys and the sale of the public domain. And finally the admission to statehood by Congress marked the full integration of the territory into the American polity.

#### **4. The Periphery as Site of Federal State-Building: the Military**

The military was crucial to the federal government's ability to force its will on the periphery.<sup>39</sup> During the period from 1789 to 1859 the federal government spent about 70% of its budget on the army, navy and the retirement of war related debt.<sup>40</sup> Federal troops backed diplomatic efforts to gain more territory from Britain, France, Spain, and Mexico.<sup>41</sup> Military force was necessary to subdue hostile Indian tribes and wrest land cessions from them. However, standing armies were controversial. Americans feared standing armies as sources of political corruption as well as their potential as tools of governmental repression.<sup>42</sup> But the American

Revolution had taught many Americans the need for a professional army in order to win wars and after the Revolution the federal government felt that the new republic would not survive without one.<sup>43</sup> Especially, after initial setbacks during the 1790s, when the Whiskey Rebellion and military defeats suffered against Indians in the Northwest Territory exposed the weaknesses of understaffed and poorly equipped federal troops, the federal government finally committed badly needed resources to the build-up of a more effective army.<sup>44</sup>

But because of the unpopularity of a large federal military establishment, military spending fluctuated heavily. After major wars and large campaigns expenditures for the military and the size of federal troops were quickly reduced. This flexible military policy of the U.S. turned out to be highly effective against Indian foes.<sup>45</sup> The federal government concentrated its military force in strongly fortified posts at strategic points on the frontier. The strategy maximized the effectiveness of a relatively small number of federal troops. Once forts were surrounded by a large number of white settlers who could organize their own defenses in local militias, federal troops were moved to more precarious posts further west. After initial difficulties and defeats during the 1780s and 90s, the antebellum period was marked by great military success against Indian resistance to the occupation of their lands by white settlers.

[Place Figure 1 about here]

Figure 1 shows that the size of the U.S. Army remained relatively small during the antebellum era. However, when military needs went beyond the policing of the frontier, the size of the army was quickly expanded. During the War of 1812 and the Mexican American War of 1848 effective recruitment more than quadrupled the size of regular forces.

Military success was the basis for the establishment of the national government's control of distant frontier populations. Forts and military outposts protected the first settlements on newly acquired territory. Since during the first phases of settlement basic governmental structures were still lacking, the military was also called upon to help in law enforcement. Local marshals and justices of the peace often asked army troops to keep order and execute warrants. In addition federal troops served important economic needs at the frontier. The army carried out civilian projects, though often for a military purpose, such as the construction of roads which pioneer families and the first settlers lacked the resources to undertake. The army's corps of engineers played an important role in internal improvements deemed of national importance such as the

construction of railroads.<sup>46</sup> The army's need for labor and provisions also served as an important economic stimulus in frontier regions where payment in hard currency was rare.

The army's importance to territorial expansion is beyond doubt, but army personnel often held ambivalent views on the expansionism of the antebellum republic. From the perspective of federal officers in charge of enforcing federal sovereignty, expansion created challenges to order and the rule of law, especially when settlers, squatters, and "filibusters" pursued expansionist agendas of their own.<sup>47</sup> Unauthorized incursions into Indian Territory or across international boundaries into neighboring countries threatened to provoke war.<sup>48</sup> Effective pacification of the frontier required the prevention and, if necessary, repression of these private initiatives to gain more territory. Samuel Watson argues that already during the antebellum era the U.S. military professionalized to a high degree. Career employees in the military put national above sectional interests, treating filibusters as disruptive criminals. Thus he claims that in 1846 army soldiers went to war against Mexico as "members of a bureaucratically structured and constitutionally accountable organization under national control, not as individuals or representatives of a single sectional and economic interest."<sup>49</sup>

Watson makes an important argument. Ardent expansionism, so prevalent among frontiersmen, constantly threatened to undermine the establishment of governing authority. Unauthorized initiatives by filibusters did not only undermine the authority of government officials in Washington. They could also further destabilize frontier regions, provoking violent reactions from neighboring countries and Indian nations. The orderly settlement of the west required that the national government remained in control. The insulation of the military from narrow sectional interests, turned the army into an effective tool of the national government. As Watson put it,

the army's accountability to civilian political control flowed both directly and ironically from its employment by the nation-state, and the officer corps' role and interests as the principal defenders of American national sovereignty came to mesh quite smoothly with their individual and organizational searches for prestige, authority, and legitimacy, but not in the simple monolithic form of support for Manifest Destiny and empire.<sup>50</sup>

While sectional conflict over slavery put territorial expansion at the center of a growing domestic divide, the professionalism of the officer corps prevented the military from taking sides. The army invaded Mexico upon the order of the national government in 1846. But the officer corps regarded with contempt unlawful filibuster missions.<sup>51</sup> Establishing and upholding

order was only possible, if the military did not become embroiled in sectional conflict. The national state-building function, the establishment of federal governing authority on the frontier, gave the military a national outlook. Thus the establishment of governing authority depended on the ability of Army officers to remain aloof from political and particularly sectional conflicts.

The tension between national policy directives and local interests and pressures was nowhere more visible than in Indian affairs. The army was not only charged with the protection of white settlers, but also instructed to enforce federal Indian policy. The United States initially pursued a conciliatory approach towards Indians. As the British had done before them, Americans sought to prevent uncontrolled intrusion into Indian land to pacify the frontier. Otherwise the frontier would continue to be plagued by retaliations of Indian warring parties against encroachments of American settlers. Fearing that the Spanish or the British could take advantage of its precarious international position, the newly established federal government wanted to make peace with the Indians on its western frontier and peace required respect for the negotiated boundaries between Indian and American settlements.

To accomplish this objective, the federal government created a civilian office under the auspices of the Department of War to establish and manage peaceful relations with the Indian tribes located on its western frontier. Trade and intercourse laws were passed to stop unauthorized incursions into Indian Territory and to establish guidelines for the interactions between Indians and American traders. Since the small field service of the Indian office was too weak to enforce these acts, it fell on the military to break up illegal settlements, stop the sale of alcohol and bring offenders to court.

The huge areas that needed to be policed in order to enforce the Trade and Intercourse Acts made this a daunting task for the small contingents of federal troops stationed at the frontier. Western pioneers were hostile to such law enforcement activities by the army. In addition, local courts were not only reluctant to pursue such offenses, but often brought charges against army officers. Judges frequently charged army officers with alleged abuses of their authority, declaring their law enforcement activities against violations of the Trade and Intercourse Acts illegal. Without adequate means and authority the army's record regarding the enforcement of laws to protect rights granted to Indian tribes in treaties remained poor. The army did not only face local opposition to the protection of Indian rights, but even in Washington, where Indians were usually looked upon more favorably, officials were reluctant to commit more resources to the protection

of Indians in the face of the unpopularity of these measures in the west. With growing influence of the west in the capital and the improvement of the international position of the United States, the government became even less inclined to seriously commit the army to the enforcement of treaty provisions. To the contrary during the 1830s the army was charged with the forceful removal of Indians to the newly created Indian Territory west of the Mississippi.

In fact, from the beginning the prevalent cycle of treaty negotiations, encroachment by white settlers followed by a period of violence in which the superior capabilities of the army and local militias prevailed over Indian retaliations, and eventually new negotiations with further land cessions well served the expansionist ambitions of the federal government. Governing authority was established at the expense of the Native population. The federal government did not make sufficient efforts to build adequate capabilities to enforce Indian rights.<sup>52</sup> Few men in the army decried the lack of commitment to Indian rights. The professional ethos of the antebellum army stemmed from its role in orderly expansion and protection of frontiersmen. Intercourse and Trade Acts were enforced as far as a separation of white settlers and Indians served national interests in peace and order. But when the frontier exploded into large scale violence, the army served its countrymen's interests first. As the tool of expansionism of a white republic, the army would not put the tutelage of Native Americans above the expansionist ambitions of its fellow citizens.

