

## *Introduction: “An Empire of Letters”*

Official forms of state power and literary aesthetics are purported to be strange bedfellows – at least they are in what might broadly be called the American scene. In his account of *The American Scene*, Henry James notes this incongruity in a chapter on Washington when he marks a difference between the “two distinct faces” of the capital city.<sup>1</sup> The first is the “public and official” image of the American federal state – the “great administrative, or, as we nowadays put it, Imperial part” of the state (327). The second is the “City of Conversation” (329), the activities involved in producing a social identity for the city and the “spectacle . . . of a numerous community in ardent pursuit of some workable conception of its social self” (331). James relegates the official face of Washington to “the back of the scene” (327) where it hangs like an unfinished painting, an “immense painted, yet unfinished cloth, hung there to a confessedly provisional end” (327). In contrast, the “City of Conversation” becomes the “foreground” where James can explore the everyday texture of the city, in much the same way that he explores social landscapes throughout his novels (327). As he sets it out in his preface, “matters already the theme of prodigious reports and statistics” are not to be the subject of his description. Instead, he concerns himself with “the human subject, with the appreciation of life itself, and with the consequent question of literary representation” (vi).

And yet, in spite of this segregation of state matters and literary ones, James ends his description of Washington with a scene that seems to yoke these terms together:

I met one morning a trio of Indian braves, braves dispossessed of forest and prairie, but as free of the builded labyrinth as they had ever been of these; also arrayed in neat pot-hats, shoddy suits and light overcoats, with their pockets, I am sure, full of photographs and cigarettes: circumstances all that quickened their resemblance on a much bigger scale, to Japanese celebrities, or to specimens, on show, of what the Government can do with people with whom it is supposed able to do nothing. They seemed just then and there, for a mind fed

betimes on the *Leatherstocking Tales*, to project as in a flash an image in itself immense, but foreshortened and simplified – reducing to a single smooth stride the bloody footsteps of time. One rubbed one's eyes, but there, at its highest polish, shining in the beautiful day, was the brazen face of history, and there, all about one, immaculate, the printless pavements of the state. (350)

With this scene, James elicits a history of official state action that he had earlier shunted to the background. More specifically, he elicits a history of race regulation that increasingly hinged on constructions of sovereignty as an absolute and exceptional power of the American state. By linking the Native Americans to “Japanese celebrities” and to “specimens, on show, of what the Government can do with people with whom it is supposed able to do nothing,” James highlights not only a long and bloody history of Native American displacement, but also a relatively recent legal and administrative history of regulating immigration and overseas colonial possessions. All three of these contexts (the regulation of Native Americans, immigration, and overseas colonies) shared a legal framework that was, at the turn of the century, greatly expanding plenary power – the power of Congress to regulate without judicial oversight. In a number of cases between 1885 and 1910, the court deployed the principle of sovereignty to argue that the normal rules and procedures of governance could be suspended in cases involving racialized populations. This legal history was matched by an administrative history that enhanced the state's power to intervene in the biopolitical life of such populations. Government was, in fact, doing much with “people with whom it is supposed able to do nothing.” What James quite unexpectedly brings back into the foreground are situations in which the official and sovereign power of the state was hardly at “the back of the scene.” He does so, moreover, while simultaneously texturing the scene with literary precedent – not the finely wrought social sensibility of his own realism, but rather the overwrought romance of James Fenimore Cooper's *Leatherstocking Tales*.

What then is this literary “trio of Indian braves” doing, not only on the “printless pavements of the state,” but also in a realist (rather than romantic) account of the texture of the American scene at the turn of the century? Why bring together a political context that James explicitly rejects (official state action) and a romantic aesthetic that he hardly advocated (Cooper's romance)? If the literary for James is incongruous to the politics of the state, then why is the sudden appearance of romance connected to the sudden foregrounding of state power? This book attempts to make sense of such incongruities, and it does so by arguing that sovereignty and state administration were not only central to the regulation

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of racialized populations, but that they were also crucially mediated in and through the literary conventions of the period. This argument, in other words, works across both literary and legal registers. Plenary power over racialized populations often produced situations in which sovereign power suspended the ordinary rule of law. These situations were rendered intelligible through a demarcation of the ordinary and the extraordinary, and the literary modes of romance and realism helped produce this *dispositif*, or “grid of intelligibility.”<sup>2</sup> What follows is thus an attempt to trace simultaneously the aesthetic conventions of a particular mode of institutional power and the politics of a literary culture that has often been treated separately from the developments of the American state.

