

# ***Courting Power: Discussion and Analysis of a Courtroom-based Art Installation informed by a Legal Historical Case Study***

## **Introduction**

On Friday 1 August 1834, in the Assize Court Newcastle upon Tyne, whilst her companion in crime stood stoically silent, Margaret Hebbon was sentenced to be transported to Van Diemen's Land for fourteen years. Baron Gurney handed down the sentence and local newspapers reported Margaret screamed loudly, filling the Guildhall with the sound of her distress.<sup>1</sup>

The trial of Margaret Hebbon is central to the courtroom-based art installation, *Courting Power*, by Johannah Latchem presented in the Guildhall, Newcastle upon Tyne in 2018. *Courting Power* explored how the acoustics and architecture of the unique courtroom at the Guildhall silenced or amplified the voices of those involved in its judicial processes.<sup>2</sup> Artistic and scientific approaches were employed in the investigation of the court's abundant acoustic history and these were linked to a micro-study of the trial and sentence of one 'woman of the town'.<sup>3</sup> The discussion and analysis of the trial and conviction of Margaret Hebbon, and of the development of the art installation, demonstrates the merits of adopting an integrative approach to encourage reflection, and resonance, for today's audiences. Both *Courting Power*, and the discussion in this paper, are cross-disciplinary and draw upon practice-led research in fine art, acoustic science, and legal history.

This article delineates, demonstrates, and discusses the power of working across disciplines to encourage public reflection on complex issues. The first section

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<sup>1</sup> 'Newcastle Summer Assizes' *Newcastle Journal* (Northumberland, 2 August 1834) 3.

<sup>2</sup> *Courting Power* (2018) installation Newcastle Guildhall Courtroom, Newcastle-upon-Tyne. Johannah Latchem collaborated on aspects of the installation with sound artist Dr Tim Shaw from Culture Lab at Newcastle University and archaeo-acoustician Gianluca Fosci from the department of History, Classics and Archaeology at Newcastle University. Both are credited here for bringing their expertise to the project and their contributions are gratefully acknowledged.

<sup>3</sup> A phrase used about Margaret Hebbon- often used to describe a prostitute.

introduces *Courting Power* and describes the historic Guildhall courtroom in Newcastle upon Tyne. It then discusses the exploration of the courtroom acoustics used in the installation. Next, the authors consider *Courting Power* in the context of contemporary artworks that address the theme of the law, and they outline how law is interrogated from a practice-led perspective.<sup>4</sup>

The third section is the case study of the defendant, Margaret Hebbbron. This micro-historical study informed the artwork's focus on the female voice, around which the acoustics in *Courting Power* were built.<sup>5</sup> The use of Margaret Hebbbron's case to inform in the sound installation, sought to resonate with the audience to encourage reflection upon issues of gender and, particularly, the amplification of the female voice in the court setting.<sup>6</sup> The theoretical framework acknowledges reflexive approaches to legal life-writing using micro-historical study, gender and sources. Combining a micro-historical study of a marginalised life, with the power of visual art, created an opportunity to illuminate and interrogate issues around power, authority, and the law. The artwork demonstrated, through materiality and spectator engagement, an important and unique contribution can be made to debates on justice. It also showed the unique contribution of object-based historical enquiry and practice-led research. In short, the work reveals the process of creative art practice as a research tool. The work reached a wide audience when it was presented and was a popular and intriguing artwork.

## 1.1 The Genesis of the Idea

*Courting Power* was part of a wider practice-led doctoral project by Johannah Latchem. Her artworks intervened in the material culture of the courthouse to establish new rituals to inform public understanding of the law.<sup>7</sup> Latchem demonstrated that art

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<sup>4</sup> This is not a chronology of symbols of justice over time, already documented: Peter Goodrich, *Devising Law a Short History of Legal Emblems* in *Emblems and the Art of Law, Orbiter Depicta as the Vision of Governance*. (Cambridge University Press. 2014); Judith Resnik and Dennis Curtis, *Representing Justice, Invention, Controversy, and Rights in City-States and Democratic Courtrooms* (Yale University Press 2011) 20.

<sup>5</sup> Johannah Latchem, 'The Art of Justice: Reconfiguring the Courtroom Object' (PhD Thesis, Newcastle University 2020) 136.

<sup>6</sup> The female voice, and particularly the role of emotion in trials, is attracting scholarly attention by historians. See for example Kate Barclay 'Narrative, Law and Emotion: Husband Killers in Early Nineteenth-Century Ireland' (2017) 38 (2) *Journal of Legal History* 203 in a special issue of the *Journal of Legal History* on emotion in a legal context.

<sup>7</sup> Latchem (n 5).

installations in the courtroom can critique the symbolic materiality of law's historical artefacts. The creation of objects, and their roles in new embodied courtroom processes, challenged existing courthouse rituals and exposed the need for new ones to convey revised messages to the public. *Courting Power* was the culmination of a series of artworks. The next section discusses the development of Latchem's project, to put *Courting Power* in context.

Latchem explored several venues to find the ideal locations for her installations. The site was specific for her work. Her early research focussed on the Admiralty Court, and therefore much of her work was linked to the Newcastle upon Tyne Trinity House, a charity established by Royal Charter in 1514, to regulate pilotage on the Thames, and provide for aged sailors. Today, it safeguards shipping and seafarers across the UK, and provides aids to navigation, as well as support and welfare for the seafaring community. The project required a suitable location. The Admiralty Court, once held in the Guildhall, was never formally abolished and was re-signed to the Mayor and Burgesses of Newcastle in 1605.<sup>8</sup> Through her archival research Latchem discovered that the mace of the Admiralty Court Session, held at Trinity House, which gave the court its authority, was traditionally placed before the Judge's bench in the Guildhall. This discovery, verified by Trinity House, meant that the Guildhall, as the oldest court building in Newcastle, was uniquely apposite.<sup>9</sup>

The courtroom object at the centre of Latchem's doctoral study was the Admiralty's silver oar. The oar probably has its origins in the earliest Admiralty Court in the 1360s, during the reign of King Edward III, although this is speculative.<sup>10</sup> It was the only courtroom object processed to the gallows, and it is still processed and displayed in

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<sup>8</sup> By Lord Effingham, Admiral to Newcastle Port and the River Tyne from 1522-1605

<sup>9</sup> Latchem discovered this, previously undocumented, information through her research. Trinity House verified that, based on the historic evidence uncovered by Latchem, the Guildhall was the location of the Admiralty Court in Newcastle.

<sup>10</sup> Joseph C Sweeney, '*The Silver Oar and Other Maces of the Admiralty: Admiralty Jurisdiction in America and the British Empire*', (2007) 38 (2) *Journal of Maritime Law and Commerce* 161. Sweeney notes that this is, speculation, although by extremely learned authorities, Sir Travers Twiss (1809-1897) and later William Holdsworth (1871-1944), Regius Professor of Law at Oxford and Vinerian Professor of English Law at Oxford respectively. The origins of the Admiralty court are uncertain, but it is suggested in the '*Black Book of the Admiralty* (the earliest extant copy of which dates from about 1450) that the court was founded during the reign of Edward I (1272-1307)', Gregory Durston, *The Admiralty Sessions 1536-1834 Maritime Crime and the Silver Oar* (Cambridge Scholars Publishing, 2017) 3. Merriman argued the oar may date to 1363 see Frank Boyd Merriman, 'The Symbol of Admiralty Jurisdiction' (The Empire Club of Canada). <<http://speeches.empireclub.org/61160/data?n=1>> accessed 17 December 2020.

courtrooms in the UK, and globally, as a signifier of colonial power, punishment, and death.<sup>11</sup> Latchem designed and made her own version of the silver oar, titled *My Bloody Oar*, an eight-feet long, solid walnut sculpture of an oar with engraved silver details on the 67 centimetre wide blade, and down the full length of the handle. This was much larger than a traditional silver oar, which is usually approximately 75 centimetres in length.<sup>12</sup> *My Bloody Oar* was a little longer than an adult human, measuring 2070mm. It was borne aloft, horizontally, and rested on the shoulders of bearers, like a human body. It was employed in a series of artworks.