The army was the forceful symbol of the federal government's authority on the frontier. Federal troops enforced the interests of the federal government at the frontier, torn by the contradiction between territorial expansion driven by the massive western migration of American settlers and the establishment of governing authority in order to pacify white settlers and Native Americans alike. The important role of the military in territorial expansion also brought about state-building effects at the center. The need to effectively wage war more than any other governmental function drove the transition from a loose confederation of states to a more centralized system of federal administration.<sup>53</sup>

Already under the Articles of Confederation the limitations of a close management of military operations by Congress had convinced federalists of the need for an effective executive. The creation of the Department of War on February 7, 1791 by Congressional Act gave the Secretary of War ample discretion to organize the federal war machine. Over time the Department of War gained more bureaucratic autonomy as it ran its daily operations with little interference from Congress. Military leaders independently formulated important aspects of

military policy such as the fortification of the frontier. While officials in the Department of War and officers on the frontier enjoyed considerable discretion in their decision-making, budgetary limitations remained the main constraint for further expansion of the size, power, and prestige of the military. While Congress interfered little in military operations and the administration of the military apparatus, it put tight budgetary constraints on the army during times of relative peace. However, it never demobilized the federal military to a degree that would undermine territorial expansion. The flexible military at the frontier remained always large enough to subdue Indians, protect settlers, establish governing authority and serve as forceful symbol of the federal government's commitment to territorial expansion.

### **5. The Periphery as Site of Federal State-Building: the Indian Office**

Indian affairs were an important federal policy domain that was focused on the territorial periphery. The management of the relationship between Native Americans and the federal government was central to the territorial expansion of the antebellum American state.<sup>54</sup> In the long run military superiority made the extermination, displacement and tutelary control of Native Americans possible, clearing more land for American settler colonialism. But the federal government's approach towards Indian affairs was not merely militarily. Following the British model of imperial rule in North America, the federal government appointed Indian agents to establish peaceful relations with the Indian tribes located on its frontier.<sup>55</sup> These Indian agents constituted the centerpiece of the conciliatory approach during the first decades after independence, when Indian warriors still posed a significant threat to American settlers in the west.<sup>56</sup>

The Indian service, growing into an important bureaucracy in Washington with a large field service in western territories, was riddled by basic contradictions. On the one hand the Indian service was supposed to establish peaceful relations with Native Americans, induce them to adopt American ways of life under its tutelage and protect them from unlawful disturbances by frontiersmen. On the other hand the Indian service was an instrument of territorial expansion, charged with the extinguishment of Indian title to land and the pacification of what most Americans perceived as "wild savages." Given the contradictory mission and the conflicting demands by settlers, Native Americans, government officials, politicians, and eastern humanitarians, it is hardly surprising that the Indian office has received so much well deserved



criticism throughout its history. However, the obvious shortcomings and moral failures of the Indian Office have obscured the fact that the Indian service fulfilled important state-building functions for the federal government.<sup>57</sup> Territorial expansion depended on the effective management of Indian affairs. While the Indian office also pursued other goals, most notably a civilizing mission, the organization of huge land cessions and the pacification of hostile tribes constituted its most important contributions to territorial expansion during the antebellum republic.

Indian agents took part in the establishment of governing authority on the frontier. As the central link between the federal government and the native population, they assumed a key role in the management of Indian affairs. Since they stayed in close proximity to Indian tribes and handed out the goods and money promised in treaties, agents often exercised a strong influence on the tribes. Indian agents did not only attempt to manipulate the behavior of Indians according to the interests of the U.S. government. They also exercised authority over any Americans who sought to trade with Indians or illegally intruded into their lands.<sup>58</sup>

The Ordinance of 1786 formed the legal basis for the Indian Department, creating two superintendencies, a northern and a southern district, under the jurisdiction of the Secretary of War.<sup>59</sup> The Trade and Intercourse Acts, passed by Congress in 1790, 1796, and 1802, established the basic framework of U.S. Indian policy.<sup>60</sup> Indian agents were appointed to execute and enforce these acts and became part of a growing administrative organization. In order to secure a peaceful and orderly advance of the frontier, clear boundaries between frontier settlements and Indian Territory were drawn.<sup>61</sup> Indian agents were supposed to police these boundaries. But as I mentioned above, without the assistance from the military, they lacked the necessary enforcement capacity to remove and apprehend illegal intruders. Indian agents also licensed traders and supervised their activities. Especially the illegal sale of liquor was of great concern because Indians who had been cheated by first intoxicating them often took indiscriminate revenge on white settlers.

In 1796 Congress appropriated \$150,000 raised to a total of \$250,000 in the following year to create trading houses as an attempt to gain federal control over the Indian trade. The government sought to become the exclusive partner of Native American traders in order to bind them closer to the U.S. government. Instead of making profit, goods sold in the trading houses were supposed to compensate Native Americans for shrinking hunting grounds and government

officials made no secret that debt and economic dependency created by these trading houses would facilitate efforts to wrest more land cessions from them.<sup>62</sup> The trading house system quickly grew into a complex administrative operation.<sup>63</sup> Congress made annual appropriations to pay salaries and to provide supplies purchased by the Purveyor of Public Supplies, an office created in 1795 within the Department of Treasury.

The trading house system formed the basis for the development of a distinctive Indian Service within the Department of War. In 1806 Congress created the office of Superintendent of Indian Trade to centralize administrative control of the trading houses. Congress also required quarterly reports and bonds to be posted by each factor and Indian agent to root out corruption. In 1811 the superintendent for Indian trade was made responsible for the purchase and transportation of goods to the trading houses, further extending the administrative functions of the office. In 1822, after many years of lobbying by private traders, Congress ended the factory system, failing to pass a new annual appropriation. The trading house system was the first administrative organization that empowered experts to run Indian affairs independently from Congress. Under the leadership of only two superintendents, John Mason from 1806 until 1816 and Thomas McKenney from 1816 and 1822, the trading house system stood for administrative continuity and expertise and became the first “milestone in developing the federal machinery for dealing with Indian problems.”<sup>64</sup>

Lobbying efforts by independent traders ended the national trading house system and with it the distinct administrative structures for the management of Indian Affairs. Subsequently, Secretary of War John Calhoun saw the need for an alternative arrangement to strengthen the standing of the civil Indian service within the Department of War.<sup>65</sup> Without authorization from Congress he created the Bureau of Indian Affairs within the Department of War in 1824 and appointed the experienced McKenney as its first head. Relieving Calhoun of the growing burden of conducting the daily administration of Indian affairs, McKenney took office but remained formally subject to Calhoun’s oversight. He supervised the activities of the Indian agents, the negotiations of treaties, the payments of annuities, disbursement and other financial work and took special interest in the administration of the civilization fund, which Congress created in 1819 to put the financing of Indian schools on firmer ground.<sup>66</sup> McKenney turned out to be an effective administrator of Indian policies, even though his office was plagued by budget constraints, the lack of clear hierarchical structures and conflicting jurisdictions. Especially, the

powers and duties of Indian agents as well as their relationship with their supervisors in the field and in the Department of War lacked clear legal definitions.

As the federal government moved towards a more aggressive removal policy under the leadership of President Andrew Jackson during the 1830s, Congress began to adapt the Indian Department to the growing administrative burdens. In 1832 Congress established the position of Commissioner of Indian Affairs. The Commissioner of Indian Affairs was empowered to examine and approve all claims, accounts, disbursements, and other financial transactions, relieving the Secretary of War of these laborious oversight duties. Two years later, following recommendations by the House Committee on Indian Affairs to put the administration of Indian Affairs on solid legal ground, Congress passed an organic act for the creation of the Bureau of Indian Affairs.<sup>67</sup> This act put a legal foundation under an administrative office that had developed and grown by executive fiat for the past four decades. It enacted specific guidelines for the appointment, functions, and dismissal of Indian agents. The Act also established a hierarchical authority structure within the Indian service. The superintendents of Indian Affairs constituted the intermediate level of authority, overseeing Indian agents within their regional jurisdiction and linking them to the central authority of the Commissioner of Indian Affairs and his staff in Washington.

During the following decades leading up to the Civil War territorial expansion and the extension of more coercive tutelary policies spurred the growth of the Bureau of Indian Affairs. In 1831 the Supreme Court affirmed the notion that Indians were wards of the federal government. This decision served as justification for the increasingly coercive attempts to force Indians to abandon their traditional ways of life. Indian agents played a crucial role in the administration of new policies, specifically designed to transform Indians according to Anglo-American norms of property holding, individualism, and wage labor. The removal of Indians to specifically designated areas west of the Mississippi also required the expansion and relocation of Indian agencies.

Figure 2 shows the annual cost of acquiring land cessions from Indians during the period from 1776 to 1859 amounting to a total of \$81 million. These costs included expenses of treaties, annuities and any other charges to the federal Indian service on account of negotiating land cessions.<sup>68</sup>

[Place Figure 2 about here]

The graph peaks at periods of heightened American expansionism. Federal expenditures on acquisitions of Indian land title dramatically increased during the Indian removals of the 1830s and after the war of 1848 when the federal government supported the opening of huge areas to white settlers in the Southwest, Northwest, far Midwest and Mountain West.

