

RELIGION OUT LOUD:
RELIGIOUS SOUND, PUBLIC SPACE, AND AMERICAN PLURALISM

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ABSTRACT

ISAAC A. WEINER: Religion Out Loud: Religious Sound, Public Space, and American Pluralism

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This dissertation attends to complaints about religion as noise. I draw on court records, archival sources, and oral histories to analyze three American legal case studies in which neighbors complained about religious sounds spilling over into public space: an 1877 dispute about the volume of bells at an Episcopalian church in Philadelphia; a 1948 Supreme Court case about Jehovah's Witnesses operating sound trucks in an upstate New York public park; and a 2004 dispute about a mosque broadcasting the Islamic call to prayer in a historically Polish-Catholic Detroit neighborhood. Drawing on an understanding of noise as "sounds out of place," I argue that through disputes about public religious sounds, Americans have demarcated and contested the proper place of religion and religious adherents in the U.S. spatial and social order. Noise complaints have offered a useful means for containing religion, for demarcating and delimiting its boundaries, but religious devotees also have used public sounds to claim place for themselves, pushing against popular and legal conceptions of religion. In the cases I analyze, I find that disputants aimed to demarcate religion's place in relation to three particular boundaries. They tried to draw clear lines between public and private, between religion and non-religion, and among diverse religious communities. But the contested sounds also crossed and collapsed these symbolically significant and pragmatically useful

boundaries, complicating efforts to map religion's borders. This dissertation thus calls attention to the shifting and permeable boundaries of American religious life. It offers a model for interpreting American religious diversity that centers themes of embodiment, contact, and exchange. It underscores how both sound and law have mediated public interactions among diverse religious communities. And it highlights the everyday material practices through which Americans have mapped religion's boundaries, rather than analyzing these boundaries as products of abstract intellectual debate. This dissertation proposes that interpreting American religious life will require scholars to become more attuned to the sounds of religious difference. In debates about whether religion should be practiced quietly or out loud, we can hear competing conceptions of religion's place in the modern world.

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TABLE OF CONTENTS

Chapter	Page
1. INTRODUCTION: LISTENING TO AMERICAN RELIGIONS.....	1
2. REDUCING BACKGROUND NOISE: CHURCH BELLS IN THE INDUSTRIAL CITY.....	39
An Urban Episcopalian Establishment.....	46
Investing Bells with Meaning and Power.....	53
A Public Nuisance?.....	59
Defining Church Bells as Noise.....	66
Religion, Noise, and Necessity.....	73
Circumscribing Religion’s Place.....	92
Conclusion.....	99
3. AMPLIFYING RELIGIOUS DIFFERENCE: JEHOVAH’S WITNESSES, LOUDSPEAKERS, AND THE RIGHT TO BE HEARD.....	107
A Christian Enterprise of “Vast Proportions”.....	113
Spiritual Hearing and the Limits of Toleration.....	119
Regulating Loudspeakers.....	132
Contesting Religion’s Boundaries at Trial.....	141
A Right To Be Heard.....	162
Conclusion.....	174
4. CALLING EVERYONE TO PRAY: PLACING MUSLIMS IN HAMTRAMCK, MICHIGAN.....	178

“A Touch of the World in America”	183
Broadcasting the Call	189
Regulating the Call	195
Debating the Call	203
Religion or Noise?	206
Religion in Public Spaces	214
American Religious Identity	221
Voting for the Call	233
Conclusion	240
5. RELIGION OUT LOUD: MAPPING AND CROSSING BOUNDARIES	245
Public and Private	249
Religion and Religion	262
Religion and Non-Religion	272
Conclusion	284
SELECTED BIBLIOGRAPHY	289

CHAPTER 1

INTRODUCTION: LISTENING TO AMERICAN RELIGIONS

Under our system of religious freedom, people have gone to their religious sanctuaries not because they feared the law but because they loved their God. The choice of all has been as free as the choice of those who answered the call to worship moved only by the music of the old Sunday morning church bells.

-- *Zorach v. Clauson*, 343 U.S. 306,
319 (1952) (Black, J. dissenting)

In 1952, the U.S. Supreme Court upheld a New York City program that permitted public schools to release students during the school day in order to receive religious instruction. Writing for the majority in *Zorach v. Clauson*, Justice Douglas famously described the American people as a “religious people whose institutions presuppose a Supreme Being.” Less noted were Justice Black’s comments in dissent, quoted above. Black regarded New York City’s program as an unconstitutional “combination of Church and State,” for religious groups were benefitting from the “coercive power of the state.” The American people *were* by and large a religious people, Black concurred, but they also were divided. Sectarian conflict during the eighteenth century had made necessary the First Amendment’s provisions, which aimed to isolate the state from the sphere of religious activity. Religious freedom was properly a matter of individual choice, Black maintained, wholly unconstrained by government interference. Individuals should be as

free in their devotion as they were free to respond to the call of “the old Sunday morning church bells.”¹

