A CRISIS OF SOVEREIGNTY: POPULAR SOVEREIGNTY AND TERRITORIAL CLAIMS IN ANTEBELLUM AMERICAN LITERATURE

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by

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ABSTRACT OF DISSERTATION

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ABSTRACT

Examining a variety of antebellum literature and other contemporaneous texts, this dissertation untangles the complex relationship between popular sovereignty—the belief that a government’s power is derived from the people—and territory. I contend that the advent of popular sovereignty also touched off a crisis of who belonged inside and outside of sovereign borders as well as where those borders, which often existed on a subnational level, were drawn. For instance, northerners and southerners alike represented individual states within the union as distinct and separate nations, and Native Americans had to make their people culturally legible to whites in order to assert native sovereignty as a bulwark against white settlers and U.S. claims to sovereignty.

In my dissertation, I look at both literary and legal texts in order to create a fuller picture of how authors in early nineteenth-century America conceptualized the notion of popular sovereignty. I argue that there is more to sovereignty than the notions of stable borders and self-governance. Because popular sovereignty is derived from a people, it can be found not just in legal textbooks and court opinions, but also in the literary imagination. Sovereignty is born as much out of culture as it is out of juridical systems. In my dissertation, I look at established members of the literary canon as well as lesser known writers of the period. From luminaries such as Frederick Douglass and Herman Melville to Native-American authors like William Apess and George Copway to authors largely forgotten to history like American mercenary and short-lived Nicaraguan president William Walker, I rely on a diverse set of texts in order to fully illustrate the knotty concept of popular sovereignty and how it was put to use in order to include and exclude, combine and separate members of a diverse populations along ever shifting borders.
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Introduction: A Crisis of Sovereignty

In the 1830s the states of Ohio and Michigan nearly went to war. The dispute arose over what became known as the Toledo Strip, an approximately eight-mile wide stretch of land along the border of Ohio and Michigan. Tensions between the two territories arose out of discrepancies between the description of the Ohio-Michigan border in the Northwest Ordinance (1787) and in the Ohio Constitution (1803). The Northwest Ordinance held that the boundary between Ohio and Michigan lay at the southernmost point of Lake Michigan and extended eastward to Lake Erie and this boundary would separate the resulting southern and northern states that would eventually be forged from the Northwest Ordinance. According to contemporary maps, this border would lay north of present day Toledo. Later, it was discovered that this line actually extended south of Toledo, so when writing the Ohio Constitution, the Ohio legislature asserted that the boundary between Ohio and Michigan extended westward from the mouth of the Maumee River, slightly north of Toledo. Michigan’s petition for statehood only exacerbated tensions between the two states, and Ohio maneuvered to prevent Michigan’s admittance to the union unless the controversy over the Toledo Strip was decided in Ohio’s favor. Michigan and Ohio raised militias, which eventually clashed with each other in the bloodless Battle of Phillips Corner (Wanger 145-48).

The Toledo War, while largely unknown today, demonstrates several peculiar aspects of sovereignty in nineteenth-century America. First, while questions of sovereignty are normally situated around established, internationally recognized nation-states, here sovereignty is the purview of sub-national government entities—two of the states that form the United States. Despite the fact that Ohio and Michigan failed to meet the definition of nation-states and no clear
ethnic or religious differences divided the territories, citizens of both states exhibited the kind of patriotism associated with wars between nations. As demonstrated by an April 1835 letter published by an avouched Ohioan living in Toledo, much of the battle over sovereignty in the Toledo Strip focused on the allegiances of citizens within that territory. The author alleges that Michiganians regularly abducted, bound and gagged men, women, and children in the middle of the night. This violence was retribution “for saying an individual, he need not obey the law of Michigan” (Ohio Observer). He also describes several instances in which Michigan partisans desecrated Ohio’s flag by burning it as well as by tying it to a horse’s tail and dragging it through the mud (Ohio Observer). This author’s rhetoric is in the mold of nationalist sentiment, clearly employed in order to incite a united Ohioan fervor over the supposedly aggressive actions of Michigan. Second, while most consider Michigan’s claims to have been more justified, Ohio managed to prevail through a startling series of agitations. In other words, questions over the sovereign status of the Toledo Strip were determined largely by situations on the ground rather than fiat from above—the Ohio Constitution overrode the federal government’s Northwest Ordinance. This further speaks to the overlapping and conflicted nature of sovereign authority in the early nineteenth century. For its part, Michigan passed laws and attempted to arrest those who served in local Ohio government (Faber 5). Mobs formed supporting one side or the other. The question of whether the Toledo Strip belonged to either Ohio or Michigan was, in part, determined by the zealous and patriotic actions of individual citizens working on behalf of sub-national political entities.

While no one died during the Toledo War and the question of state sovereign territory was ultimately brokered with help from the Federal government, this peculiar footnote in American history deftly illustrates that sovereignty is unbound by internationally or even
nationally recognized borders and that by the nineteenth century, questions of territory also settled on issues of allegiance of those who resided within that territory. The absurdity of the Toledo War can perhaps be best summed up by the possibly apocryphal story of a farm wife living in the Toledo Strip who, upon learning that the territory would be claimed by Ohio after all, told her husband, “Thank the Lord, I never did like that Michigan weather anyway” (qtd in Wanger 148).

Because of the ascendancy of popular sovereignty in the nineteenth century, questions of territory and belonging are tied up with who we define as a distinct, cohesive people, an issue that was policed by both those from Michigan and Ohio. In the following dissertation I examine the notion of popular sovereignty as it played out in antebellum American literature. I contend that American territorial and national imaginary was deeply affected by notions of popular sovereignty, or the belief that the ultimate authority of the nation-state is rooted in “the people” who constitute the nation. This theory of governance arises from a historical trajectory that transfers decisive governing power from those at the top—the king—to those at the base—the people. But this transformation in legitimized authority complicates national territory. How we define a people might also define national borders, a definition obtained when British and French citizens decided to become Americans and Haitians respectively at the end of the eighteenth and beginning of the nineteenth centuries. Even within a national border, there are excluded members who may not constitute this “people.” Not everyone within national borders belongs to the imagined community. Popular sovereignty combines three interlocking elements: 1) people, 2) power and 3) territory. It is necessary to approach each of these components of popular sovereignty in order to begin to uncover the tricky contours of the concept. Before I delve further into the sometimes contradictory nature of popular sovereignty, I would like to provide a
brief overview of its development preceding the nineteenth century. Popular sovereignty as it manifested itself in the nineteenth century developed out of two parallel historical and intellectual events: the Peace of Westphalia and the writings of contract theorists.

Prior to the Peace of Westphalia (1648), territorial space was conceived of in terms of a series of royal and ecclesiastical regions with borders that could easily change through inheritance, war, or partitioning (Murphy 84). Atop the sovereign power nestled within European nations lay the authority of the Holy Roman Empire and the Catholic Church, which meant that even the king did not possess full dominion over his prescribed region (84). However, this spatial imagining of Europe began its descent at the close of the Thirty Years’ War (1618-1648) with the Peace of Westphalia. The Peace of Westphalia was actually a series of treaties in 1648 that ended the Thirty Years’ War between members of the Holy Roman Empire as well as the Eighty Years War (1568-1648) between Spain and the Dutch Republic. The Peace of Westphalia helped usher in modern notions of sovereignty consisting of relatively stable borders and nation-states that are solely responsible for what occurs within those borders. While the notion of a self-contained sovereign state was not born fully formed upon the completion of the Peace of Westphalia, it did begin a process that worked towards state autonomy in the following centuries (91).

In the seventeenth century, contract theorists began developing what would become the concept of popular sovereignty. Thomas Hobbes, John Locke, and Jean-Jacques Rousseau all developed variations on popular sovereignty—the belief that the ultimate governing authority must be derived from the people. Popular sovereignty formed the foundational theory of the origins of governmental power from the seventeenth century onward, but, notably, the three main contract theorists all developed different permutations of popular sovereignty. Arguing that the
people’s authority is irrevocably transferred to the king, Thomas Hobbes relied on a theory of popular sovereignty in order to further bolster monarchical power. Most views of popular sovereignty, however, positioned it as a theory in direct opposition to monarchical rule, helping to legitimize the Glorious, American, French and Haitian Revolutions. The theory of popular sovereignty is imbedded within both the United States’ Constitution and Declaration of Independence—the former famously proclaims that “We [are] the people of the United States” in its preamble and the latter claims to be written “by Authority of the good People of these Colonies” (Constitution Preamble, Declaration Par. 6). It is out of these two developments—the writing of the contract theorists and the Peace of Westphalia—that popular sovereignty as we know it today emerged.

I. The People

In Imagined Communities: Reflections on the Origin and Spread of Nationalism, Benedict Anderson argues that print culture helped form a national consciousness, pointing to the newspaper and the novel as ideal texts for constructing a notion of nationality. Because both the newspaper and novel collate disparate incidents that occur within the bounded borders of the nation, they became related through the framework of the nation-state. The novel’s use of a multitude of characters and divergent subplots weaves an image of simultaneity. While Anderson’s notion of the imagined community is a useful starting point when examining national identity, it does not fully take into account ways in which national identity might be carved up and dissected along myriad demographic and geographic lines. Anderson’s formulation attempts to define the imagined community as played out equally across the nation. In his account, literature from the American South, North, and frontier all vie to define a singular national
character. Anderson does not examine ways in which subnational government entities, such as
the territories of Ohio and Michigan, relied on notions of statehood to differentiate themselves
from their neighbors, even if these divisions were largely fictional in nature. He further does not
examine ways in which individuals were excluded from the imagined community, often because
they were also excluded from government recognition or access to the print public sphere.

The notion of popular sovereignty might better define national identity not as a whole but
as a small representative unit. The concept of popular sovereignty in nineteenth-century
America has always been complicated by the fact that the nation was a republic that gave
government representatives the ability to make and enforce laws even while claiming to be
synecdoche for the political body, and in law the notion of “the people” was limited to those who
could vote, namely white, of age, property owning men. Early America’s republican system of
government, in which a select population was capable of governmental representation, explicitly
endorsed universal citizenship while limiting who counted as a unified people. Still,
marginalized groups such as women, blacks, and Native-Americans all relied on the discourse of
popular sovereignty in order to assert political agency. The contradiction between who could
vote and who made claims to popular sovereignty is seemingly impossible to reconcile in early
nineteenth-century America. In *Empire*, Michael Hardt and Antonio Negri locate this
contradiction as one of the chief elements of popular sovereignty: the people is formed only
when “internal differences” are veiled “through the *representation* of the whole population by a
hegemonic group, race, or class” (104). It is only by ignoring the difference of the multitudes
that a people can be said to exist. Hardt and Negri go on to note that the metaphor of the nation
is often employed by groups regardless of whether they constitute a nation-state. The Nation of
Islam and the Zulu Nation, for example, draw upon nationalistic rhetoric to resist other national
identifications and to foster a unified identity. Similarly, the idea that popular sovereignty could
diverge among multiple groups or individuals helps explain a number of ideological movements
in the nineteenth century, all claiming to represent the people’s will.

II. Power

In his famous formulation, Carl Schmitt stakes the claim that the sovereign is “he who
decides on the exception” (Political Theology 5). Outlined in Political Theology: Four Chapters
on the Concept of Sovereignty, Schmitt’s definition of the sovereign attempts to tease the concept
apart from more provincial ideas like government or law. For Schmitt, the law is a norm that
functions under the assumptions of predictable, every-day events. Legal norms, however, are
unable to function in a state of emergency when the legalistic world must be suspended. This
exception cannot be codified into the existing legal order because it cannot necessarily be
anticipated. In other words, the law is unable to suspend itself. It is then up to the sovereign to
determine when legal exceptions must be made (6-7). Because the sovereign is established
through the legal order and yet has the power to suspend it, Schmitt argues that the sovereign is
both inside and outside the law. This paradox allows for the sovereign to exist on the outermost
border of authority. Because he is more than just a political leader, the sovereign is also a
justification for power and authority invested in the state. Schmitt’s concept of the sovereign—
the belief that a singular, decisive figure is entrusted to both institute the law and, when
necessary, suspend the law—becomes problematic in relation to notions of popular sovereignty.
Schmitt’s definition of the exception does not necessarily comport with traditional conceptions
of popular sovereignty. Moving from the singular sovereign to the more amorphous popular
sovereign raises a number of questions. To what extent do the people give up their own personal
freedoms and autonomy when they enter into a social contract? Who within the framework of popular sovereignty is the ultimate arbiter of the exception? Can a group suspend laws they have instituted for themselves?

As Wendy Brown writes in *Walled States, Waning Sovereignty*, “[i]t is nearly impossible to reconcile the classical features of sovereignty—power that is not only foundational and unimpeachable, but enduring and indivisible, magisterial and awe-inducing, decisive and supralegal—with the requisite of rule by the *demos*” (49). This leads to the question of whether popular sovereignty can fully exist, or if Schmitt’s definition of the sovereign—a definition more akin to monarchical governments and the divine right of kings than modern democracies—is always present within the nation-state. Does a government founded on the ideals of popular sovereignty always carry with it the logic of despotism? Is the mob a representative of popular sovereignty? Can a single, powerful individual, as Hobbes suggests, embody the popular will?

From Schmitt’s narrative of sovereignty’s inception, the concept has only become more conflicted. Throughout the nineteenth century, American authors struggled with how to define sovereignty in a republic whose borders were continually unsettled. But Schmitt’s initial definition never fully dissipated, and because of its persistence, Giorgio Agamben tackles Schmitt’s analysis of sovereignty in two of his central theoretical works, *Homo Sacer* and *State of Exception*. In *Homo Sacer*, Agamben traces the notion of “bare life,” an individual “who may be killed but not sacrificed,” or, a person whose life lacks any social value, from the ancient Greeks all the way to the genocidal World Wars of the twentieth century (8). Agamben expands on these ideas in *State of Exception*, the idea that the sovereign authority may determine when to suspend accepted legal practice. It is through this state of exception that sovereign powers determine bare life.
III. Territory

Post-Westphalian Europe was characterized by aewed stability in national borders. But according to Carl Schmitt, this relative permanence lead to the projection of international competition and war across the Atlantic as European powers scrambled for territory in the Americas (Nomos of the Earth 130-1). Despite the fact that the Americas were already controlled and governed by indigenous nations, Europeans sought to divvy up this newly discovered territory. As Lauren Benton notes, “Although control of territory formed an important part of…constructions of sovereignty, European powers often asserted and defended imperial dominion on the basis of strategic, symbolic, and limited claims while recognizing the incomplete and tentative nature of more expansive spheres of influence” (4). Benton argues that, far from forming a cohesive, indivisible swath of territory, European empires were often made up of discrete spaces of controlled land situated within the forces of competing interests. When crossing the Atlantic, European nation-states had to contend with other European nationalities that competed for resources and land, the indigenous population who had settled the land in previous centuries, and the Creole population whose economic interests were often at odds with those in the metropole. Benton’s representation of empire differs from its representation on European maps, which used bold colors to signify singular ownership over territories that cross oceans, rivers, and mountains as well as a number of diverse populations. Benton offers a useful guide to the patchwork manner in which empires constitute themselves.

European incursion into the Americas, then, did not follow an easy top-down pattern. Blurred boundaries were often drawn through strategic and uneasy alliances, a reality that continued long after British colonialists decided to aggressively redraw Britain’s territorial
borders by declaring their independence. This bottom-up transformation of sovereign space is visible in relationship between native nations and states in the nineteenth century. Looking at the relationships between the Cherokee Nation and the state of Georgia in the early decades of the nineteenth century, Lisa Ford observes that both the Georgians and Cherokee relied on a pluralistic notion of sovereignty, resulting in negotiated punishment for crimes committed by Cherokee in Georgian territory and vice versa (35). This uneasy alliance between Cherokee and Georgians collapsed as Georgians demanded the full integration of Cherokee territory into Georgian and U.S. sovereignty. Repeated violation of Cherokee sovereignty by Georgians helped dismantle the clearly demarcated borders of the Cherokee Nation, an extension of U.S. sovereignty that, while aided by the federal government, was fueled on the ground by an influx of settlers.

People, power and territory all form the main constituent parts of popular sovereignty, and in popular imagination, these elements easily align with one another. Most members of the United States imagine the nation as bound by clearly demarcated borders that contain a cohesive people whose will is carried out by the government. While this is arguably not true today, it certainly was not true in the nineteenth century. As discussed above, the imagined and real borders of the U.S. contained populations that were excluded from the national imaginary. Women, blacks, and non-landowning whites, despite constituting the population of the U.S. were denied government representation and were outside the bounds of what many Americans conceived of as the imagined community in the first half of the nineteenth century. When native people and their territory were incorporated into the U.S., they were simultaneously excluded from national belonging. Many women and minority writers stood in the peculiar situation in
which they relied on their authority as a voice among the people of the United Stats without receiving the rights attending that station.

The relationship between territory and the people further raises questions about how sovereignty is demarcated in antebellum America. If territory is extricated from one people by another through settlements—as occurred in Texas and in native territories—then what assures the nation-state that these settlers will recognize themselves as members of a sovereign power? What prevents these settlers, who are far from the center of governing power, from splitting away from the nation-state and, in a type of mitosis, establishing their own sovereign territory? These questions are not merely theoretical, since notions of sovereignty were also extended to individual states, many of which did attempt to break from the United States during the Civil War. The foundation of Texas as initially a distinct sovereign entity from the U.S. further demonstrates the misalignment of people, power, and territory.

Because popular sovereignty is formed from the bottom up rather than the top down, notions of territory, people, and power were not determined merely within the realm of the law. Rather, these concepts played out within the print culture of the nineteenth century in the form of pamphlets, broadsheets, newspapers, novels, and court cases as cultural artifacts. Justice Marshall’s Cherokee Indian cases of the 1830s, which ruled that the Cherokee Nation possessed a form of quasi-sovereignty, were embedded within a larger print discourse regarding native sovereignty. Ultimately, Marshall’s decisions regarding native sovereignty were ineffectual when faced with Georgian understanding of their sovereign territory. While it has been well understood that southern states viewed themselves as separate sovereign entities, even abolitionists relied on individual state sovereignty in order to prevent the transport of slaves into northern free states. These are just a few examples of how the United States was divided
according to differing notions of who constituted a distinct people along separate territorial boundaries.

While other scholars have begun examining ways in which sovereignty is far more fragmented than previously thought, my goal in this dissertation is to demonstrate the important and unique place literature played in the antebellum years when imaginatively defining sovereignty. Benton and Ford do a superb job of demonstrating the complexities of sovereignty in the nineteenth century. But these books do not attend to the issue of how Americans might imagine the U.S.’s sovereign authority and territory through literature. I argue that because popular sovereignty relies on the existence of a national imaginary, the literary imagination is especially important when discussing ostensibly legal notions of sovereignty. As Anderson and others have noted, print culture stands at the origin of understanding national belonging. In *Law as Culture: An Invitation*, Lawrence Rosen notes that culture and law are intimately linked through their shared ability to organize our conception of the world: “As a kind of categorizing imperative, cultural concepts traverse the numerous domains of our lives—economic, kinship, political, legal—binding them to one another. Moreover, by successfully stitching together these seemingly unconnected realms, collective experience appears to members of a given culture to be…imminent and natural” (4). As individual members of the body politic grouped and organized geographical formations, sovereign authority and collective associations impacted how they felt about legal concepts of national borders, who constituted the “people” of the United States, and how the will of the people might be exerted over territory and those within and without national belonging. Literature forms the base for how popular sovereignty manifests itself through legal and violent means.
I hope my dissertation will demonstrate that popular sovereignty functions as a better model for discussions of the nation than Anderson’s imagined community. The term imagined community has served as an exceedingly useful tool for literary scholars, and academics have done much to more fully complicate Anderson’s term. Embeded within Anderson’s term is the idea that the national imaginary constructs a cohesive national identity that does not fully exist. But the term does not tackle the fact that national territories in the eighteenth and nineteenth centuries are similarly unformed. And while the imagined community may further our understanding of how a people views itself, it does not offer us a theory as to how the notion of a cohesive people leads to the exertion of legitimized power and territorial control. Popular sovereignty complicate notions of nationalism, belonging, territory, authority, and power and manifests itself in a multitude of collective associations and power relations. Popular sovereignty does not inventively lead to the formation of a republic. Writers have differed on where to locate authority within popular sovereignty from the beginning: Where Hobbes envisioned a kind of popular sovereignty that imbued the king with near absolute power, Locke believed that popular sovereignty means that power is retained by the people, even if his vision of the people were land owning producers. Popular sovereignty is perpetually shifting according to the ideology and strategic purposes of each author who utilizes its concepts.

In the following chapters, I examine a number of both literary and non-literary antebellum texts that engage with different permutations of popular sovereignty. The main texts I examine are almost always situated in unsettled spaces where national, racial, and gendered

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1 For instance, in *The Importance of Feeling English*, Leonard Tennenhouse deftly illustrates ways in which Britishness maintained its hold on the American imagined community long after the revolution severed ties between the two nations. Other scholars, such as Timothy B. Powell in his book, *Ruthless Democracy*, have argued that the imagined community neglects marginalized people, such as women, blacks and Native Americans. In *The Republic in Print*, Trish Loughran argues that America’s newspaper circulation was limited until the 1830s, which subsequently disrupted regional notions of the imagined community as far flung portions of the country encountered writing and ideas from various parts of the republic.
boundaries are conflicted and confused. In the non-fiction narrative The War in Nicaragua the U.S. mercenary William Walker recounts his military adventures in Nicaragua, where he would successfully declare himself the president of the Central American country. I argue that Walker relies on the amorphous aspects of popular sovereignty in order to justify the fact that he, a private, foreign mercenary, has gained control over another nation. I examine debates surrounding slavery by juxtaposing the case Commonwealth v. Aves, in which an abolitionist group sues for the freedom of a young slave who was brought into the state of Massachusetts by her southern owner, with Frederick Douglass’s second autobiography, My Bondage and My Freedom. Aves provides insight into ways in which abolitionists, not just southerners, relied on the unique sovereign concept of states’ rights to further abolitionist goals, but Douglass’s autobiography questions the efficacy and the potential result of this political and rhetorical strategy. Examining the writings of Native American authors William Apess and George Copway, I look at ways in which Native Americans simultaneously argued for a pre-contact form of sovereign status as well as a Euroamerican inflected form of popular sovereignty in order to rebuff white encroachment onto American Indian territory. Finally, I turn to Herman Melville’s early novels, Typee: A Peep at Polynesian Life (1846) and Omoo: A Narrative of the South Seas (1847), to examine how Melville positions native sovereignty for Polynesians so that he can grapple with ways in which global capitalism is circumventing popular sovereignty both home and abroad.

I begin with William Walker’s The War in Nicaragua, because it demonstrates ways in which notions of who constitute a people resist national categories. Although Walker is an American citizen, he links himself to the cause of the Nicaraguan people, even if the residents of the country resist this notion. Frederick Douglass’s second autobiography engages with the
question of how we should characterize the relationship between the federal and state
governments within the U.S., a question that was not fully answered until the conclusion of the
Civil War. The writings of William Apess and George Copway disrupt a cohesive image of the
American nation and project of empire. I end with Herman Melville’s first two novels because
they illustrate the fraught relationship between the development of the nation and global
capitalism.

Chapter 1: Exceptional Brutality: Legitimizing Violence through the Sovereign Will in *The War
in Nicaragua and The Scalp Hunters*

In my first chapter, I examine the writings of the mercenary William Walker in
conjunction with Thomas Mayne Reid’s adventure novel *The Scalp Hunter*. William Walker
was a mercenary, or filibuster according to the parlance of the nineteenth century, who fought on
the side of the Democratic Party during Nicaragua’s civil war. Following the victory of the
Democratic Party, Walker positioned himself, an American, as the president of the country, a
role that lasted about a year before he was overthrown and forced to flee Nicaragua. Walker’s
strange ascendancy to the presidential office of Nicaragua was just one of many attempts at
filibustering that occurred throughout the first half of the nineteenth century. Filibustering
expeditions, simply defined, occurred when foreign, private armies attempted to overthrow
established nation-states and launch their own government. The filibustering craze of the early
nineteenth century has been explained mostly through the lens of manifest destiny, the belief that
North and South America were destined to belong to white Americans. I would like to further
analyze filibustering through the lens of popular sovereignty. I argue that violence inflicted
under the banner of manifest destiny had to be legitimized through the concept of popular
sovereignty. Although filibustering expeditions were often made up of invading outsiders, they did not necessarily represent themselves as such. As Walker demonstrates in his writing, filibusterers often characterized themselves as representatives of popular sovereignty whose goal was to dismantle an illegitimate government.

Examining Walker’s writing next to the adventure fiction of Thomas Mayne Reid demonstrates ways in which popular fiction engaged in questions of sovereign authority. Having been born in Ireland to parents of Scottish and Irish ancestry and having lived much of his life in America, Thomas Mayne Reid is himself a man outside of regular borders. Similarly, his fiction often takes place in far flung regions, away from settled authority. Reid writes about characters who use extra-legal violence against despotic rulers, such as the corrupt governors in *The Scalp Hunters*. Reid’s characters come from a variety of nations, but they have little restraint when using violence within the space of other governing authorities. Like filibusterers, Reid’s protagonists seem to derive their legitimacy through a belief that they are stand-ins for popular sovereignty. Reid’s work also demonstrates anxiety with regards to mob violence. In *The Scalp Hunters*, the violent impulses of Reid’s frontiersmen are often constrained by a single overpowering ruler, but even he cannot prevent his men from occasionally resorting to mob rule.

Chapter 2: “The State is Little More than a Dream”: Intrastate Sovereignty in *Commonwealth v. Aves* and *My Bondage and My Freedom*

Questions of sovereignty held a central role in discourse concerning slavery, both from the perspective of the North and the South. In the years following the Civil War, the central question of what precipitated disunion has often been framed around southern autonomy and states’ rights. But it is clear from contemporary nineteenth-century discourse that northern states
often argued that federal laws pushed by southern politicians infringed on their sovereign statehood. In particular, I examine the case *Commonwealth v. Aves*, which concerns a young slave girl Med who is brought into the state of Massachusetts by her owner. When an abolitionist group became aware of Med’s situation, it sued for her freedom. The case, *Commonwealth v. Aves*, made its way to the Massachusetts Supreme Court, which was overseen at the time by Chief Justice Lemuel Shaw, the father-in-law of Herman Melville. In his decision, Shaw sided with the abolitionist organization and ordered Med freed. But in order to ensure Med’s freedom, Shaw relied on a particular vision of sovereignty that divided each of the states that made up the U.S. into wholly distinct territories, even going so far as to rely on international law to support his decision.

In this chapter, I examine Med’s case alongside Frederick Douglass’s second autobiography, *My Bondage and My Freedom*. Douglass’s second autobiography engages with similar questions of national and intrastate sovereignty. Where most narrative arcs in the genre of the slave narrative end in the North with the protagonist safely emancipated, Douglass expands the scope of his narrative to include international space. After fleeing to the North, Douglass recounts his struggle to achieve full equality and further claim that he could only be truly equal outside of American borders in England. This transatlantic perspective allows Douglass to view the United States as a single sovereign entity, which in turn makes northern states complicit with the sins of the South. By transforming the accepted bounds of the slave narrative, Douglass argues that fighting slavery on the level of individual state rights is not enough. It is only by imagining the U.S. as a sovereign whole that it is possible to eradicate slavery altogether.
Chapter 3: Reclaiming what is already Ours: Sovereignty in the Autobiographical Writings of
William Apess and George Copway

Throughout the eighteenth and nineteenth centuries, Native American literature straddled
the line between aboriginal and European cultures. The simple fact that Native American
authors wrote in a European language suggests at least some transculturation between settler and
native cultures. Furthermore, the fact that many Native American writers spoke from the
position of Christian converts means that they had partially adopted European culture, which in
turn allowed them to reach a largely white Christian audience. This has lead some critics to try
and understand what is and is not Native American about first nation writers in the nineteenth
century. Critics have answered this question in a variety of ways, noting that these Native
American authors still retained the authority to speak on behalf of their nation and that the
particular kind of Christianity practiced by Native Americans was often syncretic.

In my third chapter, I examine the autobiographical work of William Apess and George
Copway and argue that both authors employ transculturation strategically in order to assert
native sovereignty. As a European construct, sovereignty carried with it European assumptions.
In order for a sovereign people to be viewed as legitimate, they had to mirror back European
religious, cultural, agricultural, and economic practices. Apess and Copway demonstrate to their
white audiences that Native Americans were perfectly capable of adopting Euroamerican
practices, which in turn legitimizes native territorial claims as full sovereign people within the
mold of white culture. Even as Apess and Copway relied on a particularly Euroamerican version
of sovereignty to argue for native self-determination, they also developed a definition of
sovereignty independent from white cultural notions of national independence. Apess and
Copway must not only demonstrate that Native Americans can inhabit the role of a sovereign
people, but also that native nations had formed distinct demos and polities long before white contact.

Chapter 4: “Cavalier Appropriations”: Sovereignty and Global Capitalism in Typee and Omoo

In my fourth chapter, I look at the early novels of Herman Melville, Typee and Omoo, and examine how a transpacific context impacts the idea of sovereignty. Throughout Melville’s two adventure novels, his protagonist moves in and out of different captive relations with commercial sailing vessels, native peoples, and the French empire. Melville attempts to illustrate different power relations that exist between Polynesian people and European nation-states. France’s domineering stance is represented as an attempt to put the islands of the Pacific under sovereign European rule without regard to divisions between differing native peoples living on the Marquesas Islands. When Melville’s protagonist, Tommo, flees his whaling vessel for the safety of the islands, he must subject himself to the authority of the native peoples, upending the hierarchical relationship that France is attempting to establish. Melville represents the Tai Pī people as a sovereign entity that manipulates nature for its own benefit and whose king is closely aligned with notions of popular sovereignty. But Melville’s representation of the Tai Pī nation as a sovereign nation is also a reflection of growing concerns about global capitalism’s tendency to circumvent popular sovereignty. Melville’s depiction of the poor conditions on board whaling vessels in Omoo demonstrates the dehumanizing nature of global capitalism. And even when Tommo and his fellow sailors attempt to formulate themselves as a collective entity in the mold of popular sovereignty, their authority is quickly dismantled. By examining Typee and Omoo, I demonstrate ways in which Melville is concerned with the unraveling of popular sovereignty at
the very moment in history when this concept is becoming fully formed in the American imaginary.
Chapter 1: Exceptional Brutality: Legitimizing Violence through the Sovereign Will in The War in Nicaragua and The Scalp Hunters

I. William Walker and the Filibuster Scourge

Early in The War in Nicaragua (1860), the mercenary William Walker’s account of his military excursion of Nicaragua, Walker juxtaposes the civil war raging in Nicaragua with his own invasion into Mexico a year earlier. After providing a brief synopsis of the ebbing and flowing fortunes of the two sides of Nicaragua’s civil war, the Legitimists and Democrats, William Walker (1824-1860) jumps to his contemporaneous misfortunes in Mexico, where he had attempted to overthrow the city government of La Paz and establish his own government in the heart of Mexican territory. Walker describes the day of his surrender, May 8th, 1854:

On that day a small band of Americans marched from the Tia Juana country-house to the monument marking the boundary between the United States and Mexico, and there yielded their arms to a military officer of the former power. These men were poorly clad, but even at the moment of their surrender they—I speak not of their leader—bore themselves with a certain courage and dignity not unworthy of the men who had aspired to found a new State. (18)

There is much of interest in this description, especially considering that Walker implicitly links his invasion of Mexico with the war in Nicaragua. Notably, Walker begins his description at the border as his men must relinquish their arms to Mexican authorities. He presents the movement from Mexico to the United States as a dignified defeat. Walker attempts to embolden his actions by drawing a parallel between the men who fought for the American Revolution and his own band of soldiers: both attempted to found a new nation-state. Throughout his account, Walker
refers to himself in the third person. In the above passage, then, the leader he speaks of is himself. It seems unlikely that Walker is suggesting that he did not bear himself with “courage and dignity”; instead, it seems likely that Walker is attempting to deflect praise for himself onto his men. Of course, this is false modesty. Because the band of mercenaries is lead by Walker, the men’s deportment is also a reflection of his own character. By linking his invasion of Mexico temporally with the civil war in Nicaragua, Walker draws thematic parallels between these two events. Like the Nicaraguan Democrats, whom Walker would go on to fight for, the mercenary insists that his men are engaging in a revolution. In fact, Walker refers to the Democrats’ campaign as a revolution repeatedly in his opening pages, a descriptor that he does not apply to their opponents, the Legitimists.