The large annuities that were offered to entice Indians to relocate to the territories west of the Mississippi drove the growth of the Bureau of Indian Affairs in the 1830s and 40s. But the Indian Office never permitted Indians the independence that they had been promised in treaty negotiations. Instead the Indian Office sought to use continuing economic dependence as a means to change Indian ways of life. Annuity payments were designed and administered to transform Native American culture. The government provided goods to induce Indians to become farmers and often made annuity payments subject to compliance with their civilizing programs. However, since many Indian tribes resisted governmental “offers” to abandon their homeland, the military continued to play an important role in Indian affairs. In contrast to the lofty language promising Indians a better life on territory in the west, Jackson’s Indian policy was characterized by expansionist ambitions to gain Indian lands and remove the Indian population for as little as possible. The Bureau of Indian affairs still expanded its size and functions. But continuing appropriation of Indian lands and the resulting violent conflicts continued the central role of the military in the containment of the Native American population.

The territorial expansion of the 1840s posed new challenges for U.S. Indian policy. Large numbers of settlers streamed into the new territories in the southwest and far west, provoking new conflicts with native and relocated tribes in these areas. In 1849 Congress created the Department of Interior to relieve the Departments of War and Treasury of some of the administrative burdens caused by the latest territorial expansion.<sup>69</sup> The Bureau of Indian Affairs and the General Land Office, two agencies that were particularly affected by an increase in administrative workload, were moved to the new department.

The Bureau of Indian Affairs was finally subordinated to civilian leadership, reflecting the assumption that Indian affairs had become a domestic problem, though one in which the military was still needed to enforce coercive policies. The concentration of Indians on reservations, not only a military but also a large administrative task, elevated the role of the Bureau of Indian Affairs.<sup>70</sup> As large hunting grounds were disappearing, the destruction of Indian culture and the adoption of American ways of life became not only more urgent, but the defining mission for the

Bureau of Indian Affairs. Isolated from the “corrupting influences” of white frontiersmen, reservations constituted laboratories for the transformation of Indian culture under the jurisdiction of the Indian Office. The Commissioners of Indian Affairs sought to use their growing administrative power over the provisioning of Indians and the management of their internal affairs to guide and coerce them towards “productive membership” in American civilization.

Even though the steepest growth of the Bureau of Indian Affairs came after the Civil War, the administration of Indian Affairs was an important site of federal state-building during the antebellum era.<sup>71</sup> Indian agents not only played a major role in wresting land cessions from Indians, but they also helped establish federal governing authority at the frontier. The policing of boundaries and interactions between Native Americans and white settlers gradually evolved into tight coercive control of Indian political, economic, and cultural affairs, especially with the beginning of the establishment of the first reservations in the 1850s. The Indian Department developed important administrative capacities from early on. The management of Indian affairs also required organizational innovations to coordinate and supervise its various functions. And at several points Congress intervened to partly sanction and partly reform the development which the Indian Department had taken independently from Congressional oversight. From a moral standpoint, there is much to deplore concerning the administration of Indian affairs. Nevertheless, the Indian Office was an important site of antebellum state-building, playing a major role in the federal governments’ organization and management of territorial expansion.

## **6. The Periphery as Site of Federal State-Building: the General Land Office**

In this section I will discuss the administrative challenges on the territorial periphery regarding the survey and sale of the public domain.<sup>72</sup> The establishment of government authority by military officers and Indian agents was closely related to the work of federal administrators of the public domain because social and political order in western territories depended on an effective system of orderly land sales. Federal authority over the public domain derived from the territorial clause in Article IV, Section three of the U.S. Constitution, giving Congress exclusive jurisdiction over the administration and sale of the public domain.

Territorial expansion brought huge tracts of land under federal ownership. Federal lands in the west were an important source of revenue. Federal control over western lands also allowed

U.S. government officials to shape the settlement of western territories. Because land ownership was an important source of political, economic and financial power, it had always been the center of political conflicts.<sup>73</sup> The Articles of Confederation nearly failed ratification because of conflicts over western land claims. Maryland only acquiesced after Virginia and other states with large claims to western territory agreed to cede these claims to the national government.<sup>74</sup> The cessions resolved the problem of overlapping land claims and empowered the national government. Exclusive control over the acquisition and distribution of western land gave the federal government a “great vehicle for making property and power in America.”<sup>75</sup> During the course of territorial expansion millions of acres passed from federal into private ownership. Control over western lands strengthened the allegiance of settlers to the federal government. Deriving their land titles from federal officials gave western settlers a personal stake in the power of the federal government and its ability to enforce the property regime it created. Federal land policies determined economic opportunities and social mobility for millions of Americans who bought land from the federal government. As forerunners of modern social policies, federal land policies directly impacted the lives and fortunes of millions of American settlers and land speculators.<sup>76</sup>

During the 1780s, driven by need for revenue and growing demand for access to western land, the Continental Congress established the basic parameters of a national land policy. Squatting posed the greatest problem. Illegal settlements came at the expense of government revenue and they threatened to embroil the frontier in conflicts between squatters and those having some form of legal title to the land, either through purchase or grant. The Land Ordinance of 1785 introduced a system of surveying to map territory in rectangular townships, making the orderly sale of the public domain possible.<sup>77</sup> Surveying the land before allowing settlers onto it had the great advantage of reducing potential conflict over land claims and subsequent litigation. While delegates debated a new constitution in Philadelphia, the Continental Congress in New York passed the Ordinance of 1787 which organized the establishment of governing institutions and the process of political incorporation for western territories.<sup>78</sup>

Since Secretary of Treasury Alexander Hamilton regarded the public domain as a resource to repay the national debt, he immediately began to outline a federal land policy, focusing on how government revenue could be maximized. He distinguished between three classes of purchasers: “moneyed individuals who will buy to sell again; associations of persons, who intend to make

settlements themselves; single persons, or families now resident in the Western country, or who may emigrate thither hereafter.”<sup>79</sup> The “facility of advantageous sales” demanded that the public domain should be sold in large tracts to wealthy investors at the seat of the government, whereas “the accommodation of individuals inhabiting the Western country” or intending to move there called for land offices on western territories which would sell land in small tracts, and if necessary on credit. Hamilton clearly favored big sales, but sought to accommodate both groups, proposing the creation of a central office at the seat of the national government complemented by subordinate offices on western territory. He further suggested the appointment of commissioners to administer the land sales and of a Surveyor General who with the aide of deputy surveyors was supposed to organize surveys and to look over the warrants issued by the General Land Office.

Congress finally acted in 1796, passing legislation which formally charged the Secretary of Treasury with the administration of the sale of public lands. Large tracts were to be sold at the capital, while territorial governments and the surveyor general were charged to hold auctions in the territory. The treasury department was to record and receive all records regarding land transactions such as the dates of sales, price, money deposited, location of land, dates of the certificates granted, and other pertinent data. This huge administrative task was further complicated by existing land titles which had to be verified. The public domain contained areas that formerly had been settled by French, Spanish, and British colonists. The states also had made land grants previous to the cession of their western dominions. The land cessions stipulated that the federal government had to recognize all these existing titles unless they were obtained by fraud. The examination and verification of these claims was laborious, keeping the officers of the treasury, territorial governments, courts, and Congress busy. The acquisition of Louisiana, New Mexico and California added many more of these complicated legal disputes to the workload of federal land officers.

Sales under the Land Law of 1796 remained small. The purchase of the minimum tract of 640 acres at the fixed prize of two dollars per acre was beyond the means of most Americans. Congress enacted reform legislation in 1800 to fix this problem. Four land districts, all located in the Northwest Territory, were established. The minimum prize remained at two dollars per acre, but the government now extended credit to purchasers at an annual interest rate of 6% on the unpaid balance and reduced the size of tracts. All land that was not paid within five years would

be forfeited and resold at auction. The credit system further complicated the accounting of payments for land officers. Each land office employed a register and receiver to properly record land sales and reception of payments. The Louisiana Purchase and the military expulsion of Indians in the Northwest dramatically increased the business of the land offices. Secretary of Treasury Albert Gallatin developed clear guidelines for local land sales and instituted boards of commissioners to relieve territorial governors of the duty to review the validity of land titles, but his republican principles, running the administration and sale of western lands with minimum staff and expenses, led to a huge backlog of cases.<sup>80</sup> Corruption remained a huge problem in land offices, located on distant territories far from oversight of officials in the capital, even though Congress introduced annual inspections of all federal land offices in 1803.