In his *Zorach* dissent, Justice Black offered a seemingly unremarkable statement of the voluntary principles that underscore the American doctrine of religious freedom. Yet his comments warrant a further hearing, for his choice of analogy revealed implicit assumptions about the nature of religion and about its place in American life. First, Justice Black described religion as a practice, as something that people *do* with their bodies, rather than as something they merely believe in. This seems significant in its own right, for U.S. courts have long distinguished belief from practice, holding that only the right to believe is absolute. But Black also offered a theory of religion that subtly emphasized its affective, rather than intellectual, dimensions. Individuals were “moved” to love and worship God by the chimes of church bells, not because they had assented rationally to a set of philosophical propositional truths. In fact, Black’s comments do not necessarily “presuppose a Supreme Being” at all, but instead leave open the possibility that the pealing of bells might invite listeners to encounter God for the first time. Religious devotion was as much about hearing as about believing, Black implied.²

Second, Justice Black suggested that religious devotion normally was confined to certain places and times. Individuals have retired to their “religious sanctuaries,” he wrote, presumably referring to houses of worship or built environments set apart from the other spaces of social life. And they have gone there in response to the call of “Sunday

¹*Zorach v. Clauston*, 343 U.S. 306, 313 (1952); *Zorach*, 343 U.S. at 318-9 (Black, J. dissenting).

²In a 1901 article, the American psychologist of religion James H. Leuba classified theories of religion as intellectualist, affective, or volitional/active. Justice Black appears to emphasize both the affective and volitional dimensions of religion, implying that feeling leads to action. See James H. Leuba, “Introduction to a Psychological Study of Religion,” *Monist* 9 (January 1901): 195-225.

morning church bells,” underscoring the traditional time for Christian communal worship. Yet calling attention to church bells was also to acknowledge that the sounds of religious devotion spill outside the walls of religious institutions. Bells audibly announce Christian presence to an outside public. Although individuals might choose to enter a church, thereby regulating the sounds they hear within the context of worship, it is far more difficult to control what sounds one hears on city streets. Ears have no equivalent to eyelids. Justice Black emphasized that religious freedom properly was considered a matter of free choice, yet the choice he described was how to respond to religious sounds, whether to heed or ignore their call, not whether to hear them in the first place.

Third, Justice Black assumed that there was nothing objectionable about “the music of the old Sunday morning church bells,” even though individuals could not choose whether to hear them. Describing the bells as “old” reinforced the status of their sounds as traditional, ordinary, customary, or *normal*. Although the government had no right to interfere in matters of religious choice, surely churches could use auditory announcements to compete for the attention of passersby. Yet church bells are not the only religious sounds that spill over into public space, and the introduction of “new” sounds has not always gone unnoticed or unchallenged. Not all religious sounds sound so “normal.” For example, there have been a number of legal disputes over the last few decades centering on the right of mosques to broadcast the *azan*, or Islamic call to prayer. Religious diversity has complicated Justice Black’s choice of analogy. Imagine, for instance, the different effect of Justice Black’s words had he written instead: “The choice of all has been as free as the choice of those who answered the call to worship moved only by the voice of the Friday afternoon *muezzin*.” What different conception of

American religious identity would such a statement have implied? Justice Black's seemingly banal comments about the meaning of religious freedom concealed underlying assumptions about Christianity's normative status in American society.³

But even church bells have not always gone unchallenged, for not all bells sound the same. In fact, American Christians rarely have given ear to the "music of *the* old Sunday morning church bells," but instead have heard the clashing chords of multiple chimes competing for attention. As Justice Black noted in his *Zorach* opinion, there is nothing particularly "new" about religious diversity, for Christian sectarian conflict was one of the factors that made the provisions of the First Amendment necessary in the first place. And the options available to religious Americans only have increased. In other words, Americans might feel moved to respond to the call of church bells, but they still must choose *which* bells to heed. Religious diversity can be experienced as melodious harmony or as unbearable cacophony. As one writer put it in 1915: "Why should a Quaker be wakened by a Roman Catholic bell; or a Presbyterian by an Episcopal bell or a Methodist by a Baptist bell? If church-bells could be so constructed that they would be guaranteed to waken only the members of the church in which they are hung, they could be tolerated, but so long as they continue to arouse believers in opposing faiths, our non-sectarian laws ought to be strong enough to silence them." In the name of religious neutrality, this anti-noise advocate implied, Americans might in fact have a right to quiet, a right *not* to hear the music of the bells.⁴

³The "muezzin" is the term for the man designated to recite the call to prayer. I purposely refrain from explaining this in the text in order to call attention to the assumptions about audience that Justice Black's statement implied.