Of course, there are plenty of problems with this parallel. The Democrats were comprised mostly of citizens of Nicaragua who lived within its borders, but Walker’s men are outsiders, citizens of the United States trying to overtake foreign territory and form a new sovereign state. This presents a clear ideological and legal hurdle for Walker’s account, further complicated by the fact that Walker would not only go on to fight for the Democratic forces: after helping defeat the Legitimists, he would brazenly declare himself the president of Nicaragua. How is Walker, a foreigner, able to justify his rise to the chief political office in Nicaragua? As a clue we can look to the manner in which Walker purposefully downplays his own role as a military leader and emphasizes the heroism of his men. Here Walker elevates his authority as a military and political leader on the shoulders of his followers. Similarly, Walker would rest his authority as president of Nicaragua on the people of the nation. In order to make the argument that he is the legitimate ruler of Nicaragua, Walker relies on the notion of popular sovereignty, the belief that the people are the only legitimate basis for government, and at any
time the people may reform, alter, or abolish the government (Fritz 40). Because the notion of who constitutes a singular People is always already amorphous and shifting, Walker continually attempts to define insiders as outsider and outsiders as insiders. He represents American citizens as true Nicaraguans and residents of Nicaragua as foreign invaders.

This chapter examines Walker’s *War in Nicaragua* as an effort to legitimate private, extraterritorial violence by borrowing notions of the sovereign nation-state. In his narrative of conquest, William Walker portrays himself as sovereign representative of the people of Nicaragua. He relies on notions of popular sovereignty to legitimize his violent incursion into the borders of the state, and, conversely, he uses violent acts and the restraint of violence as a means to legitimize his sovereignty. I argue that Walker must first establish himself as an extension of popular will in order to found his reign, but once he has become a government representative of popular will, first as the commander of the army for the provisional government and later as the president of Nicaragua, Walker, in the language of Agamben, becomes freer to decide on the state of exception and to whom it applies. Walker’s account sheds light on how popular sovereignty—a bottom up theory of power—might comport with the exception—a top down theory of power. I then turn to the novel *The Scalp Hunters* (1851) by Captain Thomas Mayne Reid (1818-1883) as a case study of how questions of non-state violence, popular sovereignty, and extra-legal territory present themselves in popular literature. *The Scalp Hunters* similarly relies on notions of popular sovereignty, but where Walker represents popular sovereignty as a form of power embedded within a singular sovereign, Reid illustrates how, even after the appearance of a singular sovereign authority figure, the people might still determine the state of exception in the form of mob violence. Unlike Walker, who sees the transition of power from the people to the singular sovereign as permanent, Reid’s fiction suggests that in the realm
of popular sovereignty, the singular sovereign must always have his power reauthorized by the people or risk losing it.

II. Popular Sovereignty and Filibustering

William Walker’s foray into Nicaragua was far from an isolated incident. He is cited as one of the most successful of the early nineteenth century’s mercenaries known as filibusters. From the end of the Mexican-American War in 1848 to the beginning of the Civil War in 1860, a rash of filibusterers raised private armies with the goal of overthrowing foreign governments. The term “filibuster” was derived from the Dutch term for freebooter and came to describe a type of mercenary who attempted to overthrow a foreign government in order to replace the leadership with its own. While the word “filibuster” first gained usage in English around 1850, and the most famous examples occurred between the Mexican-American and the Civil War, filibustering actually began decades earlier. Aaron Burr’s alleged scheme in the winter of 1806-7 to establish a government distinct from the United States in what is now the Southwest was often cited as one of the first instances of filibustering, and subsequent attempts at overthrowing foreign governments were termed “Aaron Burr schemes” (May 1, 298). In the years that followed, a surge of mostly unsuccessful filibustering enterprises arose in the Americas. During the Canadian Rebellions of 1837, American filibusterers crossed the northern border with the hopes of overthrowing British rule in Canada. In his study of filibustering, Robert May claims that because so many soldiers who fought in the Texas Revolution came from outside of the territory, the Texas Revolution was arguably the most successful filibustering expedition (9). Following the Texas Revolution, a number of filibustering expeditions spilled into Mexico with the hopes of further cleaving land from the Mexican government. In 1849, the Venezuelan
native, Narcisco Lopez, with the help of American mercenaries, began the first of his two ultimately disastrous attempts to overthrow the Spanish government in Cuba (20-22). In 1857, the politician Henry A. Crabb invaded Sonora in coordination with two other parties of soldiers, but the invasion was quickly destroyed, and only one soldier survived the filibustering expedition. Crabb was executed by the Mexican military, who later preserved his decapitated head in a jar as a warning to other filibusterers who may have been thinking about crossing the Mexican border (191).

Scholars have attempted to explain the proliferation of filibustering between the Mexican-American War and the American Civil War in a number of ways. Robert May partially accounts for the increase in filibustering expeditions during this period by pointing to the surplus of soldiers who were recently released from service following the Mexican-American War and had a difficult time securing work in civilian life. May also claims that the weak central governments in both North and South America allowed private actors freer rein than would be possible in other parts of the world (82-84). Freemasons were often drawn to filibustering because, along with their goal of impeding the spread of Catholicism, they stressed the “international brotherhood of man and the obligation to help peoples in distress, especially the victims of despotism and tyranny” (84). But opportunity alone cannot fully explain filibustering, and the ideological motivations of filibusters cited by May help explain the use of violence, but not why private martial forces felt they could legitimately pierce the borders of a sovereign nation. Apart from feasibility, it would likely seem strange today if an entirely private army of mercenaries attempted to overturn a foreign government. What was it, then, about the first half of the nineteenth century that not only convinced groups of mercenaries that they had the legitimate right to commit violence against a sovereign nation, but also made such actions
immensely popular in parts of the United States? If filibustering were only about opportunity, then why was it so strongly supported by those who did not join the filibuster ranks? Commonly held notions of empire and manifest destiny are not enough to explain the filibustering craze. Empire refers to a preexisting nation-state’s project of subsuming other territory and people into its authoritative regime, not necessarily to the citizens of other countries leaving the confines of their nation with the hope of overtaking foreign territory. And while manifest destiny helps explain some of the ideological worldview of filibusterers, it does not fully explain why these mercenaries believed they had the legitimate right as private actors to commit violence against a sovereign nation. Why raise a private army to Americanize foreign territory when you could petition the American government to do so?

Part of the answer comes down to who in the nineteenth century may or may not acceptably wield violence and for what purpose. Writing after the events of what would become known as World War I, Max Weber argued, in “Politics as a Vocation,” that “The state is regarded as the sole source of the ‘right’ to use violence” (33). It is not just that the state is capable of inflicting physical harm through such state apparatuses as the judiciary, the police and the military, it is also that this form of violence is perceived as inherently more legitimate than the kinds of violence perpetrated by non-government actors. But this was not always the case. Over the course of the nineteenth century states gradually gained a monopoly not just on violence but also violence that extended outside of a state’s territory. Throughout the early modern period, European nations made frequent use of privateers and mercenaries. By the end of the nineteenth century, nonstate violence was already on the wane. And over the course of the twentieth century states would obtain almost a complete monopoly on the legitimate use of force (Thomson 3-7). Max Weber’s “Politics as a Vocation” was first given as a lecture in 1919, and
he lived in a world where state control of violence had become commonplace. In the first half of
the nineteenth century, however, a state’s legitimate control over extraterritorial violence was
precarious. William Walker’s campaigns against Mexico, Nicaragua and Honduras were lauded
by many American citizens and explicitly endorsed by some periodicals (May 74-5). In certain
corners of America there was a love affair with privatized, extraterritorial violence.

Walker’s foreign excursions and his brazen attempt to establish himself, an American
citizen, as the leader of a foreign nation illuminate the ill-defined and unsteady nature of
sovereignty and non-state violence in the international sphere of the nineteenth century. In
Mercenaries, Pirates and Sovereigns, Janice Thomson traces the decline of non-state violence—
either at the hands of non-state actors or violence outsourced by states to private armies—
alongside the increase in both sovereign and international authority. Thomson argues that as the
authority of the nation-state increased, the elimination of non-state violence became viewed as a
mutually beneficial good between nations. In this sense, separate sovereign autonomy reinforced
international cooperation. Thomson draws parallels between filibustering and piracy: it became
incumbent upon nations to suppress non-state violence emanating from their territorial
boundaries in order to receive international recognition as sovereign nations (118). But these
norms took time to fully establish themselves in the international sphere and were not fully
settled until the end of the nineteenth century. While laws like the Neutrality Act existed in the
nineteenth century, the fact that Walker managed to defend himself in court against such laws
despite clearly violating them suggests that normative prohibitions against non-state violence
lagged behind state legislation. And because non-state violence like filibustering and piracy
were carried out by the citizen of a country who were invading territory of a separate country, it
was not always clear who was responsible, or even capable of, enforcing laws that governed international relations (119-20).

The question of sovereign authority and who may legitimately wield violence is linked with shifting cultural milieus. In “The Social Construction of State Sovereignty,” Thomas J. Biersteker and Cynthia Weber analyze sovereignty as a social rather than legal phenomenon, arguing that “States’ claims to sovereignty construct a social environment in which they can interact as an international society of states” (1). Filibustering and other non-state violence suggest that sovereignty as a social construct must be established not only through international relations but also accepted by the citizens of the nation-states who in turn help establish international norms. As a social construct, sovereignty is both legal and non-legal. It is legal in the sense that it justifies and establishes political force. It tells us who is the ultimate arbiter of political violence and how far its domain extends. On the other hand, as Carl Schmitt claims, the sovereign is he who determines the legal exception (Schmitt 5). In other words, the sovereign can choose to suspend or ignore the laws when there is a possible danger to the state. He has the power to decide. This places the sovereign outside of the legal realm. Because of the liminal space the sovereign occupies, the distinctions between legal and non-legal texts also tend to collapse when focused on the subject of the sovereign and sovereignty.

Questions of legality and violence are intimately linked with Walker’s *The War in Nicaragua*. Walker’s account of his adventurism appears to straddle the line between literary and legal texts. One of his goals in publishing a narrative of his time in Nicaragua was certainly to raise money, but he was also attempting to justify his actions in Latin America. *The War in Nicaragua* is not only an account of violence and battles, but also a legal defense of Walker’s attempt to establish a new government in Nicaragua. This speaks to the blurry definition of legal
and literary texts as well as to ways in which the legal realm overlaps with the social and cultural realms. Likewise, Reid’s adventure fiction establishes the cultural medium through which notions of popular sovereignty exist.

Both William Walker and Thomas Mayne Reid must contend with tension between the singular sovereign and the people as source of sovereign power that is an integral component of the burgeoning theory of popular sovereignty. , Walker manages to construct the mechanism for popular sovereignty where the authority that is once invested in the people may be subsumed by a singular sovereign. Reid, however, presents the relationship between the singular sovereign and the popular sovereign as a fraught dialectic, where the sovereign might curb and coerce how the people employ violence, but ultimately the popular sovereign might utilize mob violence in order to construct their own state of exception. The sovereign figure can only inflict violence so long as he is intermittently reauthorized by the people.

III. Ideological Schemes of William Walker

Born in Nashville, Tennessee in 1824, William Walker would become the most successful filibusterer in the Americas during the peak of filibustering expeditions. Although he received a degree in medicine, Walker went on to practice law and, perhaps dissatisfied with that profession as well, changed careers again to work at a newspaper, The New Orleans Daily Crescent (Carr 1-14). Walker’s background as a lawyer and newspaper editor provided him with the training necessary to court public opinion, and he would go on in 1854 to successfully defend himself in court against accusations that he violated the Neutrality Act of 1794 ( 90). Following the gold rush migration of the late 1840s, Walker made his way to California. Walker’s first

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2 The Neutrality Act of 1794 made it illegal for any American to wage war against a foreign country that was currently at peace with the United States. Walker clearly violated this law, and it has been suggested that he relied on his populist appeal in order to escape punishment (May 7).
filibustering attempt was aimed not at Nicaragua, but at Mexico. In 1853, Walker and a group of volunteers acquired the use of a brig and invaded La Paz, Baja California where they captured the town, and Walker shortly after declared himself president of Lower California. His victory was short lived: Walker and his men were eventually forced to surrender to Mexican forces (81-91).

Not willing to let his excursion into Lower California mark the end of his adventurism, Walker set his sights on Nicaragua, which had undergone a number of revolutions over the years. He signed on with Francisco Castellon, the leader of the Democrats, one of the two warring political factions in Nicaragua, the other being the Legitimists. Along with about sixty men, whom, with a flare for the dramatic, he dubbed “The Immortals,” Walker joined the Democrat forces in Nicaragua. He was later joined by 170 local soldiers and another 100 Americans (115-27). Despite early setbacks, Walker went on to capture the city of Granada in a surprise attack. Granada had been the central location of the Legitimist government, and its capture by Walker effectively put an end to the war in Nicaragua (132-3). Walker was appointed chief military officer in the provisional government. But soon infighting broke out once again, and, in a bold move, Walker declared himself President of Nicaragua.3 Walker’s presidency lasted less than a year. During that time he managed to launch an Americanization effort, including the publication of a bilingual state newspaper and the reestablishment of slavery. The combination of local Nicaraguan, Costa Rican, and Honduran military forces proved to be too much for Walker, and he eventually surrendered to U.S. forces. Walker attempted to reinvade Nicaragua a second time, only to be intercepted by the U.S. military en route (181-222). After this second

3 While Walker had many fierce allies in the United States, especially in the South, the normally expansionist President Pierce initially refused to recognize Walker’s newly formed government, opening himself up to criticism from pro-Walker newspapers in the U.S. This speaks to the ambivalent attitude politicians, not to mention business interests, had regarding filibustering (Greenberg 36).
attempted invasion, Walker wrote a book, *The War in Nicaragua*, detailing his fighting in Latin America. Walker’s final filibuster expedition began in 1860. This time Walker turned his sights on Honduras, but this final excursion proved to be less successful than his first foray into Nicaragua, and Walker was eventually captured by British forces. The British turned Walker over to the Hondurans who promptly executed him (261-74).

The blurred distinction between legal and literary texts manifests itself in *The War in Nicaragua*. Like the model for his text, Caesar’s *The Gallic Wars*, Walker refers to himself in the third person throughout. By drawing a direct parallel between himself and Caesar, Walker attempts to establish himself as both a military and political leader, roles that he would play—and that seem to reinforce one another—during his time in Nicaragua. By establishing himself as a literary and spiritual descendant of Caesar, Walker characterizes his imperial goals. Like Caesar, he wishes to centrifugally spread civilization outward, bringing with him the benefits of Roman society, or in this case American democracy, to less fortunate people. In this manner, Walker links what I term “martial benevolence” with a pre-established, already legitimized form of empire stretching back to Rome. But Walker is far from the first author to draw connections between Western imperialism and Rome.⁴ In *The Importance of Feeling English*, Leonard Tennenhouse observes that the genre of the *translatio imperii*, the transfer of the center of the world, was common in both colonial and antebellum America. Even before the United States established itself as a country separate from Great Britain, colonists in the Americas believed that the center of civilization had shifted westward. The *translatio imperii* reinforces a teleological view of history and empire. Certain nations conquered others not necessarily

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⁴ References to Roman myth and history often appeared when Americans wrote about potentially expanding their national borders. In *The Herald* one enthusiastic columnist used the mythic episode, The Rape of the Sabine Women, to characterize the Mexican-American War: “like the Sabine virgins, she [Mexico] will soon learn to love her ravisher” (qtd in Greenberg 22).
because of political or historical factors but because it was destined to be. In this context, Walker’s use of the third person, his splitting of the author from the character of William Walker, seems apt because it suggests that Walker himself is at the mercy of larger designs. As his nickname, “The Grey Eyed Man of Destiny,” implies, Walker presents himself as driven by larger transcendent forces.⁵

As is common in imperialist literature, Walker’s movement to Latin America is presented as both geographical and temporal. He is both moving south and moving to a state that exists in an earlier period of time. This connection between moving over land and moving back in time is also present in the works of authors like John Locke, who famously declared that “in the beginning all the world was America” (Locke 139). Similarly, Walker describes Nicaragua as a place where “nature has done much and man little” (Walker 38). This language casts ownership of the land open. If, as Locke further writes, in order to claim private property one must mix his or her labor with the land, then according to Walker’s description, ownership over Nicaragua is in doubt (Locke 128).⁶ But Walker cannot stop there. Unlike Locke, Walker cannot simply re-imagine Nicaragua into a state of nature. Where Europeans represented native peoples as existing in an Edenic state without the need for cultivating land, Latin American countries had already been occupied by European nations. In a post-Westphalian world, Europeans had established reciprocal notions of state sovereignty, which would make it more difficult to ignore territorial claims in the New World.⁷ Walker is unable to fully imagine the countries of Latin America as pre-historical—as Locke and other contract theorists had for the Americas—and

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⁵ In director Alex Cox’s quasi-comedy, quasi-biopic of William Walker, Walker, the director wrests plenty of humor from the contrast between the everyday language of most characters and Walker’s grandiose manner of speaking, which is often taken straight from The War in Nicaragua.

⁶ In, “Rediscovering America: The Two Treatises and Aboriginal Rights,” James Tully examines how John Locke’s Two Treatises purposefully defined Native-American government and land holdings in a manner that excluded them from contemporary notions of ownership and national government.
instead must first attack the governing forces that were currently occupying Nicaragua—which he does by associating the current regime in Nicaragua with the outdated governing principle of feudalism, thereby delegitimizing the existing Nicaragua government and allowing him to overwrite, both figuratively and literally, the arbitrary and feudalist government with a government built on the theories of popular sovereignty.

In order to delegitimize the authority of Nicaraguan authorities, Walker represents Nicaragua’s military and political leaders as aristocrats, relics of feudalism. Nicaraguans rule the nation according to their own personal whim and not according to established notions of justice. He writes that the people of Nicaragua had been used to leaders whose standards were mercurial, ruled only by their “lawless passions and unbridled impulses” (64). The aristocratic nature of Nicaragua’s leaders is also embodied in the bright colors of the Nicaraguan commanders’ uniforms, and he later mocks the accoutrements of his Nicaraguan ally, Colonel Padilla, referring to them as “ludicrous” and mocking his “cocked hat” (179). Unlike Walker’s democratically minded forces, the Nicaraguan army is ruled in a strictly top down manner reminiscent of a European aristocracy.

As an outsider, Walker must link himself to the people of Nicaragua in order to legitimize his claim as its president, which he does so through the use of martial benevolence. In short, martial benevolence views military intervention in a sovereign nation as legitimate when it is intended to benefit the people of that foreign nation, and in return the benefits bestowed on the people dialectically link the population with the invading force. Tellingly, the language of *The War in Nicaragua* carries with it connotations of both material and transcendent notions of empire that might benefit the population. As Brady Harrison notes, Walker returns again and again to the term “regeneration” when describing the effects his invasion will have on not only
on Nicaragua but on surrounding Latin American nations as well (Harrison 82-3). Meaning both “being spiritually reborn” and the “renewal…of a geographical area by the improvement of its economic and social conditions,” regeneration carries with it connotations of real material impact as well as divine intervention, an amalgam that also inhabits the phrase manifest destiny (“regeneration”). Before embarking on his Nicaraguan adventure, Walker hears from fellow filibuster Henry Crabb who reports on the “natural wealth of the country” suggesting to Walker “the idea of getting an element into the society of Nicaragua for the regeneration of that part of Central America” (Walker 25). The element that Walker alludes to perhaps refers to Anglo-Americans who he wished to import into Nicaragua, or, as he terms them, the “American race” (76). In fact, Walker had obtained a “colonization grant” from the Democratic forces that guaranteed three hundred Americans land and the permanent right to bear arms (25).

Walker’s benevolence is a long running theme in his text. Throughout, he positions himself as a savior to the Nicaraguan people, a rhetorical strategy that uniquely ties him to the concept of popular sovereignty. It is not enough for Walker to make claims to territory based solely on military or religious right. Walker must argue for his role as a leader of Nicaragua through appeals to the people, establishing a dialectical relationship between himself as a singular leader and the population of Nicaragua. We see this benevolence as a justification early on in Walker’s narrative when he foreshadows his incursion into Nicaragua by recounting his invasion of Sonora, Mexico. According to Walker, his decision to establish a separate sovereign nation within Mexico’s borders stemmed from a concern over the well being of Mexican settlers: “It was the intention of their leader to establish at as early a time as possible a military colony—not necessarily hostile to Mexico—on the frontier of the Sonora, with a view of protecting that State from the Apaches” (19). Protecting the people of Mexico from Apache raiders becomes his
sole reason for the invasion. Walker even goes so far as to claim that this military act was “not necessarily hostile” to the nation he is invading. Because Walker is acting under the ideological shade of popular sovereignty, his invasion must be about those over whom he plans to exert sovereign authority. This further means that he is able to claim his invasion is not hostile to Mexico, because the people of Mexico are not separate from the nation itself, and he is planning on better taking care of the residents of his newly founded nation than the Mexican government.

Others have pointed out how important the concept of beneficence is to sovereignty. Writing on the fiction of William Godwin and Charles Brockden Brown, Jonathan Elmer coins the term “humanitarian gothic,” which gives a “geopolitical dimension” to works focused on “ambivalence and the catastrophes of benevolence” (158). In his reading of Godwin’s *Caleb Williams*, Elmer argues that the wealthy Ferdinando Falkland, who spends the last half of the novel tormenting the titular character Caleb, represents an image of the “tyranny of surveillance and benevolence” (158). Previously, Williams had uncovered the fact that Falkland had murdered a rival many years ago, and upon learning that Williams knows his secret, Falkland spends his time surveilling Williams, preventing him from ever establishing a normal life. In one eerie moment, Falkland claims that his goal is not to destroy Caleb but to preserve him as a patron would. For Elmer, Falkland serves as the confluence between the tyrant and the humanitarian liberal whose tyrannizing of his subject emerges from his wish to help his subject. Elmer likens Falkner’s seemingly contradictory goals to Foucault’s description of the sovereign in *Society Must Be Defended*. For Foucault, the sovereign no longer lets live and makes die; he makes live and lets die (Foucault 241). This tyrannical benevolence is present in Walker’s narrative. He proposes entering what he believes to be a languishing nation, filled with natural resources, but also occupied by a population that does not know how to make use of those
resources. It is through martial benevolence that Walker gives himself license to assert authority over the Nicaraguan people. A military invasion of a sovereign nation can be justified if it functions to better protect those residing within the sovereign borders.⁸

Walker’s somewhat strained dedication encapsulates this vexed relationship between himself as sovereign and the people of Nicaragua: “To the living, with the hope that we may soon meet again on the soil for which we have suffered more than the pangs of death—the reproaches of a people for whose welfare we stood ready to die” (iii). The overriding legitimizing logic of Walker’s incursion into Nicaragua, which mirrors his justification for invading Mexico, is the welfare of the people. And yet the people reject his and his men’s aid, a rejection that Walker melodramatically refers to as more painful than actual death. But according to the logic of martial benevolence, dismissal of aid does not necessarily sever the ties between a sovereign power and the people. Walker believes that, paradoxically, establishing himself as president will benefit the people of Nicaragua whether they are aware of his benevolence or not. In this way, he can simultaneously state that he is working for the good of the Nicaraguan people while also claiming that they dismissed his help. Tellingly, immediately before describing the painful feeling of having his benevolence rejected, Walker makes the claim that he hopes to soon return to Nicaragua with his men.

The vexed relationship between Walker as a singular sovereign and the people of Nicaragua as popular sovereign speaks to the tenuous nature of sovereignty and democracy. While popular sovereignty and democracy are sometimes viewed as synonymous—the concept of popular sovereignty served as the underpinning for many nations to move from a monarchy to

⁸ Scholars have noted the inherent disconnect between the idea or universal human rights and sovereignty. In Sacred Violence, Paul Kahn observes that the U.N. simultaneously attempts to preserve individual human rights, prohibiting acts like torture, while also maintaining the concept of sovereignty. The U.N. Charter only allows for war in cases of self-defense, for example. This means that if a nation is violating its citizens’ human rights, other nations are unable to militarily act on this violation.
a democracy—the two do not always overlap. It is this distinction between popular sovereignty and American-style democracy that leads Alexis de Tocqueville in *Democracy in America* to ask, “Is it, therefore, impossible to conceive a government founded on the actual will of the majority but in which the majority, repressing its natural feeling for equality for the sake of the order and stability of the state, should consent to invest one single family or one single man with all the attributes of executive power?” (362). Tocqueville suggests that for sovereign power to rely on the will of the majority does not necessarily mean that the people of the nation are equally invested in the affairs of the government. In fact, it is conceivable that the people might hand over sovereign power to a select few individuals. Popular sovereignty does not always equal democracy.

Tocqueville may have been echoing the theories of Thomas Hobbes who relied on contract theory in order to legitimize autocratic rule. Much like popular sovereignty, contract theory, from which popular sovereignty is derived, relies on the idea that legitimate state power is derived from an agreement with the people. It is a bottom up theory of sovereign power rather than a top down theory of sovereign power. But where contract theorists like John Locke put restraints on the sovereign power resulting from the social contract, Hobbes believed that, once invested in power, the supremacy of the sovereign reigned absolutely:

> The opinion that any Monarch receiveth his Power by Covenant, that is to say on Condition, proceedeth from want of understanding this easie truth, that Covenants being but words, and breath, have no force to oblige, contain, constrain, or protect any man, but what it has from the publique Sword; that is, from the untied hands of that Man, or Assembly of men that hath the Soveraignty, and whose actions are
avouched by them all, and performed by the strength of them all, in him united. (231)

According to Hobbes, any conditions put upon the sovereign mean little, because the sovereign now wields legitimate violent force obtained from the public.9 Hobbes presents us with a narrative of popular sovereignty that does not comport with a democratic nation. According to Hobbes’s picture of the relationship between the people and the sovereign, once the people have agreed to give up power to the state, they have done so absolutely. The one-way nature of this contract is characterized by the sovereign’s monopoly over violence.

Hobbes’s image of the sovereign as disconnected from the people he rules still resides within the theory of sovereignty and power as developed by Giorgio Agamben. In Homo Sacer: Sovereign Power and Bare Life, Agamben states that “The paradox of sovereignty consists in the fact the sovereign is, at the same time, outside and inside the juridical order” (15). Similarly, Hobbes establishes a legitimizing process for the sovereign—he or she is ordained through contractual obligation—but then severs the sovereign from any further legal obligations. For Agamben, the sovereign exists both outside and inside the legal realm because he or she has the power to determine the “state of exception.” In a book of the same name, Agamben further defines the state of exception as a time when normal laws are suspended because of a threat to the very existence of the state. Agamben explains how difficult it is to define these extraordinary measures as legal: “if exceptional measures are the result of periods of political crisis and, as such, must be understood on political and not juridico-constitutional grounds…then they find themselves in the paradoxical position of being juridical measures that cannot be understood in

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9 In this manner, Hobbes presages Weber’s claim that the state is defined by its legitimate use of violence. Although, as Janice Thomson makes clear in her book, Mercenaries, Pirates, and Sovereigns, it would take some time before private extraterritorial violence would largely be seen as illegitimate. The state as sole legitimate source of violent action could conceivably have its origins in contract theory and popular sovereignty.
legal terms, and the state of exception appears as the legal form of what cannot have legal form” (State of Exception 1). Agamben’s exploration of the state of exception might be read as a more nuanced and moderated take on Hobbes’s sovereign. It is not that the people transfer all power to a sovereign, as in Hobbes’s formulation, but rather that the sovereign always maintains the right, whether or not it is explicitly stated in law, to act in an extralegal manner when he or she believes there is an existential threat to the survival of the state. Agamben examines Lincoln’s suspension of the Writ of Habeas Corpus during the Civil War, an authority that most constitutional scholars believe is reserved to Congress not the president. Despite the fact that the architects of the Constitution had embedded separation of powers and checks and balances into the founding document, Agamben argues that during war time these theoretical restraints on the president dissipate, and “although Congress was perfectly aware that the constitutional jurisdictions had been transgressed, it could do nothing but ratify the actions of the president” (20-21). Despite the fact that the United States envisioned a social contract that constrained the singular sovereign and allowed for authority to flow from popular sovereignty, in times of war the single sovereign power captures the ability to decide on the exception in the form of the ultimate executive authority.

The movement from executive force built upon popular sovereignty to a singular sovereign power able to suspend the law, as described by Agamben, is eerily similar to the trajectory of power and violence in The War in Nicaragua. Early in Walker’s narrative, he stresses his equitable use of violence as a means to legitimate his presence in the country. Shortly after arriving in Nicaragua, Walker uncovers an attempted arson of his barracks by two men, one of whom was an American named Dewey who lived in Nicaragua before Walker and his soldiers arrived. Walker quickly makes it a priority to capture and punish the men, in part so
that blame does not fall on his American soldiers and in part so that he can showcase his objective vision of justice in Nicaragua. While describing the capture and execution of the arsonists, Walker repeatedly refers to how failure to punish the criminals would reflect poorly on himself and his troops. He spends far more time detailing these events than he would some major battles, a narrative choice that he defends to his readers:

I have minutely narrated the circumstances attending Dewey’s death, because they made a deep impression on the native mind, and gave a certain and decided character to the Americans in the democratic service. The Nicaraguans conceived from these events a respectful idea of American justice. They saw that the men they had been taught to call “filibusters,” intended to maintain law and secure order wherever they went; that they had the will to administer justice, and would, when they had the power, protect the weak and the innocent from the crimes of the lawless and abandoned. (63)

Walker is concerned about how the natives read his use of power. In particular, he wishes to shed the term filibuster along with its negative connotations of lawless and unrestrained violence. He sees the violence inflicted upon Dewey as a means to counteract dominant discourse regarding American mercenaries in Latin America, disparagingly putting the word filibuster in quotes. Walker further stresses that his American soldiers are in “democratic service,” elevating democracy as well as popular sovereignty above even their military commander, William Walker. It is especially important that Walker is executing an American. Not only does this make him appear impartial, but the sacrifice of Dewey suggests that the popular sovereign will affects all equally, American and Nicaraguan. In this sense, Americans might become
Nicaraguan through a shared burden of violence, and the execution of Dewey serves to fold both Walker and his American soldiers into the people of Nicaragua.

Walker’s depiction of democratic American institutions arising out of the authority of popular sovereignty extends into how he organizes his military. Where the Legitimists impose a strict top down hierarchy on their men, Walker makes the claim for a more egalitarian military structure. On his approach to the city of Rivas, Walker describes his method of coordinating with his men: “Halting his troops, then, less than half a mile from the first houses of the town, Walker called the principle officers, American and native, around him explaining his plan of attack, and assigning to each his separate duty” (50). Here Walker draws an image of his troops of mixed nationality surrounding him, the stable center. Rather than describing himself issuing orders, he uses the less strident verb “to assign,” suggesting that the officers are given leeway when deciding how to best accomplish the goals of Walker. Even as Walker establishes a hierarchical order—the soldiers are centrifugally bound to him and he is only addressing his officers—this is counteracted by his troop’s circular arrangement. Using a dependant clause, Walker makes it a point to emphasize the different nationalities of his officers, treating them as both equal members of his army and equally beholden to him as their leader.

But of course Walker’s image of himself as an insouciant dispenser of justice does not always bear weight, even in his own writing. Examining images of torture in Walker’s narrative, Jeffrey Solomon argues that Walker employs rhetoric not only to establish himself as a “true” Nicaraguan and his enemies who were born in Nicaragua as foreigners, but also to distance himself from violent acts. Solomon points to the description of Walker and his men torturing a Nicaraguan to solicit information from the victim shortly before the Second Battle of Rivas. Walker writes, “At first he denied all knowledge of the enemy at Rivas, but a rope thrown
around his neck and cast over a limb of the nearest tree brought him the use of his memory” (Walker 196). Solomon rightly notes that Walker writes in the passive voice and that torture itself is represented as nearly painless and immediately effective (Solomon 116). Solomon does not note, however, that the description of Dewey’s ritualized execution differs markedly from that of the tortured man near Rivas. These two opposing sites of violence are represented in contrasting ways: Walker goes out of his way to detail Dewey’s capture and execution but comments flippantly on the violence inflicted on his Nicaraguan captive. As much as Walker might depict this scene of torture through passive language, he also ends it on a joke. The suggestion that the threat of hanging or hanging itself could immediately cure this man’s lapse in memory is clearly supposed to illicit a laugh in the reader. In this sense, the scene suggests the image of a depraved smile rather than the mask of a disinterested ruler subject to the will of the people.