In 1812 Congress created the General Land Office and appointed Edward Tiffin of Ohio as its first Commissioner. The new bureau was still located within the Treasury, but the Secretary of Treasury was now relieved of the duty to oversee its daily operations. The field service had grown to 18 district land offices from the 14 that were established during Jefferson's presidency. Six district offices were located in the southwestern territory gained in the Louisiana Purchase. The administration of land surveys had also expanded. Appropriations for surveys reached \$100,000 in 1811. Surveys of the public domain, the first step in the process of public land sales, constituted a large and complex administrative undertaking of its own.<sup>81</sup> One of the greatest challenges was the long distance between the district offices and the General Land Office in the capital where records of transactions were received weeks or months after they had been recorded in the regional offices. The General Land Offices had to clear and register each record before a confirmation of title could be sent back to the regional office.

After the War of 1812, western migration increased drastically and with it the workload of the General Land Office. Driven by cheap capital from the growing banking sector, land speculation further fueled the volume of sales. In 1818 and 1819 the investment bubble burst plunging western states and territories into a severe economic crisis. As hard currency became scarce many westerners fell behind in their payments to the land offices. Critics blamed the credit system under which a debt of \$23 million had been accumulated.<sup>82</sup> Congress responded in 1820, introducing cash sales and reducing the minimum prize to \$1.25 per acre. The new land law also contained administrative reforms to regulate the transition from the credit to the cash



system. In 1821 and 1823 Congress passed Relief Acts to reduce the debt owed to the treasury. Debtors were allowed to give up part of their land for complete payment on the rest.

In spite of economic downturns the land business continued to grow. In 1823 the Commissioner of the General Land Office supervised 42 land offices. Surveying had also grown into a large and profitable business. Official surveyors contracted out a large share of their work. In the 1830s the Preemption Acts further increased the land officers' scope of duties at the same time as Indian removals drove federal land sales to record heights. However, Congress did not heed repeated calls from the Commissioners of the General Land Office for more resources. In 1833 alone the General Land Office wrote more than 6,000 letters and completed 40,000 patents. However, there remained a backlog of 70,000 patents.<sup>83</sup> The huge sale volumes of the mid 1830s overburdened the resources of the land office. The Commissioner of the General Land Office found that sales volume for the years 1834, 1835 and 1836 would total more the \$30 Million, requiring the issuance of approximately 360,000 patents.<sup>84</sup> Congress finally reacted and passed an Act to reorganize the General Land Office on July 4, 1836. The clerical staff in the central office was increased to 88 assigned either to the administration of public lands, private land claims, or surveys which now were to be supervised by the Commissioner of the General Land Office. New positions of solicitor to give legal advice, recorder to supervise the patent business and secretary to superintend correspondence and sign patents were also created.

Western expansion had turned the General Land Office into an important source of patronage during Andrew Jackson's presidency. In 1837 positions in 62 district offices and at the headquarters in Washington had to be filled. Eight Surveyors General and 126 deputy surveyors, not to mention the numerous clerks and subagents hired by them, were needed to carry out surveys.<sup>85</sup> Appointments in the General Land Office, its district offices, or work on the surveys were highly sought after because they provided intimate knowledge of the most important commodity of the antebellum republic. Corruption and fraud were constant problems. The patronage system aggravated some of these problems because politicians often regarded appointments to the land office as reward for their service to the party and not as impartial civil service. However, the abuse of office by profiteers and party stalwarts should not belie the achievements of the General Land Office.

During the antebellum period the United States did not only purchase millions of acres of land from Native Americans. Table 3 lists funds the federal government spent to compensate for land cessions of its own states and of foreign governments.

[Place Table 3 about here]

Before the public domain could be sold to individual settlers and investors by the General Land Office, the land had to be surveyed. Table 4 lists the costs for surveying and disposing of the public domain.

[Place Table 4 about here]

The office also dealt with numerous existing land claims of Colonial, British, French, Spanish, and Mexican origin. For millions of Americans who followed pioneers and frontiersmen into western territory, the land officer - not the Indian agent or member of the U.S. Army - was the most important federal official they encountered. Federal land policies shaped opportunities to buy land and introduced the township as prevalent settlement pattern to the west. The record keeping of the land offices also helped to resolve legal disputes. Without the effective administrative work of the General Land Office land would not have been the most important commodity in antebellum America.<sup>86</sup>

The bureaucratic work of its officials helped to enforce governing authority in distant territories checking, handing out, and recording land titles. And the size and complexity of the General Land Office's administrative operations grew with each new territory. While the business of the land offices was constrained by tight Congressional budgets, the Secretaries of Treasury and later the Commissioners of the General Land Office introduced important administrative reforms and pushed Congress to adopt their policy proposals. Thus the General Land Office made important contributions to antebellum federal state-building. It helped to establish federal governing authority on frontier settlements, executing federal land policies. Western expansion spurred the growth of the General Land Office into a large bureaucracy with effective administrative capacities. And starting with Alexander Hamilton the executive developed its own policies, improved administrative procedures, and pushed Congress to increase the budget and pass reforms.

## 7. Conclusion

The distinction between state and territory denotes an important spatial dimension in American political development. Federal governing authority was not equally distributed across the territory of the United States. The Constitution divided governing authority between the federal government and the states. However, constitutional constraints on the exercise of federal governing authority did not apply to territories over which the United States claimed jurisdiction. Strengthening federal authority in its campaign against polygamy in Utah, the Supreme Court affirmed in 1879 that as long as territories were not admitted to statehood, federal governing authority included all of the powers exercised by a state.<sup>87</sup> The case of *Reynolds v. United States* highlighted the extensive, extraconstitutional authority of the federal government over its territorial domain. Like Native Americans and immigrants territorial residents were subject to federal plenary powers that operated outside the constitutional framework that delimited federal governing authority over states.

The spatial dimension of federal governing authority was rooted in the territorial ambitions of the United States. Broad federal powers over the territorial periphery constituted the foundation for federal state-building that expanded the American polity across the North American continent. State-building at the periphery rested on the establishment of undisputed governing authority. It required that the United States eliminated rival claims to sovereignty on its territory. The United States used diplomacy and brute military force to enforce its territorial claims against rival states such Britain, Spain and Mexico and Indian nations. Federal ownership of western land constituted the basis for land policies that shaped the settlement and economic development of western territories. Finally, Congress supervised territorial governments and determined the pathway to statehood.

The activities of the U.S. Army, the Indian Office and the General Land Office were focused on the early stages in the process of territorial expansion and settlement. The U.S. Army substantiated territorial claims with force. The role of the U.S. Army at the frontier of the American state underscores that the establishment of governing authority depended on coercion and military power. Federal control of distant frontier regions was far from perfect and violations of federal laws such as the Trade and Intercourse Acts often went unpunished, but federal authority sufficed to repress any large, coordinated challenges to U.S. claims of sovereignty. The Indian Office complemented the activities of the U.S. Army on the territorial periphery. Indian

agents sought peaceful means to manage relations with Indian tribes. The negotiation of treaties and the establishment of a civilian Indian service helped to reduce military conflict. The Indian Office played a crucial role in territorial expansion, effectively reducing military conflict that accompanied the territorial dispossession of Native Americans. The General Land Office sought to impose order on the settlement of the west. While illegal settlements remained a problem throughout the 19<sup>th</sup> century, most settlers and investors would not have bought western lands without the security provided by federal land titles. The General Land Office organized the commodification of land which was the driving force behind the general craving for western lands throughout the 19<sup>th</sup> century.

The spatial dimension in the exercise of federal governing authority reveals the importance of federal state-building at the territorial periphery. This paper has focused on the establishment of governing authority as the basis for the territorial expansion of the American state. But the functions of the federal government on the periphery went far beyond the establishment and enforcement of governing authority. The ownership of western lands allowed the federal government to shape the territorial periphery far more than this brief survey of the General Land Office indicates. Federal land grants were not accounted for in 19<sup>th</sup> century federal budgets, but they provided millions of dollars in federal subsidies for the construction of railroads, the support of public education and subsidies to western states.<sup>88</sup> Many territories remained subjected to federal supremacy for decades until admission to statehood ended their status as political dependencies of the federal government. And the process of political incorporation of western territories raised contentious issues regarding the legal and civic status of diverse populations that inhabited them.<sup>89</sup> The Louisiana Purchase brought a large French population under U.S. jurisdiction and the Treaty of Guadalupe Hidalgo of 1848 added a large Mexican population. U.S. government officials constantly confronted the problem of the status of the Native Americans as they expanded the American polity westward. These questions become central issues of federal state-building, once the importance of territorial expansion and the territorial nature of federal governing authority are recognized. Their analyses lead to a more complicated assessment of 19<sup>th</sup> century national state power: weak at the center but strong at the periphery.