⁴Imogen B. Oakley, "Public Health Versus the Noise Nuisance," *National Municipal Review* 4 (April 1915): 231-37, quoted in Raymond W. Smilor, "Personal Boundaries in the Urban Environment: The Legal Attack on Noise, 1865-1930," *Environmental Review* 3, no. 3 (Spring 1979): 29.

For this critic, the bells of a competing denomination's church constituted an intolerable annoyance, a public nuisance, rather than a call to worship. He might have read Justice Black's description of the "old Sunday morning church bells" as a nostalgic invocation of a pastoral ideal, an idyllic reminder of a time when Christians literally had needed the sound of bells to remind them to pray. But perhaps the changing conditions of modern life had rendered such auditory announcements unnecessary, "old" as in old-fashioned or out-dated, relics of an imagined past. In other words, not everyone heard the sounds of religious devotion in the same way. Justice Black might have heard in the ringing of bells the root chords of religious freedom, but other Americans have simply heard noise, and unwelcome noise at that. As religious sounds have spilled over into public spaces, many Americans have been moved not to pray, but to complain.

This dissertation attends to complaints about religion as noise. I draw on court records, archival sources, and oral histories to analyze three legal case studies in which neighbors complained about religious sounds spilling over into public space. In chapter 2, I analyze an 1877 court case about the volume of bells at an Episcopalian church in Philadelphia. In chapter 3, I investigate a 1948 Supreme Court case about Jehovah's Witnesses operating sound trucks in an upstate New York public park. And in chapter 4, I listen in on a 2004 dispute about a mosque broadcasting the Islamic call to prayer in a historically Polish-Catholic Detroit neighborhood. These case studies involved different religious communities at different historical moments, but in each, contestants debated

whether religious practice had become too loud. I use these case studies to consider what it has meant for Americans to hear religion as noise.⁵

Noise has been defined most frequently as “unwanted sounds.” Complaints about religion as noise can reflect genuine concerns about decibel level and volume, but they also can express underlying cultural values about what makes religion—or particular religious adherents—“unwanted.” In my case studies, sound constituted the limit of what neighbors were willing to put up with, thus offering a concrete vehicle for analyzing the limits of religious toleration. But for the purposes of this project, I have found even more useful the cultural historian Peter Bailey’s understanding of noise as “sounds out of place,” echoing anthropologist Mary Douglas’ discussion of dirt as “matter out of place.” According to such a definition, sounds become noise when they are heard as contravening an assumed social order or, to put it more simply, as disorderly. Sounds are not noisy in and of themselves, but depend on the context in which they are heard. A cough in a library might sound louder than a horn at a busy intersection, for example. Or the sounds of religious devotion might seem appropriate in a church but not in a public park. But such determinations are necessarily subjective, for what sounds out of place to some may be welcomed by others.⁶

Drawing on this understanding of noise as “sounds out of place,” I argue that through disputes about religious sounds, Americans have demarcated and contested the proper place of religion and religious adherents in the U.S. spatial and social order.

⁵I refer to these disputes as “cases” in an ethnographic sense, treating these discrete legal episodes as useful case studies. I recognize that the Hamtramck dispute would not be considered a “case” in a strictly legal sense since it never ended up in court.

⁶Peter Bailey, “Breaking the Sound Barrier,” in *Popular Culture and Performance in the Victorian City* (Cambridge: Cambridge University Press, 1998), 195; Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (New York: Praeger, 1966), 35-6.

Scholarship on religion's position in American public life has tended to approach pluralism as an abstract theological or philosophical problem. But this dissertation examines how ordinary Americans have responded to the public sounds of religious others in order to call attention to the everyday material practices through which Americans have negotiated religious difference. I find that attending to these noise disputes makes audible underlying assumptions about religion and its normative boundaries—about where Americans have expected to find or listen to religion, about how they have expected religious adherents to behave, and about why they have regarded religion as out of place in particular social, historical, and legal contexts.

Recent scholarship in religious studies has established a link between the projects of defining religion and constructing social order. For example, Robert Orsi has argued that “it seems to be virtually impossible to study religion without attempting to distinguish between its good and bad expressions.” According to Orsi, early American scholars of religion “contributed to social order” by legitimating as “civilized” or “modern” those religious forms which they regarded as most tolerable or as most compatible with American democratic principles. “Good” religion was expected to be unobtrusive, unemotional, and restrained, a “domesticated modern civic Protestantism.” Scholars pursued this project by constructing an analytical vocabulary that demarcated “unacceptable forms of religious behavior and emotion,” or what Orsi describes as “a scientific nomenclature of containment.” In this project, I turn my attention beyond the confines of academic scholarship to consider how the indeterminate legal category of noise similarly has offered a mechanism for containing religion and circumscribing its boundaries. “Good” religion, I find, frequently has been expected to keep quiet. As

Thomas Paine once wrote, “Religion does not unite itself to show and noise. True religion is without either.”⁷