The peculiar dialectic between the sovereign and the people might clear up the distinction between these conflicting images of violence. The execution of Dewey occurs shortly after Walker arrives in Nicaragua, before the Legitimist forces have surrendered, but the torture at Rivas happened after the Legitimists had surrendered and Walker has been established in the provisional government. The move from the execution of Dewey to the torture at Rivas, then is also a move from a type of violence that struggles to legitimize itself as a force of popular will to a form of violence that is legitimized because it is wielded by the governing power. Upon establishing himself in government, Walker is now freer to wield violence when called upon to defend sovereign borders and the existing government.

Walker’s flippant description of torture is further complicated by the reasons he gives for eventually establishing himself as president of Nicaragua. In The War in Nicaragua, Walker
bases his claim to the presidency in part on the allegation that the existing government was not treating the Americans as free and full citizens of the country. It is because of this inequality that he dissolves the previous government and institutes a new election, which he handily wins. In this manner Walker contrasts himself, a leader who cares for all residents of Nicaragua, native and naturalized alike, with the previous administration who favored one group over the other. Upon dissolving the government of Nicaragua and establishing himself as president, Walker issues a public proclamation: “In the name of the people I have, therefore, declared its dissolution, and have organized a provisional government, until the nation exercises its natural right of electing its own rulers” (228). Once again, Walker is acting as avatar for the will of the people, even promising future elections to the people of Nicaragua. But his language shows ways in which popular sovereignty might be peculiarly filtered through the actions of an individual leader. Walker’s declaration is stated in the first person, which Walker had studiously avoided until this moment in *The War in Nicaragua*. This change in tense allows us to see the tensions inherent in the concept of popular sovereignty. Starting with the introductory clause, Walker rests his authority on the residents of Nicaragua, but at the same time he never fully includes himself as a member of the people, although according to his assertions throughout *The War in Nicaragua*, he had every right to do so. He refers to the nation of Nicaragua using the third person possessive pronoun “its,” which presumably also includes the immediate audience for his declaration. The language of this declaration illustrates ways in which Walker is estranged from the people while also presuming to represent them.

To use the parlance of Agamben, Walker is both outside and inside. He is inside because his position is established through the law, and within the ordinary course of events he executes the law and maintains order. But because he is able to suspend law, he must also be outside of it.

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10 Most historians agree that the election was incomplete at best and corrupt at worse (May 48).
The War in Nicaragua suggests that even when government is built atop the legitimizing force of popular sovereignty, a single sovereign figure still emerges. This leads to the seemingly contradictory situation where Walker feels that he can circumvent the law brazenly only after he has been established as a sovereign figure in the mold theorized by De Tocqueville and promoted by Hobbes, a sovereign imbued with authority from the people but unwilling to relinquish this power back to the people. This split between popular sovereignty and the singular sovereign embodies Agamben’s analysis of the difference between the sovereign as the superior living law and the inferior written law: “Here too the state of exception is the—secret and truer—life of the law” (State of Exception 70). Popular sovereignty might best establish a nomos that functions within the normal confines of expected action. However, only a singular sovereign figure has the decisive power to rule in the case of war or rebellion. Because the sovereign functions as living law during extreme moments, ultimately he or she is “intimately anomos” (70). The sovereign exists outside of quotidian norms.

Agamben’s analysis of sovereignty and the state of exception provides a clearer understanding of how Walker asserts power over the people of Nicaragua following his rise to the presidency. As Brady Harrison observes, Walker rhetorically situates the Legitimists and other rebels as foreigners, despite the fact that they are native born Nicaraguans (Harrison 84). In addition to stressing the alliance between the Legitimist fighters and surrounding Latin American countries, Walker specifically situates his torture victim as an outsider. The torture victim is described as skulking—his furtive movements suggesting invasion—and Walker accuses him of looking for cattle in order to help out the Costa Rican army (Walker 196). By positioning his enemies as outsiders, Walker, through a dialectical logic, establishes himself as an insider, the true Nicaraguan, even if he also happens to be American. The inside/outside
divide is an especially important distinction in the realm of torture and sovereignty. According to Paul Kahn, the rise of popular sovereignty and the nation-state transformed the relationship between torture and the sovereign. Unlike the theory of monarchy, under which the authority of the king was distinct from and transcended the people he ruled, in the realm of popular sovereignty authority to torture is derived from the people themselves, meaning that a tortured citizen is also a member of the political body authorizing that torture. If you belong to the sovereign body, then you are granted a certain amount of protection. Instead of using the body of a fallen subject in order to display the sovereign power of the king, the fallen citizen is treated in a more human manner (Kahn 36-40). Walker, then, must situate the subject of torture outside the realm of the popular sovereign in order to exert asymmetrical violence on a solitary body now severed from the larger political body.

But Walker also strategically defines the people of Nicaragua in such a way as to legitimize an American’s place as its sovereign representative. By making the claim that all Americans fighting for the Democrats would become naturalized citizens, Walker also further legitimizes his role as sovereign. The people of Nicaragua, as determined by Walker, are no longer limited to those born within Nicaragua’s borders.

IV. Filibustering in Popular Literature: The Case of Captain Mayne Reid’s *The Scalp Hunters*

*The War in Nicaragua* represents William Walker’s attempt to foster a legacy, legitimize his violent intrusion into Latin America, and justify any further military actions he might take. But he did not do so in a vacuum. Walker wrote within a vast network of print culture that expressed a variety of opinions about his actions, veering from eager support to aghast censure. It is within this environment that Walker developed his narrative, and it is within this
environment that he had to defend his use of violence. The attempted physical destruction of another human being might seem to many a wholly irrational act, the kind of deed that exists outside the bounds of “civilized” society, but as Robert Cover’s demonstrates, violent actions are bound up with a variety of legal as well as social norms. When violence is perpetrated under the shade of a juridical system, it obscures its destructive nature.\textsuperscript{11} On an international stage, however, where there is no clear overarching legal institution, the legitimization of violence is often determined by both national and international norms, which was especially true prior to the large transnational organizations of the twentieth century. These international spaces, then, are prone to being viewed as spaces of exception as defined by Agamben. But Agamben’s exception is not pure anomie.\textsuperscript{12} While it is separate from the everyday legal institutions, the exception is still bound by prevailing cultural norms. Extra-judicial violence occurs within a cultural milieu that may further cultivate these violent acts or retard its proliferation.\textsuperscript{13} Print culture is an integral component of fashioning extra-judicial, international violence of the kind William Walker perpetrated.

While newspapers in the United States were at times ambivalent about Walker’s expedition, a large number of periodicals implicitly and explicitly endorsed Walker’s

\textsuperscript{11} In “Law, Property, and the Geography of Violence: The Frontier, the Survey, and the Grid,” Nicholas Blomley argues that this distinction between violence inside and outside of law as an element of liberalism, writing, “Liberalism tends to locate violence outside the law, positing state regulation as that which contains and prevents anomic anarchy” (121).

\textsuperscript{12} In \textit{Discipline and Punish}, Michel Foucault suggests as much. In his discussion of torture, he writes, “[torture] was certainly cruel, but it was not savage. It was regulated practice, obeying a well-defined procedure” (40). Torture is a wholly asymmetrical form of violence, characterized by the complete absence of agency on the part of the victim, but even in this obviously cruel situation, there are procedures that must be followed. Violence is nearly always steered by particular cultural norms of the time.

\textsuperscript{13} Non-legal documents can also determine who may legitimately employ violence and on whom. Just as legal documents might circulate outside and inside legal realms, non-legal documents influence how the legal world views violence. I further suggest that the divide between legal and non-legal texts is less clear than we might think. Cover himself concedes as much in his essay, “Nomos and Narrative,” where he argues that law is just one means of norm making within the larger cultural universe. He writes that “the creation of legal meaning…takes place always through an essentially cultural medium” (Cover 103). In this manner, literary texts are not merely descriptors of state violence, but actually do the work of determining when sovereign violence is deemed acceptable.
adventurism, often allying his mercenary forces with the American enterprise of Manifest
Destiny. On May 7th 1855, following Walker’s departure for Nicaragua, an article from the
Sacramento, California Daily Democratic State Journal wished him success: “Admitting that the
expedition has a somewhat filibustering object, it were ungenerous did we not express a hope
that the adventurers will be successful” (“The Walker Expedition”). The author must feign some
dismay over Walker’s association with filibustering, but ultimately he expresses support for the
campaign. Recounting the battle between Walker’s forces and those of Costa Rica during the
Second Battle of Rivas, a May 1856 article in the Times-Picayune of New Orleans exclaims,
“There is a general joy over this news, as though it were the report of one of our own victories
over a foreign foe” (“Central America”). The Second Battle of Rivas was in fact a debacle for
Walker. These newspaper articles created a space within U.S. political discourse where extra-
state violence against foreigners was deemed acceptable, even if this form of violence violated
laws like the Neutrality Act. While Walker may have in fact been a private mercenary violently
overtaking a foreign country, positive reports about Walker often treat him as an extension of
American military power.

Discourse surrounding Walker’s expedition and filibustering in general was not limited to
newspaper editorials. Violence is a reoccurring element of antebellum American literature. But
violence itself is not neutral. What differentiates violence perpetrated by the hero and violence
perpetrated by the villain? Newspaper reports on violence in which reporters would explicitly
condemn or laud the acts in question were just one genre in a larger circulation of texts in the
nineteenth century that commented on and provided an ideological framework for violent acts.
In particular, violence was an essential component in nineteenth-century adventure fiction.

14 In fact, a number of Costa Rican heroes and martyrs came out of the Second Battle of Rivas, including Juan
Santamaria, a Costa Rican who sacrificed his own life in order to set fire to a filibuster stronghold (May 294-5).
Because of his background as an experienced soldier, Thomas Mayne Reid provides insight into how violence was deployed in the nineteenth-century print culture. The popularity of William Walker’s expedition and Thomas Mayne Reid’s fiction is a testament to the fact that antebellum Americans were fascinated by the use of nonstate violence. Reid’s novels offered his readers glimpses into the violent actions of men on the edge of state control, and they were incredibly popular in the nineteenth century. Reid, who originally hailed from Ireland, fought for the United States in the Mexican-American War and referred to himself as “Captain Reid” long after he had left military service. Reid’s use of a military rank as a signifier for his personality shows ways in which violence was important not only in his works but also for his literary persona. He published about sixty novels and story collections in his lifetime (Gale).

Like William Walker, Thomas Mayne Reid was a man who refused to stay put. Born in 1818, he would go on to criss-cross the Atlantic Ocean and the North American continent. Reid first arrived in the United States in 1839 when he moved to New Orleans, Louisiana. He worked a number of different jobs over the years, moving from one city to the next. While living in Philadelphia he struck up a friendship with Edgar Allan Poe and the two became drinking buddies. When the Mexican-American War began, Reid signed up as a second lieutenant with the First New York Volunteer Regiment. During an 1847 attack on Chapultepec, Reid sustained a serious wound to his leg, but his actions during the attack garnered him a promotion to first lieutenant. He ended the war with the rank of captain, a designation he would use throughout his writing career. Reid had published poems and newspaper articles as a war correspondent for some time, but he did not start publishing novels until 1850 after moving back to London. Among his most well known works are his first novel, *Rifle Rangers*, which took place during the Mexican-American War, *The Scalp Hunters*, which took northern Mexico and the American
West as its setting, *The Quadroon*, which took place among the plantations of the American south, and *The Headless Horseman*, based on a supernatural folk tale from Texas. Reid also wrote a number of novels and stories for young boys. Reid’s novels take place in far flung locations, sites of limited governmental control, and this appears to be part of their appeal. They were as much travelogues as they were narratives of how self-reliant men should behave. Like other contemporary dime novels, his work relied on plot twists and a steady stream of action (Gale).

Both Reid and Walker were military men at one point in their lives, and their experiences deeply influenced their writing. Where Reid’s work may have been loosely based on his time in the military, Walker’s accounts, no matter how influenced by his own peculiar agenda, attempted to document a true event. Despite the differences in genre and the trappings of fiction and nonfiction, however, the writings of both Reid and Walker represent and construct forms of violence that readers are expected to alternately approve of or recoil from depending on who is committing violence against whom, for what reason, and in what context. Both authors were deeply concerned with the use of violence in regions with unsteady or unclear state claims. A case study nearly contemporary with Walker’s filibustering account, Reid’s 1851 novel, *The Scalp Hunters*, follows a group of characters from all over the world as they enter Navajo country in order to rescue the captured wife and daughter of a frontiersman. The narrative of *The Scalp Hunters* does not always meet the exact definition of filibustering, since Native-American territory was purposefully defined as outside of European sovereignty, but there are clear parallels between the actions of the invaders in *The Scalp Hunters* and those of the myriad filibustering expeditions at the time. Much as William Walker chose to portray himself as a singular sovereign figure, Reid’s characters also present themselves as sovereign representatives
of the people’s will. But where this relationship is simplified in Walker’s text, Reid presents his reader with a dialectical struggle between the singular sovereign and the people, a struggle that suggests the state of exception is just as likely to be determined by mob violence as by the dictates of singular sovereign. Reid suggests that the authority of the singular sovereign figure must be periodically reauthorized through the people from time to time, if he or she is to maintain power.

_The Scalp Hunters_ begins as the narrator, Enrique, is travelling westward. With a letter of introduction in hand, Enrique makes his way to St. Louis, but he finds that the individual the letter is addressed to has temporarily left. Instead, Enrique falls in with a rowdy crowd of “prairie men,” traders who spend their time in the American west. Enrique gets drunk with these men and in the morning decides to join them on their adventures. A night of drunken song is represented by a mélange of cultures: “I made a speech, and proposed to accompany my new acquaintances on their next expedition…Then someone sang a Spanish song, with a guitar, I think, and someone else danced an Indian war-dance; and then we all rose to our feet, and chorused the ‘Star-spangled Banner’; and I remember nothing else after this, until next morning, when I remember well that I awoke with a splitting headache” (Reid ch. 2). Reid aligns cultural difference with drunkenness. The fact that the Enrique’s carnivalesque night is represented by musical revelry taken from a number of cultures, from Spanish to American-Indian to American, suggests that cultural norms and propriety loosen as characters move out from centers of government and power.

The traders head out across the plains to Santa Fe, which is controlled by a tyrant Mexican governor.15 While in Santa Fe, Enrique first sees Seguin, the scalp hunter, who has a

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15 By the time this book was published, 1851, New Mexico belonged to the United States because of the 1848 Treaty of Guadalupe Hidalgo, which closed out the Mexican-American War. It may be that the events of the novel are
reputation as a fierce Indian fighter. Enrique is first repulsed by Seguin, because of rumors that he has slaughtered numerous American-Indians regardless of age or sex, but when Seguin is ambushed by several American-Indians, the narrator nevertheless comes to his aid. After being rescued, Seguin brings the narrator to his home where Enrique falls in love with Seguin’s twelve-year old daughter, Zoe. And while Zoe returns the narrator’s affections, Seguin refuses to consent to their marriage. Instead, Seguin offers his daughter in marriage only if Enrique agrees to help him recover his other daughter who has been taken from him by the Navajo. Naturally, Enrique consents and the rest of the novel follows their incursion into Navajo country and eventual rescue of Seguin’s daughter.

There are a number of parallels between the expedition mounted by Seguin and those undertaken by the filibusterers of the nineteenth century. While the expedition plans to make its way into territory controlled by the Navajo, it is suggested in the novel that the land is claimed by the Mexican government. In fact, Seguin asserts that the governor of New Mexico is “in league” with the Navajo, agreeing to leave them in peace so long as they in turn agree to attack only the enemies of the governor, whomever that may be. This is in keeping with the racial overtones of Walker’s filibustering expedition where he occasionally refers to the “mixed race” of Central and South America as a reason why the region has difficulty cultivating strong leaders (Walker 246). The possibility that Mexicans were consanguineous with the Native-Americans

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16 The question of race, purity, and regeneration seems to have surrounded discussion of Walker’s expedition in the press. In a May 7th, 1855 article from Sacramento, California’s Daily Democratic State Journal, a journalist writes about all of the exciting possibilities founded in Walker’s recent expedition, including the strength of “Teuton blood” being introduced to Nicaragua. The author further claims, that such blood “may be mixed again and again, but the Teuton still predominates,” suggesting a kind of internal biological battle where Teutonic heritage always wins out. Our internal racial conflicts manifest themselves in the world. This image of an internal biological battle also eases concerns over racial indeterminacy. A November 23rd, 1855 article in the Vermont Patriot & State Gazette is even more explicit in its racial hierarchies. The author writes that General Walker’s victory in Nicaragua was unsurprising considering that it has been clear for decades “that the natural destiny of the Central Americans
appears to make them suspect rulers. And where Walker justified his filibustering expedition into Mexico by citing the Mexican government’s inability to protect its settlers from Native-American raids, Reid establishes the Mexican governor as explicitly in cahoots with the Navajo. The titular scalp hunters are invading not only Native-American territory but what would have been considered the sovereign borders of a European style nation-state.

The expedition, like the prairie traders Enrique joined earlier in the narrative, is mostly multinational and some are even Delaware and Shawnee Indians. Describing his history, Seguin refers to himself as a Creole whose family had been forced to flee Haiti during the revolution. For the most part these men have national affiliations outside of Mexico. Seguin established himself as leader early on, forming a group agreement between himself and his men:

“Let it be understood, then, no women nor children. The plunder you shall have, it is yours by our laws, but no blood that can be spared. There is enough on our hands already. Do you all bind yourselves to this?”

“Yes, yes!” “Sí!” “Oui, oui!” “Ya, ya!” “All!” “Todos, todos!” cried a multitude of voices, each man answering in his own language.

“Let those who do not agree to it speak.”

A profound silence followed this proposal. All had bound themselves to the wishes of their leader. (Reid ch. 23)

This exchange of a proposal and a clear response in the affirmative binds Seguin and his men in a contractual relationship. He agrees to pay all of his soldiers in return for their help rescuing his daughter, but they also must agree not to unnecessarily take lives, especially not those of women and children. This exchange likens the expedition to the fictional contract that theorists like

was to be subjected by the Anglo-Saxons” and later that “the degraded mongrel—the Spanish Indian—…cannot read, or work, or think” (“Gen. Walker in Nicaragua”).
Locke, Hobbes and Rousseau posited as the starting point for civilized society. If we take this group to be synecdoche for a contractually built society, then Seguin is established as its leader and sovereign. Reid purposefully highlights the multilingual nature of Seguin’s men with their answer in the affirmative but follows up this heteroglossic series of yeses with the shouts of all in both English and Spanish, a statement of cohesion that binds the multitude into a singular political body.

Seguin establishes himself as sovereign through means beyond the contract he makes with his men. He is knowledgeable of the terrain the soldiers will be crossing, he proves himself in battle, and he even accepts advice from his subordinates when necessary. But the hierarchy between Seguin as sovereign to his band of men fractures throughout the narrative. He has difficulty keeping his men on the mission when they believe they are traveling over mountains that could be filled with gold, and there are several instances when Seguin is unable to restrain his men’s violent temperament. The tie between sovereign and people reaches its nadir when the mercenaries come across a number of native women who are not accompanied by Navajo warriors. Many of the soldiers begin to tie up and carry away their chosen female captives, some even fight over the same woman or discard one woman for another who is deemed more attractive. The attempted rape of Native American women is too much for Seguin who draws his pistol on his men. Reid describes the situation as a mutiny, but when it seems like Seguin’s leadership is about to be overthrown, Navajo warriors appear and the band is once again reunited against a “common enemy” (Reid ch. 39). It is only through the appearance of a distinct other that Seguin’s culturally disparate group can reform a singular identity.

When and where Seguin chooses to ignore his own rules that they shall not “spill blood that can be spared” provides us with an alternate vision of Agamben’s state of exception to that
found in William Walker’s text. While Seguin’s rule applies to the women his men are trying to abduct, earlier in the narrative he purposefully ignores the violent action of his men, despite appearing to believe that they cross ethical boundaries. The scalp hunters surround a tuft of trees in the middle of the plains where they believe several Native-Americans are hiding; they proceed to flush out the hidden Native-Americans, an act that the narrator likens to hunting for game:

It was a terrible spectacle. I looked towards Seguin, thinking that he might interfere to prevent the barbarous battue. He noticed my inquiring glance, and turned his face from me. I fancied that he felt ashamed of the work in which his followers were engaged; but the killing, or capture, of whatever Indians might be in the motte had now become a necessary measure, and I knew that any remonstrance of mine would be disregarded. As for the men themselves, they would have laughed at it. This was their pastime, their profession, and I am certain that, at that moment, their feelings were not very different from those which would have actuated them had they been driving a bear from his den. They were, perhaps, a trifle more intense; certainly not more inclined towards mercy.

(Reid ch. 32)

Reid establishes the scene as a massacre. The narrator expresses his disapproval by comparing the violence against the Native-American scouts to violence against wild game, a sentiment that appears to be returned by Seguin as evinced by his refusal to face Enrique. Enrique resigns himself to the belief that killing or capturing any Native Americans they encounter is a necessity, but he later states that the men are in such a fervor that they are less “inclined towards mercy” for the Native Americans than they would be if they were hunting a bear, suggesting that the narrator is well aware that the men will almost certainly kill and not capture their prey, which
they eventually do and then mutilate the bodies. From this perspective, the violence committed on these Native Americans clearly violates Seguin’s command not to spill any blood that can be spared, a rule that is purposefully made an exception by both Seguin and his people.

But this is a different model of the exception than that seen in *The War in Nicaragua*. In the latter instances of torture found in *Nicaragua*, Walker draws a direct link between himself and the violence perpetrated. He is having a Nicaraguan man tortured because he is the singular representative of Nicaraguan popular sovereignty. But in *The Scalp Hunters* the exception is associated with the people rather than the singular sovereign. The exception, then, is dialectic, a decision based on the combined influence between the sovereign and the people. Where Walker asserts his ability to commit violence as a representative of popular sovereignty, Seguin must know when to unleash the rancor of popular sovereignty. In this manner, Reid provides us with a more complex image of sovereignty. Seguin becomes the sovereign figure through both a contractual agreement and his apparent leadership ability, but the people do not fully relinquish their ability to determine the state of exception. Instead, Reid is suggesting that it is necessary for Seguin to relinquish sovereign authority to the people occasionally in order to maintain his control over the political body. Mob violence functions as a pressure relief valve where the people reassert their authority as arbiters of violence and the exception so that Seguin, as a singular sovereign, can later claim his right as leader.

The violence unleashed by the scalp hunters appears representative of one of the attendant outcomes of American expansion. In *Manifest Manhood and the Antebellum American Empire*, Amy S. Greenberg notes the central place that the concept of the “safety valve” had in rhetoric regarding manifest destiny. As immigration into the United States increased throughout the antebellum years, more Americans became concerned over the simmering racial and class
tensions resulting from a diversity of ethnicity and highly asymmetrical wealth disparities. Centrifugal movement of bodies served as a safety valve, obscuring racial and class strife by presenting ever more territory that might be incorporated into the American project: “Territorial expansionism provided a fictional space where men could join in a common celebration of American might and where American men, struggling through a period of economic and social transformation, could find redemption” (Greenberg 44). In addition to easing preexisting racial and class tensions, American expansion helped foment cultural cohesion and shared American identity among disparate socioeconomic groups.

We see this same common celebration present in the two images of violence presented by Reid. The diverse, multiethnic group of scalp hunters begins to splinter while arguing over whether or not they should rape the American-Indian women captives, but soon coalesce when faced with Native American warriors, a collective purpose that is matched by the scalp hunter’s massacre of Native American scouts. Reid provides us with an image of how popular sovereignty is spread outward towards territory that is not fully incorporated into the nation-state. Drawing on Carl Schmitt, Agamben notes that the state of exception was often projected outside of the nation-state, relying on the Americas of the seventeenth century as a prime example.17 Contract theorists like Hobbes and Locke projected onto the New World an image of the state of nature. Agamben draws a direct line between the state of nature and the state of exception: “The state of nature and the state of exception are nothing but two sides of a single topological process in which what was presupposed as external (the state of nature) now reappears…in the inside (as state of exception), and the sovereign power is this very impossibility of distinguishing between outside and inside, nature and exception” (Homo Sacer 37). Agamben outlines how space

17 In Nomos of the Earth, Carl Schmitt argues that the relative stability of European states following the Treaty of Westphalia occurred partly because these conflicts could be displaced onto the New World.
outside the nation might be incorporated inside the nation while also maintaining and the original element of the space/state of exception. Reid’s fiction is enamored with these spaces of exception and the kind of violence that erupts in this realm.

Because Agamben’s work spans so many centuries, covers such a dizzying array of juridico-political arrangements, he never clearly specifies what he means by the term sovereign. The concept of sovereignty from the European Middle Ages sits uncomfortably next to the notion of sovereignty in antebellum United States. *The Scalp Hunters* imagines how popular sovereignty might coexist with the exception in the form of communal violence. It is the goal of the singular sovereign, in the form of Seguin, to understand when he should and should not institute preexisting legal codes and when he must release popular authority back to the people. Walker understood the power inherent in appeals to popular sovereignty. Although the election he held after obtaining control over Nicaragua was in all likelihood a sham, it was a necessary gesture for him in order to claim to be representative of the people of Nicaragua. But unlike Reid’s Seguin, Walker was never able to reauthorize his position of singular sovereign. Despite promises, there would be no further elections, and using the logic of inside and outside, Walker attempted to gain legitimate power to wield sovereign power, until, that is, he was finally driven from the country altogether. In order to maintain legitimacy, even a singular sovereign must relinquish power in order to reauthorize his or her own rule.

V. Conclusion

William Walker’s own account of his conquest of Nicaragua showcases ways in which popular sovereignty is compatible with imperial ambitions. Working through the framework of popular sovereignty, Walker’s *The War in Nicaragua* posits a version of popular sovereignty that
inaugurates a reciprocal relationship between the people and the singular sovereign through martial benevolence and then establishes the singular sovereign as the representative of the people and arbiter of the state of exception. In this manner, popular sovereignty, however uncomfortably, lies congruent to autocratic rule. While filibusters like William Walker are peculiar products of the nineteenth century, the claims they made to martial benevolence have lived on. Arguing that a nation must unilaterally violate sovereign borders for the good of the people is a common discursive practice in the twenty-first century.

As a normative concept, ideas of sovereignty straddle the line between legal and cultural realms. Questions of sovereign authority are just as likely to be fought in the realm of popular print culture, such as Thomas Mayne Reid’s *The Scalp Hunters*, as it would in the legal world of treaties and lawmakers. As a case study, Reid’s *The Scalp Hunters* illustrates different ways the state of exception was envisioned in the popular imagination. Where Walker viewed himself as a single repository of the popular will, Reid’s version of popular sovereignty represents a dialectical struggle between the singular sovereign and the popular sovereign. In *The Scalp Hunters*, the singular sovereign has the capacity to channel the violent impulses of the people, but ultimately the people have the ability to determine the state of exception through mob violence. These conflicting visions of sovereignty and the state of exception within the two texts speak to the difficulty nineteenth century authors had locating who is the ultimate arbiter of power under the auspices of popular sovereignty.
Chapter 2: “The State is Little More than a Dream”: Intrastate Sovereignty in 
*Commonwealth v. Aves* and *My Bondage and My Freedom*.

“I believe this government cannot endure, permanently half slave and half free. I do not expect 
the Union to be dissolved -- I do not expect the house to fall -- but I do expect it will cease to be 
divided. It will become all one thing or all the other. Either the opponents of slavery, will arrest 
the further spread of it, and place it where the public mind shall rest in the belief that it is in the 
course of ultimate extinction; or its advocates will push it forward, till it shall become alike 
lawful in all the States, old as well as new -- North as well as South.”

-Abraham Lincoln, “House Divided Speech” (1858)

“But with the global trend toward nationalism and in the context of our current situation, Texas 
nationalism is making a comeback. At this critical time in our history, Texans are starting to 
reach back and remember those things that gave us our national character. This is a journey of 
self-discovery, of remembering where we’ve been, who we are, what we can do and where we 
can go”

-Daniel Miller, “Line in the Sand,” Texas 
Nationalism Movement (47) (2011)

I. A Slave in the North

In 1836 slaveholder Mary Slater made her way from her residence in New Orleans to 
Boston in order to visit her father, Thomas Aves. Slater brought with her a six-year-old slave 
girl named Med, and when she decided to make a short trip to Roxbury, Slater left Med in the 
custody of her father, intending to retrieve Med before returning to New Orleans. During 
Slater’s brief absence, the Boston Female Anti-Slavery Society, an integrated abolitionist group, 
sued Thomas Aves on behalf of Med, claiming that Aves was holding Med against her will. 
Aves rejoined that he was acting as his daughter’s agent in her absence. The case made its way 
to the Massachusetts Supreme Court under the chief justice Lemuel Shaw. In his decision, 
which was partially based on a particular vision of state sovereignty, Shaw sided with the 
abolitionist organization and ordered Med freed.

The *Aves* case was just one of a number of legal cases known as freedom suits in which 
slaves took the decision regarding their freedom in front of a judge. The most famous freedom
suit, *Dred Scott v. Sandford*, took place in 1857, and because it stripped both free blacks and slaves of citizenship, it effectively put an end to the freedom suit (Wong 144). But a number of freedom suits prior to 1857 dealt with questions of geographical movement and agency. As Shaw finds in *Aves*, a slave may only sue for his or her freedom if he or she had been brought voluntarily into a free state by the slave owner. *Aves* did not apply to fugitive slaves. In particular, the *Aves* case was responding to “sojourner laws,” which allowed slave owners to freely move through free states without fear that their slaves would be taken from them (Wong 79). Abolitionists viewed sojourner laws as a backdoor means for importing slavery into northern states without burdening slave owners with the onerous task of changing the laws of the state to accommodate slavery. Sojourner laws, then, blurred the distinction between slave and free states and made northerners anxious about how complicit their state was in bolstering the peculiar institution. Shaw’s decision in *Aves* attempts to soothe this anxiety by drawing a clear border between north and south, free and enslaved.

The slave narrative, likewise, was deeply invested in the movement of bodies across artificially drawn legal boundaries. Where the freedom suit and the slave narrative crafted opposite relations between a slave’s agency and a slave’s freedom—in the freedom suit a slave had to involuntarily move into the north but in a slave narrative the movement from slave to free states is an assertion of agency—the two genres often overlapped in how they mapped concepts of freedom and slavery onto north and south. The North-South divide was naturally an important geographical distinction within the slave narrative, but a number of slave narratives of the nineteenth century rebuffed this common south to north trajectory. Many slaves fled to the western territories in their search for freedom and others sought out the protection of Native-
American tribes. Even within canonical slave narratives, freedom and slavery do not always neatly map onto a north/south axis. In his second autobiography, *My Bondage and My Freedom*, Frederick Douglass complicates the relationship between North and South by extending the narrative well beyond his initial arrival and adjustment to living in the North. Instead, Douglass examines ways in which blacks in the north are also bound and restrained according to a version of northern prejudice akin to southern prejudice.

For the distinctly political and legal purposes of the slave narrative, it is not surprising that most represent the North as an unambiguous space of freedom. After all, the author of a slave narrative is attempting to enlist the help of northerners in the fight against slavery. Likewise, Shaw’s decision in the *Aves* case served to soothe anxiety over the circulation of slaves in the North, and he does so not only through the legal remedy of removing slaves from their owners, but also by rhetorically tearing these two geographies apart. In *My Bondage and My Freedom*, however, Frederick Douglass rebuffs the simple dichotomy between North and South, instead emphasizing continuity between the types of racism found in both halves of the United States. In the following chapter, I put the freedom suit *Commonwealth v. Aves* in conversation with Frederick Douglass’s slave narrative, *My Bondage and My Freedom*. In Douglass’s second autobiography, true freedom becomes impossible in the north, forcing him to seek out extra-territorial space in England. It is only a perspective from across the Atlantic that allows Douglass to envision what freedom might look like in the United States. Both *Aves* and *My Bondage and My Freedom* have implications for what political theorist Daniel Deudney terms

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18 In “African American Men in the American West, 1528-1900,” Quintard Taylor notes that shortly before the Civil War, slaves made up 30 percent of Texas’s overall population. He also recounts the story of Henry Clay Bruce who fled from Missouri to Kansas in 1863, carrying with him duel revolvers and ammunition for protection. African Americans also developed their own Maroon cultures within Native American communities. In “Behind the Lines: The Black Mardi Gras Indians and the New Orleans Second Line,” Michael P. Smith argues that we should view the present-day Black Mardi Gras Indians as a contemporary form of Maroon culture.
the Philadelphian system of sovereignty. As described by Deudney, the Philadelphian system conceives of national sovereignty as a fragmented, heterarchical system of checks and balances that lacks a clear overriding sovereign authority, a system that lasted in the United States prior to the Civil War when the federal government finally asserted a hierarchical dominance within the federalist system. Where the decision in *Aves* reinforces the idea that the United States is a conglomerate of sovereign authorities, *My Bondage and My Freedom* critiques the Philadelphian system as inadequate for protecting the rights of all citizens.

