

1 Sea Power and Strategy

The intended meanings behind the terms, strategy, maritime strategy, and naval strategy, have not always been consistent and are often used interchangeably. It is worth taking a moment to consider how these terms and concepts have been used over time and how their meanings have changed. What, if any, are the distinctions between strategy, maritime strategy, and naval strategy? During the eighteenth century, strategy, as both a word and concept, was something reserved for generals and land campaigns and was primarily applied to the use of armies and the conduct of battle. Clausewitz, who did not write about the sea specifically but was writing about the final European war of the long eighteenth century, has had his definition of strategy neatly summarised by Hew Strachan; ‘Clausewitz defined strategy as the use of the battle for the purposes of the war: in other words, he aimed to link tactics to a wider objective and ultimately, of course, to link strategy to policy.’¹

If Clausewitz and other thinkers, like Jomini, used the wars of the long eighteenth century in an attempt to create a theoretical framework for the conduct of warfare on land, why was not the same thing done for war at sea? Strachan points out the following, ‘Nobody who fought at sea in the Napoleonic Wars subsequently used those wars ... to develop thinking about strategy.’² This observation is correct, but it raises three avenues of discussion that have a direct bearing on our understanding of the development of maritime strategic thinking during the Seven Years’ War and the wider eighteenth century. First, does Clausewitz’s definition of strategy – ‘the use of the battle for the purpose of the war’ or ‘what generals did’ – translate to the maritime environment and to admirals? Or is there another way to conceive of strategy in the maritime sphere in the eighteenth century? Secondly, is the intellectual development of maritime strategic thought limited to the work of admirals and commanders who

¹ H. Strachan, *The Direction of War: Contemporary Strategy in Historical Perspective* (Cambridge University Press, 2013), p. 152.

² Ibid.

have participated in war? Thirdly, and closely related to the second, is the development of strategic thought defined only as the public or formal discourse created by published works on the subject which use the language of ‘strategy’?

Strachan addresses the first avenue in *The Direction of War*. He argues that in the eighteenth century (and the early-modern period more broadly) the thinking that shaped attitudes about the use of the sea in times of war, and about the expansion of empires, was rooted in economic and legal considerations.³ Imperial expansion and colonialism went hand in hand with the rise of mercantilism, the transition to early capitalism, and European-centric international law.⁴ The sea provided the connection between Europe and colonies and was the highway upon which trade, people, and information flowed. Access to the sea (and the control of that access), therefore, had to be protected, but that protection was not a purely military endeavour – it was legal, political, economic, military, and naval:

Those concerned with the exercise of maritime power in the seventeenth and eighteenth centuries had to contend much more directly with the legal framework for its exercise than did commanders in land warfare. Practices at sea, therefore, combined naval (in the narrowly military sense) with maritime developments, peace with war, and economic and legal practices with national power.⁵

Can the exercise of maritime power (or sea power), then, be called strategy? Not, as Strachan makes clear, in the eighteenth-century sense of the word. However, a more contemporary definition of strategy reflects an eighteenth-century and nineteenth-century conception of the relationship between trade, politics, law, and the sea in both times of peace and war:

Strategy today is applied in peace as well as in war; it encompasses the preparation of plans and equipment for conflict, aspects which Clausewitz saw simply as ancillary; and it includes the economic capacity of a state and its people’s political and social commitment to wage war. The intellectual roots of that definition derive from maritime power, not land power, and are a manifestation of the influence of sea power on strategic thought.⁶

If the current understanding of the Euro-centric discourse on strategy is based on an eighteenth- and early nineteenth-century understanding of how sea power could be exercised in the pursuit of national policies, then

³ Ibid.

⁴ L. Campling and A. Colás, *Capitalism and the Sea* (Verso, 2021); and R. S. Du Plessis, *Transitions to Capitalism in Early Modern Europe: Economies in the Era of Early Globalization, c.1450–c.1820* (Cambridge University Press, 2019), pp. 4–8.

⁵ Strachan, *Direction of War*, p. 153. ⁶ Ibid. p. 155.

it is logical to study the maritime wars of that period, like the Seven Years' War, in order to fully understand how and why strategic thinking was developed, influenced, shaped, and implemented by the actors and factors involved. It is a historical study of practical strategy rather than strategic theory.⁷ The men collectively developing maritime strategy during the war did not seek to leave behind a treatise that would help subsequent generations think about and prosecute wars. However, the material they did leave behind allows students of strategy to delve into their thinking and thus enlighten their own understanding of how strategies are made and implemented.