But despite these expectations, many religious devotees have chosen not to keep quiet. Practicing religion out loud has pushed against these popular conceptions of religion as properly private, believed, and freely chosen. Religious noisemakers have implicitly advanced alternative understandings of religion and its place in the social and spatial order. And their publicly produced sounds have mediated contact among diversely religious Americans who have responded in different ways. In my case studies, complainants frequently tried to circumscribe religion’s boundaries by drawing clear lines between public and private, among diverse religious communities, and between religion and non-religion. But, as I propose in chapter 5, the contested sounds also crossed and collapsed these symbolically significant and pragmatically useful binary divides, complicating efforts to map religion’s borders. Scholars of sound regularly have emphasized the dynamism of sonic worlds, and my analysis of these case studies calls attention to the shifting and permeable boundaries of American religious life. Religious sounds have not always proven so easily contained.⁸

⁷Robert A. Orsi, *Between Heaven and Earth: The Religious Worlds People Make and the Scholars Who Study Them* (Princeton: Princeton University Press, 2005), 186-7; Thomas Paine, “Worship and Church Bells,” in *The Complete Writings of Thomas Paine*, ed. Philip S. Foner, 2 vols. (New York: Citadel, 1945), 2: 758, 760, quoted in Leigh Eric Schmidt, *Hearing Things: Religion, Illusion, and the American Enlightenment* (Cambridge, MA: Harvard University Press, 2000), 69.

⁸In different contexts, Robert A. Orsi and Thomas A. Tweed each have emphasized religion’s similarly dynamic qualities, as it crosses borders and blurs boundaries. See Orsi, *Between Heaven and Earth*, 188; Thomas A. Tweed, *Crossing and Dwelling: A Theory of Religion* (Cambridge, MA: Harvard University Press, 2006). In his study of religious toleration in early modern Europe, *Divided by Faith: Religious Conflict and the Practice of Toleration in Early Modern Europe* (Cambridge, MA: Harvard University Press, 2007), Benjamin J. Kaplan has argued that disputes frequently centered on how to draw lines between public and private, not on whether such lines should be drawn at all.

Moreover, not all publicly produced religious sounds have elicited complaint. While Americans have heard some sounds as inappropriately public, other sounds have unremarkably and unnoticeably faded into the background. In fact, just as dominant groups have complained about and silenced the sounds of religious others, they also frequently have assumed their own right to make noise without censure. And as religious dissenters and newcomers have produced sounds of their own, they have pushed against the limits set by American law, and they also have challenged the normative status of sounds such as Justice Black's "old Sunday morning church bells." They have used public sounds to claim their own place in American society. My analysis thus underscores the critical relationship between sound, space, and social power. Defining religion as noise has offered an effective strategy for circumscribing religion's place, but also for demarcating the place of particular religious groups. By attending to these noise disputes, we can learn more about the processes through which certain sounds—and groups—have become normative while others have been contested as "out of place." We can learn more about the material practices through which Americans have managed and negotiated religious differences in public. And we can learn to think differently about the construction of "secular" public spaces that regularly have been shaped by the sounds of certain religious groups and not others. Through these disputes, participants debated whether the competing chords of religious variety signaled the potential for social harmony or the threat of cacophonous discord, whether religious differences were best kept quiet or practiced out loud. Through these disputes, contestants have offered competing conceptions of religion and its place in American public life.⁹

⁹On the relationship between noise and power, see especially Jacques Attali, *Noise: The Political Economy of Music*, trans. Brian Massumi (Minneapolis: University of Minnesota Press, 1985). My discussion of

In the chapters that follow, I delve into the gritty details of particular disputes, but in this chapter, I first step back to consider the broader significance of this project. I sketch how this dissertation contributes to scholarship on religious auditory cultures, on American religious pluralism, and on religion and American law. I suggest that attending to disputes about religious noise offers a means for analyzing normative debates about religion's position in American public life from the ground up, and I locate these disputes within broader cultural discourses about noise and religion. Finally, I explain the selection of my particular case studies and outline the chapters that follow.

Over the last twenty years, scholars of American religions have paid increasing attention to the material and embodied dimensions of religious life, signaling a shift from the doctrinal, denominational, and intellectual histories that previously dominated the field. Works such as Colleen McDannell's wide-ranging volume, *Material Christianity*, and David Morgan and Sally Promey's co-edited collection, *The Visual Culture of American Religions*, have highlighted the significance of the material and the visual in everyday religious life. Yet Americanists have remained mostly deaf to the important role of sound and hearing practices. Recent collections have begun to investigate the role of music within religious traditions, but scholars have been less tuned in to how the sonic world of religious devotion has mediated contact and conflict among diverse

power in this dissertation has been shaped especially by Attali and by Michel de Certeau, who emphasizes the ways that ordinary people live within structures of power in *The Practice of Everyday Life* (Berkeley: University of California Press, 1984).

