“I Hear No Things Laid to My Charge”: Aurality in Anne Hutchinson’s Trial Transcript

Nan Goodman

Abstract

This essay uses the power of aesthetics to explain a controversial moment in early American law: Anne Hutchinson’s confession toward the end of her 1637 trial in the General Court of the Massachusetts Bay Colony that she had experienced an “immediate revelation” from God “by the voice of his own spirit to my soul.” Far from being an aberration in a trial that was otherwise trending in her favor, as most critics suggest, Hutchinson’s revelation, this paper argues, when read aesthetically and with an emphasis on the auditory sense, marks a crisis not between church and state or between religion and the law, but within the early modern legal approach to aurality.

* * *

This essay uses the power of aesthetics—from the Greek for “relating to perception by the senses”—to explain a controversial moment in early American law: Anne Hutchinson’s confession toward the end of her 1637 trial in the General Court of the Massachusetts Bay Colony that she had experienced an “immediate revelation” from God “by the voice of his own spirit to my soul.” Long a source of consternation for scholars and students of the trial who can’t imagine why Hutchinson would have confessed to such a belief when most Puritans believed that a “person claiming direct revelation was either lying or experiencing delusion,” Hutchinson’s revelation has traditionally been seen as an aberration in her legal strategy. “Her triumph was too much her,” Edmund Morgan remarked. “Instead of continuing to rely on her native wit, she proceeded to justify herself by an immediate divine revelation.” “Anne’s unruly member completely gave her away,” Samuel Eliot Morison agreed, and in what must be considered the strangest theory in this gender-obsessed trajectory, Emery Battis writes that “Mrs. Hutchinson’s behavior . . . can be explained largely in terms of menopausal symptoms.”

* Professor, English Department & Director, Program in Jewish Studies, University of Colorado, Boulder.

1 All quotations from Hutchinson’s trial transcript are from The Antinomian Controversy, 1636-1638: A Documentary History (David D. Hall ed., 1990). Subsequent references will be made parenthetically in the text.


4 Emery Battis, Saints and Sectaries: Anne Hutchinson and the Antinomian Controversy in the Massachusetts Bay Colony 346 (1962). Even a more recent reading by Ann Withington and Jack Schwartz,
Far from being an aberration in a trial that was otherwise trending in her favor, however, Hutchinson’s revelation, when read aesthetically and with an emphasis on the auditory sense in particular, emerges as central to her understanding of the world and of her legal defense as a whole.\(^5\) In confessing to having heard God’s voice “by his spirit to her soul,” Hutchinson was not, as previous critics maintain, introducing a highly irregular religious element into a secular trial or succumbing to a fatal flaw rooted in her gender. Rather she was moving from one point on the legal spectrum of aurality to another. That her interlocutors disagreed with her suggests not that they found her outburst heretical but rather that they hewed to a different model of legal aurality. Read in this light, the case of Anne Hutchinson and the antinomian controversy mark a crisis not between church and state or religion and the law, but within the early modern legal sensibility as a whole. To invoke Raymond Williams’s model of historical development, we might call Hutchinson’s notion of legal aurality residual and that of her accusers emergent, with each vying for supremacy in the course of her trial.\(^6\)

I.

Known as the antinomian controversy, the accusations against Hutchinson stemmed largely from her insistence on distinguishing between the Bay Colony ministers, who preached a covenant of works and those who, true to traditional Puritan belief, preached a covenant of grace. In making this distinction during meetings in her home, however, where at times she entertained audiences of a hundred or more, Hutchinson was merely reiterating the widespread Puritan belief in predestination, which held that one was either saved or damned at birth, and that nothing one did during the course of one’s life could alter that fate. To preach a covenant of works, then, in which people were encouraged to live virtuous and productive lives because those qualities were associated with salvation, came dangerously close to heresy. Yet what were the ministers of a burgeoning colony to do in order to provide incentives for the social order? While the ministers themselves would never have openly equated a life of good works with a path to salvation, they were loathe to give up the idea of encouraging works altogether, and so carefully (and for the most part successfully), they incorporated works into their preaching without widespread objection—until Hutchinson came along.

the only scholars who have openly acknowledged that Hutchinson’s confession might have been a wise move, confirms the act as rupture. Hutchinson’s revelation, they write, stemmed from “a conscious decision to transform a hollow, foreordained legal ritual into a kind of personal theater . . . through an act at once politically defiant and religiously satisfying.” Even though Hutchinson emerges from this reading as a conscious agent, her revelation breaks with the rest of her trial to emerge in Withington and Schwartz’s terms as religion and theater, but not the law. Ann Fairfax Withington & Jack Schwartz, The Political Trial of Anne Hutchinson, 51 New England Q. 226, 237-38 (1978).