II. The Philadelphian System

The fragmented, factional geography of the United States in the antebellum era in part has its roots in the U.S.’s distinct form of sovereignty during that period. The work of Daniel Deudney provides a useful outline and vocabulary for understanding the U.S.’s sovereign arrangement prior to the Civil War. Deudney argues that the sovereign structures found in the United States between the ratification of the Constitution and the Civil War constitute a form of sovereignty distinct from that of Europe at the time. Deudney terms this form of sovereignty the Philadelphian system, which he contrasts with Europe’s Westphalian system. The Westphalian system, as defined by Deudney, amounts to “hierarchy inside and anarchy outside” (190). Within a territorial institution, the sovereign power establishes a monopoly of power according to a state hierarchy. But outside of this territorial authority, nation-states have no inherent requirement to respect each other’s autonomy. However, it is within each state’s best interest to establish a balanced interstate order through mutual recognition and a clear balance of power. While the interstate relationship in the Westphalian system is de jure anarchic, there is a de facto sense of order.
The Westphalian system, despite being the most commonly studied form of sovereignty, is not the only system of sovereignty. Deudney points to a number of alternative forms of sovereignty that have existed contemporaneously with the Westphalian system, including the Holy Roman Empire, the Iroquois Confederation, and the early United States (191). The Philadelphian system exists somewhere between a fully integrated sovereign power with cohesive territorial boundaries and an interstate confederation. According to Deudney, not only is the Philadelphian system an alternative to the Westphalian system, but it is an alternative self-consciously constructed by the United States in opposition to the European Westphalian system. The Philadelphian system can exist because within its structures, the concepts of sovereignty and political authority do not fully overlap. Where sovereignty is defined as the supreme fount of all legitimate power in a political system, political authority is the mechanism through which this authority is filtered. Within the American political system, right is derived from the theory of popular sovereignty, or the idea that the ultimate authority rests with the people. It is up to the political mechanisms to carry out the sovereign will through a republican system. Unlike the Westphalian system, the Philadelphian system insists on a break between the location of the sovereign and the state’s political institutions, using a complicated balance of contesting heterarchical government structures. In other words, Deudney claims that the Philadelphia system is unique because it refuses to elevate the federal government to the supreme hierarchical position within the government.

Separating sovereignty and political authority leads to several concerns. Chiefly, the framers of the U.S. Constitution and *The Federalist Papers* were concerned with the dual threats of anarchy and despotism, which Deudney claims come in four categories: “domestic revolution and tyranny and external war and empire” (198). The dangers facing the Philadelphian system
arise from the extremes of too much and too little state power. Anarchy might arise from general
mob violence, but it can also result from factionalism between states. In order to guard against
despotism, the Constitution constructed a number of means of constraining state power,
including popular elections, term limits, and checks and balances. In the case of war, for
instance, the President serves as commander in chief, but only Congress may declare war.
According to Deudney, if these restraints fail, the people are vested with the power to form
armed militia (199).

How, then, are we to describe the arrangement between the different parts of the U. S.
government? Deudney claims that hierarchy is an insufficient term for the Philadelphian system,
because it denotes a simplified structure of authority and subservience. Even the popular
sovereign—which is broad and not easily located—does not fully serve as an ultimate authority
figure, because it must enact its will through a republican system of governance. Rather,
Philadelphian sovereignty is built out of a system of sectional government organizations imbued
with the crosscurrent power to negate the actions of each contingent part. Deudney terms this
arrangement negarchy: a structure of power designed to determine a balance between anarchy
and tyranny through the established power to negate competing governmental components.
Deudney claims that negarchy serves as a third structural power of political order in addition to
hierarchy and anarchy. But within this negarchy the U. S. also had to form a cohesive national
identity, and this is where social practice served as a cultural adhesive. American civic identity
was produced and reproduced through “mass public education, ceremonies and rituals, and
public architecture and iconography” (206). ¹⁹ In this manner, the Philadelphian system relied a

¹⁹ Deudney makes the claim that unlike other democratic nations, early Americans emphasized virtue coupled with
self-restraint as a chief component of civic identity. Virtue may have very well been a major civic concern of
Americans, especially in Victorian American culture, but as Amy S. Greenberg observes, this emphasis on virtue as
a republican form of self-restraint was not universal. She locates within nineteenth-century American culture two
good deal on private, cultural forces in order to maintain a tight balance between tyranny and anarchy.

If Westphalia is a form of sovereignty born out of but still distinct from monarchy, then the Philadelphian system is its liberal alternative. There are a number of questions that arise when examining Deudney’s description of the Philadelphian system, chief among them is, why did the Philadelphian system in the U.S. have an end date? In his description of the Philadelphian system, Deudney presents a well balanced image of negarchy. What could cause this form of sovereignty to fade away? Deudney theorizes that while the primary cause of the Civil War resided in the question of slavery, the issue of slavery was also attended by questions of how to conceive of sovereignty. Northerners envisioned popular sovereignty as existing throughout the American republic, but southerners argued that sovereignty resided in the residents of each individual state and that each state could leave the union at will. Deudney establishes the Kansas-Nebraska Act of 1854 as the moment where the negarchic balance of the Philadelphian system finally came undone. Deudney argues that previous national laws created to deal with questions of slavery and the creation of new states—the Missouri Compromise of 1820, the Compromise of 1833, and the Great Compromise of 1850—were carefully balanced between the factional interests of the U. S. The Kansas-Nebraska Act, however, left it up to the settlers in these states to determine the issue of slavery, prizing the sovereignty of a single state over the popular sovereignty of the entire nation. This law resulted in the influx of both pro and anti slavery forces into Kansas where the two groups violently clashed in order to determine whether or not slavery would or would not be legal within the territory. Most famously, John Brown and his followers killed several pro-slavery settlers in their efforts to prevent the spread of slavery.

competing modes of masculinity: 1) constrained manhood and 2) martial manhood. Where constrained manhood more clearly aligns with Deudney’s image of self-restraint and virtue, martial manhood placed emphasis on physicality and violence rather than self-restraint (Greenberg 11).
of slavery into the newly established territories.

While it may be problematic to situate the Kansas-Nebraska Act as a singular event that threw the nation out of balance, rather than placing it within the larger historical context of failed compromises, including the 3/5ths Compromise and the Compromises of 1820, 1833, and 1850, that lead to the Civil War, Deudney’s description of the Philadelphian system raises a number of questions regarding how Americans in the nineteenth century would have viewed the arrangement of sovereignty in America. The concept of negarchy itself, the idea that governmental factions could negate each other in an overlapping manner, suggests that the kind of factionalism may be inevitable within this sovereign system. If a state has the right to rebuff federal law through a federalist system, then they also have the ability to establish themselves as an independent sovereign authority. Popular sovereignty, then, may refer not only to a cohesive nation, but to geographic and politically segmented portions of that nation. In the case of the U.S. this means each individual state has its own notion of popular sovereignty. In fact, the states that make up the U.S. had enough leeway to determine who constituted a full American within their borders that male suffrage in the early nineteenth century largely centered on state level protest by non-land owning males. Where women, blacks and Native Americans obtained voting privileges through federal law, male suffrage in the early nineteenth century were largely determined through individual state action.20 Through such legal measures, states could individually determine who constituted part of the popular sovereign.

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20 As Erik J. Chaput recounts in his essay, “‘Let the people remember!’: Rhode Island’s Dorr Rebellion and Bay State Politics, 1842-1843,” Thomas Wilson Dorr lead a military rebellion within the state of Rhode Island in order to establish male suffrage within the state. Unlike most other New England states, Rhode Island maintained its colonial charter following the American Revolution rather than updating it to better match late 18th-century revolutionary ideals. The Harvard educated Dorr was first involved in the abolitionist movement before turning his attention to male suffrage. Relying on extralegal procedure, Dorr established a rival Rhode Island Constitution, and when the state government refused to enforce the new Constitution, he turned to violence to achieve his end. Unlike women’s suffrage and African-American suffrage, which were established on a federal level, Dorr’s Rebellion illustrates how non-land owning males attempted to legitimize themselves as members of the popular sovereign on the state level.
Deudney also simplifies how North and South envisioned popular sovereignty as it existed in the nation and within individual states. As an example of the southern image of popular sovereignty, which was fragmented among the states, he points to the speeches of John C. Calhoun who believed that sovereignty was vested in the individual states. And as an example of the northern beliefs, he points to congressional speeches of Senators Daniel Webster and Robert Livingston who argued that sovereignty was infused within the nation as a whole. But the example of the freedom suit illustrates ways in which southerners often relied on federal support that contravened Calhoun’s beliefs and northerners relied on arguments of individual state sovereignty that were at odds with an image of the nation as a cohesive sovereign entity.

Edlie Wong observes that Mississippi’s list of secessionist complaints included the northern act against “our citizens when travelling among them for pleasure, health or business, by taking their servants and liberating the same” (qtd in Wong 6). The concern that northern states will continue to repeal sojourner laws, preventing southerners from traveling to northern territory accompanied by their slaves, is fundamentally at odds with the argument that northerners were encroaching upon the sovereignty of southern states. By taking issue with the rejection of sojourner laws by northern states, southerners were relying on the notion that the federal government should protect the “property” of all citizens when they cross state borders. If anything, southerners decrying the decision in Aves were simultaneously arguing for curtailing the sovereignty of individual states and bolstering the power of the federal government. By contrast, Shaw’s decision in the Aves case relied on asserting the sovereign authority of Massachusetts in order to abolish state sojourner laws, even relying on the English court case Somerset v. Stewart, which held that slavery could not exist within England except through positive law. By building his decision on the law of a sovereign nation-state, Shaw further
elevates the sovereignhood of Massachusetts.

It is into this environment, where both northerners and southerners were strategically asserting the rights of individual state sovereignty, that Douglass inserts himself. Deudney’s concept of negarchy is useful for analyzing the often troubled interstate relationships as well as the relationship between individual states and the federal government. Through Douglass’s *My Bondage and My Freedom* we can see ways in which negarchy establishes spaces of exception where private actors in the form of plantation owners may establish near total control over slaves. These spaces of unfreedom occur not through the positive effect of government, but through the mostly negative effect of government that restrains the ability of competing sovereign forces of actively bring African-Americans within the realm of popular sovereignty. Douglass is able to reassert the U.S. as a sovereign whole only after he finds himself in self-exile across the Atlantic in Great Britain. It is from this perspective that Douglass envisions the U.S. as a cohesive rather than fragmented sovereign nation.

**III. Commonwealth v. Aves and the State as a Foreign Entity**

In the popular imagination of the nineteenth century, northerners envisioned their territory as a space for freedom in direct contrast with the south. The conceptual delineation of north and south as wholly separated spaces of freedom and slavery can be found in maps of the antebellum United States. A map published by G. W. Elliot in 1856 is provided the typically lengthy title of “Map of the United States, Showing by Colors the Areas of Freedom and Slavery, and the Territories Whose Destiny is Yet to Be Decided, Exhibiting Also the Missouri Compromise Line, and the Routes of Colonel Fremont in His Famous Explorations,” and it shades all states north of the Mason-Dixon line in red and all states below in blue. Any
ambiguity is reserved for western states, indicating that any future political or court battles regarding questions of slavery will migrate in that direction. Likewise, William C. Reynold’s “Political Map of the United States” uses three colors to delineate free territory, slave territory, and territory where the question of slavery is unsettled. The longer title of Reynold’s map includes the phrase, “And the Territory Open to Slavery or Freedom by the Repeal of the Missouri Compromise.” Once again, the chief concern seems to be over the western states, which at the time were regulated by the Missouri Compromise.

These maps suggest that the question of slavery in the northern and southern states was a settled issue, but as Wong notes, this was far from true. Wong argues that freedom suits challenged the geographical concepts of the free northern states and the southern slave states: “Freedom suits unsettled the abolitionist imaginary of freedom as mapped onto a trajectory from south to north” (Wong 8). Representations of runaway slaves have often stressed the slave’s flight from the South and, once the fugitive slave act was passed, his or her escape into Canada. This narrative ignores the fact that slavery also existed in the North under “sojourner laws” which allowed slave owners to freely move about free states with their slaves. The realization that slavery was not relegated to the south instilled anxiety in northerners’ conception of their states as exemplars of freedom in contrast to the South’s onslaught against natural rights. Beyond its legal purpose, the freedom suit served to ease that anxiety by prohibiting the transport of slaves into the North lest the slave owner risk losing his slave at the hands of northern courts.
As Wong observes, legal documents often served polemical and cultural function within the broader society. The abolitionist community would circulate judicial decision or even form periodicals focused on a single slave case in order to sway public opinion against slavery. The case of *Aves* began circulating throughout Boston’s print culture. Newspapers carried detailed accounts of the courtroom happenings, and Isaac Knapp who co-published *The Liberator* with William Lloyd Garrison collected the complete arguments of the antislavery lawyers, the writ of habeas corpus, and the opinion of the court written by Shaw into a pamphlet titled *Report of the Arguments of Counsel, and of the Opinion of the Court, in the Case of Commonwealth v. Aves* (1836). *Commonwealth v. Aves* held a particular appeal since it involved a six-year-old girl, an often sentimentalized figure in nineteenth-century literature, employed in Harriet Beecher Stowe’s *Uncle Tom’s Cabin* in the form of Evangeline St. Clare and in Susan Warner’s *The Wide, Wide World* in the form of Ellen Montgomery (Wong 81-2). In this manner, legal texts were accomplishing some of the same cultural work as anti-slavery works of literature. Of all the popular genres from the first half of the nineteenth century, perhaps no other genre is more intertwined with the law than the slave narrative. Jeanine Marie DeLombard observes that print culture in the early nineteenth century served as an “alternative tribunal” for abolitionist forces and further suggests that knowledge of nineteenth-century law is an integral tool for working with nineteenth century American literature (1). 21 When the laws of the state turned against the anti-slavery cause, abolitionists would turn to “higher law” to promote their goals. Gregg D. Crane argues that higher law, or the idea that there is a truer law set outside the bounds of man, is ultimately a cultural phenomenon found outside of legal discourse (13). The concept of higher law granted authority to members of the non-legal community to engage with legal decisions.

21 In “‘The laws were laid down to me anew:’ Harriet Jacobs and the Reframing of Legal Fictions,” Christina Accomando argues that instead of viewing Jacobs’s *Incidents in the Life of a Slave Girl* as a female corollary to Frederick Douglass’s writing, we should examine the legal arguments she is making.
The father-in-law of Herman Melville, Lemuel Shaw’s legal opinions have been particularly ripe for analysis by literary scholars, and his decision in *Commonwealth v. Aves* serves both a legal and cultural function.\(^2\) The freedom suit not only barred the circulation of slaves in the north, but also recursively defined the north as a state of freedom in contrast with the slave owning south. In the case of the opinion Shaw issued in *Aves*, the tensions between the case’s legal and moral arguments manifest themselves in the opinion’s back and forth transition from its objectivist legal language to its use of emotional appeals. One of law’s many discursive strategies is its utilization of the neutral language of fact, which removes the judge from the opinion as a subjective actor and replaces him with the godlike position of reason. We see Shaw rely on this objectivist rhetoric when establishing the facts of the case using a string of semicolons to connect clauses that begin with “that”: “that Aves is the agent and legally authorized representative of S. Slater in this behalf; that the child is about six years of age and wholly incapable of taking care of itself” (*Aves* 3). There are, however, moments where the objective discourse breaks down. When recounting the case, *Somerset v. Stewart*, a freedom suit that tellingly took place in England not the United States, the Justice appears to go out of his way to state that slavery “is so odious, that nothing can be suffered to support it but positive law” (*Aves* 34-35). Here Shaw breaks from his impersonal style and vehemently denounces the institution of slavery, claiming that outside of a legal system that supports it, slavery will cease to exist. As Shaw develops his legal argument, he also constructs a social and moral argument. The transition from a legalistic language to one of moral condemnation is indicative that Shaw shares the same general anxieties regarding sojourner laws as abolitionists—that the circulation

of slaves within free states would diminish the moral differences between the north and the south.

Shaw presents the relationship between North and South not as a clear division like contemporary political maps, but as a delicate balance between freedom and slavery. In the judicial opinion, Shaw expresses his fears that Massachusetts might become a safe haven for slave owners:

if it [sojourner laws] did [exist], it would follow as a necessary consequence, that all those persons, who, by force of local laws, and within all foreign places where slavery is permitted, have acquired slaves as property, might bring their slaves here, and exercise over them the rights and power which an owner of property might exercise, and for any length of time short of acquiring a domicil [sic].

(Aves 48)

Shaw links slave owners of the south with foreign slave owners, relying on insider and outsider sentiment to suggest that southerners will change the nature of northern society. His use of hyperbolic language, such as “necessary consequence” and “all” slave owners, is a response to abolitionist fears that, without legal restrictions, slave owners would pour over state lines, transforming free states into slave states. Here Shaw is engaging in a slippery slope argument. If we allow the free transport of slaves across the state, then so long as the slave owner does not establish a permanent domicile in the state, he may maintain his slaves. Shaw also smartly dislocates establishing a domicile from how much time the foreigner spends within the state, observing that a southern American may occupy the state for “any length of time” without becoming a Massachusite.

More broadly Shaw attempts to analogize the separate states into independent countries,
referring to all slave states outside of Massachusetts as “foreign.” This rhetorical strategy is tied with a legal argument that relies on appeals to state’s rights. Coming from a twenty-first century perspective, where many continue to re-brand the Civil War as a conflict not about slavery but as a battle about states’ rights, Shaw’s argument might seem strange. One of Shaw’s guiding cases is *Somerset v. Stewart* (1772), a case of a slave who was brought into the free country of England, which relies heavily on the sovereignty of the nation to determine its own laws. In *Somerset*, England established the right of a slave to acquire a writ and sue for his or her freedom if brought into England. Examining *Somerset*, Shaw argues that each “independent community…has a full and perfect authority to make such laws for the government of its own subjects, as its own judgment shall dictate and its own conscience approve” (*Aves* 35-36). This language teases apart the different states, imagining them not as interrelated parts of a whole but as separate sovereign nations. Through language Shaw brings the borders between states into relief, separating them both geographically and ideologically. The sins of the South no longer stain the northern free states.

Shaw’s decision depends on the concept of comity, a legal theory whereby differing sovereign authorities enforce the laws of other nations “out of respect and deference rather than obligation” (*Imperfect Union* 4). Comity arises out of loose political alliances rather than territories bounded within the same nation-state. Shaw admits that property is permanently linked to its owner even as the owner crosses state boundaries. But he further adds that slavery is different because a slave is not defined as property in all places. In other words, once an enslaved black enters a free state, he or she is no longer considered property but a person. Christine MacDonald notes that Shaw purposefully uses the word “person” for white and black alike as a means of erasing racial difference, a strategy that further dissolves the link between
blackness and property (635). Shaw makes his reliance on an understanding of what Deudney terms Philadelphian sovereignty even more explicit in the conclusion of his decision when he has to define the term foreign in order for the logic of his decision to function: “meaning by ‘foreign,’ in this connection, a state governed by its own laws, and between which and our own there is no dependence one upon the other, but which in this respect are as independent as foreign states” (47). Because he relies on Somerset, Shaw must employ the term foreign in almost as much of a metaphorical as a legal manner. His definition signals the figurative nature of the term by flanking foreign with quotation marks and using the preposition “as” in order to form a simile connecting his version of foreign with how the word is used in international law. While the different states that make up the U.S. are not exactly foreign to one another, they are “as independent” of each other as foreign nations. But even as Shaw draws attention to the fiction he must create in order to divorce slave and free states, he simultaneously mischaracterizes the relationship between both halves of the country. Shaw makes the claim that there is “no dependence” between Massachusetts and southern foreign states, a clear fiction that ignores the political and economic ties between individual states. The self-confessed legal fiction distorts the interconnected relationship of the separate states. In this sense, Shaw is carrying negarchy out to its logical extreme: complete and total separation of the contingent parts making up the United States.

Shaw goes further than merely separating North and South; he establishes the kind of ideological beliefs that drive Massachusetts law and society by further arguing on the grounds of “natural rights.” Shaw notes that the Massachusetts constitution abolished slavery “upon the ground that it is contrary to natural right and the plaint [sic] principles of justice” (Shaw 32). He then contrasts the Massachusetts Constitution guarantee of freedom with the current plight of
slaves in the South: “According to the laws prevailing in all the States where slavery is upheld, the child of a slave is not deemed to be born free, a slave has no right to enjoy and defend his own liberty, or to acquire possess, or protect property” (Aves 33).\textsuperscript{23} The contrast between the rights afforded to all citizens of Massachusetts and the degraded position of slaves in the South further demarcates both parts of the country along lines of geography and freedom. The invocation of natural rights also aligns northern free states with the prevailing sentiments of foundational American documents like the Declaration of Independence. Shaw implies that while the South has discarded the foundational ideals of America, the North continues to exemplify the principles of the American Revolution.

It is important that Shaw rely on natural rights to differentiate North from South, because he is arguing that slavery cannot exist without an explicit legal framework. Slavery is not self-enacting. Early in the decision Shaw previews this argument by repeating the phrase “force of laws” when referring to the presence of slavery within the South. For Shaw, an absence of slavery is a result of natural law where the presence of slavery is a result of man’s law. The view that slavery only exists through the force of positive law and is anathema to natural law serves a clear purpose in Shaw’s opinion. Because slavery cannot exist without a legal framework, in order for slavery to be present within Massachusetts, the state needs to enact a law that explicitly authorizes its entry. In order to come to the conclusion that slavery exists only through positive law, Shaw has to ignore the fact that, as Paul Finkelman notes, slavery developed in a number of states in the absence of any clear statutory support (Law of Freedom and Bondage 33). Slavery seems perfectly capable of existing within the Americas without clear

\textsuperscript{23} Shaw also appears to be invoking the concept of self-possession when discussing rights that are stripped from blacks in the south. He goes out of his way to place freedom next to the concept of property ownership. In From Bondage to Contract, Amy Dru Stanley traces the importance of this concept to abolitionist rhetoric.
legal force.\textsuperscript{24}

Shaw forms a dyadic relationship between slavery and the state as well as anti-slavery and nature. In this formulation, slavery is a state institution that perverts the natural order. Shaw can create these pairings because of the centrality of negarchy within the Philadelphian system. Because negarchy allows the constituent parts of the U.S. to reject the full sovereign authority of each and all of the other constituent parts, negarchy carries with it connotations of freedom: the rejection of state authority constructs a space of freedom. But freedom from government is not the same as freedom. Slavery did in fact exist within Massachusetts without a clear legal framework, otherwise Mary Slater would never have brought Med into Massachusetts in the first place. It was only through the intervention of both private citizens and the state courts that Med was finally granted her freedom. Shaw’s opinion not only reconstructs an image of a free North in contrast to slave owning South, but also reinforces the notion that freedom is chiefly defined as freedom from the state.\textsuperscript{25}

IV. My Bondage and My Freedom’s Transatlantic Perspective on Sovereignty

Shaw’s strategy of teasing apart the North and South as distinct geographic realms characterized respectively by freedom and slavery is hardly surprising in retrospect. As Wong notes, the majority of anti-slavery texts, from slave narratives to \textit{Uncle Tom’s Cabin}, characterize the movement of south to north as a movement towards a space of freedom (8). In

\textsuperscript{24} In \textit{Homo Sacer: Sovereign Power and Bare Life}, Giorgio Agamben argues that the state of exception is interlocked with the state of nature. In his words, “The state of nature and the state of exception are nothing but two sides of a single topological process” (37). In this manner, the repeal of governmentally established protections is coextensive with establishing a state of exception regarding a people or a place. We might, therefore, view the plantation as a state of exception achieved through the retreat of the state rather than the violent extralegal actions of the state.

\textsuperscript{25} Interestingly, Lemuel Shaw also wrote the decision for the case of \textit{Roberts v. Boston} (1848), which established that the segregation of public schools was constitutional. Later the decision was cited as precedent in the more well known case of \textit{Plessy v. Ferguson} (Massachusetts Historical). For Shaw, natural rights extended to the institution of slavery but not to forced segregation.
Stowe’s *Uncle Tom’s Cabin*, the geographic separation between north and south also maps virtue and vice. As Augustine St. Clare explains, “‘What poor, mean trash this whole business of human virtue is! A mere matter, for the most part, of latitude and longitude, and geographical position acting with natural temperament’” (Stowe 198). Here, the geographic splintering of the United States results in an individually situated and spatially contingent notion of human morality.

Just as territorial boundaries are an integral component of sovereignty, the slave narrative was by necessity bound up in conceptions of geography. Ralph Ellison called the North-to-South migration as “‘basic to the Afro-American experience’” (qtd in Gates and Davis xix). The suggestion that movement from South to North, first established in the American slave narrative, has become a permanent fixture within African-American literature illustrates the importance of spatial consciousness within the genre. Ian Finseth observes a multitude of movements within the genre, from transatlantic movements from Africa to the Americas to circular movements among various slave owners and back again to metaphorical movements from the urban to the countryside. But Finseth also insists that

Influenced as they were by the political exigencies of abolition, slave narratives that appeared during the antebellum era, and that treated primarily of the United States, often reflect the simplified moral geography—a kind of regional Manichaeism—of the abolitionist press…[W]e more commonly find a rigid polemical contrast between the two sections of the country. (251)

On the one hand, this might seem unsurprising. While a good number of slave narratives of the antebellum period end with their protagonists more or less safely settled in the North, for many slave narratives this was not the end of their migration: both Douglass and Harriet Jacobs remove
to England following their escape to the North and much has been made of Cassy and Emmeline’s move to Africa at the end of *Uncle Tom’s Cabin*. There’s no denying the importance of the North and South divide, but slave narratives have engaged with geography in far more complicated and far less “polemical” ways.

Other critics have examined ways in which much of Frederick Douglass’s writing makes use of a transatlantic framework. There exists a clear tension within Douglass’s writing between his nationalistic tendencies—illustrated by his frequent use of metaphors for the American Revolution when writing about abolition—and the international scope of his writing. Ivy G. Wilson argues that the short story “The Heroic Slave” showcases Douglass’s attempt to meld American Revolutionary sentiment onto a transatlantic geography (453). One of Douglass’s few short stories, “The Heroic Slave” is based on a true story and follows the exploits of Madison Washington who led a slave rebellion on a ship bound from Virginia to New Orleans, eventually taking the ship to the Bahamas. Robert S. Levine argues that a series of pro-slavery victories, including the *Dred Scott* decision, forced Douglass to cautiously endorse black emigration, which he had previously opposed (190). And of course Douglass’s trip to England serves as one of the key moments in *My Bondage and My Freedom*. As Paul Giles points out, Douglass’s time across the Atlantic allowed for Douglass to envision popular nationalism through a “transnational, comparative consciousness” (30). In this sense, Douglass had to leave the United States in order to form a clearer vision of the United States.

But shortly after Douglass regains his freedom in his second autobiography, he initially acquiesces to the traditional geographic standards of the slave narrative as identified by Gates and Davis. A reader first approaching the second half of Douglass’s text, the “Freedom” section, might expect Douglass to fulfill the generic dictates of the slave narrative, presenting the North
as a place of full liberation. The opening paragraphs of the Freedom section of Douglass’s narrative at first reinforce the standard abolitionist rhetoric of northern freedom. He begins with an obligatory apology in which he claims there is “nothing very striking or peculiar about my career as a freeman, when viewed apart from my life as a slave,” suggesting that, with the exception of his time as a slave, Douglass could easily assimilate into white northern society (Bondage 251). Douglass further locates his freedom in the geographical terrain of the North, exclaiming with jubilation that he has “a free earth” under his feet (Bondage 252). However, these obligatory gestures to the slave narrative genre are quickly dismantled, proving to be nothing more than a premature celebration, a false ending to his narrative.

Soon Douglass’s characterization of the North shifts in a way that, unlike Shaw’s attempt to ease northern fears of complicity with slavery, exploits these anxieties. Learning that he can be captured and sent back South at any moment, Douglass writes, “I was soon taught that I was still in an enemy’s land” (252). Douglass stresses the continuity between North and South, even going so far as to condemn the north as “an enemy’s land,” in stark contrast to his previous claim that upon reaching the north he had “free earth” under his feet. The geographical space of enslavement is extended into the North.

The scene of Douglass’s initial arrival in the North and his eventual understanding that the same racism Douglass found in the South also exists in the North seem to be at odds with one another. In no way does Douglass attempt to reconcile these two statements. When writing that his time as a freeman is not all that unusual or distinct, except that he had up until that time lived as a slave, he never issues a qualifier, such as “It seemed…” or “I believed…” Rather Douglass seems content to let these two contradictory sentiments remain within pages of one another. This is not an isolated incident within Douglass’s text. At the close of chapter 6, after reflecting and
commenting on the different ways the slave owner and slave are caught within the vices of the institution of slavery, Douglass writes, “But, let others philosophize; it is my province here to relate and describe; only allowing myself a word or two, occasionally, to assist the reader in the proper understanding of the facts narrated” (89). Here Douglass seems almost to apologize for the mere fact that he has veered away from a strict description of plantation life and into an analysis of slavery. And yet Douglass takes offense when towards the end of his story even his abolitionist allies admonish Douglass to only give the facts and assure him that they would “take care of the philosophy” (269). Douglass realizes that “It did not entirely satisfy me to narrate wrongs; I felt like denouncing them” (italics original 269). Once again, Douglass produces two distinct and irreconcilable statements.26

These antipodes seem in keeping with the common critical consensus that My Bondage and My Freedom generally presents a knottier vision of Douglass’s experience than his first autobiography. As Giles observes, “If the 1845 Narrative defines its world in terms of Manichean polarities of light and darkness, the 1855 autobiography redescribes it through a paradoxical play of contraries, where a category slides discomfitingly into its antinomy” (Virtual Americas 31). In this instance, Douglass’s inclusion of seemingly contradictory beliefs within his narrative can be explained through his interest in the shifting nature of perspective. Because of the nature of the memoir’s dual perspective—the author both describes his experiences as he knows them in the present with the benefit of hindsight and as he understood his world contemporaneously with the narrative events—the questions of perspective seems to undergird

26 In “‘Mr. Editor, If You Please:’ Frederick Douglass, My Bondage and My Freedom, and the End of the Abolitionist Imprint,” John Sekora looks at Douglass’s description of how he was being used as a prop for abolitionists while on the lecture circuit and uses it as a jumping off point to examine ways in which Douglass sought to separate himself from white abolitionist gatekeepers, eventually editing his own paper against the advice of William Lloyd Garrison. The fact that Douglass feels the need to go beyond “the facts” only after he has been told to stick to them, suggests that maybe the limitations of facts first occurred to him when they became the borders of his discourse. It may also speak to the epistemological troubles that occur when attempting to tease apart facts from our explanations of those same facts.
the genre of memoir. As Giles points out, Douglass makes his concern with perspective explicit when describing how a pile of logs and stumps looked like wild animals from a distance: “Thus early I learned that he point from which a thing is viewed is of some importance” (Bondage 48). When Douglass extols the virtues of northern freedom and pages later decries the constraints placed on that freedom by northern institutions, he does so because these are the shifting attitudes he took as he entered the North. While this may be common for most memoirs, Douglass seems unconcerned with smoothing out these inconsistencies. He allows these conflicting viewpoints to clash with one another, further announcing his interest in the inversions and refractions that take place as perspectives shift.