Rather than give an account of the state as a thing, *The Poetics of Sovereignty in American Literature, 1885–1910* recovers a phenomenology of state racism by focusing on the multiple and often contradictory conventions that made state actions intelligible. Consequently, it asks not what the state is, but rather how it comes to be experienced in the everyday as a mode of power. By analyzing legal cases and bureaucratic reports alongside novels, this book traces how romantic and realist modes figured the everyday in the late nineteenth century and allowed state practices to materialize as ordinary or extraordinary. This attention to conventions allows us to understand both the literary texture of institutions and an institutional logic that influenced the development of romance and realism. It also forces us to revisit an ever-growing assumption that sovereignty is somehow an exceptional form of power that determines the fate of politics per se. What Giorgio Agamben has referred to (via Carl Schmitt) as sovereignty’s “state of exception” (its ability to decide when the everyday rule of law is suspended) is not that exceptional at all.<sup>3</sup> It is, in fact, quite conventional. Schmitt associates sovereignty with a “borderline case and not with routine,” but by attending to the conventions of the ordinary and the extraordinary, we can begin to understand just how routine these states of exception can be.<sup>4</sup>

## SOVEREIGNTY AND AMERICAN LITERARY STUDIES

An important element of this book is my desire to rectify what I see as the relative neglect of sovereignty, not only as an important factor in cultural histories of the Progressive Era, but also as a kind of power that is mediated through aesthetic conventions. To say, however, that sovereignty has often been neglected in literary and cultural analyses of the late nineteenth and early twentieth centuries is not to say that

the relationship between representation and power has been similarly neglected. Take for example Mark Seltzer's landmark analysis of *The American Scene* in his book *Henry James and the Art of Power*. Seltzer demonstrates how James's elision of the "hard little facts" of power is the very form that power takes during the Progressive Era. By opposing aesthetics to politics, James elides images of official state power, but in doing so becomes complicit with a modern regime of disciplinary power that depends on such an opposition. As Seltzer argues, "The very notion of the externality of literary to political practices may support the very structure of power that the literary has been seen to resist; the notion of an intrinsic and subversive literary difference may provide the illusory outside and alternative to power that makes power tolerable." The "literary difference" that James stages not only makes power tolerable but also exercises power by instituting a normative framework. "Social programs of normalization," Seltzer reminds us, "not merely tolerate but require resistances," and James's insistence that literature lies outside of power is itself a "normalizing procedure" (140).

This account of the complicity between literary representation and power depends to a large degree on Seltzer's redefinition of power. Seltzer imports an explicitly Foucauldian framework into his analysis. Drawing from Michel Foucault's *Discipline and Punish* and *The Order of Things*, Seltzer argues that power does not operate as a form of repression, but rather "inheres in the practices and relations that constitute it" and "does not rule 'from the outside'" (153). Power is not a thing that someone has and that can be opposed or appropriated by someone else. It is instead, according to Seltzer, a "*dispositif*" or "grid of intelligibility," that literature helps produce (152). However convincing this redefinition of power might be, it is notably at odds with the account that James gives at the end of his Washington chapter, an account that emphasizes the repressive and violent possibilities of the state. For James, the Native Americans are specimens of "what the government can do with people with whom it is supposed able to do nothing." While Native Americans were certainly regulated by normative and disciplinary regimes, James reminds us that they were also the objects of a bloody history of the state exerting its sovereignty over noncitizens.

Unsurprisingly, Seltzer reads this moment as one where "again, power has covered its tracks," for James "cannot find a reference to the violence of history in the revised text of the state."<sup>6</sup> The Native Americans on the "printless pavements of the state" provide yet another example in James's prose where an "artful evasion of the actual is also an art of

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power” (135). James’s foregrounding of state sovereignty, in other words, is really just another disciplinary ruse. Considering the Foucauldian framing of Seltzer’s analysis, such a reading should be expected. Foucault explicitly opposes sovereignty to discipline, for sovereignty reinforces the “repressive hypothesis” that Foucault critiques throughout his work. Power, for Foucault, does not operate through repression, but rather through the positive enactment of a mode of intelligibility. Lumping together sovereignty and state power in his essay on governmentality, Foucault would famously write that “maybe, after all, the state is no more than a composite reality and a mythicized abstraction, whose importance is a lot more limited than many of us think.”<sup>7</sup>