The works, and the public reaction to them, demonstrated that when change in the area of ritual, and symbolic object, in the legal sphere takes the form of an active, morphing and interactive artwork, it becomes a dynamic agent that has the power to highlight comparisons with other forms of legal ritual through materiality.<sup>13</sup> An artwork may highlight the desirability of legal change by adding to debates on the modernization of the rituals of the law. Challenging established legal rituals, and objects, conveyed a message for audiences as to the history of the silver oar, which is dark and fascinating, but in doing so it also sought to address the audience's part in the performance of those objects. The point was not to indicate that we do not need ritual in the law, but that in some cases, new rituals are required. Via such new approaches, ways to make historic rituals relevant to contemporary audiences may be explored. Thus, Latchem's artworks challenged the existing courthouse ritual using the silver oar. Such ritual ought to be challenged to facilitate critical analysis of historic inherited ritual and the, sometimes uncomfortable, history of the objects brought into contemporary courtroom practices. Reflection upon the conception, and reception, of the *Silver Oar* lead to the development of *Courting Power*, the focus of this article.

The Guildhall, which became central to *Courting Power*, has been the site of several courts over the centuries, including the assizes for the county of Northumberland. It was identified as a potential site for an artwork and Latchem then developed a site-specific sound work designed to disrupt the expected courtroom rituals of the assize court at the Guildhall, in order to develop new narratives and engage contemporary

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<sup>11</sup> See Anon, *The Lives, Apprehensions, Arraignments, and Executions, of the 19 Late Pyrate*, (E Alde, 1609) p.f1r; Anon, *A True Relation of the Lives and Deaths of the two most Famous English Pyrats, Purser and Clinton, who lived in the Reigne of Queene Elizabeth* (1639), D1r – D1v.

<sup>12</sup> Johannah Latchem, *My Bloody Oar* (2017) performance.

<sup>13</sup> *Ibid.*

audiences.<sup>14</sup> The development of Latchem's ideas is explained below in order to contextualize the development of *Courting Power*.

An unexpected theme emerged during the development of the series of works encompassing *Courting Power*. It was increasingly clear that women's voices, and the law, were a critical focus. This realisation began in *Kiss the Wooden Lady*, the first of four exhibitions held at the Seafarer's Guild and museum in Trinity House.<sup>15</sup> Latchem's research uncovered previously over-looked archival material that connected the Admiralty's Silver Oar to naval impressment, the practice of taking men into naval service by forced recruitment and, via this, to women's voices of the past. Publicly unseen letters in the archive from a woman to her impressed husband seeking his release, inspired and informed *Kiss the Wooden Lady*, which consisted of sculpture and live performance.<sup>16</sup> Following the success of *Kiss the Wooden Lady*, and the themes it uncovered, the focus of Latchem's work shifted from maritime jurisprudence to spaces of the law and its courtroom objects.

A second piece, entitled *Carry the Woman You Forgot*, was performed on the same day as *My Bloody Oar*.<sup>17</sup> *Carry the Woman you Forgot* was a formal public procession in which the titular oar, of *My Bloody Oar*, was carried by Merchant Navy servicemen, along the quayside from the Guildhall to Trinity House followed by many members of the public. *Carry the Woman You Forgot* explored the journey taken by material objects of the law across the courthouse boundary and through the civic sphere of the street, challenging law's representation in the civic sphere and public imagination.<sup>18</sup> As the procession made its way along the Quayside, a shout of 'Hitler' was directed at the oar bearers. This was certainly nothing to do with the oar itself, but a response to the uniforms worn by the oar bearers as signifiers of State power. The oar blade was inscribed with a poem, *The Message*, written by Latchem and based on the letters from the Trinity House archive previously employed in *Kiss the Wooden Lady*.<sup>19</sup> The

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<sup>14</sup> Johannah Latchem, *Carry the Woman You Forgot* (2018) performance.

<sup>15</sup> Johannah Latchem, *Kiss the Wooden Lady* (2018) exhibition.

<sup>16</sup> In 2018 Trinity House accessioned *My Bloody Oar* into the permanent collection where it remains on view alongside its historic predecessor.

<sup>17</sup> Latchem (n 14).

<sup>18</sup> The journey into and out of court, little explored in fine art is further examined in a forthcoming article by Latchem in 2021 'Towards A New Material Culture of the Law: Re-imagining Legal Rituals Through Contemporary British Art Practice'.

<sup>19</sup> Johannah Latchem, *The Message* (2018) poem.

poem embedded the woman's voice directly into the artwork on an engraved silver plate. The process of making *Carry the Woman You Forgot*, the writing of the poem, and the use of the archival material to reveal the female voice, culminated in the exploration of the woman's voice in the case study of Margaret Hebbon, which became the focal point of *Courting Power*.

## 1.2 The Aim of Courting Power

Context and site play a crucial role in relation to interpreting and representing the 'object of law' and they are critical to its reception.<sup>20</sup> *Courting Power* explored and addressed directly, the role of context and site in relation to interpreting and representing an object of law. It highlighted, using courtroom acoustics, how contemporary artworks in the courtroom, based on the specific acoustics of that courtroom, enabled and encouraged a viewer to become aware of something not previously considered in terms of the placement of artefacts. The installation focussed on, and introduced, the woman's voice and explored with the audience the links between the oar, the river, and the Guildhall courtroom. The Guildhall courtroom provided the acoustics and architecture at the locus of the law in the former Admiralty Court before *My Bloody Oar* left the building on its procession. The role of the location, for *Carry the Woman You Forgot*, in interpreting the object of law that left the courthouse, changed it fundamentally. In *Courting Power*, the context and acoustics united to reflect forgotten stories through Margaret Hebbon's scream.

Before detailing and analysing the development and performance of the unique installation, *Courting Power*, the fine art context is discussed.

## 1.3 The Fine Art Context

There are contemporary artists making site-specific works in courtrooms that include sound. However an artwork situated in a court that is informed by that courtroom's acoustics, like *Courting Power*, is unusual and in this sense *Courting Power* was unique.

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<sup>20</sup> Latchem (n 5) 202-204.

Some artworks have been both informed by court proceedings and situated in the courtroom, but these can be distinguished from *Courting Power*. For example, Ilona Gaynor's 2014 work *The Lawyer* did not employ sound but was a series of photographic images that highlighted the efficacy of performance in court.<sup>21</sup> Gaynor used pictures of Adolf Hitler rehearsing his oratory in front of a mirror to inform the piece that was shot in a moot court at University College London. Gaynor's images imagined a lawyer practising dramatic gestures ahead of a trial. The role of persuasive rhetoric was linked to human performance and its relation to truthfulness of testimony was questioned. Another work situated in the courtroom more explicitly refers to State politics. Ivan Grubenhov, a Bosnian artist, made a unique intervention in the courtroom at the trial of Slobodan Milošević in The Hague.<sup>22</sup> Grubenhov, who had been an activist in his youth, was artist in residence at the Rijksacademie in Amsterdam. He attended the trial to secretly sketch the court proceedings.<sup>23</sup> His relatives, watching the trial on television saw his reflection in the glass separating the public gallery from the court and photographed the screen. Realising he could be seen around the world, he made covert interventions by wearing coloured shirts to reflect the colours in the Yugoslavian flag.<sup>24</sup>

When sound is employed in an artwork located in a courtroom, it is in a different way to *Courting Power*. Greta Alfaro's *I Will Not Hesitate to React Spiritually* was a site-specific project inside Lambeth County Court.<sup>25</sup> A resident's protracted interactions with the Lambeth authorities, and the subsequent deterioration of his mental health, inspired a film of a performance in the courtroom. *I will Not Hesitate to React Spiritually* explored power and powerlessness. Material such as wooden vitrines, documents and found and made objects were displayed in the court. The film had an audio accompaniment that was integral to the work and included the sound of tap dancing upon the courtroom benches. However, whilst using sound, Alfaro was focused on the dynamics of power between authority and individual and was not exploring the acoustics of the space where the performance took place.

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<sup>21</sup> Ilona Gaynor, *The Lawyer* (2014) C-Type Prints on Fuji Crystal archive paper.

<sup>22</sup> In 2002 and 2003.

<sup>23</sup> Ivan Grubanov, *Visitor* (2002 and 2003) pen and ink.

<sup>24</sup> Ivan Grubanov, *Self Portrait Behind the Amici* (2005) photograph. See Judy Radul, *What was Behind Me Now Faces Me* (2007), Eurozine np.

<sup>25</sup> Greta Alfaro *I Will Not Hesitate to React Spiritually* (2019) Single channel video HD colour sound.