Differences between Douglass’s first and second narrative are likewise born out of his concern with perspective. While in northern territory, Douglass encounters an escaped slave who he had known from his time down south. Douglass utilizes this chance meeting to recontextualize the renaming trope found in many slave narratives. Douglass’s acquaintance takes on the name of William Dixon, likely a pseudonym used by Douglass to protect the identity of the ex-slave. By naming the fugitive slave William Dixon, Douglass is likely playing on the Mason-Dixon Line that separates North from South. The fugitive slave changes his name not as a means to signify his new life in the North, as Douglass suggests he himself did in his first narrative, but to hide his identity from his master. Peculiarly, Douglass’s own renaming narrative changes slightly from his first autobiography, The Narrative of the Life of Frederick Douglass, to his second autobiography, My Bondage and My Freedom. In Douglass’s first Narrative his renaming occurs as a way of preparing himself for the “duties and responsibilities of a life of freedom” (Narrative 71). His renaming is both a spiritual rebirth and a means of reestablishing new relationships in a free North. Douglass goes through several sets of names in
Narrative, sometimes providing no explicit reason and other times merely stating that other members of the town had names that were too similar to his newly chosen name. It is only in My Bondage and My Freedom that Douglass explicitly states that, like William Dixon, he chooses a new name in order to “avoid being overhauled by the hunters” (Bondage 256). The difference between these two accounts is the difference between choosing a name as a symbol of newfound freedoms and taking a name out of fear. In the latter instance, the renaming has a sense of coercion. Douglass must adopt a name if he is to stay free.

In addition to fear of recapture, Douglass must also contend with the North’s deep-seated racism, especially with regards to segregation. While looking for a parish to join, Douglass tells us that he expected the slaveholding churches of the South, “with its Coveys, Weedens, Aulds, and Hopkins”—all slave owners from the South who utilized religion to justify slavery—to produce a Christianity that is harmful to blacks, but that he could not see how a church in New Bedford “could be regarded as sanctioning the Christianity of these characters” (Bondage 262). Here Douglass relocates the villains from his first narrative and the first half of My Bondage and places them into the North. These characters are elevated to the level of archetype and serve as shorthand for those who mistreat and abuse slaves in the south. By transporting these characters from the first half of the autobiography into the second, Douglass is also allowing slave holders to circulate within the North. Douglass’s fear mirrors those of the abolitionists who fought against sojourner laws and who believed that the protection of slave owners’ “property” would allow the free circulation of slavery and slave owners within northern states. At the Sunday service Douglass discovers that the black congregationalists must sit at the back of the church, and when it is time to take communion, the pastor makes certain that all whites are first served before any blacks can come forward. Douglass describes the African-American members of the
church as “black sheep,” giving a common idiom a distinctly racial undertone.

By stressing the continuity between northern and southern racism, Douglass works against the common geographic tropes identified within the slave narrative. But Douglass’s vision extends beyond the North-South divide. By continuing his narrative into his trip to Great Britain, Douglass exchanges a south to north axis for east to west, giving him a transatlantic framework necessary to conceptualize American sovereignty as a cohesive whole. In keeping with the recurrent theme of perspective, Douglass’s trip across the Atlantic allows him to remove himself from the fragmented Philadelphian system and see the United States as a single sovereign entity. Douglass uses his new transatlantic here not to break from the nation but to re-inscribe national unity.

For Douglass the only escape from the racial institutions of the North and the South is to completely remove himself from the United States. He must first enter an extra-legal space not beholden to U.S. law and culture. If we are to read the Freedom section, not as a description of a state of freedom, but rather as a continuing struggle to obtain freedom, then Douglass achieves this goal in England. It is here that he finally claims to have undergone a “transformation” and to “live a new life” (276). The chapter “Twenty-One Months in Great Britain” sees the most drastic shift in Douglass’s rhetoric. In particular, he abandons the rhetorical strategy to liken slaves to the patriotic forefathers who fought for independence from England. Instead of using the rhetoric of freedom, he mocks it: “Whatever may be said of the aristocracies here [England], there is none based on the color of a man’s skin. This species of aristocracy belongs preeminently to ‘the land of the free, and the home of the brave’” (278). Rather than positioning himself as another revolutionary war hero, Douglass sarcastically employs an American motto in order to illustrate that distance between the ideals of America and the legal and political reality
of America. In many American slave narratives freedom is achieved upon reaching the north, requiring that the climax of their story occur as they finally reach the free states. This is often followed by a brief denouement that includes a discussion of their free life. *My Bondage and My Freedom* does not follow this structure. Instead, freedom is gained not in the North but outside of the United States altogether, making the climax occur during the chapter on Great Britain. The change in Douglass’s vision of freedom also effects a change in narrative structure.

Towards the end of Douglass’s chapter on Great Britain, he writes,

> I told them that perhaps the greatest hindrance to the adoption of abolition principles by the people of the United States, was the low estimate, everywhere in that country, placed upon the negro, as a man; that because of his assumed natural inferiority, people reconciled themselves to his enslavement and oppression, as things inevitable, if not desirable. (289)

By using the subordinate clause “everywhere in that country” Douglass condemns both the North and the South. Those who believe that slavery is inevitable become allied with those who believe slavery is desirable. It is from outside the borders of America that Douglass is capable of viewing the United States not as a space made up of a confederation of interlocking territories, but as a cohesive project that stretches from state to state. We might compare Douglass’s rhetoric with that of Shaw’s, which, for all of its good intentions, serves to insulate the North from the sins of the South. For Douglass culpability stems just as easily from inaction as it does from intentional malice. By conjoining the opinions of those who believe slavery is inevitable with those who believe slavery is desirable Douglass locates the origins of slavery not within the state as Shaw does; rather, Douglass presents slavery as the result of both the concerted action of private individuals and the apathy of others. The use of the word “inevitable” suggests that
people believe that slavery is self-actuating rather than state made.

Even as Douglass promotes an image of the United States a cohesive sovereign entity—tying the sins of one territory to that of the entire national enterprise—he also rewrites assumptions inherent in the Philadelphian system. Deudney’s Philadelphian system was concerned with the twin dangers of anarchy and despotism. The threat of anarchy emanated from the people, and the threat of despotism originated from the government. Douglass observes that private, non-government actors may also institute despotic control, and this despotism thrives because of the cross-neutralizing principles found in negarchy. In *My Bondage and My Freedom* the slave plantation becomes a smaller political unit within the state, further atomizing political territories within the Philadelphian system:

> That plantation is a little nation of its own, having its own language, its own rules, regulations and customs. The laws and institutions of the state, apparently touch it nowhere. The troubles arising here, are not settled by the civil power of the state…There are no conflicting rights of property, for all the people are owned by one man; they can themselves own no property.” (60)

For Douglass the plantation, like individual states, has its own sovereign entity arising from a distinct language, laws and property. The plantation only has a sovereign identity because, as Douglass states, outside government laws do not “touch” the plantation. Local, state, and federal laws refuse to enter into the plantation’s arena. This arises because negarchy makes it possible for the state to reject the influence of federal power. In order to promote slavery, the state needs to do little more than form a buffer between the plantation and other government action, imbuing

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27 Douglass’s recognition that a plantation also has its own language seems particularly applicable to the idea of the plantation as a distinct sovereign entity. In *Imagined Communities*, Benedict Anderson argues that the concept of the nation-state arises out of the formation of a distinct language. The British colonists in the American colonies were able to conceive of themselves as distinct nation-state in part because they spoke a distinct dialect of English.
the plantation with a sovereign-like appearance. But unlike under the theory of popular sovereignty, power on the plantation is derived from private economic interests, not the people.

On one level, the plantation’s sovereignty is a metaphor for ways in which the slave owner has nearly total dominion over his property and those who reside on it. The plantation and slave owner are technically private actors, but later we see Douglass purposefully conflating private and civil institutions when describing the plantation. Referring to the “business-like” attributes of Col. Lloyd’s plantation, Douglass observes how slaves are made to work at cross purpose to their own interests when allowed to received their “monthly allowance of meal and meat”:

These were gala days for the slaves, and there was much rivalry among them as to who should be elected to go up to the great house farm for the allowance, and, indeed, to attend to any business at this, (for them,) the capital. (83)

Douglass conflates business and government in this description. Not only is this passage preceded twice by the neologism “business-like,” but the plantation itself organizes its slaves through a process of competition. And yet, the slave representatives are elected and must go to the “capital.” The plantation is a privileged space in that it takes on both elements of sovereignty and private business. Although a private actor, the slave owner fashions himself as a despot commonly associated with the singular sovereign.

V. Conclusion

No other genre in nineteenth-century America is as concerned with questions of geography than the slave narrative. In particular, the slave narrative asks the reader to think about the relationship between space and America’s peculiar form of sovereignty. As Deudney
observes, the United States appears to have developed a Philadelphian sovereign arrangement that is purposefully distinct from the Westphalian system in Europe. *My Bondage and My Freedom* in particular interrogates this arrangement and questions how it affects the inclusion or exclusion of individuals from the popular sovereign body. *Aves* illustrates ways in which anti-slavery forces drew upon the Philadelphian system in order to strategically rebuff the encroachment of slavery into northern states. This narrative of abolitionism runs contrary to the commonly held present-day notion that the North favored a stronger federal government and the South favored states rights. Both North and South—abolitionist and slave owner—transformed their imaginary of the sovereign system in order to suit their end goals.

The legal imagination of the north, as evinced by Shaw’s opinion in *Aves*, wished to reassert state sovereignty as a bastion of freedom, Douglass purposefully tugged at this concept, aligning northern states with the sin of slavery. In order to do so, Douglass had to rely on a transatlantic perspective to more clearly conceive of the United States not as a confederation of independent sovereign states but as a cohesive sovereign whole. In reconceiving the U.S.’s sovereign framework, Douglass also highlights many of the ethical problems associated with the Philadelphian system. As a structure that demarcates distinct and potentially at odds sovereign entities, the Philadelphian system results in a different definition of the political body. And while the Philadelphian system was erected in order to balance out tyranny from government actors and anarchy from private actors, it fails to fully grapple with the issue of tyranny from private actors. Deudney argues that the Philadelphian system eschews a clear hierarchy in favor of negarchy, the ability for converse government entities to reject the authority of other government entities. In his second autobiography, Douglass illustrates how negarchy can be utilized in order to create an environment where despotism at the hand of private citizens can
flourish. The state sovereign can foster an ecosystem where the plantation is run like an autocratic nation.
“He had learned to read then, and reading taught him everything he needed to know about life outside the reservation. He picked up a book before he could read, when the words were still a mess of ink and implications, and somehow understood the purpose of a paragraph. The paragraph was a fence that held words. All the words inside a paragraph had a reason for being together. They shared a common history. John began to see the entire world in paragraphs. He knew the United States was a paragraph within the world. He knew his reservation was a paragraph within the United States.”

I. The Case of the Haudenosaunee Lacrosse Team

In 2010, the Haudenosaunee Nation lacrosse team, The Nationals, was denied the opportunity to compete in that year’s international lacrosse competition in Manchester, England. For decades, the Haudenosaunee Nation had without objection issued its own passport for tribal members who wished to travel abroad. Citing security concerns, the British consulate refused to grant the team visas without assurances from the U.S. State Department or Department of Homeland Security that the team had been granted clearance to travel abroad and that they would be readmitted into the United States following their visit to England. Initially these agencies refused to grant such assurances, and instead the State Department offered the team expedited passports, which the team refused. The team stated that they did not wish to travel to the tournament on a foreign passport. According to the Federation of International Lacrosse, which holds the tournament, the Haudenosaunee Nation is considered a full nation, just like America, Canada, and England. Denise Waterman, a director for the team, used the following analogy to contextualize the situation: “It would be like saying the Canadians are having travel difficulties and the U.S. says we’ll make you U.S. passports and you can go over” (Waterman qtd in “Iroquois Identity”). Waterman’s framing of the dispute repositions the Haudenosaunee Nation outside of the territorial boundaries of the United States, reinforced by the fact that the
Confederacy straddles the U.S./Canadian border. (“Iroquois Identity”). Here, Native sovereignty is dislocated from traditionally drawn borders—those of internationally recognized nation-states commonly found on the world map.

The Haudenosaunee passport dispute illustrates the modern struggle for Native sovereign recognition, a struggle that has a lengthy history, stretching back to first contact with whites and continuing today. In order to assert Native sovereignty, the Haudenosaunee sought recognition both by the British government and by agencies within the United States. National sovereignty, whether asserted by newly split nations or reasserted by Native peoples, requires that it be honored and observed by other nation-states. But Native Americans have endured the extra burden of upholding their claims to sovereignty against a concerted effort by white settlers to rhetorically and literally erase their presence from the Americas. As Audra Simpson notes, the existence of the Haudenosaunee Nation and its refusal to be subsumed into the U.S. or Canada is a sign “of colonialism’s ongoing existence and simultaneous failure” (Simpson 7). Native-American politicians, lawyers, and writers face special challenges when attempting to develop a concept of Native sovereignty for a white audience. Much like the Haudenosaunee of today, Native Americans of the nineteenth century had to convince Euroamericans that Native sovereignty simply existed in the first place.

In this chapter, I use the vexed questions of Native American sovereignty in the early nineteenth century as a frame to examine two contemporaneous Native American authors, Pequot William Apess (1798-1839) and Oneida George Copway (1818-1869). Apess and Copway both accessed the print public sphere through their conversions to Christianity and sought to advance the condition of the Native American people in the face of Euroamerican expansion. While both wrote to a mostly white audience from the position of Native Americans
in the nineteenth century, there are some key differences between the authors: William Apess and George Copway were members of different Native American tribes, Pequot and Ojibwe, respectively; they were born in different parts of North America—William Apess was born in northwestern Massachusetts and George Copway was born in Canada along Lake Ontario; and where George Copway initially received plenty of praise and recognition for his writing, allowing him to strike up a brief friendship with Henry Wadsworth Longfellow, William Apess received most of his notoriety from his role in the “Mashpee Revolution,” an attempt by the Mashpee Indians of Massachusetts to achieve self-governance. But despite these differences, Apess and Copway were keenly aware of the cultural, religious, and legal assumptions held by whites, and they both utilized their understanding of Euroamerican worldview to protect Native American sovereignty against erosion by white forces.

I argue that William Apess and George Copway must enforce Native American sovereignty by making Native culture detectable to their white audiences. They must incorporate white cultural practices, including religion, not only to gain a white audience for their writing, but to make Native sovereignty visible and viable to whites. Popular sovereignty is as much a legal concept as it is a cultural practice, and in the nineteenth century, western cultures refused to confer sovereignty on any group who did not conform to western practices of religion, economics, and land use. Popular sovereignty makes the claim that government authority is derived from the people, but for whites in the nineteenth century the collective notion of people must reflect European culture in order to be seen as legitimate. Because the concept of popular sovereignty—the prevailing framework of national autonomy in the nineteenth century—is derived from the notion of a cohesive people contained within national borders, a Native strategy of white cultural appropriation served to make Native people and sovereignty recognizable to
whites and to divest Native lands of Euroamerican political authority, a strategy carried out in the writings of Apess and Copway. However, Apess and Copway’s strategic transculturation carries with it certain dangers. Many white Americans, even those who were ostensibly Native American advocates, believed that the assimilation of Native Americans would lead to their incorporation into the U.S. political community. In other words, if Native Americans were fully assimilated into white culture, then they could also be absorbed into the American nation-state.

In Crow Dog’s Case: American Indian Sovereignty, Tribal Law and United States Law in the Nineteenth Century, Sidney Harring observes that under nineteenth-century theories of assimilation, as Native Americans adopted white customs and lived among whites, they would eventually place themselves under white legal jurisdiction (44). This posed a problem for Native authors of the nineteenth century. To avoid full political assimilation, Apess and Copway must assert Native similarities to whites in order to assert Native sovereignty while also making sure they maintain the idea of a cohesive collective identity separate from Euroamericans, a strategy that results in sometimes vacillating, sometimes contradictory writing. Even as Apess and Copway fashion an image of sovereignty that is palatable to their white audience, they simultaneously argue for a different version of sovereignty, a kind of sovereignty predating white contact that rejects Euroamerican notions of what it means to be a sovereign nation. In this manner, Apess and Copway develop dual versions of sovereignty.

II. The Cherokee Indian Cases and the National Debate over Native Sovereignty

The Native struggle for sovereign recognition has long roots, stretching back to first contact with Europeans. As Richard White details in his history of American Indian and European engagement from the mid-seventeenth through the early nineteenth centuries, The
*Middle Ground*, European forces in the colonies needed to form alliances between themselves and surrounding indigenous nations in order to maintain their foothold on territory in the Americas. Where European colonization is often represented in terms of economic, technological, and military domination, White argues that Europeans and Native Americans in the Great Lakes region cooperated in fashioning a new political world that featured heavy contributions from both Indians and Europeans, what he terms “the middle ground.” Maureen Konkle argues that in order to make treaties and form alliances, Europeans had to also treat Native American polities as cohesive and separate entities from European nation-states and empires: “[T]reaties invoke two concepts fundamental to the formation of the United States itself: the contract as a model for social relations and the principle of consent to enter into a contract” (3). Through the form of the contract, Euroamericans were forced to acknowledge Native nations and that Native Americans constituted free and rational actors. And while Native nations could make use of treaties as a form of agency within a transnational legal system, in *Manifesting America*, Mark Rifkin argues that the treaty as contract also had the function of making Native Americans complicit in their subjection to a colonizing force (13). In this manner, treaties themselves, rather than serving as clear markers of self-determination or capitulation, could be read as a bulwark against U.S. national sovereignty or a capitulation. Which way American Indian treaties are read, depends in part on the social, economic and cultural environment of the time, both when the treaties were agreed to and in generations to come. Literature’s ability to shape public discourse in turn has the ability to formulate how the general public interprets American Indian treaties.

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28 There are some other issues with the contract. The contract was also used as a tool to swipe Native American land, which in turn suggests that Euroamericans did necessarily see Native Americans as their equal or as equally entitled to sovereign land. France wouldn’t have been able to buy property in England and then claim that the land was now a part of sovereign France, for instance.
Following the War of 1812, as hostilities between the United States and Great Britain tempered and the boundary between the United States and Canada settled, Native American nations were faced with intermittent but forceful drives west by the United States and American settlers. In order to combat white encroachment into their territory, many Native American nations turned towards the notion of sovereignty. The notion of sovereignty is not unique to European nation-states. As Harring writes, “Indian people understood themselves to be sovereign, acted as if they were sovereign…made judgments concerning ways to defend their sovereignty, and both retained Indian law and used that law to structure their actions” (15).

Natives had a concept of sovereignty that existed prior to European contact, but European notions of sovereignty were ultimately tied up in cultural beliefs, which Native peoples had to take into account in antebellum U.S. The concept of sovereignty as imposed by the United States in the nineteenth century is immersed in Euroamerican assumptions about politics, land use, and economics. Christopher Tomlin traces how European legal texts of the sixteenth and seventeenth centuries restructured the American landscape into a wilderness open for reclamation. America became vacuum domicilium, or a space ready to be claimed as a legal jurisdiction, and the use of charters discursively expunged the lands of America of Native presence (30). Tomlin argues that the language of law obscured colonial violence (29). But it wasn’t enough for imperial powers to merely assert legal authority over the lands. Native ownership also had to be devalued. John Smolenski argues that claims to English sovereignty were not solely located in the legal realm, but rather also rooted in “assumptions about race, identity, and superiority” (2). According to Smolenski, transculturation served as a means for Native Americans to protect against English expansion. As an example, Smolenski points to ways in which the Native Americans of Martha’s Vineyard adopted English housing and agricultural practices, which served as a
strategic means to claim ownership over Native lands. The colonization of American lands by
the European imaginary occurred in two steps: first, colonial discourse emptied out the American
landscape; second, colonists superimposed a particularly European form of sovereignty onto
these supposedly empty lands. Initial contact with Natives occurred prior to the full
development of popular sovereignty, which was eventually used by whites to erode Native self-
determination in the Americas.

Enveloped by white settlers and a concerted government effort to dissolve Native
territory, Native nations had to make themselves recognizable as sovereign polities according to
the dictates of European assumptions. For instance, what were known as the “Five Civilized
Tribes,” which included the Cherokees, the Chickasaws, Choctaws, Creeks, and Seminoles,
strategically adopted European dress, education, and agriculture as a means to represent
themselves as cohesive sovereign nations equal to Canada or the United States (Harring 22).29

These attempts to garner sovereign recognition culminated in the Cherokee Indian Supreme
Court cases of the 1830s in which the Cherokee Nation asserted its rights first as a foreign nation
and later under a theory of quasi-sovereignty. While Chief Justice Marshall stopped short of
recognizing full sovereignty for Native-American nations, he did confer upon the Cherokee a
form of quasi-sovereignty and coined the legal term “domestic dependent nations” in order to
describe the status of Native American nations within the United States (Cherokee Nation 17).

29 The fight for sovereign recognition by these tribes would not end after their removal. Harring argues that Indian
removal policies of the early nineteenth century has three major effects on tribal governance and strategies after
these tribes reestablished themselves out west: “first, the Five Civilized Tribes, as well as other eastern tribes,
acquired political experience in dealing with the United States that they used as the theoretical foundation for their
nations in the West, not only calling themselves ‘nations’ but getting treaties from the United States that recognized
that status. Second, the tribes created living models of that sovereignty in the form of effectively functioning Indian
nations with unique Indian political and social institutions. Third, these removed southern Indian nations created
models of sovereignty that were racially based, ones that influenced both western Indian nations as well as U.S.
Indian policy” (58).
As a legal theory, the concept and development of Native-American sovereignty within U.S. law has followed a somewhat meandering path that periodically doubles back and crisscrosses itself all the way to the current iteration of the reservation system.\(^{30}\) It is not necessary, or even possible, to fully summarize the development of Native-American law and evolution of Native-American sovereignty over the past three hundred or more years within this single chapter; however, it is useful to take a moment and examine the state of Native-American law and sovereignty in the first half of the nineteenth century. I hope to show that legal cases concerning Native-American reservations were merely one node within the matrix of discourse surrounding Native-American sovereignty in the United States. Specifically, I will look at two major Supreme Court cases involving the Cherokee Nation in the nineteenth century, Cherokee Nation v. Georgia (1831), and Worcester v. Georgia (1832). While over the years, especially in the second half of the nineteenth century, these cases would periodically be forgotten or ignored by state courts, they serve as important statements on Native-American sovereignty at the time and provide a framework for discussing Native sovereignty that survives today, a framework that can be found even in the tactics of the Haudenosaunee Lacrosse team’s attempt to garner sovereign recognition and assert self-determination (Harring 4). Marshall’s decisions do not rest merely on legal questions; rather, he repeatedly turns to issues of history and culture in his attempt to define Native sovereignty. In this manner, the question of culture is always already influencing the legal question of Native sovereignty.

\(^{30}\) In his examination of American Indian and Tribal Law in the nineteenth century, Harring examines several instances where state and federal courts reach decisions that flagrantly contradict prior legal opinions and the guiding rules of federalism. For instance, in order to assert legal authority over native lands, states routinely relied on a Georgia state case, *Corn Tassel* where the state of Georgia jailed and executed George “Corn” Tassel, a Cherokee man who had killed another Cherokee man within the bounds of Cherokee territory. Georgia’s authority over Cherokee land would be rejected by the Marshall supreme court in *Worcester v. Georgia*, which effectively dismantled an individual state’s authority over native land. But state courts would routinely ignore *Worcester* and rely on *Corn Tassel* in order to erode native sovereignty (34).
The Cherokee Nation had long engaged in a process of strategic transculturation where they adopted Euroamerican practices, such as the use of the written word, adoption of white agricultural customs and technology, the use and implementation of white schools, and the development of a written constitution. As Lisa Ford notes, during the early decades of the nineteenth century, the state of Georgia was forced to recognize the unviolated sovereignty of the Cherokee Nation’s boundary and legal authority (34). Ford argues that prior to the Cherokee Supreme Court cases of the 1830s, the state of Georgia repeatedly treated the Cherokee Nation as a sovereignty entity. Ford points to instances where Cherokees killed whites and later fled to Cherokee land, and instead of pursuing the culprits, white settlers parleyed with the Cherokee Nation in order to achieve a negotiated form of justice. Because of the limited power of white settlers in the state, Georgia had to pursue a pluralistic policy with regards to Native sovereignty, and, as Ford further argues, Georgia’s ability to enforce white authority in Native territory was restricted by “principles of reciprocity and retaliation” (35). Ford’s analysis suggests that the continual westward march of U.S. authority over Native lands was far from a certainty over the course of the nineteenth century. Considering ways in which the Cherokee Nation asserted their sovereign authority through militaristic, cultural, and legal means, it does not take much imagination to envision an alternative course of events where they maintained their lands in the American southeast.

The Cherokee were able to maintain a cohesive sovereign identity through the first few decades of the nineteenth century. However, the discovery of gold on Cherokee land in 1829 and the increased number of settlers in Georgia strained the authority and borders of the Cherokee Nation. In order to strip the Cherokee Nation of its sovereignty, the state of Georgia passed a series of laws establishing Georgian authority over territory held by the Cherokee. The
Cherokee agitated against these laws and for the self determination of their government and people. The Principle Chief of the Cherokee Nation, John Ross, even led a delegation to Washington hoping to force the Federal government to protect the boundaries of Cherokee land. Eventually, the Cherokee brought suit in federal court asserting their sovereign authority and the illegitimacy of Georgia’s authority over Cherokee lands (Harring 26-28).

The principle lawyer for the Cherokee Nation, William Wirt, who had previously served as the attorney general under presidents Monroe and Adams, sued for an injunction against Georgia’s laws. In an aggressive move, Wirt brought the suit as one sovereign nation against another foreign sovereign nation (Harring 30). Ultimately, however, Chief Justice John Marshall avoided making a decision on the merits of the case and instead decided that the Cherokee Nation did not constitute a separate sovereign nation and thus the Supreme Court did not have original jurisdiction. Famously, Marshall wrote that the Cherokee Nation should be considered a “domestic dependent nation” and that “their relation to the United States resembles that of a ward to his guardian” (Cherokee Nation 17). Marshall established a form of quasi-sovereignty for Native American nations, subsuming their self-determination under the federal government but simultaneously partitioning Native American sovereignty apart from that of the individual state in which they reside. The Cherokee Nation was under the authority of the federal government but not that of the Georgian government.

While Marshall ultimately refused to hear the merits of the Cherokee Nation case, the Cherokee received a second opportunity to argue for political autonomy before the Supreme Court in Worcester v. Georgia. As the Cherokee Nation continued to resist Georgian authority, they managed to incite sympathy and build alliances with non-Natives. Many non-Native allies of the Cherokee Nation were roused into action because of the Cherokee’s progress in
assimilating some Euroamerican customs, and these allies were especially concerned with Native adoption of Christianity. On the one hand, this demonstrates that white allies of the Cherokee did not necessarily act out of a belief in the right of Native person to retain their land, but rather out of an understanding that Native people could come to look more like them. On the other hand, this illustrated ways in which the Cherokee’s transculturation held strategic advantages. Fearing agitation by outsiders, Georgia passed a law aimed at preventing whites from entering Cherokee territory without permission from the state. However, several missionaries ignored these laws and proceeded to enter Cherokee territory. One such missionary, Samuel Worcester, defied these laws and was arrested along with eleven other whites who were then sentenced to four years of hard labor. Prior to his arrest, Worcester was already deeply involved with the Cherokee Nation. With the help of prominent Cherokee citizen, Elias Boudinot, Worcester had helped found the Cherokee Phoenix, the first Native American newspaper published in the United States and the first published in a Native language (Harring 32-34).

Worcester brought suit against Georgia, arguing that the laws passed affecting Cherokee territory had overextended Georgian authority and impinged on Cherokee sovereignty. This time, Justice Marshall decided on the merits of the case. Marshall begins his decision by summarizing several Georgian laws that infringe on Cherokee sovereignty, including the preventing whites from living on Cherokee land, granting the governor the ability to raise a militia in order to defend gold mines on Cherokee land, and annexing portions of Cherokee territory (Worcester 538-40). Building on the short Cherokee Nation decision, Marshall asserts that Georgia’s act was unconstitutional because it usurped the power of the Federal Government to exclusively engage with Native American nations (Worcester 561). As in Cherokee Nation,
Marshall subsumes Native nations under the authority of the federal government, even as he divorces them from state authority.

In order to make his decision, Marshall must trace back a reading of the historical record that determines the relationship between Native Americans and the U.S. government. In doing so, Marshall reaches back to a time prior to the American Revolution. Marshall begins by conceding that Native Americans constituted a distinct and separate people and governing body: “America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of each other and of the rest of the world, having institutions of their own, and governing themselves by their own laws” (Worcester 542). Relying on geographic and cultural difference, Marshall divides whites and Native Americans into separate political institutions. But already having stripped Native nations of full sovereignty in his prior decision, Marshall cannot stop there. He asserts European dominance over Native lands through several maneuvers, including Lockean theory of land ownership and the right of conquerors.

John Locke’s notion of sovereign territory is bound with his concept of private property. In his Second Treatise of Civil Government, Locke situates the space of America as temporally prior to the development of private property: “[I]n the beginning all the world was America” (139). As James Tully observes, Locke strategically represents America and Native Americans in a manner designed to dispossess them of land and nationhood. There are two elements to Tully’s argument: 1) Locke defines political in a manner that excludes Native American forms of government, and 2) Locke defines property in order to represent traditional Native American land use as insufficient means of property ownership (Tully 139). Locke represents Native Americans as free individuals situated within a state of nature and bound only by the laws of
nature but not civil government (141-2). 31 Next, Locke asserts that in order to gain possession over land, an individual must improve upon it, which he defines as working the land in the European style of agriculture (146). 32 According to the Second Treatise, land becomes private property when one has “mixed his labour with it” (128). Locke clearly excludes actions such as gathering acorns, fruit or wood from the forest, the type of use of nature that, at the time, was associated with Native Americans. In this manner, Locke’s definition of sovereignty was purposefully written in order to exclude Native American nations from possessing the ability to fully retain occupied lands.

Marshall’s Lockean argument is made implicitly rather than explicitly. While he does not outright claim that Native Americans did not maintain ownership over their lands because they did not “improve” those lands, he does go out of his way to note that, “They [Europeans] found it [the Americas] in possession of a people who had made small progress in agriculture or manufactures, and whose general employment was war, hunting, and fishing” (Worcester 543). It is clear that Marshall is influenced by John Locke’s notion that ownership over land occurs when an individual mixes his labor with the land. As seen in William Walker’s descriptions of Nicaragua as unimproved territory, representing land as untouched casts ownership over terrain

31 Although Native American governance certainly differed markedly from European, Locke’s understanding of Native American political organizations are suspect at best. The Haudenosaunee Confederacy, for instance, was a rather complex political coalition of six tribes (the Mohawk, Oneida, Onondaga, Cayuga, Seneca, and, later, the Tuscarora). Within each individual tribal member of the Haudenosaunee confederation, there existed both a War Chief and a Sachem, or Civil Chief, who served, along with other institutions, as a form of checks and balance. Unlike Locke’s misconception, the government of these Native American nations did not cease to exist during peace time (Haudenosaunee Confederacy). Considering that Locke helped formulate the idea of government by the consent of the people, it’s not fully clear how Locke’s belief that a government must have a strong central authority figure meshes with the notion of popular sovereignty.

32 Once again, Locke may have misunderstood Native American agriculture. While many eastern tribes were periodically mobile, they also maintained semi-permanent villages where they practiced agriculture. Unlike European modes of agriculture, Native Americans did not use enclosures, which is perhaps one of the reasons why Native American agriculture was not seen as commensurate with European agriculture. As Patricia Seed notes in Ceremonies of Possession in Europe’s Conquest of the New World, 1492-1640, for the British, “[e]recting a fixed (not movable) dwelling place upon a territory, under English law created a virtually unassailable right to own the place” (18). Furthermore, erecting a fence or some other form of enclosure asserted the right of landownership.
open, allowing settlers to assert their right over land long occupied by others. In a more direct, if still somewhat unclear, manner, Marshall proceeds to suggest that military conquest is a legitimate means of transferring territory from one governing body to another: “But power, war, conquest, give rights, which, after possession, are conceded by the world; and which can never be controverted by those on whom they descend. We proceed, then, to the actual state of things, having glanced at their origin; because holding it in our recollection might shed some light on existing pretensions” (Worcester 543). Marshall never provides a governing framework that supports the belief that war legally confers sovereign territory. Rather, he appeals to commonly accepted transhistorical and transnational beliefs as proof that war confers territory from one population to another. It is also important that Marshall make this transfer of territory irrevocable even by later generations. In this manner, Marshall establishes when history ends. He reinforces his narrative of the relationship between Native-American territory, individual states and the federal government through a historical narrative rather than appeals to preexisting legal codes, perhaps because he lacks a clear overriding legal system to fully grapple with the transnational relationship between Native and state sovereignty.