In addressing the first avenue of inquiry, the second has been partially covered. Taking Strachan's definition of strategy mentioned above means that the intellectual development of maritime strategic thought could not be limited to the work of admirals and commanders who have participated in war. Ministers, ambassadors, judges, government officials, as well as the First Lord of the Admiralty and his allies, all participated in the development of maritime strategic thinking during the Seven Years' War. N. A. M. Rodger points out that, in this period, there were no formal forums or dedicated spaces in which strategy was formed and discussed.⁸ However, the absence of a formalised space dedicated to strategic thinking does not preclude the collective act of strategic thinking. The spaces in which strategic development and thinking took place during the Seven Year's War were what today we might consider informal. In other words, outside a dedicated space such as a national security council or a staff college. Maritime strategic thinking during the war was done through the writing of letters and memorandums, through conversation and the recording of such conversations in personal notes or journals, in the marginalia of official documents, and in orders sent to officials overseas. The source material for maritime strategic thinking in the eighteenth century is vast and varied. It is also spread across global archives and, for the most part, never neatly collated under the banner of 'strategy'. In order to understand how and why maritime strategic thinking developed in the way that it did, the informal spaces in which strategic thinking took place must be considered and investigated. Many historians of the Seven Years' War, such as Richard Pares and

⁷ This idea is explored by Hew Strachan in his 2019 article H. Strachan, 'Strategy in Theory; Strategy in Practice', *Journal of Strategic Studies*, 42:2 (2019), 171–90.

⁸ N. A. M. Rodger, 'The Idea of Naval Strategy in Britain in the Eighteenth and Nineteenth Centuries', in G. Till (ed.), *The Development of British Naval Thinking: Essays in Memory of Bryan McLaren Ranft* (Routledge, 2006), p. 20.

Daniel Baugh, have already contributed greatly to this area.⁹ This book adds to the historiography of the war and maritime strategy by investigating the spaces where legal thinking and action intersected with the maritime world to influence and shape maritime strategy.

When the Seven Years' War drew to a close, there was no great public intellectual reckoning of the like provided by Jomini and Clausewitz in the post-Napoleonic period. However, does this lack of formal and public discourse mean that strategic thinking during the Seven Years' War had no impact on future strategic thinking? Only if the development of strategic thinking is measured in published works. This third avenue of discussion has been explored recently by Beatrice Heuser in her book *Strategy Before Clausewitz*, in which there is a chapter dedicated to command of the sea and its origins as a strategic concept.¹⁰ Only a few paragraphs are dedicated to the eighteenth and nineteenth centuries, and they link the origin of 'command of the sea' to the writings of legal philosophers such as John Seldon and Cornelis van Bynkershoek. Heuser does not, however, link these philosophers to the maritime strategic thinkers of the eighteenth century. Nor does she link the legal thinking to the wider concept of sea power.¹¹ How was strategic thinking passed on in the eighteenth century if not through published works? If the development of collective strategic thinking took place in letters, conversations, journals, etc. how was it passed on to those prosecuting the next conflicts? The answer lies in how the sources for maritime strategic thinking were collected, and by whom.

The archival collections used in this book are those of the men who were in charge of prosecuting the Seven Years' War, and those of their networks and allies. Much of this material is correspondence in which the practical problems of strategy are addressed. However, a considerable part of the material in the collections consists of the memos, correspondence, court cases, and data from previous wars and previous ministers, judges, officers, etc. For example, William Petty, Second Earl of Shelburne, who served as the Secretary of State for the Southern Department from 1766 to 1768, was in charge of Britain's relations with Spain, which involved a good amount of negotiation over maritime affairs both in Europe and in the Americas. His collection of papers at the Clements Library includes copies of the correspondence between the

⁹ R. Pares, *War and Trade in the West Indies 1739–1763* (Frank Cass and Co., 1963); R. Pares, *Colonial Blockade and Neutral Rights 1739–1763* (Porcupine Press, 1975); and D. Baugh, *The Global Seven Years' War, 1754–1763* (Pearson, 2011).

¹⁰ B. Heuser, *Strategy Before Clausewitz: Linking Warfare and Statecraft 1400–1830* (Routledge, 2017), pp. 117–35.

¹¹ *Ibid.* pp. 129–30.