Sound is intrinsic to two pieces of work based in the Palais de Justice in Brussels. *Palais de Justice* by Carey Young featured a distinctive soundtrack, comprising footsteps and other ambient sounds captured in the courthouse, accompanied by surreptitiously filmed images of female judges and barristers at work.<sup>26</sup> Continuous use of male voices on the soundtrack conveyed the court's power dynamics, and its patriarchal bias, addressing issues of gender in the court. The Palais de Justice was also the site for Alex Reynold's 2020 film, *Palais*.<sup>27</sup> This explored the architecture of the building's administrative facilities and concentrated on the labyrinthian corridors behind the scenes.<sup>28</sup> The film was a walk-through hidden areas, narrow hallways, abandoned offices, graffitied walls and sinister elevators accompanied by the ambient sounds of footsteps.<sup>29</sup>

A sound-work based in an English courtroom setting was Paul Rooney's *Stolen Things* presented in the courtroom at Ripon Museum of Law and Order. Although employing sound it was not directly focused on, or informed by, the acoustic readings of the space.<sup>30</sup> *Stolen Things* does however, like *Courting Power*, refer to historical narratives relating to events that occurred in the court, though the conceptual development of these stories to inform some of the sounds in the audio output is quite different to *Courting Power*. The installation was based on 14-year-old Ann Lupton's trial in 1853 for shoplifting. As Rooney noted 'Ann speaks and sings her daydreams amidst a musical collision between shiny pop melodies and rowdy crowd chants'.<sup>31</sup> A local girl sang the imagined voice of the convicted child and other words were added by volunteers who recounted their childhood memories. This soundtrack was mixed with the chords of Taylor Swift's song 'I Did Something Bad', Jean Genet's novel 'The Thief's Journal', a court report from the York Herald and a children's hymn, 'Do No Sinful Action'.

A piece which more directly explored the actual dynamics of audio in a legal setting, was a collaboration of artists Lawrence Abu Hamdan, Sidsel Meineche Hansen,

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<sup>26</sup> Carey Young, *Palais de Justice* (2017) video installation.

<sup>27</sup> Alex Reynold, *Palais* (2020) HD video

<sup>28</sup> Ibid.

<sup>29</sup> Unlike Young, Reynolds does not explore issues of gender, or feminism, or contemporary events that occur in the public arena of the court. Reynolds reveals 'behind the scenes' away from the public face of the court.

<sup>30</sup> Paul Rooney, *Stolen Things* (2019) installation.

<sup>31</sup> Paul Rooney <[www.paulrooney.info/stolen-things/](http://www.paulrooney.info/stolen-things/)> accessed 16 June 2021.



Lorenzo Pezzani and Oliver Rees: *Model Court*.<sup>32</sup> In 2013 they produced a work shown in an art gallery entitled *Resolution 978HD*.<sup>33</sup> This employed sound to examine the acoustic dynamics and complexities of a dysfunctional audio-visual infrastructure that bridged a jurisdictional divide between Finland, Rwanda, and Tanzania during the trial of Francois Bazaramba who was convicted of genocide in Finland.<sup>34</sup> *Resolution 978HD* is a film within an installation that tells a story of the audio and visual transmission of a Finnish court to Rwanda and Tanzania. *Courting Power* explored acoustics and transmission within a site-specific venue where the sounds produced in the installation were informed by the frequencies in the room. However, although *Resolution 978HD* was based upon a trial and filmed in a court, it was shown in the Gasworks Gallery, and not a courtroom. *Resolution 978HD* has semi-fictional elements, like *Courting Power*. It is 'a semi fictional narrative to explore the trial's relationship to notions of aid, neo-colonialism and the production of history'.<sup>35</sup> After the trial the artist collective travel to Finland to visit the policeman who was the court's chief technician. The film is shown playing on his computer. It is a critical questioning of the way that emerging technologies, as opposed to courtroom architecture, may displace the process of justice, and explores the relationship between technologies and universal jurisdiction.<sup>36</sup>

Political trials formed the focus for Rosella Biscotti's *The Trial*, which used sound in a six-hour edit of original courtroom recordings from the trial in 1979 of former Italian intellectuals and militants arrested on terrorist charges.<sup>37</sup> The artwork was a two-day translation into English of the trial and the piece included benches and keys from the high-security courtroom in Foro Italico, Rome.<sup>38</sup> Participants took turns to read the trial transcripts whilst they were typed up in the gallery space, where red screen prints hung from the walls. Biscotti exposes the rise of an intellectual network in Italy in the 1970s, Autonomia Operaia, and highlights that art exists within a political framework.<sup>39</sup>

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<sup>32</sup> Lawrence Abu Hamdan <<http://lawrenceabuhamdan.com/model-court>> accessed 16 June 2021.

<sup>33</sup> Model Court, *Resolution 978HD* (2013) HD video.

<sup>34</sup> *Prosecutor v. François Bazaramba* (2010) R 09/404.

<sup>35</sup> Hamdan (n32).

<sup>36</sup> Ibid.

<sup>37</sup> Rosella Biscotti, *The Trial* (2013) performance.

<sup>38</sup> Shown in New York gallery e-flux. The trial was held in the courtroom in Rome.

<sup>39</sup> Biscotti (n37).

A more direct reference to trial proceedings can be seen in Jason File's video installation *Exactitude VII*, which uses documentation of the artist's cross-examination of a witness in his role as prosecutor in the trial of Ratko Mladic in The Hague.<sup>40</sup> In the film in the installation, shown at the Historical Museum of Bosnia and Herzegovina, File confronted a witness for the defence. The witnesses' underplaying of the suffering of the people of Sarajevo is contradicted by File who evidences shortages of water, gas, and power that forced the residents to improvise to survive.<sup>41</sup> A stove and a water tank on a trolley are displayed as an immediate connection to the terrible conditions, alongside a film of the trial proceedings. The sound accompaniment to the film of the court proceedings was a cacophony of voices in various languages, suggesting multiple perspectives about historical events,<sup>42</sup> as explained: 'the artist has metaphorically removed the walls of each interpreter's booth, allowing each language to be heard simultaneously'.<sup>43</sup> Embodied courtroom performativity was explored from outside the courtroom setting simultaneously through the visual and sound, in an historic trial, though not in a courtroom itself.

File's work incorporated his former role as prosecutor. In contrast, Samson Kambalu's *Sanguinetti Theses* showed film footage, and audio, of his own trial.<sup>44</sup> The work was shown at Modern Art Oxford and the room suggests a prison cell containing the controversial book *Sanguinetti Theses*. There are drawings by Gianfranco Sanguinetti, the Italian situationist, on the walls of the small room in the Gallery. In 2015 Kambalu photographed the protest art archive of Sanguinetti and was then sued by the writer.<sup>45</sup> Kambalu won the case on the premise that his work was produced on the same principles of collective ownership that predicated Sanguinetti's work, which draws from cultural traditions preceding capitalist property law.<sup>46</sup> Both audio and live voice featured in this exhibition. On podiums in a second gallery, spectators were invited to read into microphones and re-enact a 1915 courtroom enquiry into an uprising in Malawi. The historical courtroom exchange related to the wearing of hats in public. It was an offence in Malawi for a black man to be near a white man without removing his

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<sup>40</sup> Jason File, *Exactitude VII* (2018) Single-channel video installation.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Jason File, <[www.jasonfile.com/exactitude-vii-2018](http://www.jasonfile.com/exactitude-vii-2018)> accessed 16 June 2021.

<sup>44</sup> Samson Kambalu *Sanguinetti Theses* (2015) installation- one of several installations in his exhibition *New Liberia* (2021) Modern Art Oxford.

<sup>45</sup> See Samson Kambalu, *A Game of War: Sanguinetti v Kambalu Trial at Ostend* (2021) video.

<sup>46</sup> Samson Kambalu, *New Liberia*, (2021) Modern Art Oxford Exhibition Notes.

hat. Kambalu's work reflected upon the law and the performativity of clothes and social power in colonised Malawi and acts of resistance and self-respect.<sup>47</sup>

The performance of courtroom transcripts is common to some courtroom informed installations. Kambalu's work shares similarities with Biscotti's *The Trial*. Combining the court transcript with sound has also been explored in engaging ways. Susan Schuppli, like File in *Exactitude VII*, used materials from the International Criminal Tribunal for the former Yugoslavia in *Evidence on Trial*, which explored the legal archive of the Tribunal.<sup>48</sup> *Entered into Evidence*, part of the same project, showed 42 copies of evidence from the ICT court records on a light table, and a single channel wall mounted video played evidence from the trials. Schuppli was interested in the degree to which the court imprinted legal protocols upon evidential materials and actively shaped them.<sup>49</sup> Similarly, Judy Radul's *World Rehearsal Court* used trial transcripts from the International Criminal Tribunals from the Special Court for Sierra Leone and for the former Yugoslavia in a 4-hour, 7 channel, video installation which presented re-enactments of court room scenes.<sup>50</sup> Radul observed both trials and staged a re-enactment in a gymnasium, taped using an apparatus that alternated between the main actors in the trial. Radul explored the role of theatricality in representations that take place or are staged in and by the court and the tensions between experience, testimony, truth, and fiction.<sup>51</sup>

*Courting Power* explored embodied courtroom performativity through sound differently to other installations located in the courtroom or about a courtroom. It focuses on the female defendant and relates the measured acoustics of the courtroom to the sound installation itself. *Courting Power* also co-existed in the same space as the public performance of *Carry the Woman You Forgot* (2018), the re-configuring and revising of a courtroom object which became *My Bloody Oar*, also a subject not addressed by artists working with historic legal themes in the courtroom space using sound.