\(^6\) See Raymond Williams, Marxism and Literature 121-27 (1978).
The ministers Hutchinson associated with the heresy of works denied that they were lending their support to the doctrine of works in any way. For Hutchinson, however, what was important was not the words the preachers used, but how those words were heard, an emphasis that illustrates her interest in religious and legal aurality at the same time. To be sure, the faculty of hearing had long been associated with religion. As Martin Luther wrote: “God no longer requires the feet or the hands or any other member. He requires only the ears . . . . The ears alone are the organs of a Christian.”7 So powerful was Luther’s formulation that it led to what Leigh Eric Schmidt calls the expectation of “a conversational relationship with Jesus.”8

Willing to concede the significance of aurality in a religious context, however, scholars have largely lost an appreciation of the primacy of aurality in the law of Hutchinson’s day as well. While we still refer to how a court hears a case, we do not sufficiently understand how the law operated by means of aural distinctions or the extent to which the courtroom provided a venue for hearing over and above speaking. In part, this is because the early modern period is traditionally associated with the transition from the largely oral culture of the Middle Ages to the largely visual culture of the early Enlightenment. Barbara Shapiro reinforces this view in attributing to the early modern courtroom a shift toward the ocular. In privileging eyewitness over ear-witness testimony, Shapiro explains, common law courts became a critical site for associating what was true with what could be seen rather than with what could be heard.9 From the work of Michel Foucault on the scopic regime of legal punishment to that of Peter Goodrich on law as a plastic art of architecture, statuary, and heraldry, legal and cultural historians tend to agree on the centrality of the visual in the law.10

This move toward the visual in the early modern period in law and elsewhere has nevertheless been overstated. As D.R. Woolf observes, “The evidence suggests that the following conclusions may be drawn: first, that the early modern historical mind sprang from oral and aural roots . . . as much as from visual ones; secondly, that the early modern mind was fully capable of balancing aural and visual perception, despite the increased assault on the eyes provided by print; and thirdly, that in so doing it merely maintained and developed a ‘perceptual equilibrium’ present in the later medieval mind rather than shifting from one mode of perception to another.”11 A more accurate description of the early modern period, including early modern law, then, might emphasize a middle ground between the ocular and the oral that, as I argue, played itself out as a struggle between

---

8 Id. at 8.
different modes of aurality: one that veered residually toward sounds as the property of the ear and emergently toward sounds as the property of the eye, with meanings that were reducible to print. The difference between the valuation of sounds as sounds (or what I am calling the vocable) and the literary equivalent of sounds (or what I am calling the semantic) defines the battleground in Hutchinson’s legal case.

On the one hand, venues such as the early modern courtroom would have privileged human voices in part as sounds which were, as Richard Cullen Rath explains, central to the Puritans’ sonic landscape and could never “be reduced to print.”\(^{12}\) Though the sound that issued from a given source—a clap of thunder, say—would have matched the sonic patterns of a clap of thunder today, the sound of thunder in seventeenth-century New England would have signaled something about an individual’s relationship to the world of the heavens (in addition to the weather and the crops) that is largely lost to us today. This was true for sounds made by the human voice as well. A voice was not merely a vessel for what was said, but an instrument in its own right, providing clues about the individual’s character and background. Accounted for in part by social and cultural differences among people in different places and over time, this difference in perception would also have registered as a difference in the quality of the sound, giving it a vocable as well as a semantic meaning.