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## Tables

**Table 1 Functions related to territorial expansion across the executive**

<b>Department of State</b>	Diplomatic Pursuit of expansionist Agenda Supervision of Territorial Governments
<b>Department of War</b>	Military Pursuit of expansionist Agenda Pacify / Police Frontier Indian Affairs
<b>Department of Treasury</b>	Finance territorial expansion Surveys General Land Office / Execute Federal Land Policy

**Table 2 From Periphery to Core – Federal State-Building in the Territories**

<b>Activity</b>	<b>Agency</b>
Exploration	Military
Manage Relationship with Native Population	Military / Bureau of Indian Affairs
Acquire Territory through Negotiation	Department of State
Conquest of Territory	Military
Secure Territory	Military
Extinguish Indian Title to Land	Military / Bureau of Indian Affairs
Survey Territory	Department of Treasury
Create basic Structures of Governance	Congress, President / Territorial Governments
Sale of public domain	Department of Treasury / General Land Office
Internal Improvements	Military / Congress through land grants
Admission to Statehood	Congress

**Table 3 Purchases and Cessions 1789-1859<sup>90</sup>**

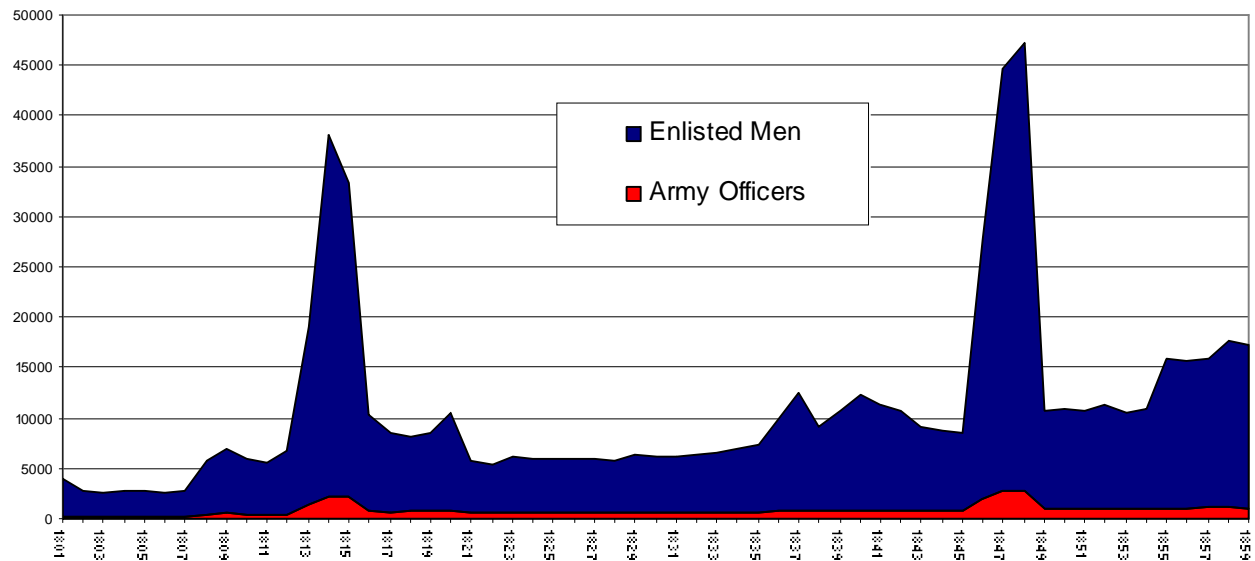
Purchase from Georgia, her cession 1802, and Yazoo- scrip claims	\$ 6,200,000.00
Louisiana Purchase of 1803	\$ 27,267,621.98
The Florida Purchase of 1819	\$ 6,489,768.00
Mexican Acquisition by treaty of Guadalupe Hidalgo, 1848	\$ 15,000,000.00
Purchases from Texas, 1850 and 1855	\$ 16,000,000.00
Gadsden Purchase from Mexico, 1853	\$ 10,000,000.00
<b>Total</b>	<b>\$ 80,957,389.98</b>

**Table 4 Expenditure for Survey and Disposition, 1784 to 1859<sup>91</sup>**

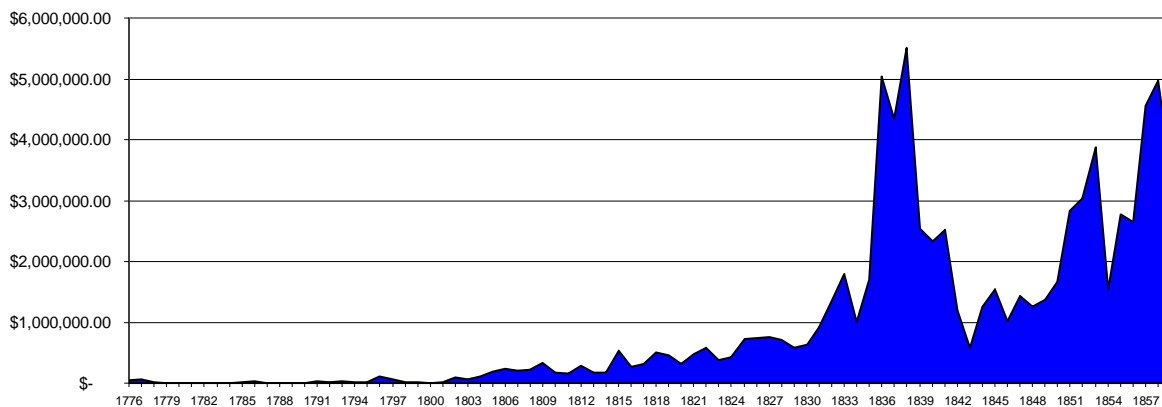
Expenses of surveying public lands, including all expenses prior to 1812, the date of creation of General Land Office, including salaries of surveyor-general and their clerks	\$ 4,376,464.26
Amount paid at the district land offices of salaries and commissions of the officers, and for incidental expenses	\$ 3,867,228.99
Salaries of land officers at the United States Treasury until 1842	\$ 99,370.70
Salaries and contingent expenses of the General Land Office, at the seat of Government, from its establishment in 1812 to 1842	\$ 1,623,546.19
Cost of General Land Office, 1843-1859	\$ 6,158,571.63
<b>Total</b>	<b>\$ 16,125,181.77</b>

## Figures

**Figure 1 Federal Military on Active Duty 1801-1859<sup>92</sup>**



**Figure 2 Annual Cost of Purchasing Indian Title**



<sup>1</sup> Peter S. Onuf, *The Origins of the Federal Republic : Jurisdictional Controversies in the United States, 1775-1787* (Philadelphia: University of Pennsylvania Press, 1983).

<sup>2</sup> Peter S. Onuf, "Territories and Statehood," in *Encyclopedia of American Political History*, ed. Jack P. Greene (New York: Charles Scribner's Sons, 1984), Kal Raustiala, *Does the Constitution Follow the Flag?* (New York: Oxford University Press, 2009).

<sup>3</sup> I work with a formal definition of what I call empire or imperial. Empire describes a relationship of political dependency. In an empire the political core or center exercises governing authority over a territorial periphery or dependency whose population is politically and legally subordinate because it is excluded from political and civic privileges members of the core polity enjoy.

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<sup>4</sup> Except for Balogh's recent book, APD scholars have ignored the periphery as a central site of federal state-building. Brian Balogh, *A Government out of Sight : The Mystery of National Authority in Nineteenth-Century America* (Cambridge, New York: Cambridge University Press, 2009), 151-218

<sup>5</sup> Jack P. Greene, *Peripheries and Center : Constitutional Development in the Extended Politics of the British Empire and the United States, 1607-1788* (Athens: University of Georgia Press, 1986), Andrew C. McLaughlin, "The Background of American Federalism," *American Political Science Review* 12, no. 2 (1918).