A completely different approach to the performative in the journey of the law's materials within the physical boundary of the courthouse can be seen in Bruno Latour's

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<sup>47</sup> Ibid.

<sup>48</sup> Susan Schuppli, *Evidence on Trial* (2014) video installation.

<sup>49</sup> Ibid.

<sup>50</sup> Judy Radul, *World Rehearsal Court* (2009) video installation.

<sup>51</sup> Ibid.

ethnography of the Conseil d'Etat, which follows files around the French Supreme Court and describes the work of judges as they try to reach agreement. These works do not focus upon the female defendant. Additional Literature also indicates issues for further consideration relating to the acoustic dynamic of courtrooms, and the impact this has on those involved in hearings. One study is by Paul Rock, *Witnesses and Space in a Crown Court*, which looked at the relationship between witnesses and space and, via this, examined the social world of the Crown Court at Wood Green, in North London. This research captured the experiences of court from the perspective of victims. Rock commented on the physical segregation of the courthouse beyond the courtroom, namely the discrete spaces designed to separate juries, judges, defendants, and administrative staff. He concluded: 'The symbolic, moral, and functional divisions of the court are there mirrored perfectly by its material structure'.<sup>52</sup> More recently, an exploration of the areas of the courtroom was undertaken by Elaine Craig in *The Inhospitable Court*.<sup>53</sup> Using examples from court transcripts, Craig described three rituals, 'the ritual of civility, the ritual of the script and the ritual of courtroom aesthetic and design'.<sup>54</sup> In ritual and the aesthetic and structural design of the courtroom, Craig linked the space of the courtroom to a defendant's experience so as to show that these all have a bearing upon experiences within court.<sup>55</sup> Some of these ideas resonate with exploring the experience of Margaret Hebborn in relation the material structure of the court and its acoustics.

Carlen adds that distances from bench to dock vary from court to court, but in all courts such distances are certainly greater than those usually and voluntarily chosen for the disclosure of intimate details.<sup>56</sup> James Parker states the importance of acoustics in his extraordinary book that examines the trial of Simon Bikindi who stood trial, between 2006 and 2008, accused of inciting genocide in Rwanda through his music. Bikindi was a politician and a celebrity, his songs were sung as the perpetrators of the

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<sup>52</sup> Paul Rock, 'Witnesses and Space in a Crown Court' (1991) 31 (3) British Journal of Criminology 275

<sup>53</sup> Elaine Craig, 'The Inhospitable Court', (2016) 66 (2) University of Toronto Law Journal 200.

<sup>54</sup> Ibid.

<sup>55</sup> Charlotte Barlow explored the visual construction of co-accused women in court drawings. This focused on visual criminology, in particular the construction of court drawings from a feminist perspective, which also addressed the space and layout in relation to power as well as its impact on attendees of hearings see Charlotte Barlow, 'Sketching Women in Court: The Visual Construction of Co-accused Women in Court Drawings' (2016) 24 Feminist Legal Studies 169.

<sup>56</sup> Pat Carlen, 'Staging Magistrates Justice' (1976) 16 (1) British Journal of Criminology 48.

genocide murdered hundreds of Tutsis. This case was unprecedented. Bikindi was eventually found guilty of using a public address system to incite the Hutu, the majority, to rise and kill the Tutsi. Parker examines how Bikindi's music was brought into the courtroom and used as evidence. He comments on how each person at trial can organize their own listening experience and what happens to the judicial soundscape when the courtroom is wired for sound. Today architectural acoustics is big business and soundproofing is a major feature of international legal practice.<sup>57</sup>

The Guildhall courtroom was specifically chosen as an integral part of *Courting Power*. The next section describes the courtroom and explains the specificity of the installation.

#### 1.4 *Courting Power*- the space

*Courting Power* was a dynamic sound installation that attracted 500 people to the Guildhall courtroom. The Guildhall is on the Newcastle Quayside, in the shadow of the historic Tyne Bridge. The imposing courtroom is located on the first floor, with views over the river. It is not generally open to the public and therefore many in the audience would not have experienced the court.<sup>58</sup>

The courtroom was designed by Robert Trollope between 1655 and 1658.<sup>59</sup> The hall is 28 metres long, and the court furnishings are at the west end. The floor is paved with black and white chequered marble, foot-worn and shining from over 450 years of tread. Writers have commented on its exuberance and stately, enduring presence. It remains as Bourne described it in 1736, except for the absence of the paintings and the painted glass window:

This building, as to its Form and Model, is of great Beauty, and withal very sumptuous. That Part of it, which is the Court itself, is a very stately Hall whose lofty Cieling [sic] is adorn'd with various Painting, and its floor laid with checker'd Marble. On the east end of it is a Dial, and the Entrance into the Merchant's Court. On the west are the Benches, where the Magistrates sit, raised considerably above the

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<sup>57</sup> James Parker, *Acoustic Jurisprudence* (Oxford University Press, 2015) 183.

<sup>58</sup> The ground floor is being converted into a Hard Rock Café. Whether this will be sympathetic to the Grade 1 listing remains to be seen. 'The Guildhall and Merchants Court' (*Historic England*) <<https://historicengland.org.uk/listing/the-list/list-entry/1120877>> accessed 21 March 2021.

<sup>59</sup> There has been little written on Trollope. For a brief biography see Howard Colvin, *A Biographical Dictionary of British Architects 1600-1840* (3rd edn Yale University Press, 1995) 989.

floor of the court, above which are the pictures of King Charles II and King James II, large as life. On the North a gallery for spectators; and on the South the Windows, which are very pretty, particularly that Window which is a Katherine-wheel, [sic] in which is a large Sun-dial of painted Glass, with this Motto, Eheu Fugaces! Under this is a large balcony, which overlooks the River. Here it is that the Mayor and Sheriff keep their Courts, and the judges at Lammas hold the Assize. Here is kept the Guilds, the Court of Admiralty, &c.<sup>60</sup>

The supporting beams for the court furnishings are hidden beneath some later Victorian fittings, but they appear to be original. The ceiling is hammerbeam and the coats of arms of the Guild trades are affixed to them. *Mackenzie's Descriptive Account of Newcastle* in 1827 noted that the benches in the Court had recently been enlarged:

The Guildhall is a noble room 92 feet long and 30 feet broad. The ceiling is adorned with various paintings, and the floor laid with chequered marble.... The Guildhall, as before observed is a spacious and magnificent court. The interior has undergone few alterations. The benches at the west end are considerably raised above the floor and have been recently enlarged. Here the assizes, quarter sessions, courts of requests, sheriff's courts &c. are held.<sup>61</sup>

This dates the benches, or perhaps part of them, to the reign of George IV.

Two sets of iron restraining manacles remain in the dock, and the sharp iron barbs on top of the enclosure are intimidating.<sup>62</sup> Fortification of the dock became a common feature of courts in the nineteenth century, when penal debate focused on incarceration and the defendant was isolated in a prison-like dock.<sup>63</sup>

In the Tyne and Wear Archives, Latchem found a paper (Figure 1 Trollope's Comments on the Acoustics), presented by Trollope to the Common Council of Newcastle in 1656.<sup>64</sup> On 29 December 1656, Trollope explained that he had considered the practical elements of his new courtroom design and, most importantly, he outlined his views on the acoustics of the courtroom. The minute book of the

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<sup>60</sup> Henry Bourne, *History of Newcastle upon Tyne* (John White 1736) 125.

<sup>61</sup> Eneas Mackenzie, *A Descriptive and Historical Account of the Town and County of Newcastle upon Tyne: Including the Borough of Gateshead* (Mackenzie and Dent 1827) 216.