Secretaries of State for the Southern Department and the ambassador to Spain during the Seven Years' War. They also include material on intelligence gathered from foreign courts, material on the economic and political affairs of various Caribbean islands and settlements in Spanish territory, and naval intelligence.¹² Maritime strategic thinking in this period was not passed on through formal publications, but through the informal collation of materials relevant to one's position or office. The development and progression of strategic thinking in this period was not driven by overarching theory, but by practical considerations and problem solving.¹³ The men in charge of Europe's wars in the eighteenth and early nineteenth centuries were engaged in practising strategy as described by Strachan 'The most important single task for strategy is to understand the nature of the war it is addressing. Its next task may be to manage and direct that war, but it cannot do that if it starts from a false premise.'¹⁴ The arguments presented in this book form a history of the practice of maritime strategy during the Seven Years' War and why that history needs to consider the influence of the law in order to fully understand sea power during the second half of the eighteenth century.

How has the concept of sea power been understood by strategic thinkers and how does it apply to the eighteenth century? For Julian Corbett, sea power boiled down to the ability of a nation to have control of communications at sea.¹⁵ This phrase, 'control of communications' is likely well known to those familiar with sea power theory, but it is still worth interrogating what it actually meant for Corbett and what it implies for the relationship between law and sea power during the Seven Years' War. Corbett approached the concept of sea power by asking the basic question – what does the sea offer to an empire? The answer varies somewhat, nation to nation, based on its geography, national resources, and relations with other states. For Corbett, the general answer was as follows:

The only positive value which the high seas have for national life is as a means of communication. For the active life of a nation such means may stand for much or it may stand for little, but to every maritime State it has some value.

¹² CL, Shelburne Papers.

¹³ Andrew Lambert makes a similar argument for the British navy in his chapter 'The Development of Education in the Royal Navy: 1815–1914', in G. Till (ed.), *The Development of British Naval Thinking: Essays in Memory of Bryan McLaren Ranft* (Routledge, 2006), pp. 35–7.

¹⁴ H. Strachan, *The Direction of War: Contemporary Strategy in Historical Perspective* (Cambridge University Press, 2013), p. 103.

¹⁵ Corbett, *Some Principles of Maritime Strategy*, pp. 91–106.

Consequently, by denying an enemy this means of passage we check the movement of his national life at sea.¹⁶

From this concept, Corbett deduced that controlling this ‘means of passage’ was vital when engaged in a war, and that ‘Command of the sea means nothing but the control of maritime communications, whether for commercial or military purposes. The object of naval warfare is the control of communications.’¹⁷ How then, does a nation achieve control of communications and what role does the law play in achieving this control? Control of communications, and therefore sea power, is much more than simply having a powerful and dynamic navy (though this is an important component). Trade, finance, intelligence, port infrastructure, labour forces, shipbuilding industries, market access, freedom of navigation, and geography are all important aspects of gaining control of communications and creating advantageous conditions for the safe passage of a nation’s ships and goods. Not all of these elements are directly related to international law in the period under examination in this book. However, each of these elements has been, is, and can be, subject to international law – underlining the value of law as a means of interpreting both historical and contemporary maritime strategy.¹⁸

In the mid-to-late eighteenth century, trade, market access, and freedom of navigation were the most relevant elements to maritime international law in times of both peace and war. European empires functioned within a largely mercantilist system in which access to colonial markets was heavily protected, and foreign access to such markets was heavily restricted and regulated by bilateral treaties or agreements. Examples of such treaties include the Treaty of Utrecht which contained the *Asiento de Negros* – the contract that granted a private individual, company, or government, the right to trade enslaved Africans into Spanish colonies in the Americas. Spain had no African colonies and could choose to open the trade to foreigners. At the end of the War of the Spanish Succession (1701–13), Britain refused to enter into peace negotiations until a contract was granted for the *Asiento de Negros*. Having acquired this bilateral agreement during negotiations in Madrid in 1713, British ministers were subsequently sent to Utrecht to negotiate the

¹⁶ Ibid. p. 93. ¹⁷ Ibid. p. 94.

¹⁸ See, among others, L. Campling and A. Colás, *Capitalism and the Sea* (Verso, 2021); I. Urbina, *The Outlaw Ocean* (Knopf, 2019); I. Hull, *A Scrap of Paper: Breaking and Making International Law during the Great War* (Cornell University Press, 2014); G. Frei, *Great Britain, International Law, and the Evolution of Maritime Strategic Thought, 1856–1914* (Oxford University Press, 2020).

broader peace. The new *asiento* contract granted Britain a monopoly on slave trading to Spanish America for thirty years through the South Sea Company which was created for this purpose.¹⁹ Along with the slave trade, Britain was granted the right, under the Treaty of Utrecht, to bring one 500-ton ship a year to the annual trade fair in Portobello (present-day Panama) without having to pay any charges normally applied to foreign imports. However, due to the ineffectual nature of the Spanish navy in the Americas at that time, the single ship was often resupplied by smaller vessels overnight during the week-long fair and British imports to Portobello greatly exceeded the limits imposed by the treaty. Tensions over the management and execution of the *asiento* would eventually lead to the War of Jenkins' Ear.²⁰