communities. They have been less attuned to how Americans have heard and responded to the sounds of religious others.¹⁰

In part, this disciplinary deafness can be attributed to dominant assumptions about the relationship between religion, hearing, and modernity. Historians and philosophers of the senses have constructed a now standard account of how vision emerged as the preeminent sense in the modern West. Efforts to classify the senses hierarchically go back at least as far as Aristotle, who ranked hearing second behind vision, which he valued most highly for its clarity and ability to discern difference. But it was the European Enlightenment that is credited most strongly for having elevated the eye over the ear, as the acquisition of knowledge came to be associated with detached objectivity and the pursuit of illumination. Enlightenment philosophers celebrated the distance afforded by vision, while they distrusted hearing because it threatened to collapse the gulf between subject and object. “As evident in one of its meanings, that of *heeding*,” anthropologist Charles Hirschkind explains, “listening was understood to require a certain passivity on the part of the subject as a condition of receptivity, an act of self-subordination to another of the kind that Immanuel Kant condemned as immaturity.” Enlightenment critics such as Kant deemed the act of listening itself “politically and epistemologically suspect,” for it threatened “the autonomy of the enlightened liberal subject.” Nineteenth and twentieth century anthropologists also contributed to this narrative of vision’s ascendance by imagining—and excluding—African and other

¹⁰Colleen McDannell, *Material Christianity: Religion and Popular Culture in America* (New Haven: Yale University Press, 1995); David Morgan and Sally M. Promey, eds., *The Visual Culture of American Religions* (Berkeley: University of California Press, 2001). For recent studies of American religious music, see Stephen A. Marini, *Sacred Song in America: Religion, Music, and Public Culture* (Urbana: University of Illinois Press, 2003); Philip Bohlman, Edith Blumhofer, and Maria M. Chow, eds., *Music in American Religious Experience* (New York: Oxford University Press, 2006); David W. Stowe, *How Sweet the Sound: Music in the Spiritual Lives of Americans* (Cambridge, MA: Harvard University Press, 2004).

“primitive” oral cultures as “other” to the literate and print cultures of the West. Sensory hierarchies thus mapped onto racialized dichotomies, further reinforcing the elevated status of the eye, even in accounts that nostalgically lamented modern hearing loss. Taken together, these presuppositions led to what Martin Jay has described as the “ocularcentrism” of Western philosophical traditions and have hindered efforts to tell the modern history of the ear.¹¹

This ocularcentric narrative has not gone unchallenged, however. Several scholars have begun to reestablish the central role of sound and hearing in constituting modern subjects. They have not sought simply to replace the eye with the ear, however, but have constructed instead alternative histories of the senses that recapture modernity’s multisensorial complexity. For example, cultural historian Alain Corbin has retold the story of nineteenth-century French rural life as a history of its “auditory landscape.” By creatively reconstructing how French subjects listened to and understood the ringing of village bells, he charted shifts in the “culture of the senses” without re-inscribing vision at the center of his story. Steven Connor similarly has questioned this ocularcentric narrative, though he turned his attention to the conditions of modern urban life. Based on his imaginative re-readings of Joyce’s *Ulysses* and Woolf’s *Mrs. Dalloway*, Connor

¹¹Charles Hirschkind, *The Ethical Soundscape: Cassette Sermons and Islamic Counterpublics* (New York: Columbia University Press, 2006), 13-14; Martin Jay, *Downcast Eyes: The Denigration of Vision in Twentieth-Century French Thought* (Berkeley: University of California Press, 1993). A vast literature has documented or called into question this narrative of vision’s ascendancy. See Schmidt, *Hearing Things*, especially 16-27; Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton: Princeton University Press, 1979). Also significant has been the work of two anthropologists, Constance Classen and David Howes, who have been at the forefront of the “sensorial turn” in anthropological scholarship, though their work reaffirms the ocularcentric narrative as much as it complicates it by contrasting the visualism of the west with the different sensory hierarchies of other cultures. For example, see Constance Classen, *Worlds of Sense: Exploring the Senses in History and Across Cultures* (London: Routledge, 1993); David Howes, *Sensual Relations: Engaging the Senses in Culture and Social Theory* (Ann Arbor: University of Michigan Press, 2003). For a valuable introduction to recent scholarship on the senses, see David Howes, ed., *Empire of the Senses: The Sensual Culture Reader* (Oxford: Berg, 2005).

argues that urban inhabitants rely on a “vocal-auditory consciousness” to navigate their way through the aurally saturated spaces of the modern city. And American historian Emily Thompson, in her history of early twentieth century acoustic science, also has suggested that modern culture was constituted, in part, through the production of new sounds and new ways of listening. Modernity had its own distinctive sound, she argues.¹²