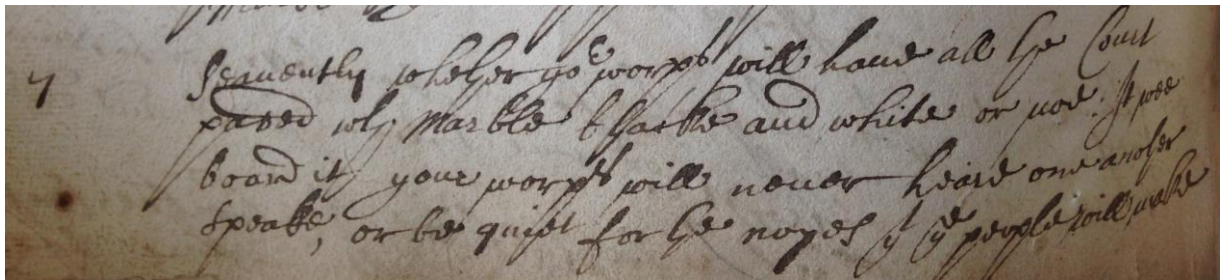
<sup>62</sup> The court was used as recently as the 1980s for criminal trials.

<sup>63</sup> For a discussion of the history and development of the dock see Meredith Rossner, David Tait et al 'The Dock on Trial: Courtroom Design and the Presumption of Innocence' (2007) 44 (3) *Journal of Law and Society* 317.

<sup>64</sup> Robert Trollope, *Address to the Common Council of Newcastle* (29 December 1656) Image courtesy of Tyne and Wear Archives, photograph Johannah Latchem

Common Council listed 10 points relating to the court.<sup>65</sup> Of particular importance to *Courting Power* is point 7: 'whether your worships will have all the court paved with black and white marble or no. If we board it, your worships will never hear one another speak, or be quiet for of the noise people will make'.<sup>66</sup> It was clear the materiality of the courtroom and the impact on court proceedings was considered by Trollope, at the inception of the development of the courtroom space over four centuries ago.

**Figure 1 Trollope's Comments on the Acoustics**



Trollope's paper, and the points made within it relating to acoustics, shaped Latchem's artistic approach to working with and within the space. Given the few changes in the architecture of the room since the seventeenth century, Latchem decided to conduct an experiment with modern technology to establish whether the courtroom acoustics had changed. This scientific endeavor further shaped the artwork, and increased Latchem's desire to explore whether, or how, the courtroom architecture and acoustics may have silenced or facilitated the voices of those involved in its judicial function.

### 1.5 *Courting Power*-The Acoustic/Scientific dimension

Once the decision had been made to situate the installation in the acoustics of the Guildhall, the development of modeling the distribution of sound was fundamentally important. Latchem worked with Gateshead company, Apex Acoustics, to produce Speech Transmission Index (STI) measurements (Figure 3).<sup>67</sup> These recorded how far the human voice travelled, and at what volume, in the Guildhall courtroom. Points in the courtroom were identified and combinations of the areas in and around the court were tested and recorded. The locations in the court areas are shown in Figure 2

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<sup>65</sup> Of 29 December

<sup>66</sup> Ibid.

<sup>67</sup> IEC (International Electrotechnical Commission) standards 60268-16, rating for the transmission quality of speech with respect to intelligibility

Points for Faro Scan, for example, the Judge's bench was the source position for the sound emission, which was then sent to each receiver-position in the court: Judge's bench to the defendant's cell; Judge's bench to the grand jury box, etc. Not all variables were measured, due to the inaccessibility of some areas of the court due to them being no longer structurally sound. An example was the elevated jury stand on the left of the courtroom, which was not safe to ascend.

The measurements were taken with a level of background noise, and the speaker spoke with an ordinary, conversational, voice level. The sound engineers, together with Latchem, took sound measurements for use in the artwork. The plan was to design a big sound piece to fill the space, with a compilation of abstract sounds. The concise measurements of the sound projections were taken fastidiously, and processed by the engineers, and have been applied by the artist and Tim Shaw, of Culture lab, to provide a soundscape for the public. In another layer of the work, Latchem collaborated with an archaeo-acoustic archaeologist, Gianluca Foschi. Latchem and Foschi created scans of the courtroom itself, and underneath the courtroom fittings, to reveal the supporting beams. These were 3D scans, (see **Error! Reference source not found.** of the courtroom fittings, which were supported beneath by timber stilts, this area could be accessed by a small door at the back of the fittings underneath the Judge's bench. It was in this cavity that spanned the entire fittings, not just a limited area beneath the Judge's bench, that one speaker was placed in the sound-work, so the sound reverberated through the fittings themselves.

## 1.6 The Technical Aspects

The Speech Transmission Index levels for the coordinates were measured in both the male, and the female normal voice. According to international IEC standards for acoustics, the minimum target value for a court to have high speech intelligibility for complex messages and unfamiliar words is 0.74, to 0.7 for a natural or reproduced voice.<sup>68</sup> Eleven sound receiver combinations were measured. In each combination of variables, there was only one discrepancy between the male and the female voice projection and that was between the Judge's bench (A) and the grand jury (D), where

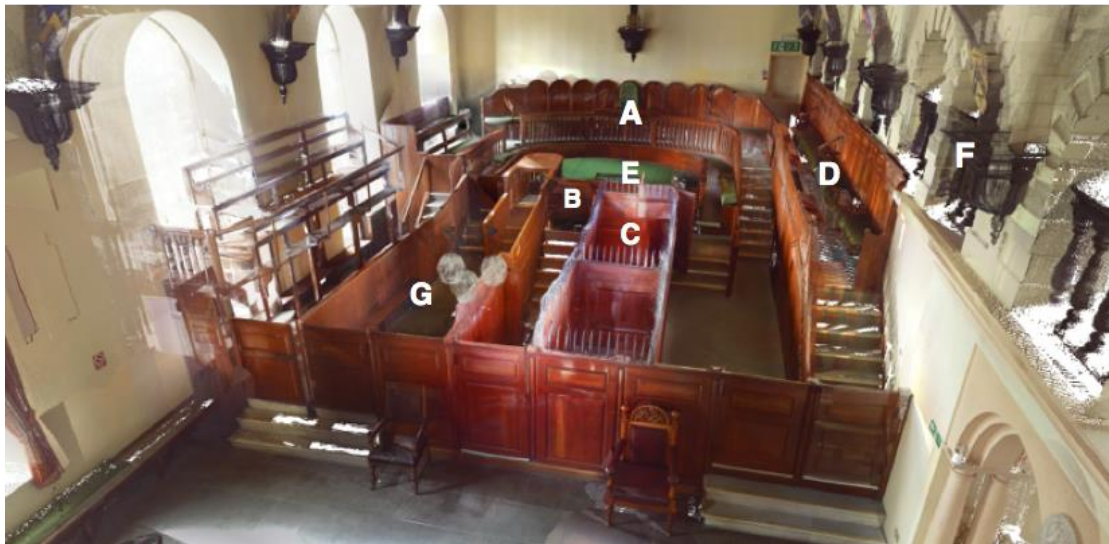
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<sup>68</sup> IEC standards 60268-16, Table G.1 Examples between STI qualification and their typical applications



the male normal voice was found to be Bad, at 0.28, and the female normal voice was found to be Poor at 0.30, (see Figures 4 and 5).<sup>69</sup> All other numerical outputs in the combinations of source and receiver, although not the same, fell in the same designated labeled bracket for both the male and the female voices i.e. Bad, Poor, Fair, Good, Excellent for each pairing. Only two measurements were rated Excellent or Good. In both, the sound source was the defendant stand (B), with the defendant stand to the position of counsel (E) measured at Excellent, and the defendant stand to the Judge's bench (A) at Good.

**Figure 2 Points for Faro Scan <sup>70</sup>**



- A – Judge's Bench
- B – Dock
- C – Defendant Cell
- D – Grand Jury
- E – Counsel
- F - Public Gallery

<sup>69</sup> Figures 4/5 courtesy of APEX Acoustics Gateshead, Newcastle-upon-Tyne (2018)

<sup>70</sup> Johannah Latchem, Gianluca Foschi, *Faro Scan*, 2018 (**Error! Reference source not found.**)

## G – Witness Box

The background, the location, the technology, and the vision of the artist have been discussed. The final piece of the jigsaw was the case study.

### 1.7 *Courting Power*- the Micro-Historical Case Study

The art installation, *Courting Power*, had several equally important elements. The sound and the location were vital but the case study, which gave form to the female voice, was vital to the narrative. *Courting Power* aimed to centre, and amplify, this voice, and Latchem specifically looked for a trial that demonstrably related to the acoustics in the Guildhall. The historic sounds of a courtroom, and a three-dimensional view of the actors within the courtroom space, are usually, of course, missing from the historical record. There was no recording of a nineteenth century trial, nor means of reproducing all the sounds. However, the original acoustic documents for the court, and the work carried out by the acoustic experts, gave a framework and an indication about how the sound would carry in the courtroom.