Sovereignty, as Foucault describes it, exemplifies the repressive hypothesis. It is a repressive form of power that a person or group of people have and exercise over a given territory. It is very much in line with Max Weber’s definition of a state when he evokes Thomas Hobbes and writes that “a compulsory organization with continuous operation will be called a ‘state’ insofar as its administrative staff successfully upholds the claim to the monopoly of the legitimate use of physical force in the enforcement of its order.”<sup>8</sup> This book complicates this view of the state and its sovereignty. Although compulsion and physical force were significant factors in the exercise of state sovereignty at the turn of the century, the archive of cultural and administrative documents this book draws on resists reducing the exercise of sovereignty to the maintenance of a monopoly of violence over a given territory. For example, in Chapter 1, I demonstrate not only how colonial holdings were ambivalently constructed as territories that were both a part of and apart from the United States, but also how state violence was rendered intelligible through an ambivalent demarcation of ordinary and extraordinary modes of governance. At stake is not whether the state has the power to act violently, but rather how such violence becomes an expected and intelligible response to particular situations. My contention, therefore, with the way that Foucault’s work has often been used in the field of American studies is not that scholars such as Seltzer fail to recognize how repressive the state actually is, but that by equating sovereign state power and the repressive hypothesis, they miss the multiple and often contradictory ways that sovereignty circulated within both legal and literary discourses. Sovereignty, I contend, has a rich discursive history that extends well beyond the eighteenth century where Foucault’s essay on governmentality seems to lay it to rest. It has its own *dispositif*, and it should not be reduced to a minor term in a larger account of the disciplinary mode that Seltzer and Foucault so usefully lay out.

I will return in a moment to the historical context driving my analysis, but first it is worth noting how prevalent this reduction of sovereignty to a blunt form of repressive power has been in the field of American literary studies, even among the scholars who transformed this field of study in the 1990s by diligently reconnecting the study of representation to the study of power. One can see this in an exchange between Philip Fisher and Amy Kaplan that appears in their respective introductions to *The New American Studies* and *Cultures of United States Imperialism*. Throughout his introduction, Fisher argues for a poststructural analysis of the relation between “rhetorics” and politics that depends on a move away from the search for a “central myth of America,” a search that he locates in the work of an earlier generation of scholars such as Henry Nash Smith, Leo Marx, R.W.B. Lewis, and Richard Slotkin.<sup>9</sup> The myth that most draws Fisher’s attention is what Foucault similarly dismisses as the “mythicized abstraction” of the state. Fisher insists on connecting representation and power, but adamantly denies that this power has much to do with the state. In fact, the existence of what he calls American “rhetorics” is predicated on “the lack of what might be called the state in American experience and therefore the absence of any monopoly of either power or violence on the part of the state.”<sup>10</sup> Fisher repeats the term “monopoly” throughout his essay and thus deploys the very diction of Weber’s definition of a state. For Fisher, the sovereign power of the state is built on the assumption that dominance is a matter of having and exerting a preponderance of power. Consequently, Fisher dismisses the state because he figures it as exemplary of a repressive hypothesis that his poststructural account of power devalues.

In her introduction to *Cultures of United States Imperialism*, Amy Kaplan takes Fisher to task for a “still resilient paradigm of American exceptionalism.”<sup>11</sup> Like Fisher, Kaplan criticizes American studies scholarship that has opposed culture to politics. Unlike Fisher, Kaplan extends this critique to a version of American exceptionalism that claims that state and empire have been largely absent from American experience. Kaplan argues that “to reconsider the meaning of imperialism in American Studies is to make statehood unavoidable as precisely the monopoly of power and the production of ideology which Fisher finds inherently un-American.”<sup>12</sup> Although Kaplan’s reconsideration of the state is an important corrective to Fisher’s essay, it is noteworthy that despite their disagreement, both Kaplan and Fisher assume that the state possesses a “monopoly” on power. Kaplan brings back the state through Weber’s definition, and like Fisher, she sees the state as an object that contains and centralizes power.