While these works have signaled a renewed interest in sound studies among scholars from a range of disciplines, including social history, anthropology, and cultural geography, they have tended either to ignore religion or to assume its declining significance. Even Corbin, for example, concludes his provocative account of nineteenth-century village bells with the “desacralization” of the auditory landscape. In fact, American religious historian Leigh Eric Schmidt has argued that the narrative of modern hearing loss outlined above generally has also presumed religious absence or the gradual disenchantment of the world. Moderns did not just lose the ability to hear, the story goes, but they lost the ability to hear God.¹³

Schmidt has complicated each of these meta-narratives in his highly original monograph, *Hearing Things*, which offers the most important recent study of American religious auditory cultures. By charting how the American Enlightenment re-trained

¹²Alain Corbin, *Village Bells: Sound and Meaning in the Nineteenth-Century French Countryside* (New York: Columbia University Press, 1998); Steven Connor, “Sound and the Self,” in *Hearing History: A Reader*, ed. Mark M. Smith, 54-66 (Athens: University of Georgia Press, 1997), 59; Emily Thompson, *The Soundscape of Modernity: Architectural Acoustics and the Culture of Listening in America, 1900-1933* (Cambridge, MA: MIT Press, 2002).

¹³Corbin, *Village Bells*, 282-3; Schmidt, *Hearing Things*, 28-37. Schmidt traces the narratives of spiritual hearing loss and disenchantment through the works of several scholars, including the French social theorist Michel de Certeau, the anthropologist Walter Ong, and the Canadian composer R. Murray Schafer. For valuable introductions to the most recent scholarship on sound, see Michael Bull and Les Back, *The Auditory Culture Reader* (Oxford: Berg, 2003); Mark M. Smith, ed., *Hearing History: A Reader* (Athens: University of Georgia Press, 2004); Veit Erlmann, ed., *Hearing Cultures: Essays on Sound, Listening, and Modernity* (Oxford: Berg, 2004). Also see Richard Cullen Rath, “Hearing American History,” *Journal of American History* 95, no. 2 (September 2008): 417-31.

Protestant ears, Schmidt aimed to “take measure of the religious complexity of modernity itself.” He found that the new auditory technologies of the Enlightenment cast suspicion on “pre-modern” ways of hearing God, but at the same time gave rise to new spiritual hearing practices among some American Protestant communities. He offers a narrative of modernity that is both about absence and presence, disenchantment and re-enchantment, hearing loss and new ways of hearing. He thus brilliantly recasts the Enlightenment critique of religion as an episode in the history of the senses, rather than as a series of abstract theological debates. “The detachment of God’s voice from the world...demanded a range of performances and embodied regimens,” Schmidt contends. Absence had to be constructed. Protestant ears had to be *trained* not to hear God.¹⁴

Schmidt demonstrates persuasively the relationship between new auditory practices and technologies, the constitution of modern secular subjects, and the historical repositioning of religion in the modern world. Yet much of contemporary scholarship on the place of religion in American public life continues to follow the model that Schmidt critiques, reducing religious debates to intellectual abstractions. For example, public sphere theorists such as Jurgen Habermas have focused almost exclusively on the extent to which religious beliefs should shape or inform democratic political deliberation. Habermas has questioned whether religious “truth claims” can be translated into the universally accessible arguments that he deems necessary for rational discourse. Framing the issue in this way risks reducing religion to a set of abstract propositions or philosophical truths to which a religious subject merely chooses to give assent. Furthermore, by emphasizing the ability to participate in rational discourse as the

¹⁴Schmidt, *Hearing Things*, 6, 30.

condition of entry into the public sphere, Habermas ignores the affective modes and embodied regimens that have shaped modern political and religious subjects.

Demarcating religion's place in the modern world is thus predicated on a constricted normative conception of religion and becomes simply a matter of abstract intellectual debate.¹⁵

The stakes become more evident in scholarship on religion and law, or what has traditionally been more narrowly conceived as “church-state studies.” Debates in this field have tended to focus on constitutional discourses of religious freedom, and scholars have been particularly preoccupied of late with the question of whether religious practices warrant distinctive constitutional protection. In other words, what makes religion *different*, and to what extent should religious practitioners be able to claim exemptions from generally applicable laws? Legal scholars have tended to justify religious freedom on the basis of abstract claims related to religion's social value. For example, religious freedom advocates have argued that religion offers a unique source of moral and civic virtue, serving a socially integrative function, or that religious liberty is essential for guaranteeing personal autonomy from the state, or that state intervention in religious matters has proven particularly conducive to civil strife. Each of these rationales assumes a constricted notion of religion, “properly” conceived as private, individualistic, freely chosen, and believed, implicitly privileging—and extending protection to—only those desirable or legitimate religious forms. As Winnifred Fallers

¹⁵For his most recent statement on these matters, see Jurgen Habermas, “Religion in the Public Sphere,” *European Journal of Philosophy* 14, no. 1 (2006): 1-25. As Jason Bivins notes, framing the question as whether to “allow” religion into the public sphere or into politics risks not only essentializing the religious but also the political. See *Religion of Fear: The Politics of Horror in Conservative Evangelicalism* (Oxford: Oxford University Press, 2008), 7-8.