Latchem referenced the work of Linda Mulcahy, who described the courthouse as a prime site of state control over the individual.<sup>71</sup> Mulcahy explored what the use of space in the courtroom tells us about the respect afforded to participants in the legal process and the social order of the courthouse over time. She focussed particularly on 'the complicity of architecture in classifying and containing the participants in the trial in ways which are problematic to those of us interested in the delivery of equal access to justice'.<sup>72</sup> In *Watching Women: What Images of Courtroom Scenes Tell us About Women and the Public Sphere in the Nineteenth Century*, Mulcahy examined the ways in which fine art has been complicit in the construction and reconstruction of behavioural codes in the courtroom.<sup>73</sup> She drew on depictions of trials in popular visual culture and fine art, and revealed how images of the active female spectator challenged the emergence of new codes of behaviour that sought to protect the masculine realm of law from corruption by the feminine.

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<sup>71</sup> Linda Mulcahy, *Legal Architecture, Justice, Due Process and the Place of Law* (Routledge, 2016) 4.

<sup>72</sup> Mulcahy 5.

<sup>73</sup> Linda Mulcahy, 'Watching Women: What Images of Courtroom Scenes Tell Us About Women and the Public Sphere in the Nineteenth Century' (2015) 42 (1) *Journal of Law and Society* 53- with reference to images.

In order to centre the voice of a female defendant in *Courting Power*, it was decided to identify a woman tried in the Guildhall, who's case had been reported in sufficient detail to enable her story to be used as source material. The approach to this element of the artwork may be categorised as a micro-history. Although there is no agreed definition of micro-history, it is broadly defined as an historical investigation into an individual, or discreet group, to provide a perspective lost in a large quantitative study.<sup>74</sup> This is a particularly dynamic approach for crime history, which may draw on the reporting of crime, and criminals, in newspapers and other print media. Newspapers and periodicals were a vital source of information in the nineteenth century. Although newspaper reports were dependent upon journalistic 'framing' of stories, i.e. the selection and emphasis of certain aspects of a story over others, accounts of trials are often the closest researchers can get to contemporary views and witness. As Richard D Brown noted, the 'glory of microhistory ... lies in its power to recover and reconstruct past events by exploring and connecting a wide range of data sources so as to produce a contextual, three-dimensional, analytic narrative in which actual people as well as abstract forces shape events.'<sup>75</sup> This combines elements of local history, social history, cultural history, biography and narrative.

The search for a case-study started in the Digital Panopticon.<sup>76</sup> Although this database is predominantly a record of London criminals tried at the Old Bailey, it also includes a record of transported felons. Many of the individuals transported were tried at courts around the country. The women transported following trials in Newcastle were identified and then, using their names and dates of trials, they were traced in the local newspapers.<sup>77</sup> The assize records for nineteenth century trials in Newcastle, and Northumberland, are preserved in the National Archives. However, such official court papers are scanty, and limited, and the newspapers provide details unavailable in any other source. The official records are, by their nature, lacking in nuance because they are simply a record of proceedings. Even when the original depositions and witness statements are preserved, there is little beyond the plain record and therefore

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<sup>74</sup> David Nash and Anne-Marie Kilday (eds), *Fair and Unfair Trials in the British Isles, 1800-1940 Microhistories of Justice and Injustice* (Bloomsbury 2020) introduction.

<sup>75</sup> Richard D Brown, 'Microhistory and the Post-Modern Challenge' (2003) 23 (1) *Journal of the Early Republic* 1.

<sup>76</sup> The Digital Panopticon <[www.digitalpanopticon.org/](http://www.digitalpanopticon.org/)> (accessed 21 March 2020).

<sup>77</sup> The digitised newspapers for the North East of England were searched in the British Newspaper Archive <<https://www.britishnewspaperarchive.co.uk/>>.

newspapers are the best source of what Weiner has referred to as ‘color’ in the accounts of trials.<sup>78</sup>

This systematic search led to Margaret Hebbon; a young woman charged with handling stolen property.<sup>79</sup> She was an ideal focus for an auditory installation. The women in the Digital Panopticon from Newcastle were central to the trial in the drama of the courtroom but most of the accounts were perfunctory and short, however, Margaret was different. The newspaper reports of her trial, and sentence, noted her vocal reaction. As Margaret was sentenced, she screamed. This significant detail made her case ideal for *Courting Power*.

In ‘fleshing out’ Margaret Hebbon, fragments of archival material and a selection of sources and ephemera were used to write her story and illuminate one instance in her life.<sup>80</sup>

## 1.8 The Crime

Margaret Hebbon was born in Stockton on Tees, County Durham.<sup>81</sup> Her age was variously recorded in the newspapers and transportation records as 22 and 26. Margaret was no stranger to the court and had been working as a prostitute in Newcastle for eight months at the time of her trial.<sup>82</sup> She had been a farm servant.<sup>83</sup> Margaret stood trial at the assizes in the Guildhall together with an older woman, Elizabeth Davison/Davidson, aged 43, who was described in the newspapers as a brothel keeper.<sup>84</sup> Davison was charged with stealing a silver watch, a gold seal and key, from Thomas Walton, a glassmaker from Gateshead. Margaret was charged with receiving.<sup>85</sup> Davison’s premises were in Queen Street, a few hundred metres from the Guildhall in distance but a world away in terms of appearance. Queen Street was part of the Sandhill, an area Mackenzie described as ‘miserable lanes’ with houses that

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<sup>78</sup> Martin J Wiener, ‘Judges v. Jurors: Courtroom Tensions in Murder Trials and the Law of Criminal Responsibility in Nineteenth-Century England’ (1999) 17 (3) *Law and History Review*, 467 n2.

<sup>79</sup> VDL Founders and Survivors Convicts 1802-1853 (Record ID fas\_crt67330).

<sup>80</sup> Often, in relation to marginalised subjects, census returns, birth, marriage and death certificates are of great utility. Sadly, Margaret Hebbon’s life was too early for such sources.

<sup>81</sup> Margaret Hebbon *Description Lists of Female Convicts* <[https://stors.tas.gov.au/CON19-1-14](https://stors.tas.gov.au/CON19-1-14$init=CON19-1-14)> 54.

<sup>82</sup> VDL Founders and Survivors Convicts 1802-1853, Musters (Record ID fas\_mus93174)

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

<sup>84</sup> ‘Newcastle Assizes’ *Newcastle Courant* (Northumberland, 9 August 1834) 2.

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

were 'small, old, and crazy.'<sup>86</sup> Indeed MacKenzie, quoting an anonymous source, considered it necessary to warn of 'very dangerous, though not very tempting females' who lived in the dark Quayside alleyways. It may be that he would have characterised Margaret Hebbron, a 'stout made' and relatively tall woman at five feet five and a quarter inches, with convictions for being disorderly and assault, in these dismissive terms.<sup>87</sup>

## 1.9 The Trial

The offences with which Davison, 'the keeper of a house of ill fame' and Hebbron (alias Hutchinson) were charged took place on 12 July 1834.<sup>88</sup> The trial was held in the Guildhall, in front of Baron John Gurney, a judge famed for 'discrimination, acuteness and discretion.'<sup>89</sup> The *Newcastle Courant* recorded that the women were placed at the bar and then the case was stated to the jury. It was a strange tale. The complainant, Walton, a married man with a family, gave an account of an innocent evening at Davison's house and told the court that he had stayed until 6am. He then left for home but took ill. He explained that Davison had then robbed him of some money and his watch. Despite this forceful action, Watson returned to the house later the same day to ask for the watch. Davison was reported as saying 'Hoots, lad, do ye think I am going to steal the watch'. In fact, Margaret had already taken the watch and attempted to pawn it for 30 shillings.<sup>90</sup>

Davison and Hebbron were fortunate. They had the benefit of legal counsel, John Thomas Granger. Representation was at the discretion of the trial judge and therefore Baron Gurney must have considered it appropriate for the prisoners to be able to examine the witnesses, with legal assistance. Under cross examination, Walton's innocent tale unraveled, and he was forced to admit he regularly spent whole nights in the 'notorious brothel' run by Davison.<sup>91</sup> Both Davison and Hebbron gave their

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<sup>86</sup> Eneas Mackenzie, *A Descriptive and Historical Account of the Town and County of Newcastle upon Tyne: Including the Borough of Gateshead* (Mackenzie and Dent 1827) 169.