The relative qualities of Britain's and Spain's sea power were at play in the granting and implementation of the *Asiento de Negros*. The *asiento* was favourably negotiated by Britain, in part, because, in this instance, Britain had greater control of maritime communications than did Spain, and Spain could not access enslaved people through its own use of the sea. Spain lacked the required seaborne access to African colonies where men and women were enslaved and then shipped across the Atlantic. In the Americas, Spain lacked the naval forces to prevent British ships and merchants from exploiting their access to the Portobello fair. Britain had the available financial capacity within the maritime sphere for the South Sea Company to be created, and the merchant shipping capacity to conduct the slave trade in large volume.

The example of the *asiento* is an illustration of how sea power and law can interact during a period of transition between war and peace, but Corbett's definition of sea power as the control of communications can also be applied in peace and wartime and it allows for the concept to be adapted to the specific circumstances and contexts of maritime nations. The end of a conflict does not necessarily bring with it new clarity on international maritime law or an end to negotiations between nations. This is often because negotiations over whether international law should constrain or expand the rights of sea powers are often conducted between belligerents and neutral nations. The dynamic between belligerent and neutral sea powers is succinctly summarised again by Corbett and his law of maritime warfare: the direct correlation between a country's increasing command of the sea and the likelihood of neutral powers becoming

¹⁹ A. Weindl, 'The Asiento de Negros and International Law', *Journal of the History of International Law*, 10 (2008), 229–58, p. 244.

²⁰ *Ibid.* p. 246.

enemies.²¹ A state whose command of the sea increases throughout a conflict (like that of Britain during the Seven Years' War) can attempt to shape maritime law to expand its own rights at sea in order to better defeat its maritime opponents via economic warfare strategies such as commerce predation or blockades. These strategies will almost certainly require interacting with neutral maritime nations, who choose to trade with either belligerent nation, because neutral ships will be affected by both commerce predation and blockades. The role of the law, then, becomes twofold for the nation whose command of the sea is increasing. It must expand the ability to destroy the enemy's maritime commerce, but it also must convince the neutral nations that its increasing command of the sea does not pose a threat to the rights of the neutral to engage in maritime trade. From the perspective of the neutral nation, maritime law can be used to expand access to the maritime trade of belligerent nations (this is particularly relevant in any type of mercantilist or protectionist system) and to protect this wartime access from belligerents engaging in economic warfare. This is what the Dutch and the Spanish each sought to do whilst Britain and France fought the Seven Years' War.

Sea Power Theorists: Engaging with Law and the Eighteenth Century

The importance of law to maritime strategy began to be codified in what became the canonical works in the field from the late nineteenth century and into the twentieth century. The Seven Years' War featured prominently in these writings, and thus in the process of how law began to be understood within the framework of maritime strategy. However, the war mostly serves as an idealised example of when Britain ascended into the role of maritime global hegemon. The works do not offer a critical examination of how law shaped maritime strategy both during the Seven Years' War and in subsequent conflicts.

In *Some Principles of Maritime Strategy*, Corbett (who was trained in the law) discusses commerce predation but does not overtly tie it to questions of law. For Corbett, part of controlling communications during times of war is having the right to forbid seaborne commerce from transiting through areas where one has command of the sea. 'Now the only means we have of enforcing such control of communications at sea is in the last resort the capture or destruction of sea-borne property.'²²

²¹ J. S. Corbett, *England in the Seven Years' War: A Study in Combined Strategy*, 2 vols. (Longmans, Green, and Co., 1907), vol. I, p. 5.

²² Corbett, *Some Principles of Maritime Strategy*, p. 9.