<sup>6</sup> The U.S. Army, Indian Office and General Land Office helped to advance white settlements and created the basic preconditions for economic and demographic growth. Territorial governments created the basic political structures that were required for application to statehood. However, I have excluded territorial governments from this analysis. Territorial politics were closely tied to the expansion of the national party system, culminating in hotly contested partisan conflicts over admission to statehood. Thus territorial governments need a separate analysis that pays more careful attention to their relation to the national party system.

<sup>7</sup> *Studies in American Political Development* has only published two articles on the west since its inception in 1986. Neither of the articles pays particular attention to federal state-building effects of territorial expansion. Instead they focus on the last stage of political incorporation, the politics of admitting territories to statehood. Amy Bridges, "Managing the Periphery in the Gilded Age: Writing Constitutions for the Western States," *Studies in American Political Development* 22, no. 1 (2008), Charles Stewart and Barry R. Weingast, "Stacking the Senate, Changing the Nation : Republican Rotten Boroughs, Statehood Politics, and American Political Development," *Studies in American Political Development* 6, no. 2 (1992).

<sup>8</sup> To cite the widely noted definition of American political development by two of the field's premier pioneers. Karen Orren and Stephen Skowronek, *The Search for American Political Development* (Cambridge, UK ; New York: Cambridge University Press, 2004), 123. A notable exception that proves the trend is Ira Katznelson, "Flexible Capacity: The Military and Early American Statebuilding," in *Shaped by War and Trade: International Influences on American Political Development*, ed. Ira Katznelson and Martin Shefter (Princeton, N.J.: Princeton University Press, 2002). However, Katznelson's article fails to link the military to a larger state-building program at the territorial periphery.

<sup>9</sup> Stephen Skowronek, *Building a New American State : The Expansion of National Administrative Capacities, 1877-1920* (Cambridge, New York: Cambridge University Press, 1982).

<sup>10</sup> Revolutionary War Pensions, the Postal Service, and the Bureau of Indian Affairs have been identified as important areas of antebellum state-building. While these studies challenge Skowronek's thesis, it remains unclear, if they are part of a larger pattern or just individual deviations from the general notion of a "state of courts and parties." Laura Jensen, *Patriots, Settlers, and the Origins of American Social Policy* (Cambridge, New York: Cambridge University Press, 2003), Richard R. John, *Spreading the News : The American Postal System from Franklin to Morse* (Cambridge, Mass.: Harvard University Press, 1995), Stephen J. Rockwell, "Building the Old American State: Indian Affairs, Politics and Administration from the Early Republic to the New Deal" (Dissertation, Brandeis University 2001). For a review of studies on economic policies that challenge Skowronek, see Richard R. John, "Ruling Passions: Political Economy in Nineteenth-Century America," *Journal of Policy History* 18, no. 1 (2006). The most recent attack on notions of the American state's exceptional weakness during the 19<sup>th</sup> century has been formulated by William Novak William J. Novak, "The Myth of The "Weak" American State," *American Historical Review* 113, no. 3 (2008). Brian Balogh has added a new twist to scholarship on the 19<sup>th</sup> century American state. Acknowledging the importance of the federal government and its expansive authority in the 19<sup>th</sup>, he argues that it functioned without a large national bureaucracy and thus remained "a government out of sight." Balogh, *A Government out of Sight : The Mystery of National Authority in Nineteenth-Century America*.

<sup>11</sup> Constraints on federal authority did not mean that social and economic life was not heavily regulated. States and municipalities filled the governing void left by weak central authority. William J. Novak, *The People's Welfare : Law and Regulation in Nineteenth-Century America*, *Studies in Legal History* (Chapel Hill: University of North Carolina Press, 1996).

<sup>12</sup> Skowronek, *Building a New American State : The Expansion of National Administrative Capacities, 1877-1920*, 14-8.

<sup>13</sup> The distinction between Skowronek's and my definition is essentially chronological. I am interested in the establishment of stateness in the sense that governing authority is established over territories and populations that had previously not been subjected to it. In contrast, Skowronek focuses on the development of a particular form of stateness characterized by a high degree of administrative complexity and bureaucratic autonomy. Thus Skowronek's form of state-building can only occur at a later stage, once basic governing authority has been effectively established.

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- <sup>14</sup> Fred Anderson and Andrew R. L. Cayton, *The Dominion of War : Empire and Liberty in North America, 1500-2000* (New York: Viking, 2005)., 160-206. Eric Hinderaker, *Elusive Empires : Constructing Colonialism in the Ohio Valley, 1673-1800* (New York: Cambridge University Press, 1997)., 185-270.
- <sup>15</sup> Paul Chrisler Phillips, *The West in the Diplomacy of the American Revolution* (New York: Johnson Reprint, 1967).
- <sup>16</sup> Onuf, *The Origins of the Federal Republic : Jurisdictional Controversies in the United States, 1775-1787*.
- <sup>17</sup> After the conclusion of the French and Indian War in 1763 the British government tried to confine the territorial ambitions of its colonies and centralize control over western expansion in the hands of crown officials. The center piece of this policy was the Proclamation of 1763 which set a western boundary for American settlements. Patrick Griffin, *American Leviathan : Empire, Nation, and Revolutionary Frontier*, 1st ed. (New York: Hill and Wang, 2007).
- <sup>18</sup> *Articles of Confederation*, Article III
- <sup>19</sup> Frederick W. Marks, *Independence on Trial : Foreign Affairs and the Making of the Constitution* (Baton Rouge: Louisiana State University Press, 1973)., 3-51.
- <sup>20</sup> Andrew R. L. Cayton, *The Frontier Republic : Ideology and Politics in the Ohio Country, 1780-1825* (Kent, Ohio: Kent State University Press, 1986)., 1-11.
- <sup>21</sup> Thomas Dionysius Clark and John D. W. Guice, *The Old Southwest, 1795-1830 : Frontiers in Conflict* (Norman: University of Oklahoma Press, 1996)., 12.
- <sup>22</sup> Peter S. Onuf, *Statehood and Union : A History of the Northwest Ordinance* (Bloomington: Indiana University Press, 1987).
- <sup>23</sup> Andrew R. L. Cayton, "The Northwest Ordinance from the Perspective of the Frontier," in *The Northwest Ordinance, 1787 : A Bicentennial Handbook*, ed. Robert M. Taylor (Indianapolis: Indiana Historical Society, 1987), Andrew R. L. Cayton, "'Separate Interests' And the Nation-State: The Washington Administration and the Origins of Regionalism in the Trans- Appalachian West," *Journal of American History* 79, no. 1 (1992).
- <sup>24</sup> "The class bias underlying the judgment was one of the dominant forces shaping nineteenth-century attitudes toward the West." Henry Nash Smith, *Virgin Land : The American West as Symbol and Myth* (Cambridge, Mass.: Harvard University Press, 1950)., 51.
- <sup>25</sup> Clark and Guice, *The Old Southwest, 1795-1830 : Frontiers in Conflict*., 41-82.
- <sup>26</sup> Griffin, *American Leviathan : Empire, Nation, and Revolutionary Frontier*.
- <sup>27</sup> Jay A. Barrett, *Evolution of the Ordinance of 1787* (New York G. P. Putnam's Sons, 1891)., 6-11.
- <sup>28</sup> The Federalists drew on their experiences with the British state as a model for a strong centralized government. Max M. Edling, *A Revolution in Favor of Government : Origins of the U.S. Constitution and the Making of the American State* (Oxford [England] ; New York: Oxford University Press, 2003).
- <sup>29</sup> Matthew E. Glassman, "Building States : Institutions, Interests, and Action in the Political Development of the American West, 1776-1912" (Dissertation, Yale, 2007)., 63-96.
- <sup>30</sup> Onuf, *Statehood and Union : A History of the Northwest Ordinance*.
- <sup>31</sup> The property qualifications were a freehold estate of one thousand acres of land for the governor and five hundred acres for the secretary and the judges. Only very wealthy people would own so much land.
- <sup>32</sup> Jack Ericson Eblen, *The First and Second United States Empires : Governors and Territorial Government, 1784-1912* (Pittsburgh: University of Pittsburgh Press, 1968)., 56, 137.
- <sup>33</sup> James Monroe headed the committee that drafted the Northwest Ordinance. The legislative history of the Northwest Ordinance from the first plans for the development of the west in the 1780s to the final adoption of the Ordinance of 1787 is discussed in Jr. Berkhofer, Robert F., "Jefferson, the Ordinance of 1784, and the Origins of the American Territorial System," *The William and Mary Quarterly* 29, no. 2 (1972).
- <sup>34</sup> Eblen, *The First and Second United States Empires : Governors and Territorial Government, 1784-1912*., 42.
- <sup>35</sup> The most comprehensive study of territorial law is J. W. Smurr, "Territorial Constitutions : A Legal History of the Frontier Governments Erected by Congress in the American West, 1787-1900." (Dissertation, Indiana University, 1960).
- <sup>36</sup> The Constitution excluded Native Americans from the civic community whose governing structures it defined. "Indians not taxed" were not to be counted to determine the apportionment of Congressional seats. Article 1, section 8 indicated that Indians were to be treated like foreign nations, giving Congress the power to "regulate Commerce" with Indian tribes. The commerce clause gave the federal government jurisdiction over Indian affairs, but the Constitution did not further elaborate the relationship between the federal government and Indian tribes. Their presence was recognized, but their status was left ambiguously vague, oscillating between a foreign nation, separate from the American polity, and a subordinate entity, present within the American polity without sharing the

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privileges of civic equality. Rogers M. Smith, *Civic Ideals : Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997), 131-2.