Marshall refuses to fully disintegrate Native sovereignty, which would have made way for the Euroamerican exercise of naked political force. Inserting a sense of parity into the relationship between Native Americans and whites, he affirms that treaties made between Natives and whites were born out of a desire for peace on both sides. Konkle argues that by retelling the history of Native and white relations through the lens of mutually negotiated treaties, Marshall elides the history of violence and coercion that shaped much of Native-American history (17). While Marshall’s history clearly simplifies the tangled and fraught relationship between the colonizer and colonized in North America, his version of history
represents Native nations as capable of rationally engaging in a negotiated peace. As Konkle observes elsewhere in her book, the ability to enter into a contract presupposes that Native Americans were free and rational people (3). In this manner, peace was not conferred onto Native Americans by whites but tempered out of a process of negotiation. As in *Cherokee*, however, Marshall ultimately reasserts a paternal relationship between Native territory and the federal government, arguing that the United States serves as a protectorate of the Cherokee people. This articulation of quasi-sovereignty in *Worcester* disaffiliates the Cherokee nation from the state of Georgia while still incorporating Cherokee land into the sovereign body of the United States.

In Marshall’s *Cherokee Nation* and *Worcester* decisions, the Justice repeatedly refers to Native American land as “unlocated territory.” In other words, the United States people and government were unable to recognize and define land governed by Native Americans because they fell outside of both stated and unstated definitions of sovereignty. Nineteenth-century Native Americans would repeatedly engage with Euroamerican notions of sovereignty in order to be recognized as autonomous people. They would have to make themselves recognizable to Euroamericans, both legally and culturally. Popular sovereignty is not just connected with the land but also with the people occupying it. In order to make sovereignty visible, Native Americans would mirror back aspects of white culture, including land use, manufacturing, and religion. And this tricky, sometimes contradictory goal of representing Native self-governance according to Euroamerican notions of sovereignty would play out not only in the legal realm but

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33 Konkle’s concern that Marshall is representing Native and white relations as far too neat and tidy may intersect with larger concerns regarding how scholars of literature approach disenfranchised peoples. In a laudable attempt to move away from an image of minorities as passive victims, literary studies have examined ways in which authors have used writing as a form of resistance or have represented resistance. But an overemphasis on resistance and agency may very well obscure the extreme forms of violence and degradation that occurred in the case of slavery and colonization.
also in the print public sphere where writers like George Copway and William Apess used writing in order to make Native Americans recognizable to a largely white audience. Examining the writing of Copway and Apess not only demonstrates ways in which the battle for Native sovereignty played out away from the strictly legal world, but it also demonstrates ways in which Natives from varying geographic and cultural backgrounds engaged with the concept of sovereignty. The Cherokee Indian cases demonstrate that a national discourse about Native sovereignty existed in nineteenth-century America, but each Native author had to grapple with this discourse in different ways. By emphasizing native sovereignty in the writing of Copway and Apess, I hope to show that within the large North American context, Native American literature should be viewed as transnational.

III. William Apess’s Pan-Indian Nationalism

Born in New England at the tail end of the eighteenth century, William Apess came into a much different world from that of fellow Native-American writer, George Copway. Apess’s father lived in poverty, was likely at times to have been an indentured servant, and appears to have had a tumultuous relationship with Apess’s mother. Apess was also born a Pequot. Unlike Copway’s tribe, the Ojibwe of the Great Lakes region, who in the early nineteenth century maintained a relatively cohesive governance and claim to Ojibwe land, the Pequots had largely been dispersed by the nineteenth century. The Pequot War of the 1630s was one of the first major conflicts between whites and Native Americans in New England and resulted in the attempted genocide of the Pequot people. In Apess’s time not only had the Pequot Nation been
reduced as a political entity, but according to the treaty written at the end of the Pequot War in 1637, the Pequot were legally deemed to be nonexistent (Carlson 66-7).34

Apess was born in Colrain, Massachusetts in 1798. Apess’s father, William Apes (later the son would add another “s”) was likely part white and worked as a shoemaker and common laborer. Apess’s mother, Candace Apes, may have been part African-American, and she worked as a servant in wealthier households. When Apess was still young, the family moved back to Colchester, Connecticut, closer to family. When Apess was three years old, his parents separated, leaving him in the custody of his grandparents who struggled to feed and care for their grandchild. In his memoir, Apess recounts being nearly beaten to death by his grandmother while she was under the influence of alcohol, although he notes that her anger, desperation and alcoholism resulted from a lifetime of mistreatment at the hands of whites. With the help of his uncle, Apess was removed from his grandparents’ home and bound out to the Furman family where he lived for seven years and received his only formal education, six winters of schooling. Apess was indentured to several other wealthy Connecticut families throughout his early years. While in the custody of William Williams, a prominent judge and Congregationalist, Apess became fascinated by a nearby Methodist revival that welcomed racial and class mixings and was defiantly antiestablishment. As Congregationalists, the Williamses disapproved of Apess’s newfound religious interest, forbidding him from attending Methodist meetings and beating him when he disobeyed these demands. At the age of fifteen, he ran away and eventually joined the

34 As Mark Rifkin notes in his essay, “Shadows of Mashantucket: William Apess and the Representation of Pequot Place,” the Pequot people still maintained a reservation at Mashantucket, even if its authority in the popular and legal imagination had been diminished. Rifkin goes on to argue that, though it is barely mentioned in the autobiography, the Mashantucket Reservation reappears in discontinuous, elliptical allusions, further suggesting that even if Apess’s biography does not as explicitly deal with sovereignty as does Copway’s, he is still engaging with ideas of territory and Native self-determination.
U.S. military as a drummer boy during the War of 1812. Apess had to lie about his age in order to enlist (O’Connell x-xiv).

After spending time living among Native Americans in Canada and working odd jobs, Apess returned home to Connecticut. He had been gone so long that his extended family believed he had died. His return to Connecticut also brought about a renewed interest in Christianity, and he pursued a role as a preacher in the Methodist Episcopal Church. The Methodist Episcopal Church granted Apess the role of an exhorter within the church, allowing him to travel while giving religiously themed oration, but the church refused to ordain Apess as a preacher, likely because of Apess’s status as a Native American. Frustrated, Apess joined the more radically democratic Protestant Methodist church where he was ordained a minister. In 1829, Apess published his autobiography, *A Son of the Forest*, which he may have first written in order to provide an accounting of his life as a part of his ordination. Apess was later sent to preach to the Pequot, after which he published *The Experiences of Five Christian Indians of the Pequot Tribe*, detailing the lives and conversions of several Pequots, including Apess himself, his wife, Mary Wood, and his aunt, Sally George, whose earlier conversion likely influenced Apess’s turn towards Christianity (O’Connell xv-xvii).

As a minister, Apess became acquainted with the Mashpee Indians of Cape Cod and became embroiled in the “Mashpee Revolt” of 1833. The Mashpee town had long been ruled over by three white overseers who could freely lease out Mashpee territory to whites for grazing, haying and other purposes; they could bind out any Native American for employment services; they controlled the movement of Native Americans into and out of town; they maintained a tight grip on the use of the Old Indian Meeting House, which was controlled by a white minister who preached only to a white audience. With the help of Apess’s skillful writing, the Mashpee
crafted several petitions and an “Indian Declaration of Independence.” The events briefly became national news, and the governor of Massachusetts, Levi Lincoln, became so frightened by this supposed revolt that he threatened to make use of the state militia. After continued agitation, and the arrest of Apess for a time, the Mashpee received most of their demands. Following the Mashpee Revolt, Apess’s final public appearance occurred in Boston in 1836 where he gave his speech “Eulogy on King Philip” in which he argued for the prominence of the Wampanoag leader King Philip, or Metacom, as a national hero in the same mold as George Washington. Three years later, Apess became violently ill and passed away due to apoplexy (O’Connell xx-xxii).

My analysis of Apess’s writing focuses on Apess’s autobiography, A Son of the Forest, and his speech, “Eulogy on King Philip.” Most research on William Apess centers on both his Christianity and how it situates him within the multicultural milieu of nineteenth-century America. Tim Fulford looks at ways in which Apess transforms the conversion narrative in order to provide him, a Native American, a voice in a print culture dominated by whites (Fulford 223). Arnold Krupat examines Apess within the tradition of the American public intellectual in the nineteenth century (Krupat 75). Patricia Bizzell employs Sacvan Bercovitch’s notion of the American jeremiad in her generic analysis of Apess’s writing (Bizzell 36). Like most Native Americans in New England in the nineteenth century, Apess was naturally entangled with white culture, and because Apess spent many of his formative years in white households, it makes sense to examine ways in which he made use of white culture. But, as Rifkin notes, when examining Native American literature, scholars must avoid treating Native American authors as another minority striving for political recognition within a multicultural U.S. and instead examine ways in which they achieve political separation from the American imperial project.
By examining Apess’s writing through the lens of popular sovereignty, I hope demonstrate that even if Apess relied on white literary and religious traditions, he did so while arguing for Native American political separation.

While many of Apess’s relatives lived on the Mashantucket Pequot Reservation, he spent most of his childhood away from the reservation (Carlson 68-9). Rifkin, however, argues that signs of the Mashantucket appears to haunt Apess’s autobiography, even if he does not explicitly mention the reservation (Mashantucket 692). As his political activism for the Mashpee Indians reveals, Apess was politically cognizant of American Indian self-determination. Konkle situates Apess’s oratory within the larger debate about Cherokee removal. In Writing Indian Nation, Konkle examines a letter from an audience member who listened to two Native American oratories in Boston, first a speech made by the Cherokee Elias Boudinot, editor of the Cherokee Phoenix, and next one made by William Apess. The author of the letter unfavorably compares Boudinot’s dry style to Apess’s invigorating technique. Importantly, this connection to Boudinot demonstrates that Apess would have been keenly aware of the tense debate over Cherokee removal, which likely influenced his consciousness as a Native American writer and activist (Konkle 99-100).

Because it more clearly engages in the type of mythmaking necessary for the formulation of Native popular sovereignty, I first turn to Apess’s final published work, “Eulogy on King Philip.” Apess’s eulogy was delivered one hundred and sixty years after the death of Philip, and he takes the opportunity not merely to praise the character of the Indian chief himself but also to reframe the historical relations between whites and Native Americans. Apess purposefully avoids representations of Native Americans as naïve noble savages; instead, Apess describes seventeenth-century Native Americans as eager for peace with whites, as more Christian than the
supposed Christians. He notes that the followers of Massasoit outnumbered whites by “a thousand to one,” and the whites were at the time “sick and feeble” (“Eulogy” 106). Apess transforms the power relations between whites and Native Americans, asking his audience to compare the treatment of early Pilgrims by Massasoit to the more recent treatment of whites by Native Americans. But he is also concerned with establishing parity between colonial whites and Native nations, just as Marshall makes certain to note that treaties between whites and Native Americans were established not just for the benefit of Native Americans but for the benefit of whites as well. Apess further writes, “It does not appear that Massasoit or his sons were respected because they were human beings but because they [whites] feared him; and we are led to believe that, if it had been in the power of the Pilgrims, they would have butchered them out and out” (111). Asserting Massasoit’s power over the Pilgrims, Apess rejects not only the image of Native Americans as weak, but also the image of Native Americans as scattered uncoordinated people.

Emphasizing the strength of Massasoit and later his son Philip also strengthens the representation of Native-American polity. As Tully observes, John Locke dismisses the existence of a Native American nation by claiming that Native chiefs do not have the same sway over their people as European kings. Even as Locke developed the idea of popular sovereignty, he still clung to the notion that a strong singular sovereign figure legitimized a nation-state’s status. Cheryl Walker has noticed that nineteenth-century Native Americans often made extensive use of “transpositional discourse,” a way of writing that suggests two different groups might occupy each other’s position (Walker 16). In other words, writing that asks one economic, cultural racial, or ethnic group to imaginatively exchange historical and cultural perspectives with another group. Throughout the eulogy, Apess repeatedly addresses his presumably white
audience, asking them what Europeans would have done if they were in the place of Native Americans:

This, if now done, it would be called an insult, and every white man would be called to go out and act the part of a patriot, to defend their country’s rights; and if every intruder were butchered, it would be sung upon every hilltop in the Union that victory and patriotism was the order of the day. (108)

Apess’s use of transpositional discourse fortifies Native American territory by comparing it with the terminology of the European nation-state. He repeatedly intones the notion of the patriot and patriotism, defense of borders and rights not of individual people but of entire nations. Not only does this rhetorical move confer sovereign status to Native nations, but it also transforms the image of pre-European Americas from an untamed, untapped wilderness into a land of clearly demarcated states. Lands not immediately occupied by people are still in possession of Native nations as would be the case in a European-style nation-state.

Apess’s eulogy also attempts to craft a national iconography around King Philip in a manner that is clearly modeled on founding father George Washington:

But those few remaining descendents who now remain as the monument of the cruelty of those who came to improve our race and correct our errors—and as the immortal Washington lives endeared and engraven on the hearts of every white in America, never to be forgotten in time—even such is the immortal Philip honored, as held in memory by the degraded but yet grateful descendants who appreciate his character. (103)

Apess uses language that blurs the distinction between the iconographic status of the historical persona of Washington and Philip and the distinct people that these historical icons help form
and define. While Washington has had monuments built in his name, and Apess would likely argue that King Philip also deserves such an honor, it is the Native American people who become a “monument” to the cruelty of whites. Likewise, Washington is engraved onto the heart of every white. Apess is aware that public displays such as statues, monuments, and the written word interlink a people and help form a communal identity. This conflation of people and monuments, community and iconography signals Apess’s intention to purposefully elevate King Philip as a centripetal force of Native American nationhood. It further indicates Apess’s understanding of sovereignty as born out of a cohesive group identity. Apess must do more than assert ways in which Native polities resemble European style nation-states; he must also create a people from which sovereign authority can be said to emanate. There’s a decidedly pan-Indianness to much of Apess’s writing, perhaps because unlike the Ojibwe, the Pequot in the nineteenth century have ceased to function as a political force.35 From this perspective, pan-Indian resistance may appear to be one of the few remaining bulwarks against white encroachment, and Apess’s involvement in the Mashpee Rebellion clearly demonstrates his interest in cross tribal alliances.

Where, then, does William Apess’s autobiography fit into his interest in Native sovereignty? Concerns with native sovereignty are less evident in Apess’s autobiography than in his speech on King Philip, but a careful reading of Apess’s A Son of the Forest reveals ways in which Apess turns towards religion as a means to reassert native sovereignty. Where Apess makes use of the genre of eulogy to formulate a cohesive Native American demos, in his autobiography, Christianity, perhaps surprisingly, functions as a communal marker of Native

35 William Apess claims he is a descendent of King Philip’s, but this claim is dubious. Where Apess was a Pequot, King Philip was a member of the Pokanoket tribe of the Wampanoag people. It is likely that Apess confused King Philip’s War (1675-1678) with the Pequot War (1634-1638). Of course, it is also possible that Apess has taken on King Philip as a metaphorical ancestor that binds all Native Americans in his resistance to white aggression, a role he certainly plays in Apess’s eulogy.
identity as well as a legitimizing force for Native sovereignty. He further endorses the right of Native American land ownership through their status as first inhabitants of the Americas. At one point in his autobiography, Apess breaks from the flow of his life’s narrative in order to directly inform his reader of his preference for the term Native rather than Indian, presumably because it has not been tainted as an epithet like Indian and because it more clearly ties the Native American people to the American landscape. After expressing this preference, Apess writes, “I humbly conceive that the Natives of this country are the only people under heaven who have a just title to the name, inasmuch we are the only people who retain the original complexion of our father Adam” (10). Apess believed in the then popular theory that Native Americans were descendents of the Ten Lost Tribes of Israel. Throughout Apess’s writing, he reminds his readers that Jesus was a person of color and that Christianity did not originate in Europe. Apess’s Christianity is a form of strategic transculturation in which his religious conversion is more than just a personal acceptance of Jesus Christ. It also functions as a means to simultaneously loosen Europe’s grip on Christianity and to argue for Native sovereignty.

It is telling that Apess asserts Native ownership of the Americas at the same time that he makes a claim for Christianity as a more authentic religion of Native Americans. To be Native means being both a first inhabitant of the Americas and first inheritor of Christianity. But the connection between religion and sovereignty is not as incongruous as it at first seems. Apess must make Native American culture recognizable to his audience in order to then make their land claims valid. Apess’s Christianity may well arise from his genuine personal connection to the religion, but he also strategically deploys it in order to legitimize Native American community and Native sovereignty. Even as he reclaims a religious tradition that many Euroamericans viewed as inextricably white, he purposefully uses Christianity as a sign of racial difference,
making a claim to a Semitic religion by claiming Middle Eastern ancestry. Apess’s use of religion is multifold. He first adopts Christianity as his religion, which in turn allows him to enter into the print public sphere as a preacher and author. Next, Apess attempts to return Christianity to its Middle Eastern origins while simultaneously claiming the religion as more authentically Native American whose ancestry he locates in the Middle East. Finally, Apess makes use of both Christianity’s European and Native connections in order to argue for sovereignty. Native Americans are inheritors of a religion at once foreign and autochthonous. Apess needs Christianity as the plaster that compounds Native American people into a popular sovereign for his white audience, but suggests that this form of sovereignty predates white contact. In other words, Apess needs to reclaim the sovereignty Native Americans already had.

Although Apess predates the work of modern critic Robert Allen Warrior, Apess’s reclamation of the Christian tradition seems to echo Warrior’s notion of “intellectual sovereignty,” or the belief that Native people must make claims to a shared set of practices and beliefs (Warrior 89). Warrior believes that intellectual sovereignty might serve as an anecdote to the particular kind of assimilation that occurs in the United States under the guise of multiculturalism. Warrior does not specify what might constitutes intellectual sovereignty for American Indians, but he does offer the caveat that American Indian intellectual sovereignty should not be a rigid list of qualifiers, but rather, it should be flexible notions subject to change over time (89). So while it may seem strange that Apess relies on Christianity in order to assert Native sovereignty, his maneuvers to make Christianity a religion of non-whites is commensurate with a vision of a continually shifting and changing notion of what it means to be Native American. And while Warrior never uses the term popular sovereignty, because intellectual sovereignty posits a belief in a discrete people who exist within a shared firmament
of beliefs, traditions and icons, he is nevertheless writing under the assumptions of popular sovereignty. Like Apess, Warrior also believes that a shared notion of “a people” must exist in order for that people to lay claim towards territory and authority over a shared territory.

IV. George Copway and the Paradox of Native Sovereignty

George Copway was born as Kahgegagahbowh to Ojibwe parents near the mouth of the Trenton River, near the present day town of Trenton in Ontario, Canada. Copway’s father, John Copway, was an Ojibwe Indian chief who, along with the rest of his family, converted to Christianity in 1830. George Copway would spend most of his life crisscrossing the borders of three separate cultural and national entities: the Ojibwe Nation, Canada, and the United States. Copway’s multilingualism and adoption of Christianity likely helped him navigate these conflicting political and cultural institutes. At sixteen, Copway left home to minister to the Ojibwe at Lake Superior. Thanks to his prodigious skills as an interpreter, white missionaries sent him to the Ebenezer Manual Labor School near Jacksonville, Illinois where he studied for two years. Following his schooling, Copway spent some time traveling the eastern United States and reuniting with his family. While visiting the Credit River Indian mission west of Toronto, he met Elizabeth Howell, the daughter of an English settler. Despite disapproval by Howell’s family, the two married in 1840 (Smith 23-29).

Copway and his wife spent their time working for missionary organizations established to help convert Native Americans to Christianity. They eventually found their way back to Canada where they worked for the Upper Canadian Methodists near Copway’s home reservation near Rice Lake. However, Copway’s relationship with the Canadian Methodists and his reservation soured after he was accused of embezzling funds and spent some time in jail because of debts.
Copway was expelled from the Upper Canadian Methodists, and upon his release he and his wife returned to the United States. It is around this time that Copway began work on his autobiographical account, *The Life, History, and Travels, of Kah-ge-ga-gah-bowh (George Copway). A Young Indian Chief of the Ojebwa Nation, a Convert to the Christian Faith, and a Missionary to his People for Twelve Years*. Most scholars assume that his well-educated wife had a heavy hand in shaping and writing the manuscript. Copway’s writing and lectures caught the attention of other prominent American authors, and for a time befriended the historian Francis Parkman and the poet Henry Wadsworth Longfellow (Copway and Elizabeth named one of their two children Frances Minnehaha). With encouragement from his new literary friends, Copway continued to write and published a history of the Ojibwe nation and an account of his European travels, although much of his European travelogue has been found to be plagiarized from other sources (Smith 30-42).

During this time Copway also proposed establishing a Native American territory west of the Mississippi, which would be called “Kahgega,” which means “ever-to-be,” but which is also identical to the first part of Copway’s Indian name. Copway’s plan never gained the necessary support, and as his popularity decreased and financial situation became grimmer, he turned his attention to publishing. In 1851, he began publishing a weekly newspaper called *Copway’s American Indian*, but it folded after three months. The end of Copway’s life is mostly tragic. His literary friends eventually lost interest in him, and his wife and children left him in the 1860s. Curiously, he appears to have offered his services as an Indian medicine man in Detroit for some time. In the late 1860s he moved to a Roman Catholic Indian mission near Montreal where, shortly before his death, he converted to Catholicism (Smith 44-48).
Throughout Copway’s writing his language seems to be at odds with itself. Copway describes scenes of Native-American schooling, but then he claims that Native Americans are untutored; he both denounces the hierarchical metaphor of father and children to describe the relationship between whites and Native Americans while often using language that appears to subordinate Native Americans to white culture. Kevin Hutchings observes that Copway represents himself as alternately the western image of the noble savage and as a man of letters (225). Cheryl Walker notes that Copway apologizes for recounting and relying on dreams as visions while simultaneously asserting their powers of truth telling (88). Copway also veers wildly from praising to demonizing the Ojibwe language.

Scholars have put forth a number of explanations as to why Copway’s writing seems particularly at odds with itself. Donald B. Smith suggests that Copway’s incongruous writing may be a result of the text’s collaborative nature since Copway’s wife likely had a heavy hand in its production.36 Walker argues that Copway’s inconsistency stems from the minority writer’s “tendency to juxtapose the fragmented experience of the individual with the dream of a significant polis or group, without being able to resolve the emergent contradictions” (106). Copway cannot reconcile his own individuality with his role as speaker for the Ojibwe people. Cathy Rex argues that we should view Copway’s shifting identity through the lens of fluidity, suggesting that Copway is asserting his ability to be Ojibwe, British, American, and Christian simultaneously. Tim Fulford claims we might look at Copway as a trickster figure navigating contrasting cultures. But because the question of land continually hangs heavy over the writing

36 Critics return again and again to Elizabeth Howell’s involvement in Copway’s writing. Although clearly establishing Elizabeth’s involvement in Copway’s writing would help us better understand her life’s work as an author (she published several poems under her own name) and as a white activist for the Native American cause, it’s not clear how much her involvement changes our understanding of Life, History and Travels itself. Collaboration between authors and editors was naturally common no matter the ethnicity of the writer. Furthermore, a Native American author like Copway would have been conscious of the expectations of his highly white audience. He, of course, could not merely write what he wished. Elizabeth’s collaboration and her education would be just another means for a Native American author to insert himself into a print public sphere dominated by whites.
of Native Americans in the nineteenth century, it might be more productive to examine Copway’s unsettled cultural, religious, and linguistic perspectives through the lens of Native sovereignty.

As we have seen in Apess’s writing, Copway also had to make Native people and Native sovereignty legible to Europeans. Copway represent Native people and their nation as capable of reflecting white values that are associated with sovereignty, from agricultural practices to even religion. But this movement to the cultural borderlands carries with it potential dangers. Assimilating certain white cultural practices could provide Native Americans with the tools necessary to rebuff Euroamerican attempts at disrupting and annexing Native lands, but bridging difference between whites and Native Americans risks the incorporation of Native Americans into the U.S. or Canadian nation. Where many minority groups in the Americas fought to achieve full rights and citizenship, Native Americans needed to employ difference as an effective weapon of agency. For Native Americans multi-culturalism is a potential danger, not an ally. Homi Babha’s concept of mimicry is instructive in this situation. According to Babha, mimicry first asserts itself through colonial power as an attempt to reproduce “a reformed, recognizable Other” (122). It is through this mimicry—“difference that is almost the same, but not quite”—that the colonized subject can be represented (122). This form of mimicry also works in the case of sovereignty. By appropriating Euroamerican criteria for Native sovereignty, Native Americans can make their nations recognizable to white settlers. And yet a collapse of this difference would presage a full collapse of Native sovereignty. Native Americans were trapped between settlers who wished to push Native peoples outside of America’s national borders and Christian missionaries who wished to incorporate Native people into the American nation.
Defying both groups, authors like George Copway maintain an important element of difference in their representations of Native sovereignty.

Copway’s autobiography illustrates adeptness at mimicking contemporary European discourse, especially when discussing religion and science. These two concepts are inextricably linked in Copway’s writing as illustrated in his preface:

Pray for us—that religion and science may lead us on to intelligence and virtue; that we may imitate the good white man, who, like the eagle, builds its nest on the top of some high rock—science; that we may educate our children, and turn their minds to God. (italics original 65)

Religion and science are not only linked, but through typeface elevated to a position of transcendence that links them with abstract notions of “intelligence” and “virtue.” These concepts are then grounded through the metaphor of the eagle and its nest. While this metaphor may strike the reader as strange—why associate science, which is often viewed as an outward observation of nature or with the manipulation and control over nature with an eagle and its nest—its use might make more sense if we view the metaphor as an attempt to establish ownership over territory. This passage suggests ways in which strategic transculturation becomes linked with land and nature. The particularly Native American and totemic nature of the metaphor further demonstrates ways in which Native American culture continually slides into Copway’s language—even as he praises white culture or even by implication denounces Ojibwe traditions, he cannot help but reinforce Native culture and discourse. The eagle also held spiritual significance in Ojibwe culture. The eagle was known as a “prayer carrier” who would transport prayers to the Creator and would also carry away sickness from the suffering. By choosing the eagle for his metaphor, Copway demonstrates ways in which Christianity and other
white customs do not necessarily erase Native belief systems. Tellingly, it is only the “good white man” that the Ojibwe should imitate. This qualification further erects a distinction between whites and the Ojibwe people, suggesting that Natives might borrow piecemeal from white culture while maintaining their own identity. This conspicuous qualifying adjective might also serve as a sly insult to whites. The claim that there is a category of a good white man also implies that many whites are morally corrupt.

In an attempt to more clearly align Native land use with those of whites, Copway highlights Ojibwe movement away from hunting and towards farming. He observes that because whites have depleted deer and other sources of food, many Ojibwe have become farmers and that they not only grow enough grain for personal use but also grow enough of a surplus to sell grain to neighboring whites (95). But in the text’s typical self-dissonance, Copway spends much of the first few chapters praising the virtues of hunting. Early on, Copway makes it clear that Ojibwe hunting grounds served as distinct borders between differing American Indian nations, noting that “[n]o one hunted on each other’s ground” (71). The Ojibwe recognized and respected each others’ borders, an understanding that stretches from past to present. Copway further makes it clear that these borders were policed not just through shared cultural understanding but also through Native American legal apparatuses. Hunting grounds were “secured by right” through Native-American “law,” and each successive violation of this law carried with it specified penalties: after the first infraction, a violator would lose all possessions with the exception of hunting material, such as knives, guns and powder, necessary for his return home; after the second infraction, all possessions except for necessary food are taken from the violator; and after the third infraction, the trespasser’s nation is informed (75). Copway is describing Indian nations in a way that comports with a legal definition of the modern sovereign nation-
state: a cohesive territory governed by institutions and people who reside within the borders of that territory. In fact, Copway’s emphasis on the Ojibwe’s clearly demarcated borders is strikingly similar to Apess’s representation of Native nations prior to European contact in his “Eulogy on King Philip,” indicating that these two Native-American writers, separated by nation, time and geography, were at least partly responding to similar attacks on Native nationhood and were intimately knowledgeable of what, for their white audiences, constituted a sovereign nation.

In Copway’s writing, hunting serves as an integral cultural and educational tool within the Ojibwe nation. Copway describes an older custom where the first deer killed by a young hunter serves as the centerpiece of a large feast. The hunter, however, was not allowed to eat the food; instead, he had to serve the rest of the community (80). The ritualized feast echoes the lessons Copway’s father taught him about respecting older members of the community and always redistributing game to the poor and elderly. In both instances hunting fosters group cohesion across age and wealth difference. Copway’s father uses their hunting trips as an occasion to provide his son with lectures, transforming the practice of gathering sustenance into an important form of schooling.

Those training to become medicine men and women also underwent regularized training and initiation. Younger members of the tribe who wish to become medicine men were brought to a large wigwam known as the Grand Medicine Lodge (Me-tae-we-gah-mig), and after several days of rituals that consisted of singing and dancing, the future medicine men and women were taken to a second location where they were taught the art of medicine in addition to other subjects like morality. Tellingly, Copway likens the Grand Medicine Lodge to Masonic institutions and uses the phrase “the science of medicine” in order to describe the medicine men and women’s subject. Despite the fact that Copway’s preface associates knowledge and science
with whites, the above moments act as fissures within the text where Ojibwe epistemological institutions become an integral component to the Ojibwe nation. By emphasizing law and learning, Copway rejects the commonly held white belief that Native Americans existed in a “state of nature.”

Copway’s writing even points towards a new understanding of sovereign possession that eschews the Lockean concept of improvements and agriculture. In *Romantic Indians: Native Americans, British Literature, and Transatlantic Culture, 1756-1830*, Tim Fulford examines ways in which British Romantic writers employed the figure of the Native American and how Native Americans, in turn, pulled from British Romanticism. In his chapter on Copway, Fulford examines the author’s prominent placement of Romantic discourse and poetry. Copway’s autobiography not only quotes poets such as Robert Southey, but also employs Romantic notions of nature in order to emphasize a Native American connection with land that has long been lost to whites. Fulford claims that Copway asserts ownership over Ojibwe through his “intense emotional identification with the landscape” (281). Copway directly links his natal origins with nature, exclaiming, “I was born in nature’s wide domain!” and asserting, “I am one of Nature’s children” (73). Copway further ennobles his entrance into life and nature by stating, “I would much more glory in this birth-place, with the broad canopy of heaven above me, and the giant arms of the forest trees for my shelter, than be born in palaces of marble, studded with pillars of gold!,” and just a few sentences later, he writes, “Niagara will be Niagara a thousand years hence! the rainbow, a wreath over her brow, shall continue as long as the sun, and the flowing of the river! While the work of art, however impregnable, shall in atoms fall” (73-74). Copway metonymically couples Native Americans with nature through the image of his birth under a canopy of trees. He then insists on the dominion of nature over man-made structures, comparing
the intransience of the former to the impermanence of the latter. It is easy to read this passage as an inversion of the Lockean idea that in order to possess land, you must mix your labor with it. Instead, Copway makes the claim for Ojibwe possession of land through birth, aesthetic appreciation and stewardship. Copway is directly challenging the European idea that ownership is the primary means of claiming land and territory.

But if Copway is able to make such a strong case for the sovereignty of the Ojibwe people early in his autobiography by discarding Lockean notions of ownership, then why, later on, does he so closely follow the Lockean model? What accounts for Copway’s contradictory depiction of sovereignty—both averring a right to Native lands that preexists European contact while borrowing notions of sovereignty that demand Native American acculturation? Copway’s conflicting representations of Ojibwe culture—both valorized and denounced—arises from the cultural specificity of sovereignty.

Mimicry of whites is not the sole avenue towards national self-determination in Copway’s writing. Copway lays out several theories establishing Ojibwe independence. In fact, it is necessary that he temporally outflank white settlers by establishing a preexisting Ojibwe nation founded on Ojibwe and not white ideals. If the Ojibwe nation were solely dependent on white notions of sovereignty, then the Ojibwe would be left without a nation to call their own. Copway must assert an Ojibwe nation that precedes white contact, and in order to do so he must develop a theory of national independence that does not rely on white cultural, judicial and agricultural practices. Upon establishing Ojibwe nationhood, he must reassert Ojibwe sovereignty through a white cultural medium, promising that Ojibwe have obtained or in the process of obtaining a sovereign nation-state as defined by whites. In other words, Copway must
convince whites that the Ojibwe people both have already been and are in the process of becoming a nation-state.