On the other hand, as much as it played host to a plethora of sounds we can no longer hear, the early modern courtroom also saw the emergence of a semantic field far more familiar to us in which sounds, especially those made by the human voice, were given meanings that could be translated into print. According to Rath, orality, or that aspect of sound that relates to human speech, was by Hutchinson’s day in large part “the product of literate minds” and so cannot, in the terms we have laid out here, accurately represent those aspects of aurality that mattered most to Hutchinson.\(^{13}\)

Recognizing the play between these two modes of hearing—the vocable and the semantic—will help us unravel the mystery of the revelation in Hutchinson’s trial. Indeed, other than the theater, courts of law were the most prominent sites for mixed modes of aurality in early modern world. Although rules about hearsay evidence were being put into place, and Locke’s theory about eyewitness testimony was being privileged, most people were still called to witness in person throughout the seventeenth century. Many legal processes instituted for the first time in the early modern period were grounded in the processes of auditory apprehension. Implemented earlier with inconsistent results, the more regular use of juries in the late sixteenth and early seventeenth centuries arguably relied as much on the auditory as on the ocular faculties of jury members. In their new capacity as “judges of the facts” whose job was to hear oral testimony and to draw conclusions from it, jurors functioned as sounding boards not only for the semantic meaning

---

\(^{12}\) Richard Cullen Rath, How Early America Sounded 3 (2003).

\(^{13}\) Id.
of a witness’s words but also for their authenticity—a distinction that could only be made by combining semantic and vocable cues.

The simultaneous retention of visually-inspired oral and vocably-inspired aural practices in the early modern courtroom was, as Holger Schott Syme reminds us, of particular note in the practice of reading written documents out loud. As Syme remarks, documents such as witness depositions, which were written down when the witness was not available to testify in person, still “needed to be rendered vocally in order to attain authority or authenticity.” In some cases the reading of these documents was for the benefit of the illiterate members of the jury or a general audience for whom the document itself could not otherwise be understood. That the importance of vocable aurality went even further, however, can be seen in the general consensus that witness depositions could not be entered into evidence unless they were read out loud. There was, as Syme implies, something in the act of reading the documents out loud that gave words the sanction of legality.

II.

Hutchinson’s defense, as exemplified in her responses to her interlocutors in the courtroom, was grounded in just this sense of legality. What mattered to her was an apprehension of sounds that went beyond, or perhaps stopped short of, their semantic interpretation—an apprehension that found its most perfect expression in her revelation. Shocked and horrified by Hutchinson’s claim that she heard God’s voice, her interlocutors ask her to repeat the heresy, hoping she would implicate herself further. “How do you know that that was the spirit?” one of her examiners asks, referring to the mechanism by which God’s voice came to her. “[B]y an immediate revelation,” she explains, prompting an outburst from yet another examiner who cries, “How! An immediate revelation” (337).

Undeterred by these responses, Hutchinson swiftly reverses the direction of their questions. The important part of her revelation, she explains, is not what God said or how he appeared to her, but what she heard, which concerned the process of hearing itself. Unlike the revelations with which the Puritans were most familiar, such as the message God sent to Abraham about sacrificing his son or to Moses about leading his people out of Egypt, Hutchinson’s revelation lacks the content an emphasis on semantic meaning would have invoked. In speaking to Hutchinson, by contrast, God sends no clear instruction; nor does she ever tell the Court what God said in so many words. All she reveals is what she learned about the process of hearing sounds in the first place. “Since that time,” she explains, meaning since the revelation, “I confess I have been more choice and he [God] hath left me to distinguish between the voice of my beloved and the voice of Moses, the voice of John the Baptist and the voice of antichrist, for all those voices are spoken of in scripture” (336). For Hutchinson, then, claiming to hear God’s voice was not

14 Holger Schott Syme, Becoming Speech: Voicing the Text in Early Modern English Courtroom and Theatres, I Compar(a)ison 108 (2003).

15 Id. at 109.
a bid to join the pantheon of religious prophets or progenitors whose words had become authoritative, but to learn how to distinguish vocably among voices, a lesson she applies to prophetic and non-prophetic voices alike.