Sullivan has proposed, other religious forms, such as those which are communal, coercive, and enacted (or “that religion with which many religion scholars are most concerned”), have been regarded with suspicion, closely regulated, and “carefully and systematically excluded, both rhetorically and legally, from modern public space.”¹⁶

Normative philosophical debates among political and legal theorists about religion’s position in the modern world thus have tended to hinge on implicit distinctions between “good” and “bad” religion and to reduce religions to intellectual abstractions. They have not seemed to take into account the kinds of practices at issue in my case studies. Schmidt’s approach in *Hearing Things* seems more useful for its careful attention to the particular disciplinary practices and technologies that have shaped modern religious subjectivities. Schmidt’s project also has been extended productively by the work of anthropologist Charles Hirschkind, who has studied the circulation of Islamic cassette sermons in contemporary Cairo and the cultivation of ethical ways of hearing as a precondition for moral and political action.¹⁷

In this dissertation, I draw on these important works as valuable models. In attending to legal disputes about religious noise, I similarly tune into how embodied

¹⁶Sullivan, *Impossibility of Religious Freedom*, 8. For a recent anthology that gathers together several of the most influential articles by legal theorists on Free Exercise clause jurisprudence, see Thomas C. Berg, ed., *The First Amendment: The Free Exercise of Religion Clause* (Amherst, NY: Prometheus Books, 2007). Several of these articles consider the justification for religious freedom, advocating the types of positions I identified in the text. For a critique of these kinds of arguments, see Steven D. Smith, *Foreordained Failure: The Quest for a Constitutional Principle of Religious Freedom* (New York: Oxford University Press, 1995). Smith argues, in part, that there can be no singular constitutional principle of religious freedom precisely because any such principle necessarily violates government neutrality by privileging a particular normative conception of religion based on its value for society. Also relevant is the legal scholar Marci Hamilton’s provocative argument that debating religious freedom in the abstract has led to a “romantic attitude toward religious individuals and institutions” that ignores the harm committed in religion’s name. Marci Hamilton, *God vs. the Gavel: Religion and the Rule of Law* (Cambridge: Cambridge University Press, 2005), 3.

¹⁷Hirschkind, *Ethical Soundscape*.

practices, affective sensibilities, and particular auditory technologies such as electro-acoustic loudspeakers have shaped religious subjects. Perhaps more significantly, I aim similarly to re-cast abstract debates about religion's position in American public life as an episode in the history of the senses, emphasizing how ordinary Americans have negotiated and contested religion's normative boundaries in relation to hearing particular devotional sounds. But I also extend Schmidt and Hirschkind's works in important ways by calling attention to how religious sounds and auditory cultures mediate contact and conflict in pluralistic societies. Schmidt insists that "the history of the senses, like the history of the body, has to be written tradition by tradition, era by era." But such an assertion ignores the ways that Americans of various religious traditions have heard and responded to the sounds of religious others. Or consider the opening of Hirschkind's work, in which he relates an extended anecdote about sitting in a Cairo taxi as his driver listens to a cassette sermon. Hirschkind focuses on the meaning of this practice for the Muslim taxi driver, but I want to attend to the non-Muslim passenger, or all of the other unintended audiences who might hear these sermons and respond to them in some way.¹⁸

In this project, I listen to how communities have responded when the sounds of religious devotion have crossed over into what is perceived as "secular" public space. Hirschkind argues that religious subjects learn how to hear within the context of particular moral communities. But what about those unintended audiences who listen to the same sounds, yet do not hear them in the same way? Sounds do not necessarily respect communal, spatial, or legal boundaries, after all. As I suggested above, sounds have proven difficult to regulate and to contain precisely because they cross borders and

¹⁸Schmidt, *Hearing Things*, 13-14; Hirschkind, *Ethical Soundscape*, 1-2.

blur boundaries. Listening forges an intersubjective relationship between subject and object, fostering an intimacy of sorts between self and other that hearers might welcome or resist. In other words, sounds can attract, thereby constituting new communities, or repel, instigating conflict and contention. While scholarship on religious auditory cultures has emphasized how sound and hearing practices shape identity within discrete bounded religious communities, this dissertation centers themes of contact and exchange. As the composer R. Murray Schafer put it, “Hearing is a way of touching at a distance.” But not everyone wants to be touched. Denigrating religious sounds as *noise* has offered an effective means for circumscribing religion’s place.¹⁹