<sup>87</sup> For more on prostitution in Newcastle see Jane Long, 'This surging tide of wretchedness': Gender, Danger and Progress In Nineteenth-Century Newcastle Upon Tyne' (1996) 107 *Australian Historical Studies* 323 and Jane Long, *Conversations in Cold Rooms: Women, Work, and Poverty in Nineteenth-century Northumberland* (Royal Historical Society 1999).

<sup>88</sup> 'Newcastle Assizes' *Durham County Advertiser* (Durham, 25 July 1834) 2.

<sup>89</sup> Edward Foss, *The Judges of England* (Longman Brown Green and Longmans 1851) 214.

<sup>90</sup> 'Newcastle Assizes' *Newcastle Courant* (Northumberland, 9 August 1834) 2.

<sup>91</sup> 'Newcastle Summer Assizes' *Newcastle Journal* (Northumberland, 2 August 1834) 3.

account of the matter. Davison denied all knowledge of the watch, and Margaret said Walton had given her the watch to pawn for money to pay Ann Thomson, the prostitute with whom Walton had spent the night.

### 1.10 The Sentence and the Scream

After a short summing-up by the judge, the jury found both women guilty. Davison was to be transported for life and Margaret for 14 years. Interestingly, Gurney did not allow the prosecutor his expenses, likely indicating his private view of the proceedings. The trial had passed without incident but what happened next, and the reaction of Margaret to the sentence of transportation, provided the key to *Courting Power*. Davison stood passive in the dock, but Margaret screamed loudly. In fact, it had been a day of screaming, earlier, two other defendants, Thomasin Sloan and Sarah Smith, had also 'shrieked violently' when sentenced to be transported.<sup>92</sup> The *Sun* reported that one of them held an infant as she was sentenced.<sup>93</sup> The reporting of Margaret's screaming in the *Durham County Advertiser* and the *Newcastle Journal* state '[a] scene of screaming commenced'.<sup>94</sup> In the formal surroundings of the Guildhall, the screams would have been disruptive and contrary to the solemn proceedings in the well of the court. The newspapers made clear that order was only restored when the women were removed.

All the women sentenced to be transported from Newcastle to Van Diemen's Land, on 31 July 1834, were described as 'unfortunate' or 'simple'. They were all found guilty of stealing property. A male defendant found guilty of robbery in the same sitting received a seven-year sentence, and yet the women were transported for life, or for 14 years. Despite the indication by the judge that Walton was complicit in his misfortune, by refusing to allow his costs, Gurney chose to severely punish the women. When he arrived in Newcastle earlier in the week, Gurney had congratulated the Grand Jury for the lightness of the gaol calendar, so perhaps he decided to make examples of the defendants who were found guilty.<sup>95</sup> The women all manifested great distress, and it

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<sup>92</sup> 'Northern Circuit-Newcastle July 31' *Sun* (London, 4 August 1834) 4. There are several reported incidences of female defendants screaming when sentenced. It may be that the newspaper reporters anticipated such an emotional response and used them to add drama to their court reports.

<sup>93</sup> *Ibid.*

<sup>94</sup> 'Newcastle Summer Assizes' *Newcastle Journal* (Northumberland, 2 August 1834) 3; Newcastle Assizes' *Durham County Advertiser* (Durham, 8 August 1834) 2.

<sup>95</sup> 'Newcastle Assizes' *Durham County Advertiser* (Durham, 8 August 1834) 2.

was observed that the severity of the sentences ‘excited a good deal of surprise in Court’.<sup>96</sup> Transportation was certainly a sentence to be feared, particularly for women, but we discovered Margaret had a particular reason to be afraid of the journey to Australia, and perhaps a greater motivation to vocally demonstrate her distress: she was pregnant.<sup>97</sup>

### 1.11 Transportation

Margaret was sent to London, on a steamer, from the dock at Newcastle. She would have transferred to a prison hulk in the Thames to await the voyage to Australia. This link to the water formed an important part of the soundscape of the *Courting Power*. Eventually, in November 1834, Margaret sailed, together with 164 other female convicts, on the convict ship *New Grove*. Davison was also aboard, as were the four other women convicted in Northumberland at the Summer Assizes. On 27 March 1835, the *New Grove* docked in Van Diemen’s Land.<sup>98</sup> Half of all women transported were landed in Tasmania, and – fortunately - records of the lives of convict women living in Tasmania are well-preserved, making it easier to trace individual women. The voyage in the depths of winter would have been hard and Margaret, pregnant and likely to have been seasick would have suffered. The surgeon on the *New Grove* kept a record book and the account survives.<sup>99</sup> He recorded that Margaret suffered a late miscarriage and delivered a dead child.<sup>100</sup>

In Tasmania, Margaret continued her defiance of authority and was regularly punished for drunkenness, disorderly conduct, and abusive language.<sup>101</sup> In 1840 she was given permission to marry Joseph Sheasby, a farmer, who had been transported in 1824.<sup>102</sup>

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<sup>96</sup> ‘Northern Circuit-Newcastle July 31’ *Sun* (London, 4 August 1834) 4.

<sup>97</sup> The National Archives *Admiralty and Predecessors: Office of The Director General of the Medical Department of the Navy and Predecessors: Medical Journals* (ADM 101/56/7) 26.

<sup>98</sup> Margaret Hebborn *Assignment Lists and Associated Papers* (Libraries Tasmania Con 13).

<sup>99</sup> The National Archives *Admiralty and Predecessors: Office of The Director General of the Medical Department of the Navy and Predecessors: Medical Journals* (ADM 101/56/7).

<sup>100</sup> The voyage, and the fate of the women on board, has been the subject of a detailed study by Jeanette Hyland. Margaret is not included in the case studies in Hyland’s book, but she was recorded in the surgeon’s journal, and her conduct on the voyage was described as ‘good’. See Jeanette E Hyland, *Maids, Masters and Magistrates: Twenty Women of the Convict Ship New Grove: Maid Servants in Van Diemen’s Land* (Clan Hogarth 2007).

<sup>101</sup> Tasmanian Archive and Heritage Office (CON40-1-5) 125.

<sup>102</sup> Marriage record RGD37/1/2 1840/726 Launceston.

In 1848 she was granted her freedom.<sup>103</sup> It was important for the artwork to make Margaret's voice central to the installation. The scream that was central to *Courting Power* resonated across the sea. Once Margaret had been identified, the artwork took shape. Latchem reflected upon the context of the scream, and the trial and sentence of the defendant. The scream was the starting point, but the work required a more nuanced and abstract soundscape.

In possession of the findings of the acoustic dynamics in the space, the historic case of Margaret Hebbon, the original acoustic commentary from 1656, and almost unlimited access to this unique courtroom, the challenge was in developing an insightful sound-work.

### 1.12 *Courting Power* – Making the Artwork

The soundscape for *Courting Power* was composed of field recordings, spoken word and data-informed sound-synthesis (developed in collaboration with the sound artist, Tim Shaw).<sup>104</sup> As indicated above, water was important to the piece, both because of the location of the court on the River Tyne, and Margaret's trial, but also because of the sentence of transportation and the voyage to Australia. There was no evidence for a prison hulk located in the North East, but Latchem discovered at the end of the nineteenth century, a convict ship museum, *Success*, was moored at South Shields in the mouth of the Tyne. Field recordings were carried out underwater at Mill Dam, the location of the *Success*, in South Shields to explore the links between Margaret Hebbon and the water.<sup>105</sup> Although Margaret was not transported directly from Mill Dam, she would have passed it on her journey by sea to the hulks, and the sound of the water at that point represents the final view she would have had of the North East

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<sup>103</sup> Founders and Survivors <<http://foundersandsurvivors.org/pubsearch/convict/chain/of12322>> accessed 23 November 2020.

<sup>104</sup> Dr Tim Shaw, based at Culture Lab. Newcastle University, works predominantly with sound. His work is concerned with the many ways people listen and his research explores the relationship between site, sound, and technology.

<sup>105</sup> The *Success* was a floating museum which toured around the British Isles 1895 and 1912. *Success* was an immigration vessel and was once was a naval hulk and a prison hulk (as opposed to prison transport). The museum showcased the *Success*'s supposed connection to Australia convict transportation and hulk history. On board there were displays of largely contrived assemblages of material culture. A postcard that could be purchased on the ship showed instruments of punishment with no convict ship heritage: the scavenger's daughter and the iron maiden. The *Success* combined fact and fiction; she sank in Ohio in 1946.



and her home. The aim was achieved to find a local site that resonated, however obliquely, with transportation and to bring the sound of water into the court.