The first step in distinguishing among voices for Hutchinson required recognizing that voices were not necessarily confined to the sources from which they issued. Slavoj Žižek describes a similar relationship—what he calls an “unbridgeable gap”—between the voice and the self in the theater. In the theater, Žižek writes, “the voice acquires a spectral autonomy, it never quite belongs to the body we see, so that even when we see a living person talking, there is always some degree of ventriloquism at work.”16 Insisting on a similar disaggregation between speaker and voice is central to Hutchinson’s strategy as she questions whether she actually spoke the words attributed to her in the first place. Responding to the accusation that she told one minister that she disapproved of other ministers, she notes that she spoke those words in a different context, “if” she adds significantly, “I spake it” at all (333).

Hutchinson’s tentative approach to speech and to its association in her mind with more nuanced hearing is encapsulated in her description of the importance of vocable distinctions in her revelation. Long before she confesses to the revelation, however—in fact as early as her first statement that she hears “no things laid to her charge”—she puts the lessons learned from her revelation into play. Interpreting her statement literally—as if her problem were physiological rather than hermeneutical—Winthrop responds by reiterating his earlier points. “I have told you many [things],” he says, “and more I can tell” (312). Homing in on Winthrop’s apparent belief that the truth will issue from repeated oral assertions, Hutchinson reminds him that the truth is not constituted by accretion or repetition alone. Simply giving voice to “more” charges, as Winthrop threatens to do, will not make Hutchinson hear the truth. Targeting his reliance on a plurality of accusations, Hutchinson insists, “Name one, sir.” Startled by Hutchinson’s apparent insubordination, Winthrop unwittingly cedes interpretive authority to the defendant. “Have I not named some already?” he asks. This question not only belies his faltering strategy but also his inability to follow the law. Prompting him with cues that will make him more legally audible, Hutchinson demands the vocable reconstruction of her voice: “What have I said or done?” she asks (312).

With the law broken down into its most fundamental part—the actus reus or act itself—Hutchinson not only exasperates the governor further, but also demonstrates her greater mastery of the common law and its aural implications. The common law, as Hutchinson well knew, was used to address violations within the realms of speech and action. Yet the following exchange reveals Winthrop’s inability to associate Hutchinson with a claim of illegal speech or action, for even as he bows to her demand to hear more detailed charges, she repudiates them at every turn. To the charge that she countenanced members of John Wheelwright’s antinomian faction in her house, for example,

16 Slavoj Žižek, “I Hear You with My Eyes”; or, The Invisible Master, in Gaze and Voice as Love Objects 92 (Renata Saleci & Slavoj Žižek eds., 1996).
Hutchinson patiently explains that countenancing people is not only not forbidden, it is often mandated by the law. “I conceive there lies a clear rule in Titus that the elder women should instruct the younger,” she remarks, “and then I must have a time wherein I must do it” (315). Here Hutchinson offers a glimpse into her developing argument about the difference between voices on a vocable level. To Winthrop’s authoritative voice, she juxtaposes none other than the voice of the Bible in the form of the rule of Titus, spoken out loud by the ministers, which forces Winthrop into the very exercise in which she is engaged: distinguishing among voices in terms of their vocability.

Winthrop’s subsequent move reveals his inability or refusal to hear voices in the way Hutchinson does, even though her distinctions are central to the common law. In this instance he openly fails to distinguish between Hutchinson’s voice inside and outside the courtroom. Finding her answers inadequate and irreverent, Winthrop exclaims in a moment of supreme frustration, “[W]e do not mean to discourse with those of your sex” (314). Typically read as an expression of Winthrop’s disdain for women, especially women such as Hutchinson, who were seen as assuming male authority, the statement is more profitably read as a window into Winthrop’s undifferentiated sense of the vocable. Despite his role as lead prosecutor, Winthrop acknowledges that he does not consider his exchanges with Hutchinson to be legal in a technical sense; instead, he sees them as part of a discourse where “discourse” describes speech outside the legal sphere in which women were tolerated as interlocutors. In this he seems incapable of hearing Hutchinson’s voice in the courtroom at all.