<sup>37</sup> Especially the authority to impose tariffs strengthened the federal government. During the antebellum period about 85% of federal revenues were derived from customs. The breakdown of revenue patterns was computed from data provided by *Historical Statistics of the United States Millennial Edition*, accessed online on December 10, 2007.

<sup>38</sup> William H. Goetzmann, *Army Exploration in the American West, 1803-1863* (New Haven: Yale University Press, 1959).

<sup>39</sup> In this section I heavily rely on Francis Paul Prucha, *Broadax and Bayonet : The Role of the United States Army in the Development of the Northwest, 1815-1860* (Madison: State Historical Society of Wisconsin, 1953). The study is quite dated, but still path-breaking in its recognition of the centrality and breadth of the role of federal troops in the conquest, administration, and development of frontier regions. A briefer more recent accounts are Andrew R. L. Cayton, "Radicals in The "Western World": The Federalist Conquest of Trans-Appalachian North America," in *Federalists Reconsidered*, ed. Doron S. Ben-Atar and Barbara Oberg (Charlottesville, London: University Press of Virginia, 1998), Andrew J. Polsky and William D. Adler, "The State in a Blue Uniform," *Polity* 40, no. 3 (2008). Older studies are usually confined to an enumeration of the construction of forts and military campaigns. Henry Putney Beers, "The Western Military Frontier, 1815-1846" (Dissertation, University of Pennsylvania, 1935), Edgar Bruce Wesley, *Guarding the Frontier : A Study of Frontier Defense from 1815 to 1825* (Minneapolis: University of Minnesota Press, 1935).

<sup>40</sup> The numbers have been computed based on annual budget data from *Historical Statistics of the United States Millennial Edition*.

<sup>41</sup> The example of the Louisiana Purchase is quite instructive. President Jefferson did fear a military conflict with France, but after the negotiations had been successfully concluded, federal troops and state militias were concentrated at the border to Louisiana to demonstrate U.S. determination to take possession, if necessary with force. The Secretary of State to Governor Claiborne, Oct 31, 1803, Clarence Edwin Carter, ed., *The Territorial Papers of the United States* (New York: AMS Press, 1972), Vol. IX, 92

<sup>42</sup> Lawrence Delbert Cress, *Citizens in Arms : The Army and the Militia in American Society to the War of 1812, Studies on Armed Forces and Society* (Chapel Hill: University of North Carolina Press, 1982).

<sup>43</sup> Federalists who dominated the first administration were united in their support for a standing federal army. Edling, *A Revolution in Favor of Government : Origins of the U.S. Constitution and the Making of the American State*.

<sup>44</sup> Richard H. Kohn, "The Washington Administration's Decision to Crush the Whiskey Rebellion," *Journal of American History* 59, no. 3 (1972), Thomas P. Slaughter, *The Whiskey Rebellion : Frontier Epilogue to the American Revolution* (New York: Oxford University Press, 1986).

<sup>45</sup> Katznelson, "Flexible Capacity: The Military and Early American Statebuilding."

<sup>46</sup> Colleen A. Dunlavy, *Politics and Industrialization : Early Railroads in the United States and Prussia*, Princeton Studies in American Politics (Princeton, N.J.: Princeton University Press, 1994), Leonard Dupee White, *The Jeffersonians; a Study in Administrative History, 1801-1829* (New York: Macmillan, 1951), 260-4; "A Plan for the Defence of the Western Frontier furnished by Major General Gaines," February 28, 1838, House Document No. 311, 25<sup>th</sup> Cong, 2<sup>nd</sup> Sess., 13-15. The report also contains a good analysis of the flexible approach of the U.S. military to frontier defense.

<sup>47</sup> Filibusters were irregular adventurers who led unauthorized expeditions into foreign territory to overthrow its government and advocate its annexation by the United States. See following fn for citations.

<sup>48</sup> Robert E. May, "Manifest Destiny's Filibusters," in *Manifest Destiny and Empire : American Antebellum Expansionism*, ed. Robert Walter Johannsen, Sam W. Haynes, and Christopher Morris (College Station, Tex.: Texas A & M University Press, 1997), Frank Lawrence Owsley and Gene A. Smith, *Filibusters and Expansionists : Jeffersonian Manifest Destiny, 1800-1821* (Tuscaloosa: University of Alabama Press, 1997).

<sup>49</sup> Samuel Watson, "The Uncertain Road to Manifest Destiny: Army Officers and the Course of American Territorial Expansionism, 1815-1846," in *Manifest Destiny and Empire : American Antebellum Expansionism*, ed. Robert Walter Johannsen, Sam W. Haynes, and Christopher Morris (College Station, Tex.: Texas A&M University Press, 1997), 70. The relative autonomy of the army is also stressed by Polsky and Adler, "The State in a Blue Uniform." The founding of a military academy at West Point in was crucial to the development of military professionalism even though it stood in constant tension with republican skepticism regarding the military establishment. Robert M. S. McDonald, ed., *Thomas Jefferson's Military Academy : Founding West Point* (Charlottesville: University of Virginia Press, 2004).

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<sup>50</sup> Watson, "The Uncertain Road to Manifest Destiny: Army Officers and the Course of American Territorial Expansionism, 1815-1846.", 113.

<sup>51</sup> Andrew Jackson was the exception that proves the rule. It is still debated among historians, whether he had any authorization to invade Spanish Florida. However, overall the U.S. military showed remarkable reluctance to take unlawful initiatives in territorial expansion.

<sup>52</sup> Robert Keohane attributes treaty violations to the weaknesses of the antebellum national state. However, he ignores the fact that the federal government had little interest in enforcing these treaties as they would constrain the territorial expansion of the antebellum state. When Indians retaliated against encroachments by white settlers, the U.S. army responded very effectively. The lack of Native Americans' political influence in Washington rather than the proclaimed weakness of the federal government explains the continuous violation of Indian rights in the 19<sup>th</sup> century. Robert O. Keohane, "International Commitments and American Political Institutions in the Nineteenth Century," in *Shaped by War and Trade: International Influences on American Political Development*, ed. Ira Katznelson and Martin Shefter (Princeton: Princeton University Press, 2002).

<sup>53</sup> Harry M. Ward, *The Department of War, 1781-1795* (Pittsburgh: University of Pittsburgh Press, 1962).

<sup>54</sup> Reginald Horsman, *Expansion and American Indian Policy, 1783-1812* (East Lansing: Michigan State University Press, 1967), James Claude Malin, "Indian Policy and Westward Expansion," *Bulletin of the University of Kansas Humanistic Studies* 2, no. 3 (1921), Rockwell, "Building the Old American State: Indian Affairs, Politics and Administration from the Early Republic to the New Deal".

<sup>55</sup> Ruth A. Gallaher, "The Indian Agent in the United States before 1850," *Iowa Journal of History and Politics* 14, no. 1 (1916).

<sup>56</sup> Reginald Horsman, *The Frontier in the Formative Years, 1783-1815* (New York: Holt, 1970).

<sup>57</sup> For a more detailed critique of the negligence of Indian affairs in the literature on American state-building, see Rockwell, "Building the Old American State: Indian Affairs, Politics and Administration from the Early Republic to the New Deal"., 59-90.

<sup>58</sup> Gallaher, "The Indian Agent in the United States before 1850."

<sup>59</sup> Ordinance for the Regulation and Management of Indian Affairs, August 7, 1786, in Wilcomb E. Washburn, ed., *The American Indian and the United States : A Documentary History*, 1st ed. (New York: Random House, 1973)., Vol. 3, 2140-3.