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To her credit, she writes that “the power concentrated in an imperial state is not static as [Fisher] implies but is amassed as an ongoing political, social, and cultural process in struggle with oppositions it gives rise to and responds to at home and abroad, and as a monopoly whose contours change over time in relation to those struggles.”<sup>13</sup> But while this qualification makes her model subtler, it does not change the basis of her claim – a claim that still sees the state as a “monopoly.” The state is the container for power, and sovereignty is an exertion of a repressive power. This container might have changing “contours,” but it is still a container within which power is “concentrated.”

The result of these shared assumptions is that both Fisher and Kaplan reduce the state to an object that remains materially distinct from the workings of representation. Fisher sees the state as a “myth” of materiality that conceals the true workings of discourse; Kaplan, by contrast, sees this same materiality as quite real, but similarly distinct from its discourses – discourses that she reduces to the workings of an ideology that is symptomatically a production of the state rather than constitutive of it. Either these critics dismiss the concept of the state as an ideological fiction that leads us away from the discursive workings of power, or they reify it as an object that contains power and whose representations are read symptomatically as ideology that the state produces. What is needed is a fuller account of the state, one that does not reduce it to an object or a container for power. By examining the intelligibility of state practices, this book simultaneously affirms the relevance and materiality of the state while opening it to a literary analysis of its representational milieu.

The assumptions that Fisher and Kaplan once shared about the state and its forms of power have more recently been challenged by a resurgent interest in sovereignty that has substantially redefined the term. This interest can be attributed in part to the use of sovereignty to justify extraordinary departures from legal norms in the events following the terrorist attacks of September 11, 2001. It can also be traced to the recent attention that Giorgio Agamben’s work has garnered, particularly his books *Homo Sacer* (which predicts some of the state responses to 9/11) and *State of Exception* (which explicitly analyzes these responses). Agamben reinserts sovereignty into a Foucauldian analysis of power. Drawing on the work of Carl Schmitt, Agamben traces a “zone of indistinction (or, at least, the point of intersection) at which techniques of individualization and totalizing procedures converge.”<sup>14</sup> This “zone of indistinction” is necessarily paradoxical. The governmentalization of the state becomes historically possible because the institutions of the state take part in a disciplinary



politics of the everyday. Sovereignty, however, operates according to the logic of the exception. It constitutes an everyday juridical order through an act of decision that is not bound by that order, a decision to suspend the everyday operation of the law. This “state of exception” is thus indeterminate. It is both inside and outside the everyday legal order, paradoxically bound to both ordinary and extraordinary legal situations. Assuming that sovereignty consists of a monopoly on the power to do violence within a given territory fails to account for this indeterminacy, for it grants the state determinate boundaries by imagining its limits in geographical terms.

*The Poetics of Sovereignty in American Literature, 1885–1910* examines a legal and administrative archive that is full of examples where the state seems to suspend the ordinary rule of law, where a “state of exception” appears. This state of exception is invariably connected to racial difference and to Spencerian ideas of racial conflict. The 1901 *Insular Cases*, for example, argued that because of inassimilable racial difference in colonial holdings such as the Philippines, “the administration of government and justice, according to Anglo-Saxon principles, may for a time be impossible.”<sup>15</sup> The court would also describe the immigration of Chinese laborers as an invasion – a kind of race war – and would grant administrators an unreviewable power to exclude the Chinese without being bound by the procedural norms of the justice system. Working through five case studies (two on U.S. imperial expansion, one on Chinese exclusion, one on Native American administration, and one on federal responses to lynching in the South), this book explores situations in which the normal operation of the law was suspended, administrators were granted wide discretionary powers, and race was a critical factor in how the limits of U.S. sovereignty were understood by judges, administrators, and a reading public.

The archive that I examine is also replete with “zone[s] of indistinction,” regions of ambivalence in the construction of sovereignty and in the administration of the law.<sup>16</sup> Imperial holdings, for example, were defined as “foreign to the United States in the domestic sense,” as territories that were both a part of and apart from the body politic.<sup>17</sup> The government in the Philippines was called a “quasi-civil government,” and race relations in the Jim Crow South were increasingly being administered by “quasi-officials” such as train conductors and hotel owners who had no officially sanctioned state powers and yet were called on to enforce racial norms.<sup>18</sup> Native Americans were simultaneously designated as citizens and wards, while immigrants were figured as outside the rule of constitutional law but inside the administrative jurisdiction of the state. Such ambivalence, I argue, was



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not the mark of a weak state beset by indecision, but rather indicated a powerful form of state improvisation that enabled ordinary regulation to exist alongside more extraordinary acts of state violence.