At this point in the trial, the description of what Hutchinson learned as a result of her revelation merges with the description of the crime she stands accused of committing. Indeed the distinction she makes among the ministers, based on who is preaching works and who is preaching grace, hangs on a difference only the ear—central to both the law and religion—can apprehend. Such a difference is not, as her accusers say, that some preached a covenant of works while others preached a covenant of grace, but rather in Hutchinson’s words that “some preached a covenant of grace more clearly than another” (318). To hear degrees of clarity in a voice was to hear in a way that went to the heart of Hutchinson’s revelation as well as the law’s reliance on aurality. As Žižek explains, making vocable comparisons among speakers means going beyond the kind of hearing that merely attaches the speaker to a voice or sorts out the semantics of oral production.

Still, Hutchinson’s understanding of aurality is once again lost on Winthrop. “If they [the ministers] do not preach a covenant of grace clearly, then they preach a covenant of works,” he remarks. Here Winthrop raises the specter of semantics—who is talking and what is being said—in a place where a different kind of aural perception is being invoked. In exposing this failure—to acknowledge the diversity of aurality in the law—Winthrop also reveals why he remains incapable of understanding how innocuous Hutchinson’s revelation and ministerial evaluations were. When Hutchinson claims in her revelation that she can hear the difference between Moses and Christ, it is just such a distinction she has in mind. Both voices—Moses’s and Christ’s—are like those of the
ministers preaching grace and works unquestionably good. It’s just that Christ’s voice, like the voices of the ministers preaching grace, is vocally better.

The importance to Hutchinson’s defense of distinguishing among voices emerges in part in her comments on the public and private spheres as well. “It is one thing for me to come before a public magistracy and there to speak what they would have me speak and another when a man comes to me in a way of friendship privately there is a difference in that,” she states (319). Some critics see Hutchinson’s public/private distinction as a forerunner of free speech.17 Reading the distinction through the lens of Hutchinson’s revelation, however, allows us to see the public and private divide as having more to do with aesthetics and hearing than with speech. Indeed distinguishing between sounds heard in public or private could only make sense in this context. For while it was commonplace in Hutchinson’s day (as in our own) to differentiate, to take our earlier example, between the way thunder sounded inside a house as opposed to out in an open field, it was not commonplace to differentiate between the truthfulness of words on the basis of where they were spoken. Thus when Hutchinson says, “If one shall come unto me in private, and desire me seriously to tell them what I thought . . . I must either speak false or true in my answer,” she is not suggesting that she would be happy to “speak false” in a more public venue. Rather, she is saying that when people are willing to listen to her, as they tend to be in private, she will always be seen to be speaking the truth. The difference she points to is not so much between speaking publicly or privately, but between hearing privately, where in her experience people routinely seem to listen for all the available sounds, and hearing publicly, where, if the General Court of the Massachusetts Bay Colony is our guide, auditors will hear only “what they would have me speak” (319). Rather than talking about what she should have been allowed to say privately as opposed to what she would be willing to say publicly, Hutchinson seems to focus on how people typically attend to each other in public and private places.

Distinguishing between the voices of Moses and Christ at any given time is also linked, as Hutchinson explains to Winthrop, to the act of distinguishing voices over time. When the deputy governor, who replaces the governor as lead interrogator near the end of the trial, remarks that he will “[l]ikewise . . . prove this that you said the gospel in the letter and words holds forth nothing but a covenant of works and that all that do not hold as you do are in a covenant of works,” Hutchinson points out that in their effort to reconstruct what she said in the past her interlocutors are missing the point of the law: to hear her testimony in court, not to reconstruct what she said outside of it. “I deny this,” she explains, “for if I should so say I should speak against my own judgment” (319). If only Winthrop and the other judges would hear what she was saying in court with all the resonance required by her understanding of aurality, they would be able to distinguish between her voice in the present and her voice in the past.