By viewing Copway’s writing through the notion of Native sovereignty, we can shed light on why Copway’s writing often seems at such cross-purposes. A variety of scholars have suggested that Copway’s work is vexed because, as an American Indian, Copway’s identity is trapped between the antipodal worlds of white and Native Americans. Cheryl Walker, for instance, makes the claim that Copway’s writing is a result of his racial mixture (88). And Cathy Rex believes that Copway’s writing is a reflection of his fluid identity (3). But Copway’s writing is necessarily contradictory when writing about Native sovereignty, a concept that appears to be just as tangled in white texts as in the writings of George Copway. In this manner, Copway’s paradoxical writing style is not necessarily a result of his Indianness but rather of white culture’s inability to comprehend a space for a Native American nation within what was perceived as white borders and Copway’s attempts to construct that space for his readers.

V. Conclusion

I would like to turn once again towards the Haudenosaunee passport incident to examine ways in which Native sovereignty is still vexed in the twenty-first century. It is worth noting that the Haudenosaunee relied on several different strategies in order to allow their lacrosse team to compete in England, but also that the team would go on to refuse certain remedies that were not commensurate with their belief in native sovereignty. After the Haudenosaunee lacrosse team’s passport problems became more widely known, the Haudenosaunee were able to exert political pressure on the United States, leading then Secretary of State, Hilary Clinton, to grant the team a one time exemption that allowed them to travel outside of the U.S. without official U.S.
passports. The British consulate, however, was not convinced and remained steadfast in their refusal to allow the team to travel to their country despite approval from the Secretary of State.

Even after being forced to forfeit their first game, the Haudenosaunee team, along with representatives of the United States, continued to argue their case with the British consulate. After it became clear that the Haudenosaunee team would also have to forfeit their second game, they decided to accept the decision of the British consulate as final. The team would not be able to represent the Haudenosaunee Confederacy on the international stage through the game of lacrosse, a game invented by American Indians (“False Hope,” “Passport Dispute”).

While the Haudenosaunee Confederacy was ultimately unsuccessful, the team’s goalie, Marty Ward, made it clear that the team saw the transnational conflict as a part of much larger issues: “We fought a battle that was bigger than lacrosse. It brought indigenous people back to the forefront. It let everyone know that we’re still here — we haven’t gone anywhere” (Ward qtd in “Passport Dispute”). Ward speaks to the ability of the Haudenosaunee Confederacy, to assert Native sovereignty despite attempts by the United States to subsume Haudenosaunee political agency under its authority. Ward’s claim that “we haven’t gone anywhere” is almost certainly a rebuttal to the “vanishing Indian” myth, but it may also signify that Native American sovereignty still exists.37

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37 The Haudenosaunee passport dispute illuminates a number of conflicting elements making up the notion of indigenous sovereignty. Despite the fact that the geography of the Haudenosaunee Nation stretches across the border between the U.S. and Canada, the question of passports was initially framed in the news as an issue between the Haudenosaunee, U.S. and British nations. The Haudenosaunee passport dispute was brought to the attention of many thanks to several articles in the New York Times written by Thomas Kaplan. In the first two articles, Kaplan frames the debate solely around the question of whether the U.S. will aid the Haudenosaunee team in their attempt to fly to England, but in the third article, published July 16th, 2010, Kaplan finally mentions that the Haudenosaunee may have also sought aid from the Canadian government. The notion that indigenous territory is wholly contained within a single sovereign nation is clearly untrue, but this nesting doll image of Native sovereignty still remains in the imagination and dates back to the Chief Justice Marshall’s series of Supreme Court decisions regarding the Cherokee Nation. Indigenous sovereignty can help unsettle the notion of a cohesive sovereign nation-state, either by disrupting borders between nations or by positing a competing sovereign authority within a nation’s borders.
The Haudenosaunee passport dispute demonstrates how politically and culturally charged the notion of Native sovereignty remains in the United States. And as revealed by the Haudenosaunee’s conscription of U.S. politicians in their fight over sovereignty, champions of indigenous sovereignty battle on already negotiated terrain. Whether it is the nineteenth century or the twenty-first century, questions of what constitutes Native sovereignty remain unresolved. During the dispute, U.S. officials claimed that the Haudenosaunee passport had no basis in federal law, and yet, the Haudenosaunee had been using their own passports in order to leave the country for decades. This vast contradiction between actual practice and supposedly settled law may seem surprising to many, but Native American Law in the United States is notoriously contradictory, its history filled with court cases that seem strangely at odds with one another (Harring 34). This incident further illustrates ways in which Native sovereignty is fought and established through extra-legal means. The Haudenosaunee team refused expedited U.S. passports while simultaneously petitioning U.S. political figures, including Bill Richardson, former governor of New Mexico and Kirsten Gillibrand, senator from New York, to argue on their behalf. The Haudenosaunee passport dispute helps illustrate one of the contradictory elements of sovereignty: While sovereignty imagines each nation-state to be wholly independent from outside political forces, it still relies on its recognition by outside political forces, namely other nations, to maintain its integrity. No single political body, whether it is a town, city, or province, can unilaterally declare itself a sovereign nation. So while the Haudenosaunee were able to wrangle an exemption from the United States, they were finally stymied by a lack of

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38 In his essay, “Indigenizing Agamben: Rethinking Sovereignty in Light of the ‘Peculiar’ Status of Native Peoples,” Mark Rifkin looks at various court cases across the centuries to argue that even in the twenty-first century, Native American reservations fall in a legal gap and the federal government has yet to formulate a satisfying framework in which locate American Indian sovereignty (“Indigenizing Agamben” 89). Native or quasi sovereignty denies full sovereign right and authority for Native nations, and instead formulates a geographic state of exception where Native rights may be unilaterally transformed because they have never been adequately defined in the first place (“Indigenizing Agamben” 96-96).
recognition from Great Britain. But this paradox of sovereignty holds true for any nation claiming sovereign rights. In order to be considered wholly independent from outside powers, you must gain approval from outside powers.

The Haudenosaunee passport incident is instructive because it illustrates ways in which Native resistance engages in a much larger network of support and engagement while also asserting Native self-determination. The Haudenosaunee lacrosse team rejected U.S. passports because it was a violation of their identity as a sovereign nation. They refused to meld into America’s multicultural tradition. When writing about marginalized authors of color, literary theorists have developed a vocabulary that stresses the permeability of cultural borders—hybridity, mimicry, and transculturation. These are important tools, and I have used several throughout my chapter. These terms all carry with them the connotation of melding—the bridging of two cultures whether it is the metropolitan and the creole or the colonizer and the colonized or the slave and the slave owner—but it is also important to recognize that cultural amalgamation does not always arise out of or result in political amalgamation. We see this tendency towards a happy multiculturalism in the work of Cheryl Walker who makes the unsubstantiated claim that when Apess uses the word “nation” he really means cultural community and not nation-state (94). This reticence towards Native sovereignty likely arises out of a common American attitude aptly described by Craig S. Womack: “America loves Indian culture; America is much less enthusiastic about Indian land title” (11). In the case of Native sovereignty, and in particular the writings of George Copway and William Apess, cultural appropriation becomes a tool for severing relations, not bridging them. Apess and Copway must argue for cultural similarity not so that they may become members of the American family, but
so that they may detach from the authority of the U.S. government. Both authors are saying, we are like you so that we may be apart from you. Apess and Copway are fighting not for full rights and recognitions as Americans so much as they are fighting for a right as Natives for disunion from U.S. political authority.

In their writing, Apess and Copway are keenly aware of Euroamerican assumptions regarding sovereignty. They understand that nations who wish to wield sovereignty in the nineteenth century must do so by agreeing to mirror white cultural, political, epistemological, and agricultural traditions. Both authors mimic these traditions to their largely white audiences, but they do so up to a point. When approaching the question of Native sovereignty, Apess and Copway navigate a temporal split between Native nations pre and post white contact. We see in their writing dual notions of sovereignty—one born out of European culture and another founded in autochthonous practices. Copway opens his autobiography by submitting to the authority of white religion and science only to later valorize Native knowledge making practices. Apess spends much of his autobiography attempting to become a member of the white Christian tradition, only to later make the claim that Native Americans are more authentically Christian than whites. By understanding that nineteenth-century notions of sovereignty were filtered through European culture, we become better able to understand the competing demands on Copway and Apess’s writing while beginning to solder an understanding of what notions of self-governance look like outside of terms traditionally employed by Europeans.
Chapter 4: “‘Cavalier Appropriation’: Popular Sovereignty and Global Capitalism in Typee and Omoo

I. Global Capital, Sovereignty and Empire

So far I have examined different ways in which nineteenth-century authors have repositioned the concept of sovereignty to cover various swaths of contiguous territory. Attempting to represent himself as a figure of the popular will, William Walker, an American, sought to legitimize his takeover of Nicaragua; in order to stress the North’s obligation to and culpability for slavery in the South, Frederick Douglass reassembles America’s identity as a single sovereign entity; both George Copway and William Apess use autobiographical writing to make native sovereignty visible to their largely white audience. For my final chapter, I wish to examine how Herman Melville approaches the subject of American and European economic and political imperialism as it stretches over the Pacific islands and their inhabitants. Examining the early works of Melville, arguably the American Renaissance’s preeminent novelist, I will interrogate his approach to issues of empire, native sovereignty and global capital as well as ways in which these elements appear to continually shift and collide. Specifically, I will look at Melville’s first two adventure novels, Typee and Omoo. Both novels have been somewhat overlooked by modern scholars in favor of Melville’s later, more structurally experimental work. Because Typee and Omoo more directly approach questions of American and European imperialism over native peoples, I argue that they are an important starting point when asking how sovereignty fits within the project of American and European empire making in the work of Melville.
Of all canonical authors from the American Renaissance, perhaps no other grapples more directly with questions of American empire than Herman Melville. Wai Chee Dimock recognized the centrality of empire to the work of Melville when she titled her book-length study of Melville *Empire for Liberty* after a phrase used by Thomas Jefferson. Since the American origin myth is born out of a rejection of British Empire and built on the foundational ideals of liberty, the oxymoronic nature of Jefferson’s phrase seems particularly apt when describing the American Empire. According to Dimock, Americans also have difficulty perceiving their own imperial ambitions because this particular version of empire demands that its subjects transform themselves into liberal individuals (20). In other words, Americans are blind to the fact that situating individual members of the American Empire into the role of singular, wealth-producing, land-owning subjects is in any way coercive; instead, this transformation is seen as a form of liberation. Dimock touches upon the fact that American Empire is intimately tied up with notions of economic liberalism and expansion. Melville’s exploration of American Empire does not focus on American military might as it assimilates territory, but rather he looks towards America’s burgeoning economic power as it spreads across oceans and borders. From the whaling industry in *Moby Dick* to the slave trade in “Benito Cereno” to Wall Street speculation in “Bartleby, the Scrivener,” Melville has demonstrated time and again his interest in the pistons and valves that help drive America’s economic engines. It is for this reason that any analysis of Melville and empire must also turn its eye towards issues of global capitalism.

But too often critics of Melville conveniently slide global capital within issues of empire and nationhood. We see this in Dimock’s *Empire for Liberty* when she represents the wealth producing, rational *homo economicus* as a force of empire and nation-making. And in many situations global capital and American Empire do form a clear alliance. As land is transformed
to produce goods and capital and human resources into America’s borders, American economic power and nationhood both increase in stature. But global capital does not always or automatically bolster popular sovereignty, and in recent years the globalized marketplace has been seen as a direct threat to national sovereignty, a concern that I argue is visible in Typee and Omoo. In the following chapter, I argue that Herman Melville’s early fiction explores ways in which capital can penetrate popular sovereignty as a form of governing authority and as a form of territorial control. First, I demonstrate that in Typee, Melville represents the native tribes of the Marquesas Islands as distinct nations built on the authority of popular sovereignty. The nations of the Marquesas Island derive their sovereignty from their people which stands in opposition to the newly ascendant native proxy king backed by French naval forces. Rather than serving as simple anti-imperialist texts, Typee and Omoo are also concerned about ways in which global capitalism infringes on the rule of popular sovereignty in Western nations as well. Finally, I argue that by examining Typee and Omoo in conjunction, we can see how Melville represents the Tai Pī nation in a manner that not only disrupts European imperialism but to construct an imaginative space that might repudiate the expansion of global capitalism.

II. Searching for Native Sovereignty in the South Pacific

Like its sequel, Omoo, the spine of Typee’s narrative is taken from Melville’s own adventures in the South Pacific, but as Charles Anderson observes in his book, Melville in the South Seas, Melville supplemented his personal narrative with information from other sources and artful fabrications. Melville came to the Marquesas Islands as a sailor on board a commercial vessel sometime in 1842 as the French were attempting to assert dominion over this

39 According to Anderson, the sources for Typee were not necessarily all written. Herman Melville may have even borrowed some imagery and stories from tales he heard from his cousin Thomas Wilson Melville, who had spent some time in the Marquesas Islands as a midshipman (18-20).
South Seas territory. Like his character in *Typee*, Tommo, Melville and a crewmate deserted their ship, and, after the two were separated, Melville lived among the natives of the Tai Pī Valley for about four weeks (although in the book his character stays for four months) (Anderson 69-70). Melville traded on the ostensibly true nature of *Typee*, which helped fuel his initial rise to fame. Despite the true events that form the foundation of *Typee*, Melville’s original manuscript was rejected by American publishers because it seemed too fantastical, leading Melville’s brother, Gansevoort Melville, to seek publication of the text in England where it found a publisher. An American edition followed. The events of *Typee* were granted more credence by the public thanks to a letter published by Melville’s confederate in desertion, Richard Tobias Green (“Toby” in the novel), confirming many elements of Melville’s story.

As Melville’s first novel, *Typee* has largely been regarded as a simple adventure novel that eschews the more philosophical aspects of the author’s later work, such as *Moby Dick* or *The Confidence Man*. It would be hard to deny the relative straightforward nature of *Typee*’s narrative when compared to Melville’s more experimental novels. This view of Melville’s artistic trajectory has in part been bolstered by Melville’s own assessment of his earlier work. In a letter to his friend and fellow author, Nathaniel Hawthorne, Melville laments the long shadow *Typee* has cast on his reputation five years after the novel’s publication. Melville writes, “What ‘reputation’ H.M. has is horrible. Think of it! To go down to posterity is bad enough, any way; but to go down as a ‘man who lived among the cannibals’!” (“Letter to Nathaniel Hawthorne” June 1851). Here, Melville appears to recoil at the idea that his first novel will be his only work to outlive him. Still, the text is more complicated a novel than given credit, and it serves as an integral component of Melville’s entire corpus. Throughout *Typee* there are short stretches of anthropological observations that seem to rehearse the essayistic portions of *Moby Dick*. *Typee*
also provides scholars with the most in-depth look at Melville’s attitudes and beliefs regarding
the Polynesian people while demonstrating a keen interest in using his writing to engage the
global questions.

By examining Melville’s first two novels through the lens of sovereignty, I hope to draw
out the tension between sovereignty and global capitalism. While we often view the conflicting
nature of the nation-state and global capital as a product of our hyperconnected twenty-first
century, Ayse Celikkol argues in her book, *Romance of Free Trade: British Literature, Laissez-
Faire, and the Global Nineteenth Century*, that worries about global capitalism’s erosion of
sovereignty were present at least as early as the first decades of the nineteenth century where she
locates “the structural tension between capitalism and the nation-state” (4). According to
Celikkol, while free trade “needs capital to move without barriers,” the nation-state “needs to
present itself as a stable, enclosed community” (4). But where Celikkol focuses her research on
English authors who, with few exceptions, support global capitalism, analysis of Melville’s first
two novels illustrates ways in which members of Western nations were concerned not merely
with the affects of global capitalism at home but how global capitalism might dismantle native
sovereignty. This concern regarding global capitalism’s scope in turn is a reflection of
Euroamerican fears that there is no outside to capitalism’s reach at home and abroad.
Melville’s novel rehearses arguments regarding sovereign authority and global capital that would
become more pertinent in the ensuing centuries.  

40 One particular blind spot in Celikkol’s work is that while it examines works of literature that engage with the
burgeoning British Empire, it does not examine literature written by native persons within that empire. We never
get a full analysis of what Indian authors think about the conflicting relationship between sovereignty and global
capitalism. Looking at *Omoo* and *Typee* in no way cover that oversight in Celikkol’s book, but it does motion
towards how whites might worry about global capitalism’s tendency to break apart native sovereignty, even if that
concern is, in part, a reflection of concerns regarding working conditions in the industrialized West.
Where Celikkol demonstrates that concerns regarding global capitalism stretch back at least to the early nineteenth century, Charles Waugh positions Melville as an author explicitly engaged in the global. In his essay, “‘We Are Not a Nation So Much as a World’: Melville’s Global Consciousness,” Waugh argues that the advent of technologies such as photography and the telegraph inaugurated the process of globalization in the first half of the nineteenth century (208). And like the Transcendentalists—who employed the world as a metaphor and borrow religious concepts from as far away as India—Melville helped develop a global consciousness in his readers (208). Waugh reminds us that Typee was originally released by the British publisher John Murry who included the text in his “Colonial and Home Library,” which served the purpose of imaginatively transporting readers to the far corners of the globe (208). The very publication of Typee served to situate the text within a global context.

To demonstrate Melville’s global concerns, Waugh points to Melville’s concern for the South Pacific natives in Typee. Perhaps expectedly, Melville’s stance on the Tai Pi has split literary scholars. Originally published in 1939, Charles Anderson’s Melville in the South Seas describes Typee as a “whole-hearted defense of the Noble Savage and a eulogy of his happy life, his external beauty, and his inward purity of heart” and further claims that the book “is written in the romantic literary tradition inaugurated by Rousseau a century before” (178). Anderson represents Melville’s indulgence in the noble savage trope as both laudable and overly romantic. But where Anderson, writing in the mid-twentieth century, is somewhat sympathetic toward Melville’s use of the concept of the noble savage, more recent literary critics have used how much Melville relies on the noble savage to gauge his condescension towards the Tai Pi—the more prevalent images of the noble savage in Typee, the more retrograde Melville’s politics. In “Civilizational Critique in Typee, Omoo, and Mardi,” Mita Banerjee argues that Melville
employs a kind of native ventriloquism which is used to criticize Western culture, but in
mustering this critique, Melville’s ventriloquism robs natives of their own voice (208).

Much like Banerjee, Kennan Ferguson is concerned with how much agency Melville
affords Pacific Islanders in his early novels. In “Who Eats Whom?: Melville’s Anthropolitics at
the Dawn of Pacific Imperialism,” Kennan Ferguson argues that Melville reconstructs his
experiences in the Typee Valley through a contemporary anthropological understanding of
Polynesian people. Ferguson claims that Melville helped inaugurate “a new template of
imperialism for the American imaginary” that simultaneously protects these cultures from
“foreign influence while manipulating them to its own ends” and “saving peoples from the
vagaries of international capital while using them as a touristic destination” (23). As evidence
for his take on *Typee*, Ferguson points to Fayaway, the Typee woman who serves as a potential
romantic partner for Tommo. Like many Pacific Island women in the novel, Fayaway is highly
eroticized, and her beauty reflects the pleasures of the island itself (30). In Melville’s fiction, the
Edenic qualities of the Marquesas Islands stand in stark contrast to the tyrannical nature of life
aboard a merchant ship. Thus, fleeing towards distance lands by way of imperialism becomes
one of the chief means of escaping the despotism of America’s economy. As Ferguson writes,
“Melville showed…how the particularity of individual tyranny had an *outside*: that of the project
of empire” (33). Ferguson appears to want it both ways. Melville represents the Marquesas
Islands as both a prelapsarian utopia that must be protected from civilization and as a space that
whites may inhabit and utilize for their own pleasure.

Still, Ferguson’s claim that *Typee* constructs a delicate, prelapsarian world within the
Typee Valley is a serious concern, especially considering the prevalence of the noble savage
trope in the nineteenth century. Sophia Mihic rejects the notion that Melville transforms the
Typee into one-dimensional noble savages. According to Mihic, Melville positions the Typee as an alternative to the idea of progress imbedded within modernity. Unlike Ferguson, Mihic believes that this escape from the world of white modernity is not a simple exchange of civilization for Eden: “He does not present the encounter as a return to an Edenlike grace…He, unlike Rousseau, situates his savages securely in their own artifice—they are language users, they are together in a society” (52). Because the Typee construct their own world rather than live naturally within it, their society serves as an alternative to the world Tommo lives in but not a simple diametrically opposed mirror image of white civilization. In other words, the natives of Typee form one potential version of how society may be arranged among many, not merely one half of a savage/civilized divide.

Situated between critics who vehemently denounce Melville’s imperialist tendencies and those who extol his enlightened stance towards the natives of Nuku Hiva lies a more conflicted approach towards Typee and Omoo that acknowledges the imperialist ideology Melville himself is trapped within while also recognizing ways in which he pushes against hegemonic encapture. Or, as Malini Johar Schueller argues in “Colonialism and Melville’s South Seas Journeys,” even as Melville attempts to subvert the “ethnocentric assumptions” of his readership, he simultaneously “retains a conflicted subtext of colonial imperatives” (par. 11). Without claiming that the discourse of imperialism and noble savagery never enters into the language of Typee—Melville does explicitly use the phrase noble savage—I argue that examining Melville’s first novel through the lens of popular sovereignty better illuminates the relationship between the Tai Pī and white imperial ambitions. From this perspective, Melville’s work also provides us with an instance of a white, American author representing an indigenous people as constituting a sovereign nation, which at times contrasts with the work of George Copway and William Apess
in interesting ways. As I will further argue, Melville develops a concept of native sovereignty for the Tai Pī nation, but he does this in a manner that reflects Euroamerican concerns regarding the inexorability of global capitalism.

Throughout *Typee*, Melville repeatedly draws attention to the situated nature of the imperial gaze. As Schueller notes, the subheading of Melville’s text, *A Peep at Polynesian Life*, draws attention to the clipped and incomplete nature of Melville’s perspective on the Tai Pī (par. 12). Highlighting the difficulty of an outsider ever achieving full knowledge of the Tai Pī people, Melville opens up his narrative by representing the Marquesas Islands as nearly unknown by white explorers. He notes that he has encountered only three texts that have attempted to provide any information about the Marquesas Islands to a white, English speaking audience: David Porter’s *Journal of a Cruise Made to the Pacific Ocean in the U.S. Frigate Essex* (1815), Charles S. Stewart’s *A Visit to the South Seas in the U.S. Ship Vincennes* (1831), and the Journals of Captain James Cook, although Melville is quick to claim that in all of his journeys, Cook barely touched the islands (*Typee* 14). While Melville’s claim that the Marquesas Islands are largely unknown to whites runs contrary to some of his later observations, by framing the islands as free from white entanglement, Melville positions the islands as epistemological unknowns, inaccessible by the white imaginary. He later criticizes those who have written about the natives of the Marquesas Islands as “learned tourists” who received their information either second hand.

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41 Interestingly, where Christianity appears to form a strategic purpose in establishing native sovereignty in the texts of Apess and Copway, not only does Melville not rely on the idea of Christianity or conversion as a basis for native sovereignty, but he actively argues against missionary work in the Pacific. It is possible that because Apess and Copway are Native American, they must rely more heavily on religion in order to enter into the print public sphere where Melville does not face this same barrier.

42 Melville’s focus on the situated nature of observation and the gaze in *Typee*, rehearses his later concerns with subjectivity, a topic that perhaps reaches its apex in Melville’s final novel, the carnivalesque *The Confidence-Man*.

43 In addition to Porter, Stewart and Cook whom Melville mentions directly in *Typee*, he also likely consulted the work of William Ellis’s *Polynesian Researches* (1833) and George H. von Langsdorff’s *Voyages and Travels in Favourites Parts of the World* (1813) (Tanselle 1327). Charles Anderson’s study, *Melville in the South Seas*, is a strong compendium of that many sources utilized by Melville in his early fiction.
or by staying an inadequate amount of time among the people of the Marquesas Islands (200-01). By representing the Marquesas Islands as unfamiliar to whites, Melville draws attention to his particular subject position as a white male entering into an unknown culture.

For Melville, any understanding of the archipelago is culturally situated. Early on, Melville notes that at one time the Marquesas Islands were “arbitrarily” divided according not to internal differences among tribal nations but according to the nationality of white discoverers (20). Although a cohesive archipelago, the Marquesas Islands were designated as two separate island chains according to which outside nation first discovered the separate island groupings. The Spanish first came upon the main cluster of islands and many years later, an American captain from Boston came to know of the existence of a separate trio of islands known as Ruhooka, Ropo, and Nukeheva (20). It is in these early descriptions of the history of the Marquesas Islands that Melville appears conscious of ways in which knowledge of the world is culturally situated. By acknowledging that the islands were divvied according to the happenstance of white outsiders, Melville is also acknowledging the capricious nature of national borders, especially when those borders are delimited by outside forces.

Melville himself arrived at the Marquesas Islands in the same year that the French had claimed possession of the islands. Melville describes the French presence at the island of Nuku Hiva as incongruous:

Towards noon we drew abreast the entrance to the harbor, and at last we slowly swept by the intervening promontory, and entered the bay of Nuku Hiva. No description can do justice to its beauty; but that beauty was lost to me then, and I saw nothing but the tri-colored flag of France trailing over the stern of six vessels, whose black hulls and bristling broadsides proclaimed their warlike character.
They were floating in that lovely bay, the green eminences of the shore looking down so tranquilly upon them, as if rebuking the sternness of their aspect. To my eye nothing could be more out of keeping than the presence of these vessels. (21-22)

In the above description, Melville employs visual perspective and the movement of individual point of view to illustrate the relationship between the Marquesas Islands and the newly dominant French. As Tommo’s ship curves around a tall headland and into the bay, his vision is met by a half-dozen French ships, which drains the scene of its aesthetic beauty. The reveal of French warships in the Nuku Hiva harbor echoes Melville’s earlier discussion of the arbitrary nature of the islands’ division at the hands of the Americans and Spanish—white imperialists are incapable of seeing the island as they are. By describing the bay according to a shift in visual position, Melville is also drawing attention to his own subjective position in relation to the Marquesas Islands. Further, just as Tommo is about to be greeted by a view of the bay, his vision is obstructed by French flags. Melville further personifies the ships in order to suggest the violent machinations of empire without explicitly describing it to the reader. When describing the “warlike character” of the French ships, Melville refers to their “black hulls and bristling broadsides,” allowing alliteration to mimic the sound of cannon fire and words such as black and bristling to suggest violence (20). By suggesting this violence rather than explicitly describing it, Melville reenacts ways in which the violence of empire is obscured to white eyes.

In some ways, the scene of a pristine paradise interrupted by French warships reenacts the narrative of a “savage” Eden that becomes contaminated by white presence. But as I will show later on, Melville complicates this noble savage narrative when describing the Tai Pī people. First, Melville takes up much of the third chapter to directly critique the imperial
ambitions of France. In a scene suggestive of the military and economic costs necessary to subjugate the Marquesas Islands, he describes the continuing construction of French fortifications to guard against any immediate attack by Marquisan natives. Melville points to the absurdity of the French having employed massive firepower to subdue local resistance by relying on “sixty-eight pounders to demolish huts of cocoa-nut boughs, and Congreve rockets to set on fire a few canoe sheds!” (26). While Melville’s tone might carry a hint of condescension, the overwhelming asymmetrical violence in his description demonstrates France’s unilateral actions on the inhabitants of Marquesan island of Nuku Hiva.

After describing the imposing presence of France’s war machine, Melville delves into the complicated machinations that were necessary for France to claim itself as protectorate of the island. The French utilized the leader Mowanna and, under the pretense that he is the King of the entirety of Nuku Hiva, they established Mowanna as “sovereign” of the whole island (28). But as Melville observes, the French have not only used Mowanna as a puppet ruler, but the territory they claim comprises “various clans who for ages perhaps have treated each other as separate nations” (28). The French have continued to segment the islands according to an outsider’s understanding of the political and cultural makeup of the islands’ populations, ignoring the distinct separate polities organized by the Marquesans. The French approach towards the islands of Marquesas not so subtly echoes the division of the islands between those islands previously explored by the Americans and the Spanish, suggesting that white imperialists and explorers are incapable of moving beyond their own culturally hindered understanding of the islands.

It is into this environment—in which the French are violently annexing the Marquesas Islands—that Tommo and Toby desert their ship and flee into the interior of Nuku Hiva Island.
Melville outlines a number of shipboard grievances that occasion Tommo and Toby’s desertion, and I will more closely look at these issues of shipboard discipline and punishment alongside parallel issues in *Omoo* later on. I want to take a moment to examine Tommo and Toby’s time in the wilderness and with the Tai Pī. Mihic notes that when Tommo and Toby enter the Nuku Hiva wilderness, they expect to live off the land with little trouble but soon realize that gathering food from Nuku Hiva’s bounty is more complicated than first imagined (53). Additionally, Melville spends some time describing the difficulties of navigating the inhospitable environment of the island. Tommo and Toby are beset by mountainous terrain and dense foliage that makes travel on the island difficult (*Typee* 50-54). Melville’s description of the island and the travails that his protagonist endures differs widely from the common image of indigenous people cohabitating comfortably with their surroundings in a state of nature. In his “Discourse on the Origin and Foundations of Inequality among Men,” Jean Jacques Rousseau writes that a man within the state of nature might “eat his fill under an oak tree” and then drink from a nearby stream before “making his bed at the foot of the same tree which furnished his meal” (11). According to Rousseau, in its natural state, “the earth offers at every step stores of food and shelter to animals of even species,” which, in Rousseau’s formulation, would also include humanity (11). But Tommo does not find the island of Nuku Hiva so hospitable, a fact that leads Melville to write the inspired sentence, “I recommend all adventurous youths who abandon vessels in romantic islands during the rainy season to provide themselves with umbrellas,” emphasizing the difficulty of facing nature without the tools of man (63).

Driven by thirst and hunger, Tommo and Toby decide to risk entering a valley occupied by Nuku Hiva natives, but they are unsure whether the natives are the friendly Happahs or the cannibalistic Tai Pī. Shortly after giving themselves over to the natives, Tommo and Toby
realize that they have entered the village of the Tai Pī, but because they are desperate for food and see no immediate danger, they decide to stay. The moment Tommo enters into the domain of the Tai Pī, there is a complete and total shift in authority and power. As Mihic observes, Tommo initially becomes an object of scrutiny and subject to the gaze of the Tai Pī (56). While Melville does utilize an anthropological mode to report on the Tai Pī for his white audience, creation of knowledge about foreign others is not solely the purview of whites alone: “They felt our skin, much in the same way that a silk mercer would handle a remarkably fine piece of satin; and some of them went so far in their investigation as to apply the olfactory organ” (92-93). Tommo is objectified by the Tai Pī, and as the merchant metaphor suggests, he becomes a sort of commodity for the Tai Pī. As S. X. Goudie observes, Tommo is transformed from a trespassing imperialist into a passive member of the Tai Pī community who is cared for and nursed to health as if he is a helpless child (218). By entering into the domain of the Tai Pī Valley, Tommo is transformed because he has now subjected himself to the authority of a non-white nation. This transformation is further developed by chapter ten’s renaming scene. Thinking that it will simplify pronunciation, Melville’s protagonist introduces himself to the Tai Pī as “Tom,” even though that is not his real name. However, differences in linguistic rules make it difficult for the Tai Pī to pronounce the name without adding an extra syllable at the end, resulting in the name “Tommo” (90). As discussed in my second chapter, there is a long tradition within slave narratives of the renaming trope, which appears to be reenacted here.44 Melville’s protagonist is renamed because, like the slave entering the North, he has transferred himself into the

44 In many ways, _Typee_ resembles the captivity narrative, but we do not see the renaming trope present in this genre, which suggests that Melville does not see himself as a South Seas Mary Rowlandson. Rather, the naming scene more closely echoes a reversal of _Robinson Crusoe_’s native character Friday who is named by the white protagonist and adopts European religion and customs.
geographical domain of a new sovereign entity, which in turn transforms his network of relationships and how he fits within this new political sphere.