Corbett goes on to state his dislike of the term 'commerce destruction' and what he considers the more accurate description of the strategic idea, 'commerce prevention'. This small discussion of Corbett's (it takes up merely a few paragraphs of *Some Principles*) is interesting and worth further examination. Corbett refers to the capture and destruction of seaborne commerce as the 'last resort' of commerce prevention and to the capture of seaborne commerce specifically as the form of warfare that causes the least human suffering: 'It is more akin to process of law, such as distress for rent, or execution of judgement, or arrest of a ship, than to a military operation.'²³ He makes the important distinction, however, that when privateering was involved, the practice of commerce prevention was riddled with 'cruelty and lawlessness'. For Corbett then, commerce prevention should be something that is governed by law, lacks cruelty, and is highly organised. Writing in 1911, for the contemporary British navy, Corbett made the point that abolishing privateering allowed for better and more effective commerce prevention: 'A ripper and sounder view of war revealed that what may be called tactical commercial blockade – that is, the blockade of ports – could be extended to and supplemented by a strategical blockade of the great routes.'²⁴ The capture and destruction of seaborne commerce outside of blockade structures is a 'last resort' because it is the least efficient and effective form of commerce prevention. Because Corbett's discussion of commerce prevention is geared towards the strategic merits of commercial blockades and written after privateering was abolished by the Declaration of Paris (1856), he does not indulge in a discussion of how the capture and destruction of commerce by privateers and warships was shaped by, and shaped, maritime law. Nor, however, does he discuss how strategic thinkers and political leaders should approach, or consider, the law when employing a strategy of commerce prevention.

Corbett's use of eighteenth- and early nineteenth-century maritime wars in his writing had a very practical educational purpose. He was writing for the officers of the Royal Navy under the influence of his friend John Knox Laughton, a man who had both served in the navy and had then become a highly influential naval educator in the 1860s. Laughton believed that the study of history was critical for the Royal Navy:

The educational system Laughton demanded would be based on history, because only history could contribute hard evidence to the process ... In the absence of personal experience the only way to learn the business of modern war was to profit from the experience of others, in earlier ages and other navies. Only by such

²³ Ibid. p. 98. ²⁴ Ibid. p. 102.

preparation would commanders acquire the understanding and judgement required to meet the unknown, respond to changing conditions in wartime, and develop the capacity to think at a higher level.²⁵

Historical study would form the foundation of strategic thinking. Corbett lectured to the Naval War Course that was set up in 1901. By 1907, Corbett was also teaching strategy and publishing historical analyses aimed at influencing contemporary policy. In 1905, Corbett delivered a course at the Army Staff College that addressed ‘the function of the Army in relation to gaining command of the sea, and in bringing war with a Continental Power to a successful conclusion’.²⁶ Corbett did this through an analysis of this same principal during the Seven Years’ War. The lectures that Corbett gave to the army and navy that year were subsequently published as his book *England in the Seven Years’ War*. Lambert describes the book as a ‘Clausewitzian analysis of a major conflict as a template for the development of contemporary strategy.’²⁷ Corbett’s use of the Seven Years’ War, and the age of sail in general, always had a contemporary focus aimed at helping current officers develop their understanding of operations, strategy, and the role of the navy in both. The Seven Years’ War was a tool; an example of how the moving parts of sea power came together to shape strategy. Questions of why those moving parts were related, and how they were thought of by strategic thinkers in the eighteenth century, as well as questions of how and why law influenced sea power in the eighteenth century, were not part of Corbett’s educational aims.

Subsequent sea power scholars have analysed Corbett’s writing on sea power with a similarly instrumental approach to the eighteenth century and a skirting of the influence of law. One dominant vein in Corbettian scholarship is the idea of a British school of naval thinking. This is closely tied to ideas around the ‘British way of warfare’. The aim here is not to debate the concept of a British way of war and whether it exists or remains relevant. This has been done in many other spaces and is not relevant to the arguments presented in this book.²⁸ Geoffrey Till described Corbett’s conclusions about British sea power as focusing on the combination of naval and military power in order to achieve strategic effect and influence the balance of power in Europe. ‘This they had done

²⁵ Lambert, ‘The Development of Education in the Royal Navy’, p. 47.

²⁶ Ibid. p. 52.

²⁷ Ibid.

²⁸ See e.g. B. Liddell Hart, *The British Way in Warfare* (Faber and Faber Limited, 1932); M. Howard, *The British Way in Warfare: A Reappraisal* (Cape, 1975); A. Lambert, *The British Way of War: Julian Corbett and the Battle for a National Strategy* (Yale University Press, 2021).

by the controlled and careful application of maritime power in peace and in war. Because the secret of British success lay in the combination of land- and seapower ...²⁹ Barry Hunt made a similar point when he wrote that for Corbett, ‘This “British Way in Warfare” required that her [Britain’s] statesmen, entrepreneurs and military leaders understood what it could and could not achieve.’³⁰ Hunt goes on to describe the instrumentalisation of the Seven Years’ War when he writes about Pitt’s system. This is a reference to the leadership and strategic thinking of William Pitt as the de facto British prime minister during the Seven Years’ War. ‘Corbett evidently settled on the theme of the Elder Pitt’s “system” of war making on a global scale because it so aptly illustrated his lectures on limited war and combined operations. Indeed it was the premier case study ...’³¹ Hunt then goes on to quote Corbett about the Seven Years’ War ‘there is none beside Pitt’s war which is so radiant with the genius of a maritime state, and none which was so uniformly successful’.³² Hunt, with Corbett’s help, makes the Seven Years’ War into the ideal example of how Britain should fight maritime wars and of how its leaders should conceive of maritime strategy without actually delving into the conflict itself. Hunt, like Till and other maritime thinkers, are not historians of the Seven Years’ War, nor were they attempting to be. However, the instrumentalisation of the Seven Years’ War in their analysis of Corbett’s strategic thinking has meant that the war itself is rarely engaged with in the field of strategic thinking within its own historical context.