17 See, e.g., Eve LaPlante, American Jezebel: The Uncommon Life of Anne Hutchinson, the Woman Who Defied the Puritans (2004).
The testimony of John Cotton, whose preaching Hutchinson most admired, reinforces Hutchinson’s claims about the primacy of a vocable aurality. Cotton begins his testimony on the second day of Hutchinson’s trial by disqualifying himself as an accurate ear-witness on the basis of his fallible memory. “I did not think I should be called to bear witness in this cause and therefore did not labor to call to remembrance what was done,” he begins. Asked nevertheless to speak on the spot, Cotton proceeds to describe what he can call to mind with results that are hardly illuminating: “The elders spake that they had heard that she had spoken some condemning words of their ministry,” he says. Cotton’s hesitation to accuse Hutchinson emerges most clearly in the vagueness of the phrase, “some condemning words,” for on this basis no real culpability can be ascribed to her. The statement is also significant for the convolution of its aural provenance. If we follow its twisted trail, we hear Cotton say only that he heard other people who heard other people who heard what Hutchinson ostensibly had said. Trying to recall the substance of her words, Cotton falls back on hearsay—what other people said she said—which reinforces Hutchinson’s point about hearing a voice in its vocable immediacy.

The greater reliability of immediate aurality, like the kind she experienced from God, informs Hutchinson’s request that the ministers who plan to testify against her take an oath. Then as now, the oath was intended as a safeguard against an outright lie, but it also functioned as a safeguard against efforts to reconstruct or translate the complexity of what one heard in the past for the purposes of making it seem as if it were being heard in the present. A greater trust in immediacy also accounts for Hutchinson’s response to the question about her revelation. Did she hear God by an “immediate voice,” she is asked. Yes, she replies, by an “immediate revelation” (337). For the Puritans, an immediate revelation, as opposed to a delayed or gradual revelation (although such a thing was never spoken of in these terms) was heretical since immediacy, as the prefix “im” implies, denied the need for clerical mediation. While the Puritans, who were heirs to the Protestant Reformation, claimed the ability to read and to interpret the Bible on their own, they also believed that ministers were central to this task. Without ministerial guidance, there could be no unity of belief, and to interfere with unity was to threaten the ministers’ authority.18

What the ministers failed to see, however, was that when Hutchinson said her revelation was immediate, she was not talking about the absence of clerical mediation. She was talking rather about capturing sound in the vocable moment, before it entered the semantic field. This did not preclude the connotative and exegetical work of the clerics. It merely preceded it and held a meaning all its own. To hear through revelation was simply to hear the sounds inside words, whether they came from God or others. It followed then that Hutchinson asked to be heard in the same way in the courtroom—in the immediacy of the vocable moment with all its irreducible and ephemeral meaning. After all, this kind

of hearing was implicit in the legal charge to witnesses and lawyers alike. Otherwise the words of the law would simply be recorded in print and exchanged through written documents, and if this were the case, why authorize a separate place such as the courtroom in which to speak and hear the truth?

III.

Following Hutchinson’s lead by shifting our attention from speech to hearing and from the semantic to the vocable allows us to reread the law and the antinomian crisis as a whole. Among other things, it resituates Hutchinson’s trial within the early modern period and reads her revelation not as an aberration but as a necessary piece of a legal emphasis on aurality. Whether we see her revelation as a template for and culmination of her legal strategy or her legal strategy as the ultimate defense of her revelation, we are invited to understand the antinomian crisis as being less about a theological difference between works and grace or as a prerevolutionary harbinger of free speech than as an early modern battle over the terms of legal aurality.

As Leigh Eric Schmidt observes, hearing voices in the early modern period was a habit tied not to delusion, as Hutchinson’s interlocutors seemed to believe, but to “devotional ordinariness.” From a religious standpoint, this makes Hutchinson’s revelation far less aberrant than her contemporaries or our own would have us believe. What Schmidt fails to note, however, is that the practice of hearing voices—that is, hearing them in all their sonorous vocability—was as pervasive in the legal as in the religious realm. This makes Hutchinson’s use of her revelation within a secular court of law far more comprehensible than scholars have previously assumed. The law required lawyers and witnesses to listen to each other in ways that transcended semantic expectations. What Hutchinson’s contemporaries took to be her antinomianism—from the Greek for “against the law”—was in fact a position well within the law, a position in which she fought to make her understanding of the law known to the governor and to others. Traditionally held up as a radical religious figure undone in the context of a secular trial by an impulsive and gendered reference to God, Hutchinson should in fact be seen as a champion of the common law and its now-forgotten investment in hearing voices.