<sup>60</sup> In 1791 Congress appropriated over \$39,000 for "defraying all expenses incident to the Indian Department." By 1822 the sum had more than tripled to over \$123,000 divided into expenses for the payment of agents (\$22,000), payment of subagents (\$11,338), presents to Indians (\$15,000), and contingent expenses (\$75,000). Curtis Emanuel Jackson and Marcia J. Galli, *A History of the Bureau of Indian Affairs and Its Activities among Indians* (San Francisco: R & E Research Associates, 1977)., 33.

<sup>61</sup> This policy was modeled upon the Royal Proclamation of 1763 which had established a boundary to separate Anglo-American settlements from territory left to the Native peoples.

<sup>62</sup> "To promote this disposition to exchange lands, which they have to spare and we want, for necessities, which we have to spare and they want, we shall push our trading houses and be glad to see the good and influential individuals among them run in debt, because we observe that when these debts get beyond what the individuals can pay, they become willing to lop them off by cession of lands." President Jefferson to William Henry Harrison, February 27, 1803, in Francis Paul Prucha, *Documents of United States Indian Policy*, 3rd ed. (Lincoln: University of Nebraska Press, 2000)., 22.

<sup>63</sup> Ora Brooks Peake, *A History of the United States Indian Factory System, 1795-1822* (Denver: Sage Books, 1954). The literature on administrative operations of Indian affairs is sparse. Most studies focus on Indian policy and the relations of Native Americans with the federal government. Also useful for their treatment of bureaucratic and administrative aspects of Indian affairs: Jackson and Galli, *A History of the Bureau of Indian Affairs and Its Activities among Indians*, Theodore W. Taylor, *The Bureau of Indian Affairs, Westview Library of Federal Departments, Agencies, and Systems* (Boulder, Colo.: Westview Press, 1984). The most thorough overview of the breadth of the Indian service's activities and administrative organization is Rockwell, "Building the Old American State: Indian Affairs, Politics and Administration from the Early Republic to the New Deal".

<sup>64</sup> Francis Paul Prucha, *The Great Father : The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1984)., 36.

<sup>65</sup> The need for a more effective administration of Indian Affairs had already been emphasized in a Congressional committee report in 1816. It found that the administrative tasks had become so voluminous and detailed that the organizational arrangements within the Department of War were insufficient to get the work done. Jackson and Galli, *A History of the Bureau of Indian Affairs and Its Activities among Indians*., 38 The failure to get a proposal

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for a new "Home Department" to which the Indian Department could be transferred passed, further increased the pressure on Secretary of War Calhoun to relieve himself of the growing burden of dealing with Indian affairs.

<sup>66</sup> McKenney's support for Indian schooling led to significant progress. In only two years between 1823 and 1825 the number of Indian schools increased from 21 to 38. *Ibid.*, 70.

<sup>67</sup> "Regulating the Indian Department," House Report No. 474, 23<sup>rd</sup> Cong, 1<sup>st</sup> Sess, May 20, 1834.

<sup>68</sup> Figures are taken from Thomas Donaldson and United States. Public Land Commission (1879-1880), *The Public Domain : Its History, with Statistics, with References to the National Domain, Colonization, Acquirement of Territory, the Survey, Administration and Several Methods of Sale and Disposition of the Public Domain of the United States, with Sketch of Legislative History of the Land States and Territories, and References to the Land System of the Colonies, and Also That of Several Foreign Governments* (Washington: Govt. print. off., 1884), 20.

<sup>69</sup> Norman Olaf Forness, "The Origins and Early History of the United States Department of the Interior" (PhD Thesis, Pennsylvania State University, 1964), Henry Barrett Learned, "The Establishing of the Secretaryship of the Interior," *American Historical Review* 16 (1911).

<sup>70</sup> Robert A. Trennert, *Alternative to Extinction : Federal Indian Policy and the Beginnings of the Reservation System, 1846-51* (Philadelphia: Temple University Press, 1975).

<sup>71</sup> In 1852 a budget request by the Bureau of Indian Affairs listed 14 employees in the central office and 94 in the field. In 1872 the Bureau of Indian Affairs counted 987 field employees alone. Taylor, *The Bureau of Indian Affairs.*, 35. However, the figures for the antebellum period are misleading because a lot of work was contracted out. Especially in the Indian field service aides for the transportation and distribution of annuities, interpreters, blacksmiths and other people employed by Indian agents locally did not appear in official statistics.

<sup>72</sup> Scholars of American political development, missing the importance of territorial expansion to antebellum state-building, have ignored the importance of the General Land Office as a site of federal state building. I have learned about land policies from Paul Wallace Gates and Robert W. Swenson, *History of Public Land Law Development* (Washington, D.C.: Wm. W. Gaunt & Sons, 1987). My discussion of the General Land Office mainly draws on Malcolm J. Rohrbough, *The Land Office Business; the Settlement and Administration of American Public Lands, 1789-1837* (New York: Oxford University Press, 1968). Also useful are Charles Judah Bayard, *The Development of the Public Land Policy, 1783-1820, with Special Reference to Indiana* (New York: Arno Press, 1979), Milton Conover, *The General Land Office : Its History, Activities, and Organization, Service Monographs of the United States Government ; No. 13* (Baltimore, Md.: Johns Hopkins Press, 1923).

<sup>73</sup> U.S. land policies were like all other policies related to territorial expansion rooted in the colonial experience. See, Gates and Swenson, *History of Public Land Law Development.*, 33-48.

<sup>74</sup> Not all States immediately ceded their claims. Georgia made the last cession in 1802. Altogether the states ceded a total of 237 million acres to the national government. *Ibid.*, 55.

<sup>75</sup> Alan Taylor, *The Divided Ground : Indians, Settlers and the Northern Borderland of the American Revolution*, 1st ed. (New York: Alfred A. Knopf, 2006), 143.

<sup>76</sup> Jensen, *Patriots, Settlers, and the Origins of American Social Policy*.

<sup>77</sup> On the importance of surveying to the establishment of sovereignty and the commodification of the land, see Andro Linklater, *Measuring America : How an Untamed Wilderness Shaped the United States and Fulfilled the Promise of Democracy* (New York: Walker & Co., 2002). On the Land Ordinance of 1785 see Peter S. Onuf, *Statehood and Union : A History of the Northwest Ordinance, Midwestern History and Culture* (Bloomington: Indiana University Press, 1987), 21-43.

<sup>78</sup> Even though neither the Land Ordinance of 1785 nor the Ordinance of 1787 directly addressed the problem of squatting, the fact that it did not include preemption rights indicated that the government favored eastern speculators over western settlers.

<sup>79</sup> "Plan for Disposing of the Public Lands," Treasury Department, July 20, 1790, in United States. Congress., *American State Papers, Public Lands*, vol. 1 (Washington: Gales and Seaton).

<sup>80</sup> By 1810 Gallatin had established 8 boards, one in the Territories of Michigan, Indiana, Illinois, and Louisiana and two each in Mississippi and New Orleans Territories

<sup>81</sup> Linklater, *Measuring America : How an Untamed Wilderness Shaped the United States and Fulfilled the Promise of Democracy*.

<sup>82</sup> Rohrbough, *The Land Office Business; the Settlement and Administration of American Public Lands, 1789-1837.*, 141.

<sup>83</sup> *Ibid.*, 262.

<sup>84</sup> *Ibid.*, 268.

<sup>85</sup> *Ibid.*, 272

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<sup>86</sup> On the importance of land to the development of corporate business structures, see Shaw Livermore, *Early American Land Companies : Their Influence on Corporate Development* (New York: Octagon Books, 1968).

<sup>87</sup> *Reynolds v. United States* (98 U.S. 145, 1879)

<sup>88</sup> Gates and Swenson, *History of Public Land Law Development*.

<sup>89</sup> Stefan Heumann, "The Tutelary Empire : State- and Nation-Building in the 19th Century U.S." (Dissertation, University of Pennsylvania, forthcoming).

<sup>90</sup> Donaldson and United States. Public Land Commission (1879-1880), *The Public Domain : Its History, with Statistics, with References to the National Domain, Colonization, Acquirement of Territory, the Survey, Administration and Several Methods of Sale and Disposition of the Public Domain of the United States, with Sketch of Legislative History of the Land States and Territories, and References to the Land System of the Colonies, and Also That of Several Foreign Governments.*, 18

<sup>91</sup> *Ibid.*, 18.

<sup>92</sup> *Historical Statistics of the United States Millennial Edition*, Tables Ed29-31.