Corbett’s American contemporary, Alfred T. Mahan, was a sea power theorist who wrote about the history and theory of sea power in order to help US policy makers and strategists find a successful American approach to sea power. Much of Mahan’s writing focuses on economics and economic warfare, but he never fully delves into the role played by law and lawmakers. In his book *The Influence of Sea Power upon History*, Mahan discussed the Seven Years’ War largely by recounting what happened in chronological order. Near the end of the section on the war he engages with neutrality, but it is brief and not a critical examination: ‘Without a rival upon the ocean, it suited England to maintain that enemy’s property was liable to capture on board neutral ships, thus

²⁹ G. Till, ‘Corbett and the Emergence of a British School’, in G. Till (ed.), *The Development of British Naval Thinking: Essays in Memory of Bryan McLaren Ranft* (Routledge, 2006), p. 71.

³⁰ B. Hunt, ‘The Strategic Thought of Sir Julian S. Corbett’, in J. Hattendorf and R. Jordan (eds.), *Maritime Strategy and the Balance of Power: Britain and America in the Twentieth Century* (Palgrave Macmillan, 1989), p. 111.

³¹ Ibid. pp. 118–19. ³² Ibid. p. 119.

subjecting these nations not only to vexatious detentions, but to loss of valuable trade ...³³ More broadly in his work, he discussed Anglo-Spanish maritime relations during the eighteenth century and specifically the diplomatic problems caused by British ships smuggling in Spanish colonies, Spanish coastguards capturing English/British ships, and British ships searching or seizing Spanish ships.³⁴ Spain viewed British sea power, and the economic encroachment it enabled, as a threat to its American colonies and empire. Britain actively used its sea power to expand its commercial interests in Spanish America through its greater ability to control communications in the Atlantic and Caribbean. Whilst describing commercial and trade disputes between the two empires, Mahan makes the observation that 'It chiefly concerns our subject to notice that the dispute was radically a maritime question, that it grew out of the uncontrollable impulse of the English people to extend their trade and colonial interests.'³⁵ But Mahan does not then engage in a discussion of how maritime law, both in wartime and peacetime, was used in partnership with sea power in order to further Britain's colonial interests and, from the Spanish perspective, to try to constrain British sea power and commercial influence.

Mahan's lack of engagement with the relationship between sea power and the making of international maritime law leads him to some unexamined conclusions about that relationship and how international maritime law and sea power influenced one another during the eighteenth century. When discussing British maritime hegemony in the Americas at the end of the eighteenth century, Mahan wrote: 'The very lawlessness of the period favoured the extension of their [Britain's] power and influence; for it removed from the free play of a nation's innate faculties the fetters which are imposed by our present elaborate framework of precedents, constitutions, and international law.'³⁶ Whilst Mahan was, overall, making a point about how American sea power would have to emerge in a different context from that of Britain in the early-modern period, he missed a critical point about the development of British sea power. It did not develop and emerge out of a 'lawless period' where British enterprise and 'innate faculties' could run rampant. Rather, British sea power at the end of the early-modern period was the product of a long-lasting process in which national ambitions, maritime strategy, and the making of international law, were understood by policy makers to be critical elements of

³³ Mahan, *The Influence of Sea Power upon History*, p. 312.

³⁴ A. T. Mahan, *The Complete Works of Alfred Thayer Mahan* (Shrine of Knowledge, 2020), p. 284.

³⁵ Ibid. ³⁶ Ibid. p. 642.

balancing power between empires and, if possible, tipping that balance in one's favour.