Combining governmentality and sovereignty in a framework that attends to the ambivalence of state power, Agamben's work is a useful touchstone for the case studies that follow. It also registers a shift in the thinking around the state within the field of American studies. A quick survey of journal articles as well as collections and monographs, such as *Exceptional State: Contemporary U.S. Culture and the New Imperialism* (2007), *States of Emergency: The Object of American Studies* (2009), and *The Exceptionalist State and the State of Exception* (2011), attest to a resurgent interest in sovereignty as well as to a refiguring of sovereignty that attends to its ambivalences and contradictions.<sup>19</sup> In the decade after *Cultures of United States Imperialism*, Amy Kaplan's call for scholars to pay attention to the state has been followed by a reevaluation of state sovereignty. Kaplan's more recent essay on the Guantánamo detention camp, for example, no longer characterizes the state as a monopoly of power within a given territory, but instead attends to how legal forms of ambivalence have justified extraordinary exceptions to the law.<sup>20</sup> Even more recently, Don Pease's *The New American Exceptionalism* queries how the state's exceptions to its own rule of law become intelligible and even desired within an American democracy.<sup>21</sup>

This book extends such critical reevaluations of sovereignty and the state in American studies. Many of these reevaluations have focused on recent events and have put aside aesthetic questions related to literary history. The political urgency of two wars and a growing national security state certainly provide ample justification for this lacuna. My purpose, however, is not just to fill this gap, but also to demonstrate that literary studies allow one to trace the conventions through which state power becomes intelligible during those moments of regulation when that power seems most extraordinary. I therefore assume that a "state of exception" is not that exceptional at all – that it is, in fact, quite conventional because of the way that it is constructed through narrative situations that are literary in nature. The richly textured historical and literary archive that this book examines resists what Nasser Hussain has characterized as a tendency to reduce a state of exception to "a fundamental, almost existential category."<sup>22</sup> A state of exception, as Hussain argues, is quite consonant with a range of ordinary legal conventions. In the late nineteenth and early twentieth centuries, it was also consonant with a wide range of literary conventions that demarcated ordinary and extraordinary situations

through realist and romantic modes. The intelligibility of turn-of-the-century literary narratives and the intelligibility of extraordinary state action have much in common. Like Bonnie Honig's recent work on emergency politics, my work attempts to "de-exceptionalize the exception," not to understand it as the foundational contradiction within a theory of the state, but rather to see it as a political tactic that has a number of uses and genealogies.<sup>23</sup>

"AN EMPIRE OF LETTERS": THE POLITICS  
OF LITERARY MODE

The title of my introduction owes its existence to the sometimes overly zealous political and aesthetic commitments of William Dean Howells, the supposed dean of American realism in the late nineteenth century. In an essay criticizing popular romances, Howells argues that romance, in contrast to realism, is an imperial aesthetic, and that "we still have a republic and not yet an empire of letters."<sup>24</sup> Howells was deeply committed to a realist aesthetic and deeply critical of U.S. imperialism. Although the connection he makes between literary conventions and the politics of American state-building is certainly relevant to this book, what interests me is not the way that Howells aligns a particular set of conventions with a set of political ideas. Such an alignment is, I will show, quite specious. What I find revealing, instead, is Howells's view of romance and realism as contradictory aesthetic forms. The common sense of the period was that romance and realism were opposed and even incommensurate sets of literary conventions. And yet, romance and realism persistently appear together *as* an opposition in the novels of this period. They constituted an unresolved contradiction, an ambivalence – but an ambivalence that was quite conventional because of the ways it circulated throughout the fiction of the period.

"Romance" and "realism" are notoriously vague terms when used to designate different genres of fiction.<sup>25</sup> Their critical legacy is crossed with contradictory definitions, and the critics of the period used the terms with such frequency that the result was often a confusing muddle of generic demarcations. But if these terms have been rendered vague through their overuse, such overuse also points to their importance as organizing principles for literary form at the turn of the century. As Eric Sundquist notes, "Though few readers completely agree on definitions or examples, the perennial distinction between the 'romance' and the realistic 'novel' in American fiction remains a useful one."<sup>26</sup> The usefulness of these terms