Melville’s description of Tommo and Toby’s subjection to the authority of the Tai Pī is accompanied by a description of the nation’s inextricable connection to the landscape. But unlike the trope of the noble savage, the landscape of the Tai Pī Valley is transformed by those residing in it. The Tai Pī religion is deeply entwined in the landscape of the valley. Melville describes a sacred woods regulated by a religious taboo and a grove containing large altars (112-113). Melville furthermore makes use of language that draws parallels between white technological developments and those of the Tai Pī. A system of communication where natives relay a short message to one another across “a distance of at least eight or nine miles” is described as a “vocal telegraph” (128). Describing “poee-poee,” a Tai Pī food, Melville writes that the dish is “manufactured” from the bread fruit, and later he describes the variety of food that is made from the bread fruit, noting that the bread fruit is “altogether unfit to be eaten, until submitted to one form or another to the action of fire” (91, 139-40). Later, Melville provides an example of an “accomplished” Tai Pī orator (165). During a Tai Pī festival, the women craft striking ornaments out of garlands, tappa and flowers (191). These descriptions of Tai Pī artifice fit alongside Melville’s representation of the people of Nuku Hiva and serve to complicate the competing discourse of the noble savage within the text. The Tai Pī in Melville’s description are not people who comfortably exist within nature, but rather transform nature and society in a way that demonstrates a mastery of their society and environment.

As previously discussed, the notion of popular sovereignty as defined by Locke relies on the concept of private property. An individual takes possession of private property by mixing his or her labor with the land, which in turn leads to improvements on that property (Locke 128).
Private property, sovereignty and the transformation of the landscape become intertwined in the white imaginary. Locke sets up this image of political and economic modernity against Native American culture, famously proclaiming that “in the beginning all the world was America” (139). Where Locke attempts to lay sovereignty outside the realm of native peoples, Melville’s descriptions of the Tai Pī and their transformation of the Nuku Hiva Island rejects the notion that improvements and transformation of the landscape necessarily arises from private property. Melville is never able to explicitly determine how property rights function on the island, stating that he did not know whether “the land of the valley was the joint property of its inhabitants, or whether it was parceled out among a certain number of landed proprietors who allowed everybody to ‘squat’ and ‘poach’” (236). Melville eventually concludes that it is most likely the Tai Pī “hold their broad valleys in fee simple from Nature herself” (231). By using the legal term “fee simple,” meaning complete and total ownership over property, Melville is transposing European derived legal concepts onto Tai Pī society, but he is also legitimizing Tai Pī control of the land as a type of ownership, albeit one that is different from individual private ownership. Much like Copway and Apess, Melville is forming an alternative to Lockean notions of popular sovereignty disconnected from the acquisition of property.

The Tai Pī demonstrate an ability to assert political power and authority over a finite territory. The Tai Pī clearly imagine themselves as a political authority distinct from neighboring tribes, such as the Happar with whom they are periodically at war. Melville repeatedly mentions the Tai Pī Valley and suggests that it serves as a natural border for the nation’s authority. We also witness the Tai Pī’s ability to strategically assert control over their own sovereignty territory. Melville describes the impressive oratory of Manoo, a rakish figure among the Tai Pī:
Falling back into an attitude of lofty command, he exhorted the Typees to resist these encroachments; reminding them, with a fierce glance of exultation, that as yet the terror of their name had preserved them from attack, and with a scornful sneer he sketched in ironical terms the wondrous intrepidity of the French, who, with five war-canoes and hundreds of men, had not dared to assail the naked warriors of their valley. (164-5)

Manoo’s oral address speaks to the impressive rhetorical ability of the Tai Pī, which in turn demonstrates their ability not only to make use of language but to transform language for strategic purposes. The Tai Pī are further capable of representing themselves to whites so that they may maintain control over their territory, and here Manoo suggests that the violent nature of the Tai Pī may be exaggerated in order to create a bulwark against white incursion. The Tai Pī ability to shape language is intertwined with their ability to protect native sovereign territory.

Furthermore, Melville represents the Tai Pī King, Mehevi, not as a singular sovereign in the mold of European monarchs, but as a representative of the popular will. Melville compares those native kings used as figureheads unfavorably to King Mehevi, claiming that the blood of the former is tainted by “bad brandy” and “European sweet-meats” (222-3). In addition to King Mowanna who the French have positioned as ruler of Nuku Hiva, Melville also denounces the King of Hawaii, Kamehāmāhā III (222). Melville uses the imagery of disease and infection, claiming that European food has had ill physical effect on native royalty in order to manifest the idea that native royalty has shifted towards an absolute monarchy in the style of European rulers. This transformation results in a widening gap between elite natives with royal blood who are “becoming more luxurious and extravagant” and the “common people” who are becoming more
“destitute” (223). Here, wealth disparity between native kings and their people signifies not only a disconnect between a leader and his people, but also suggests undue European influence.

III. Native Sovereignty and Economic Alternatives to Global Capitalism

I have already alluded to the fact that Melville makes a case for native sovereignty in a similar, if not exact, manner as Copway and Apess. But these three authors have different audience and purpose in mind. Where Copway and Apess argue for native sovereignty in order to reassert Native agency and self-determination, Melville does so to a largely white audience in order to open up an imaginative space uncontaminated by the affects of global capitalism. This is not to say that Melville’s early novels may only be read as reflections of white desire. Even if he did gather a good deal of his information about the Tai Pī from secondary sources, Melville did, after all, actually live with the Tai Pī for a time and as Ruth Blair suggests, “Melville’s experience there gave him insights into the validity and complexity of another culture that would not otherwise have been available to him” (90). While Melville’s motivation to write Typee may have arisen in part out of a genuine desire to represent the Tai Pī people in an “objective” light, we also must ask ourselves what was that made Typee Melville’s most popular text during his lifetime. Much of Melville’s first two novels may be read as wish fulfillment, especially his description of native women’s nudity and licentiousness. His white audience would have thrilled at the description of nearly nude native women whose access to Tommo’s ship resulted in “every species of riot and debauchery” in which not “the feeblest barrier was interposed between the unholy passions of the crew and their unlimited gratification,” a description that had to be altered in subsequent editions because of its violation of Victorian mores (25). And while plenty of critics have commented on the novel’s depiction of Marquesan women as a form of wish
fulfillment, few have fully discussed how the economic and social difference of the Tai Pī similarly functions as an enticing alternative to the quickly industrializing economy of America and Western Europe.

To better understand *Typee* and its sequel *Omoo*, it is helpful to understand not only what Tommo fled to—the Tai Pī Valley—but also what he escaped from. In *Typee* the reader is given some insight into what caused Tommo to flee the ship. In chapter four, Melville begins his shipboard grievances by stating that the severity of the injustices he suffered on the whaling ship Dolly could be inferred by his choice to live “among the savages of the island [rather] than to endure another voyage on board the Dolly” (30). From there, Melville states that the captain was tyrannical, the sick were neglected and the food rations were insufficient (30). Melville expands on this depiction of poor whaling ship conditions in *Omoo*. Following his escape from the Tai Pī Valley, Tommo is picked up by an Australian whaling ship. Here, the negligence of the crew’s wellbeing is replicated, but Melville provides us with a more detailed image of the conditions Tommo and the crew must endure. Unlike the brief list of grievances in *Typee*, in *Omoo* Melville describes the texture and odor of the provisions and the fact that food was uniformly infested with worms (*Omoo* 338-39). The captain is described as a drunk and a novice at sailing who obtained his post through favoritism (334). The deplorable and negligent conditions onboard become so egregious that two sailors die and are buried at sea.

The sailors’ deaths are attributed to the conditions on the ship, but they are also depicted as common occurrences on whaling vessels. Melville writes, “Behold here the fate of a sailor! They give him the last toss, and no one asks whose child he was” (373). The ship functions as a site of exception in which the value of life, even among fellow sailors, is diminished. Those buried at sea are severed not only from life but also from any interpersonal connections, whether

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45 Kennan Ferguson, for instance, links the eroticized image of Fayaway with the beauty of the island itself (30).
they are between fellow sailors or the deceased’s own family who are now estranged by distance and death. This is a version of Agamben’s concept of “bare life” (Agamben7-8). But unlike Agamben’s notion of bare life, which I discussed in chapter one, the renunciation of a life’s value does not derive from sovereign legal authority but rather through economic relations of power. As laid out by Agamben, bare life functions as a product of sovereign power, whereby sovereign authority excludes human life from the political order and thus diminishes the value of that life (7). Agamben further observes that this exclusion from the protection of the political sphere is in fact a form of inclusion because the sovereign still maintains the authority to determine individual value of life. But Melville’s analysis of bare life exists outside of any explicit sovereign framework.

In both Typee and Omoo, Melville explores the economic dimensions of life on a whaling ship, and he is especially interested in ways in which these vessels serve as sites distinct from sovereign authority. In Omoo, Melville observes that even the most rebellious sailors can be kept in “subjection” while at sea, but that once they are near land, then discipline becomes more trying (Omoo 339). In the same paragraph, Melville writes that whaling crews are “for the most part villains of all nations and dyes” (339). This description is in keeping with Melville’s interest in global spaces uncontaminated by sovereign authority. This, of course, begs the question, from where does a captain’s authority emanate? For the answer, it is useful to return to Typee. Defending Tommo’s abandonment of his post, Melville writes,

When I entered on board the Dolly, I signed as a matter of course the ship’s articles, thereby voluntarily engaging and legally binding myself to serve in a certain capacity for the period of the voyage; and, special considerations apart, I was of course bound to fulfill the agreement. But in all contracts, if one party fail
The authority of the captain is derived not from the nation-state, but from private law: the contract. Melville even suggests that it may have been possible to circumvent the contract through other legal authority, but the ship had “left both law and equity on the other side of the Cape” (31). In the extra-national space of the Pacific, there is no higher authority than the contract. Melville’s switch into the interrogative towards the end of the above passage indicates an appeal to his readers, but it also suggests uncertainty over these questions. We are not shown the contract and do not know whether humane shipboard conditions were ever specified. Melville is providing us with a singular interpretive angle. As a reader, we might ask, if the contract had only laid out a simple payment for services rendered, never specifying the conditions on the ship, would Tommo be justified in abandoning his duties? There is no overriding sovereign authority beyond the captain to determine the issue, so Tommo decides to unilaterally break the contract.

The contract in *Typee* serves as a form of private law that circumvents sovereign authority and functions as an ideal form of authority and power within the streams of global capital. On the surface, the contract functions as an egalitarian exchange: two individuals on equal footing agree to a quid pro quo relationship. But this image of the contract hides the fundamentally asymmetrical power relations inherent in this form of private law. The ship captain has been permitted authority over the ship and its contents while the crewmembers only have possession of their person for exchange. This relationship exists under the overriding logic of possessive individualism, which C. B. MacPherson defines as the “conception of the individual as essentially the proprietor of his own person or capacities, owing nothing to society
for them” (3). Each crewmember is atomized as an individual, separate from society and unable to petition a sovereign authority for enforcement of rights.

Conversely, resistance to the captain’s tyranny manifests itself in the form of a contract. When the ship reaches Tahiti, the crew begins to plot together in order to countermand the authority of the captain and the poor conditions of the ship. There is disagreement among crewmembers as to how to redress their grievances, some calling for a violent uprising and others, such as Melville’s narrator, seeking a less violent solution. Melville describes the inner thoughts of his narrator as such: “I felt that I was under a foreign flag; that an English consul was close at hand, and that sailors seldom obtain justice” (401). Because he is an American serving on a British ship that sailed from Australia, the narrator is immediately skeptical of redress of his rights. This is because his rights are conveyed to him through his nationality rather than through any inherent and universal sense of human rights. Redress lies only in appeals to the nation-state. To this end, the crew forms a second contract in addition to the ones each sailor would have signed when boarding the whaling ship. This second contract takes the form of a “round robin” and is ominously written out on the pages of a book with the title, “A History of the Most Atrocious and Bloody Piracies” (402). In what appears to be an allusion to Samuel Taylor Coleridge’s “Rime of the Ancient Mariner,” the crew utilizes an errant albatross feather as a quill to sign the sheet. The purpose of the round robin is democratic in nature. Melville writes that it prevents any single member of the crew from being singled out and punished as the coup’s ringleader, but this also means that the authority of the document arises not from a singular figure of power but from the crew as demos, since each name is written away from an interior circle. The importance of the document is only reinforced by the fact that it is the only image reproduced in either Typee or Omoo. In relying on a democratic form of the contract for redress,
the narrator and the crew of the Julia are reenacting the origin myth of the modern nation-state. The contract theorists such as John Locke, Jean-Jacques Rousseau and Thomas Hobbes relied on the metaphor of the contract as a means to imagine how popular sovereignty might first generate itself. Here, the crew of the Julia reproduces the origins of the nation-state as a means to reassert the authority of the white laborer in the face of global capitalism. The possibly illegal nature of the crew’s mutiny is reinforced by the fact that the parchment used for the round robin is torn from a book on piracy. At the center of the round robin is written the phrase “all hands,” a synecdoche that not only signifies the hard physical labor of the men but also mirrors the image of each sailor serving as the constituent part of a larger social body. And just as national origins in the era of popular sovereignty often play out in contravalence to pre-established legal order, as in the case of the American, Haitian and French Revolutions, here the formulation of a people is inherently antagonistic towards preexisting legal codes. Using the authority of popular sovereignty, the round robin functions as a reassertion of power by the white laborer.

But unlike the American, Haitian and French Revolutions, the Julia crew’s mutiny fails. The round robin along with a list of grievances is brought to the British consulate in Tahiti, but the man serving as consul is actually an old acquaintance of Captain Guy. The consul inspects the ship and interrogates the crewmembers, but instead of listening to and addressing the crew’s grievances, he swiftly attempts to reestablish the rule of law as it existed under the captain. The round robin is never addressed by the consul, much to the disappointment of many
crewmembers. Rather than attending to the concerns of the newly formed political body, the representative of British authority reauthorizes the original contract between the individual sailors and the captain. The round robin and attempted mutiny illustrates ways in which private contractual relationships erode democratic relationships. In his famous book, *Discipline and Punish*, Foucault alludes to ways in which the contract might be used as a discipline that bypasses liberties guaranteed by democratic government authority. Foucault’s analysis asserts that “the acceptance of a discipline may be underwritten by contract” (222). In a disciplinary society, the contract functions as a means for an individual to accept and reinforce his own disciplinary subjection. Foucault describes the interrelated link between discipline and the contract in the following manner:

[T]he way in which it is imposed, the mechanisms it brings into play, the non-reversible subordination of one group of people by another, the ‘surplus’ power that is always fixed on the same side, the inequality of position of the different ‘partners’ in relation to the common regulation…make it possible to distort the contractual link systematically from the moment it has as its content a mechanism of discipline. (222-3)

So while the contract is often envisioned as egalitarian, it in fact works to circumvent democratic systems. We see this occur in *Omoo* when the communal contract written up by the sailors—in the form of the round robin—is ignored by the representative of the British government and the private commercial contract reinstated. The scene illustrates ways in which the authority of popular sovereignty shatters against the private contract. *Omoo* demonstrates ways in which within the realm of global capital not only dismantles the authority of popular sovereignty, but
that the authority of preexisting nation-states might actively reinforce the power of global capitalism.

From here it is easier to see ways in which native sovereignty might repulse global capitalism. In both *Omoo* and *Typee*, Melville uses representations of natives as a means to construct an imaginative alternative to the industrialized capitalism of Europe and America. Melville most clearly contrasts the economic systems of the Polynesian with global capitalism in *Typee’s* seventeenth chapter where he pleasantly observes a complete absence of capital and its attendant vices:

There were no foreclosures of mortgages, no protested notes, no bills payable, no debts of honor in *Typee*; no unreasonable tailors and shoemakers, perversely bent on being paid; no duns of any description; no assault and battery attorneys, to foment discord, backing their clients up to a quarrel, and then knocking their heads together; no poor relations, everlastingly occupying the spare bed-chamber, and diminishing the elbow room at the family table; no destitute widows with their children starving on the cold charities of the world; no beggars; no debtors’ prisons; no proud and hard-hearted nabobs in *Typee*; or to sum up all in one word—no Money! (151)

Melville begins this extensive sentence by noting the lack of paper account and records in Tai Pī, and bookends the sentence by tying the attendant evils of capitalism to money, which he capitalizes for effect. Melville’s list of grievances appears to have their root in the circulation of print money. This critique of capitalism is tied to the unstable nature of capital, which foments discord because money has no intrinsic stable value. This in turn leads to “protested notes” and
attorneys who make money from disputed contract. By contrast, the Tai Pī live in a world without an intermediary like capital that produces a fluctuating exchange value.

Melville’s anaphoric repetition of the word “no” in the above quote stresses the simplicity of Tai Pī when compared to the rapidly industrializing American economy. And while Melville clearly idealizes the Tai Pī people, I argue that he stops short of representing them as noble savages in the traditional sense. As I have attempted to demonstrate, Melville represents the Tai Pī as a sovereign authority by not only explicitly referring to them as a “nation” but by representing them as a people who have mastery over nature rather than people living peacefully within nature. For instance, as I mentioned in the previous section, the major resource of the Tai Pī, the bread fruit cannot be eaten directly but must first be prepared in order to be edible. The formation of a distinct sovereign territory allows for a distinct economic system. The Tai Pī represent, then, not a retreat from civilization but an alternative to the capitalist system Melville’s readers would have been immersed in.

The Tai Pī’s alternative economic system can be seen in Melville’s description of the Tai Pī’s stable population. Following a discussion of polygamy on the island, which Melville claims manifests as polyandry for the Tai Pī, Melville further observes that the Tai Pī population appears to not increase extensively. He bases this observation on the fact that he has not seen “any of those large families in arithmetical or step-ladder progression” and that during his time among the Tai Pī, he has only seen households with at most two children (227). Melville further suggests that the miniscule population growth is an outcome of the Tai Pī’s matrimonial practices. In turn, reproduction is clearly tied to the Tai Pī economic system. When discussing population growth, Melville relies on the theories of the early political economist Thomas Robert Malthus, who made the claim in his influential “An Essay on the Principle of Population” that
rapid population growth in Great Britain would result in decreased wages and increased poverty and famine. Relying on economic discourse, Melville repeatedly employs the language of mathematics, such as the use of the word “arithmetical” and the phrase “ratio of increase” (227). This language demonstrates that Melville views the Tai Pī marriage and population growth as not merely cultural but economic matters. As Gayle Rubin argues in her essay, “The Traffic in Women,” sexual reproduction was an integral component in capitalist societies where women were expected to not only maintain the domestic sphere in order to allow male workers to labor in the economy, but they were also expected to reproduce and properly acculturate the next generation of laborers (163-64). In her analysis, the heteronormative, monogamous marriage served an important economic purpose. The Tai Pī matrimonial practice similarly serves an alternative economic system where there is no such demand for reproducing laborers and consumers. Establishing the importance of matrimonial practices to Tai Pī economics also shifts how we might view Melville’s frank description of sex in his novel. As other critics have observed, Melville often eroticizes Marquesan women, and while this certainly appealed to the fantasies of his male audience, Melville’s sexualized depiction of Marquesan women also highlights the role of non-procreative sex on the island. Non-procreative sex represents not necessarily a moral difference but rather an economic difference between Melville’s white audience and the Marquesans.

Throughout Melville’s lifetime, Typee would remain his most successful novel, selling a total of 16,320 copies before his death (Life and Works). And Omoo would remain Melville’s second most successful novel, selling 13,335 copies in Melville’s lifetime (Life and Works). By comparison, Moby Dick sold 3,715 in Melville’s lifetime (Life and Works). Much of Typee and Omoo’s popularity with Melville’s contemporary audience likely stems from the relatively
straightforward adventure narrative of the two works. I would also like to suggest that his audience may have also been attracted to the alternative possibilities offered by the *Typee* economic system. When Tommo engages in the machinations of global capitalism, as suggested in *Typee* and more fully explored in *Omoo*, he loses all sense of agency over his own labor, a condition likely familiar to his nineteenth-century public. For a public accustomed to capitalism’s tendency to extract value from labor by limiting compensation, the world depicted by Melville would serve as an appealing alternative. By contrasting the Tai Pi economic system with that of industrial capitalism—that is, celebrating the Nuku Hiva Island’s absence of “destitute widows,” starving children and “debtors’ prisons”—Melville opens up an imaginative space outside of current economic system and invites his readers to enter (151). As much as the adventurous narrative and erotic nature of Melville’s texts might have drawn readers of *Typee* and *Omoo*, I believe that the image of an alternative economic system also enticed his nineteenth-century readership.

Viewing *Typee* and *Omoo* as a form of economic wish fulfillment shifts how we might view Melville’s descriptions of Polynesian peoples. For instance, Melville frequently uses the term “indolent” or “indolence” to describe native people. Banerjee claims that Melville’s repeated use of term indicates his belief that Pacific Islanders are unfit for “economic citizenship” (218). Melville does rely on the term frequently. In *Typee*, indolent or indolence are used eleven times, and in *Omoo*, these terms are used seven times. While the word indolence is often used to suggest laziness, it originates from *indolentia*, which means “freedom from pain” (“indolence” *OED*). This meaning has stayed with the term, especially in modern medical usage. This suggests that when indolence or indolent are used to describe a lack of activity, the terms may not necessarily carry the pejorative connotation of laziness. Therefore, in Melville’s writing
and for his audience, indolence may be a state to strive for rather than something to avoid—a sign of economic difference rather than the ontological state of Polynesian people.

But in order for the Tai Pī people to develop and maintain an economic alternative to capitalism, they had to also assert their own sovereign authority. Because Melville depicts the Tai Pī as a sovereign nation, he can also represent their economy as constructed rather than natural. Polynesian sovereignty and economics are mutually constitutive. In Melville’s novels, Polynesian people are not simply children of nature; they are people who develop their own laws, religion, industry and politics. As Wendy Brown notes in *Walled States, Waning Sovereignty*, a strong sovereign force sublimes economics to national authority (64). The Tai Pī can assert authority over their economic system, because their sovereignty, so far, has maintained its inviolability.

What, then, happens when global capitalism breaches the sovereignty of Polynesian nations? How does sovereign and economic transgression affect the natives of the South Pacific? These appear to be the questions Melville explores in *Omoo*, the events of which take place principally on the island of Tahiti. Specifically, in chapter forty-nine, Melville examines how French incursions have affected Tahitian labor practices. In the prior chapter, Melville rallied accounts of European explorers in order to argue that the appearance of missionaries in Tahiti has adversely affected native morality. In chapter forty-nine, Melville turns towards the material and economic impact of European colonialism and begins by asserting, “It has been said, that the only way to civilize a people, is to form in them habits of industry” (516). Immediately, Melville distances himself from this assertion. Using passive phrasing, he disowns this assumption, refusing to ally himself with the sentiment. This phrase serves as a commonplace understanding of colonialism that Melville later undermines.
According to Melville, the importation of European apparatus has caused a degeneration of the ability of natives to manufacture their own tools, leading to the loss of materials and goods that previously sustained the Tahitians. For instance, many Tahitians no longer manufacture tappa, a cloth made in the South Pacific. As native knowledge and tools disappear, the Tahitians become dependant on European goods, which are more difficult to obtain, leaving the Tahitians more impoverished than prior to European contact (516). Melville further claims that the Tahitians are uninterested in fitting themselves into industrialized capitalism. When machinery for a cotton factory is sent to Tahiti from London, the Tahitians at first man the new factory, but soon they abandoned the labor causing the collapse of the factory (517). It is telling that the factory materials are transported from London. The image of machinery from London being reconstructed in Tahiti signifies the export of global capitalism into newly acquired territories.

Melville is observing and reproducing these events through a Euroamerican subjectivity, but his description of how European colonialism pierces native sovereignty and economics demonstrates anxiety about the rapidly increasing global role of industrialization and capitalism. These systems appear to reproduce themselves exponentially, both inside and outside of U.S. borders. Melville further suggests that the introduction of capitalist enterprises into the colonies is clearly for the benefit of the colonizer, not the native population. Melville writes that in Honolulu, for instance, “there are fine dwelling-houses, several hotels, and barbershops” but that they are all “owned and used…by whites” (517). European colonialism is chiefly for the benefit of Europeans. Melville compares the conditions of the Tahitians unfavorably to the Tai Pī, stating that the former were more impoverished than the latter.

Melville’s critique of global capitalism does not necessarily discount the possibility of exchange between Pacific Islanders and Europeans. While staying among the Tai Pī, Tommo
brought with him a bundle of goods, which included a needle and a razor. Both the tools and Tommo’s skills at wielding them are enthusiastically called upon by the Tai Pī—Tommo uses a razor to shave the head of a warrior and the needle to mend a piece of calico, which had been obtained through previous trade with whites (146-7). Tommo is later presented with damaged muskets and tasked with repairing them by Chief Mehevi who is disappointed to learn that Tommo does not possess the skills required to fix the guns (218-9). Tai Pī interest in incorporating goods of European origins into their economy speaks to their ability to engage in contact with whites on their own terms. By attempting to leverage Tommo’s knowledge of European firearms to increase Tai Pī military might suggests that Tommo is another foreign resource that the Tai Pī are strategically making their own in order to reinforce their sovereign authority.

Critics have admonished Melville’s early texts for robbing Polynesians of agency. Banerjee, for instance, claims that Melville represents the Tai Pī as innocents and victims because European contact will irreversible spoil their culture (208). But the Tai Pī that Melville encounters have a long history of encounter with European people and goods. Moments in the text in which the reader comes to understand that the Tai Pī are not in fact untouched by European contact testify to the canny maneuvering of these Polynesian people. Too often Typee and Omoo are read in terms of simple dichotomies: savage and civilization, nature and society. But approaching these texts through the lens of sovereignty, the complex and often wavering nature of these narratives are more fully born out. Rather than reading Melville’s first two adventure stories as narratives where the pristine, utopian Polynesian societies are irrevocably tainted by the merest contact with Europeans, critics would be better served by embracing ways
in which Melville rebuffs contemporary discourse regarding native people, even while he still struggles with his own European vantage point.

IV. Conclusion

_Typeee and Omoo_ were written for white audiences in England and America. And even though Melville’s own experiences served as the basis for these narratives, these experiences, when not amended or modified, were filtered through the subject position of a white American adventurer. Melville never fully extricates himself from colonial discourse regarding native populations. But he does repeatedly push against European epistemologies of Polynesian people. It is worth remembering that Melville’s condemnation of missionaries in the South Pacific resulted in harsh criticism from some of his strongly Christian audience members. By examining Melville’s earliest novels through our understanding of popular sovereignty in the nineteenth century, we can better see how fissures within these texts allow for native self-determination. Melville compares French colonialism and their notion of sovereignty unfavorably with the Tai Pī people whose model of nationhood more closely matches ideals of popular sovereignty. The Tai Pī represent a kind of popular sovereignty lost to the American laborer under the onslaught of industrialization and global capitalism. Where the French attempt to impose a native king onto the Marquesan natives—a top down approach to power and authority—the chief of the Tai Pī, Mehevi, more clearly receives his authority through his people. Furthermore, the Tai Pī live within clearly defined borders, have their own political institutions, and transform their natural environment—all indicators of sovereign status.

Melville’s depiction of native sovereignty in the South Pacific is important not only because it allows for native political agency within the white imaginary, but because it opens up
space for economic alternatives to capitalism. Sovereign authority asserts itself over economics, allowing the Tai Pī people to regulate the exchange of goods into their territory. It is not that the Tai Pī in Melville’s work completely sever themselves from European influence; it is that their sovereign nation status proffers agency when engaging with foreign powers. Ultimately, Melville’s descriptions of the Tai Pī economic system functions as a potential alternative for a largely white audience enclosed and encumbered by a rapidly metastasizing capitalist economy. For Melville’s readers, then, Typee transported them not necessarily to an Edenic state of nature but rather to an alien economic system. But this system functions as a result of social choices on the part of the Tai Pī, from their matrimonial arrangements to their controlled population growth to their network of power relations. By examining Typee in relation to its sequel, Omoo, we can more clearly see the economic system Melville’s readers might wish to imaginatively flee. Omoo further provides readers a glimpse of how global capitalism erodes native sovereignty in the South Pacific.

I end this dissertation examining Melville’s first two novels because, unlike the other texts I have look at, they more clearly grapples with how global capitalism penetrates and dismantles sovereignty while promoting foreign control over overseas territory. The tangled and antagonistic relationship between sovereignty and global capital is part of a modern discourse on globalization. Writing in response to the decline of sovereignty and ascendancy of global capital in the twenty-first century, Wendy Brown writes in Walled States, Waning Sovereignty, “Capital mocks efforts by national and subnational communities to contour their ways of life or to direct their own fates” (65). Because global capital can impact how a nation directs its resources, often through transnational organizations such as the International Monetary Fund or the European Union, the will of popular sovereignty can be trumped by the will of global capital. And because
these concerns regarding the antagonism between sovereignty and global capital appear around the same time that the nation-state begins to fully coalesce, the image of a cohesive, inviolable nation-state never completely manifests. In a process that is reminiscent of Penelope weaving and unweaving the burial shroud, even as popular sovereignty became ascendant, global capitalism arose to undermine sovereign authority.

As I close this dissertation, I would like to return to the subject of my first chapter: William Walker. In 1987, the British director, Alex Cox, released the film *Walker*, a biopic about the life of William Walker (played by Ed Harris in the film). *Walker* was filmed on location in Nicaragua and includes purposefully anachronistic elements, such as the appearance of automatic rifles, helicopters, and Zippo lighters. At one point, a character can be seen reading *Time* magazine. The anachronisms serve to draw attention between the events of Walker’s intrusion into Nicaragua and the then U.S. policy of supporting right wing Contra rebels against the democratically elected but leftist Sandinista government. Beyond the purposeful anachronisms, Cox’s film takes several liberties with the historical facts of Walker’s campaign in Nicaragua. For instance, in the film Walker approaches Cornelius Vanderbilt (Peter Boyle) for financial support in his military endeavor in Nicaragua, but despite this support, Walker, after forcibly obtaining the presidency of Nicaragua, revokes Vanderbilt’s rights to Nicaragua’s waterway and land routes for Vanderbilt’s passenger steamship routes. Walker instead grants these rights to Vanderbilt’s competitors.

Vanderbilt had been using Nicaragua’s waterways to transport passengers over the isthmus via steamship. This had become a lucrative shipping and passenger route because of the recent California gold rush, and Vanderbilt had planned to build a canal through Nicaragua but was never able to procure the appropriate amount of funding. Walker did revoke Vanderbilt’s
rights in Nicaragua at the behest of Vanderbilt’s competitors, but the encounter between Walker and Vanderbilt prior to Walker’s time in Nicaragua is wholly fictional. By highlighting the tense relationship between Walker and Vanderbilt, Cox is illustrating the strained relationship between sovereignty and global capital. Throughout the film, Walker speaks in flowery language either modeled off of or taken directly from his own writing while Vanderbilt’s speech is largely crude and filled with obscenities. In the film, upon hearing that Walker has revoked his right to Nicaragua’s waterways, Vanderbilt angrily screams, “Nobody fucks with Vanderbilt” (*Walker*).

The contrast between Walker and Vanderbilt’s language signifies the divide between sovereignty and global capital. Where Walker’s speech signifies the transcendent elements of sovereignty, a source of authority and power arising from the people while also surpasses any single individual, Vanderbilt’s speech signifies the crass nature of global capitalism—the transformation of land, goods and people into capital.

Cox transforms the historical story of William Walker into a film that comments on the proxy war occurring in Nicaragua in the 1980s. By doing so, he suggests ways in which the Cold War was not merely a conflict between two international superpowers but also a battle about exposing national resources to global capital. Cox saw within Walker’s story a reflection of empire, national sovereignty and global capital in the late twentieth century. These questions were especially acute in the nineteenth century when notions of popular sovereignty and territory were even more unsettled: filibusterers like Walker hoped to rearrange who stood at the center of popular sovereign will; abolitionists rearranged state sovereignty as it met their goals to end slavery; Native American authors asserted their sovereignty through a strategic mix of native and white discourse regarding nationality; and authors like Melville drew from popular sovereignty to critique the top down economic imperialism of Europe’s nation-states. But even in the
nascent twenty-first century, these same concerns haunt us. Questions of American empire and influence are still embroiled in that contemporary offshoot of manifest destiny, American exceptionalism. Native American nations still agitate for a sovereign identity separate from the United States. And the discourse of Civil War secession and states’ rights are ever present in American politics. Understanding these critical questions of sovereignty even as global capital erodes national boundaries requires an understanding of how authors in the nineteenth century approached that era’s crisis of sovereignty.
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