Scholars of Mahan have written about the eighteenth century in much the same way as scholars of Corbett. In summarising Mahan's strategic thought, John Hattendorf emphasised the idea of continuity between the age of sail and the practise of naval warfare during Mahan's period. For Mahan, the eighteenth century was still relevant in the new age of steam because 'the principal impetus behind the need for a navy was the need to protect merchant shipping'.³⁷ The study of history could therefore be 'a guide to the present and future employment of naval forces'.³⁸ In the same volume, Donald Shurman gives an appraisal of how Mahan used British history in order to serve his contemporary purpose of turning US strategic attention towards sea power:

The British suited Mahan's purpose because they continued to grow in a naval and maritime way until their general sea supremacy and wide range of action were everywhere acknowledged. It looked like a planned development carried out, from 1588 to 1815, by a people who had taken their instruction from Jomini. The history contained in the selected British time span exactly suited the Mahanite purpose of 'scientific' cause and effect.³⁹

Despite Schurman's veiled criticism of Mahan's selection of history, he falls into making a teleological argument about British sea power in the age of sail. Shurman describes the factors that contributed to making Britain a sea power as naturally culminating in British maritime supremacy in 1815.⁴⁰ There is no critical examination of this grand British arc of sea power and minimal engagement with the conflicts in question in order to analyse the strategic thinking occurring at the time. The purpose of Shurman's engagement with history in the chapter is, rather, to demonstrate how Mahan's thinking holds up with the realities of the period after 1815. Once again, the eighteenth century and, in this particular case, the Napoleonic Wars, are held up as an unexamined ideal of British maritime hegemony.

Following in the footsteps of both Mahan and Corbett, the interwar strategic thinker, Sir Herbert Richmond, wrote that sea power was dependent upon three things, 'shipping, colonies or overseas possessions,

³⁷ J. Hattendorf, 'Alfred Thayer Mahan and his Strategic Thought', in J. Hattendorf and R. Jordan (eds.), *Maritime Strategy and the Balance of Power: Britain and America in the Twentieth Century* (Palgrave Macmillan, 1989), p. 87.

³⁸ Ibid. p. 86.

³⁹ D. Schurman, 'Mahan Revisited', in J. Hattendorf and R. Jordan (eds.), *Maritime Strategy and the Balance of Power: Britain and America in the Twentieth Century* (Palgrave Macmillan, 1989), p. 97.

⁴⁰ Ibid. p. 99.

and a fighting force capable of overcoming the opposition of an enemy armed force and of exercising control over the movements of sea traffic'.⁴¹ This can be read as a combination of Corbettian and Mahanian thought expressed neatly in one sentence. Richmond continued his statement with a neat summation up Corbett's law of maritime warfare:

It [a sea power] must do this in accordance with the recognised laws which have evolved to govern conduct at sea, and in a manner which will be acceptable to nations not engaged in the dispute, that is to say, in accordance with what is called the Law of Nations: for unless it does so it will bring recruits to the forces of its enemy.⁴²

Like his predecessors, Richmond understood that the law was a critical part of sea power and that it played a unique role when it came to relations between belligerent and neutral sea powers. The abolition of privateering and the changes in technology from sailing ships, to steam engines, to oil engines, or submarines does not negate the relationship between law and sea power, but it can influence the character of that relationship. For Richmond, economic warfare was at its most efficacious when not relying on captures of trade at sea, but rather when enemy commerce was prevented from even being upon the sea.⁴³ This view led Richmond to consider the relationship between belligerents and neutrals in terms of international law:

The interest of the neutral must be to contrive to ... take advantage of the abnormal situation which war brings into existence to extend his own commerce of all kinds. Hence a state possessing sea power almost of necessity finds itself in conflict with the private interests of neutral states, and the Governments of those states tend to place such interpretations upon the Law of Nations as will further the interests of their citizens.⁴⁴

It is important to note here that Richmond is using the phrase 'Law of Nations' as a synonym for international law, which he explains further on in his text. Richmond's description of the relationship between neutrals, belligerents, and international law in the abstract is sound. He even goes on to quote A. Pearce Higgins in his *Cambridge History of the British Empire* to make clear that British policy and British prize courts had a great influence on the formation of international maritime law.⁴⁵ However, Richmond's subsequent discussion of the legal maritime norms that emerged in the eighteenth century betrays a lack of discernment. While Mahan described the early-modern period as one of 'lawlessness', Richmond describes the end of that period too neatly in terms of maritime law. For Richmond, the Rule of the War of 1756 and

⁴¹ H. Richmond, *Sea Power in the Modern World* (G. Bell and Sons, 1934), p. 38.