The sounds were recorded by two underwater microphones, (hydrophones), which were placed in the river. Audio recordings were made of boats passing, aquatic life, and local fishermen casting hooks into the water. When the audience walked into the Guildhall, to view the performance, the first thing they heard were the sounds of water. This confronted them with a contradiction in the historic legal space. The water was discernible as running water at some points, and as abstract noise at others, suggestive of nervous guts churning, again an auditory link to Margaret.

Whispered recordings were made of the phrase used by the newspapers: ‘another scene of screaming’. The reference to screaming was also signaled by the occasional siren that can be heard during the section of the sound-work played from the dock; it is informed by acoustic analysis of the projection for a woman’s voice from that exact spot. The voices were layered and mixed into the soundscape at various moments over a twenty-minute looped recording. An intermittent, dissonant, and ambient sound was introduced underneath the other sounds in the form of pink noise. Apex Acoustics played the pink noise into the courtroom space to enable measurement.<sup>106</sup> It was used as a benchmark against which all sounds picked up could be measured.

At the end of the piece a gavel sounded loudly from a speaker positioned below the court furnishings, causing them to vibrate and permeating the quiet cogitation of visitors standing on the fittings above. The sound of a gavel is recognized by an audience as an auditory signifier of the law.<sup>107</sup> Latchem wanted to include it as an alert that the sound piece was changing, and to command the listeners’ attention. The loud rhythmic hammering, three times, of the pre-recorded gavel also signified other social gatherings in its demand for the listener’s attention: for example, the chiming of a glass several times before a wedding speech.

A complex drone texture added sonic diversity, when played alongside the field recordings and spoken accounts. This drone sound was constant through the piece and was made by taking frequency readings of diverse sound material that was played

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<sup>106</sup> Pink noise is reminiscent of TV ‘snow’- the sound analogue televisions mad when the picture disappeared.

<sup>107</sup> Although they have never been used in English courtrooms, they are a legal trope.

into the space. The upper frequency for the pitch of a woman's voice, and the lower frequency, were droned together and played from the dock. During the performance, the sound was diffused through five loudspeakers. A speaker was placed in each of the four corners of the courtroom giving a good spread of sound across the space. The fifth speaker was placed in the dock, to give spatial dynamism for elements of the composition. The sound piece was played from a laptop using a multi-channel audio interface to address the five loudspeakers throughout the 90ft-marbled courtroom. The soundscape presented listeners with both abstract cacophony and discernible sounds. The wooden hammer-beam ceiling of the court resembles a ship's timbers, and the sound of gurgling water from Mill Dam had a coincidental resonance with the architecture.

### **1.13 The Importance of the Research and the Link to Encouraging the Audience to Reflect on the Female Voice**

The research demonstrates how acoustics within the courtroom possess the potential to have a bearing on power dynamics. After all, what is performance without efficient acoustics in court? Many courtroom acoustics are poor, and this is a fascinating area for further study. The 473 strong audience who attended the artwork in the Guildhall provided the vital element of spectatorship. The original trial would have had an audience, but much smaller in number and confined to the public gallery. The human presence of any spectators at the time of Hebbbron's trial may have affected the acoustics. This aspect was not included in the experimentation leading to the acoustic readings taken by Latchem. A photograph of a trial in the Guildhall from 1952 shows spectators at a trial seated in rows on the black and white marbled floor,<sup>108</sup> though this is insubstantial evidence to support any claim spectators sat there in the nineteenth century. Although the court fittings date from the nineteenth century, it is unknown whether any furniture was placed on the marble floor or whether the public had access to this area. Little has been written about historic spectators in court, whose presence is vital to rendering justice 'open' and there is room for this to be explored further.<sup>109</sup>

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<sup>108</sup> *The Guildhall Assize Court* (1952 Newcastle City Library) photograph.

<sup>109</sup> See Joseph Jaconelli, *Open Justice: A Critique of the Public Trial* (Oxford University Press 2002); Jo Hynes and others, 'In Defence of the Hearing? Emerging Geographies of Publicness, Materiality, Access and Communication in Court Hearings' (2020) 14 (9) *Geography Compass* and Linda Mulcahy, 'Architects of Justice: The Politics of Courtroom Design' (2007) 16 (3) *Social and Legal Studies* 383.

The research and the site-specific sound-work *Courting Power*, indicated a great deal about the significance of the legal environment. The historic courtroom, with its specially designed architecture, acoustics, and courtroom objects, carries its own sense of power and authority, separate from the ritual of the silver oar. This was understood by the audience that came to view and listen to *Courting Power*. They moved around the courtroom with quiet reverence, experiencing the change in emphasis of the voices, reverberations and acoustics as they did so. The context of the courtroom led them to make associations between the soundscape and the site and look for narratives that might fit.

There are other contemporary artworks situated in courthouses, but only one apart from *Courting Power*, Paul Rooney's *Stolen Things* focuses on the acoustics to relate the history of the space and its sound dynamics.<sup>110</sup> Latchem's work did this but also linked the sound to the players within the space, as they would have been governed by it. In other words, the evidence of how things sounded at the time of Margaret Hebbbron's historic court case was re-purposed to make the work.

### 1.14 Conclusions and Implications- Working across Disciplines

Cross-disciplinary and cross-sector working led to the bringing together of fine art, professional acoustics, archaeo-acoustics, and history without which the artwork would not have been possible. The micro historical case study allowed an exploration of the woman's voice in a new way. The case study brought immediacy to the piece and the combination of sounds were collated from many dimensions and layered ideas. The audience was confronted with a thought-provoking installation that reflected the many processes involved in its creation. It was the culmination of a series of earlier works. The work invited the development of new ventures using the demonstrated concepts to reflect different spaces, times, and voices.

**Figure 3.** Speech Transmission Index Values

STI Value	Quality according to IEC 60268-16

<sup>110</sup> Paul Rooney, *Stolen Things* (2019) installation.

0 – 0.3	Bad
0.3 – 0.45	Poor
0.45 – 0.6	Fair
0.6 – 0.75	Good
0.75 – 1	Excellent

**Figure 4.** Results with background noise levels as measured on the day – speaker with normal conversational voice level. Courtesy of APEX Acoustics Gateshead.

Measurement ref (delete)	Source position	Receiver position	Male normal voice measured background		Female normal voice measured background	
			STI	Speech quality	STI	Speech quality
S1R1	Defendant stand	Grand jury	0.50	Fair	0.52	Fair
S1R2	Defendant stand	Judge's bench	0.61	Good	0.64	Good
S1R4	Defendant stand	Public viewing balcony	0.30	Poor	0.31	Poor
S1R5	Defendant stand	Counsel (directly in front of the defendant's stand)	0.80	Excellent	0.81	Excellent
S1R6	Defendant stand	Floor of hall (a few metres from the back)	0.4	Poor	0.42	Poor
S2R3	Witness stand	Defendant's cell	0.39	Poor	0.41	Poor
S3R3	Judge's bench	Defendant's cell	0.37	Poor	0.40	Poor

S3R6	Judge's bench	Floor of the hall (a few metres from the back)	0.40	Poor	0.42	Poor
S3R7	Judge's bench	Grand jury	0.28	Bad	0.30	Poor
S3R8	Judge's bench	Witness box	0.46	Fair	0.47	Fair
S5R2	Floor of hall (approximately in the middle)	Judge's bench	0.48	Fair	0.51	Fair

**Figure 5.** Results with background noise level spectrum from a typical classroom (to represent speech intelligibility conditions while there is noise from people speaking to each other and moving about) – speaker with raised voice. Courtesy of APEX Acoustics Gateshead.

Measurement ref (delete)	Source position	Receiver position	Male raised voice operational background		Female raised voice operational background	
			STI	Speech quality	STI	Speech quality
S1R1	Defendant stand	Grand jury	0.12	Bad	0.09	Bad
S1R2	Defendant stand	Judge's bench	0.15	Bad	0.13	Bad
S1R4	Defendant stand	Public viewing balcony	0.05	Bad	0.05	Bad
S1R5	Defendant stand	Counsel (directly in front of the defendant's stand)	0.36	Poor	0.34	Poor
S1R6	Defendant stand	Floor of hall (a few metres from the back)	0.07	Bad	0.06	Bad
S2R3	Witness stand	Defendant's cell	0.08	Bad	0.06	Bad

S3R3	Judge's bench	Defendant's cell	0.07	Bad	0.06	Bad
S3R6	Judge's bench	Floor of the hall (a few metres from the back)	0.05	Bad	0.04	Bad
S3R7	Judge's bench	Grand jury	0.04	Bad	0.04	Bad
S3R8	Judge's bench	Witness box	0.07	Bad	0.06	Bad
S5R2	Floor of hall (approximately in the middle)	Judge's bench	0.08	Bad	0.07	Bad