⁴² Ibid. ⁴³ Ibid. p. 49. ⁴⁴ Ibid. p. 63. ⁴⁵ Ibid. p. 64.

the doctrine of continuous voyage (discussed more widely in Chapter 2) emerge and are based upon 'objective principles' such that they 'become the basis of sea policy of the two greatest maritime struggles of the nineteenth and twentieth centuries – the American War of Secession of 1861 and the War of 1914'.⁴⁶ Richmond is correct that both the rule and the doctrine of continuous voyage are important in subsequent maritime conflicts; however, his assertion that they are founded on objective principles leads the reader to assume that their emergence and international acceptance was achieved without years of negotiation, strife, and herculean efforts by strategic thinkers, lawyers, and judges to forge legal norms that furthered British strategic maritime aims. In looking for the origin of the international law that he sees as governing the most recent maritime conflict (World War I), he ascribes an objectivity and clarity to the creation of international law that goes against his own theoretical understanding of how sea power and strategy shaped its creation.

Richmond's biographer and strategic thinker in his own right, Barry Hunt, describes Richmond's *Statesmen and Sea Power* and *The Navy as an Instrument of Policy* as efforts to 'paint a broad-brush picture of the unchanging fundamentals of maritime strategy. Setting aside the operational detail of his earlier histories, he placed overall British policy within the wider context of naval, military, economic, political, and international considerations ...'⁴⁷ Here again is the sweeping use of history to educate current practitioners of strategy. Hunt, however, does not engage with Richmond's analyses of the early-modern period, nor does he engage with Richmond's ideas on the interplay between law and sea power. All three strategists – Corbett, Mahan, and Richmond – relied heavily on historical analysis of the eighteenth century, and all three made arguments about the relationship between law and sea power. Subsequent work that analyses the thinking of these three theorists largely fails to engage with the eighteenth century in any truly critical way and fails to draw out the importance of international maritime law in its relation to commerce predation and questions of neutrality.

An important legacy of the sea power theory discussed above is the Anglo-centric nature of much sea power writing. Corbett, Mahan, and Richmond – but Corbett in particular – engaged with the historical sources of other nations involved in the eighteenth-century wars upon which they founded much of their thinking. They tried to understand the influence that non-British thinking had on the development of sea power

⁴⁶ Ibid.

⁴⁷ B. Hunt, *Sailor-Scholar: Admiral Sir Herbert Richmond, 1871–1946* (Wilfrid Laurier University Press, 1982), p. 233.

and the balance of power during the eighteenth and early nineteenth centuries. The keepers of their legacies in strategic thinking have, for the most part, left that element of historical analysis behind, and focused largely on how the three thinkers shaped British and American maritime traditions of strategic thinking – and whether those traditions exist or not. As Strachan states in his chapter, ‘The Limitations of Strategic Culture’, ‘The challenge for strategy is how best to link past, present and future: how to apply the context of the past in order to understand the present and to inform an awareness of the future.’⁴⁸ This can only be done if the context of the past is fully examined without a teleological lens. For students and practitioners of maritime strategy, the Seven Years’ War is currently an idealised moment in British maritime history used by sea power theorists as an example of what British sea power can achieve if applied ‘correctly’. The irony is that the strategic thinking – and the factors involved in shaping that thinking – that took place during the war, remain largely unexamined in the field of strategic thinking. The following chapters aim to provide a history of how maritime strategic thinking during the Seven Years’ War was heavily shaped by considerations of neutrality and international law. By doing so, this book offers a new account of the relationship between sea power, law, and strategy in the second half of the long eighteenth century and shows the need for a more critical engagement with the Seven Years’ War in the field of strategic thinking.

This discussion of Corbett, Mahan, Richmond, and their subsequent interpreters is included here not to discredit them as sea power thinkers or to suggest that their work no longer has a use in the study of strategy and sea power. It serves, rather, as a starting point and as a suggestion that there are still areas in which their work can be expanded and built upon. This book could not have been written without their contributions to maritime strategic thinking, and it is through their theoretical and foundational work on sea power that the relationship between strategy, law, and sea power can be further explored in its eighteenth-century and early-modern context. The next chapter turns to international law and the rules, precedents, and norms that will be analysed in the subsequent chapters through the case studies of four ships in the Court of Prize Appeal during the Seven Years’ War.⁴⁹

⁴⁸ Strachan, *The Direction of War*, p. 139.

⁴⁹ For further examinations of sea power and its intersection with international law see, among others, H. Bourguignon, *Sir William Scott, Lord Stowell: Judge of the High Court of Admiralty 1798–1828* (Cambridge University Press, 1987); Hull, *A Scrap of Paper*; Frei, *Great Britain*; C. Kulsrud, *Maritime Neutrality to 1780* (Little Brown and Co., 1936); S. Kinkel, *Disciplining the Empire: Politics, Governance and the Rise of the British Navy* (Harvard University Press, 2018).