In her history of the modern soundscape, Emily Thompson argues that modern culture was not just “a matrix of disembodied ideas,” but instead was “built from the ground up. It was constructed by the actions and through the experiences of ordinary individuals as they struggled to make sense of their world.” Similarly, this dissertation offers a bottom-up approach for studying how Americans have contested and negotiated religion’s position in public life by attending to disputes about religious noise. In so doing, it also offers a model for studying and theorizing American religious diversity. As scholars of American religions have acknowledged the need to take better account of the remarkable diversity that has characterized much of U.S. history, they have tended to reject the classic Protestant consensus narratives that once dominated the field. They have recognized the need to incorporate new characters and new settings, for continuing to tell a story of white mainline Protestants as “the” story of America’s past has seemed

¹⁹R. Murray Schafer, *The Soundscape: Our Sonic Environment and the Tuning of the World* (Rochester, VT: Destiny Books, 1993), 11.

woefully inadequate. Yet the failure to agree on new models—or on whether models are even necessary at all—has by now been well-documented.²⁰

Scholars have developed a number of approaches for telling new stories about American religious history. For example, they have produced several valuable monographs studying previously neglected or overlooked traditions. Such studies have proved critical for revising our understanding of the past, yet too often they treat particular religious communities in isolation from each other, obscuring the ways that groups have constructed identity in relation to others. Another approach has been to incorporate previously neglected groups as “add-ons,” telling their stories without fundamentally altering the contours of the overall narrative. A variation of this approach, exemplified by Catharine Albanese’s textbook *America: Religion and Religions*, has been to tell the story of the “many” and the “one,” the many groups that have built religious lives within the boundaries of the United States and the common themes that have characterized their stories. But the “oneness” that Albanese emphasizes is mainly the story of a dominant “public Protestantism,” thus implicitly reaffirming a Protestant narrative at its core.²¹

In *Religious Pluralism in America*, William Hutchison adopts “pluralism” as an organizing motif. According to Hutchison, the fact of religious diversity “happened” in the United States in the first half of the nineteenth century, but pluralism, defined as the

²⁰Thompson, *Soundscape of Modernity*, 11. For a valuable introduction to debates about narrating U.S. religious history, see Thomas A. Tweed, ed., *Retelling U.S. Religious History* (Berkeley: University of California Press, 1997).

²¹Catherine L. Albanese, *America: Religions and Religion*, 4th ed. (Belmont, CA: Thomson/Wadsworth, 2007). Tracy Fessenden offers a similar critique of Albanese. Fessenden aims to trace how the story of public Protestantism came to be “the one” in *Culture and Redemption: Religion, the Secular, and American Literature* (Princeton: Princeton University Press, 2007).

“acceptance and encouragement of diversity,” was not adopted as a widespread value until the second half of the twentieth century. Hutchison identifies three stages in the redefinition of pluralism: pluralism as toleration, according to which religious “others” were socially tolerated but only as outsiders to the dominant culture; pluralism as inclusion, according to which “outsiders” were accepted but only on certain terms; and pluralism as participation, according to which all groups demanded an equal “seat at the table” to shape “society’s agenda.” Hutchison thus narrates a story of how a hegemonic Protestant center responded to a host of religious others, centering important themes of contact and public power. He also calls critical attention to the social and moral challenges that religious diversity has posed throughout American religious history.²²

At the same time, Hutchison’s work encounters many of the same problems that I identified in scholarship on religion in American public life. Although he carefully historicizes the term, Hutchison implies toward the end of his narrative that pluralism, at its core, poses a theological challenge, an assumption shared by many scholars who have studied American religious pluralism. In fact, he borrows the term “pluralism” from theologians, who have used it to describe the search for common ground on which varying religions might meet. This project re-centers belief as a primary category of analysis, implicitly privileging certain normative ways of being religious. And Hutchison’s primary players remain public intellectuals, theologians, and other cultural elites who frequently have thought about religious diversity in abstract terms.

But Americans have not always wrestled with such questions in the abstract, for Americans rarely encounter other religions merely as intellectual abstractions. In this

²²William R. Hutchison, *Religious Pluralism in America: The Contentious History of a Founding Ideal* (New Haven: Yale University Press, 2003).

dissertation, I encourage attention to how particular public practices have mediated contact and conflict among communities on the ground, and how we might interpret responses to religious diversity at the level of everyday experience, or at the level of what the American historian David Hall has described as “lived religion.” In an essay on urban religion, Robert Orsi has argued that “it has been by their religious practice as much as their politics that migrants and immigrants joined the national debate about pluralism, multiculturalism, and heterogeneity.” Through this dissertation, I aim to offer a model that takes such a claim seriously, for Hutchison’s description of diverse groups claiming seats at a disembodied multicultural table to shape society’s agenda seems inadequate to the task.²³

In part, I follow a model proposed by visual culture scholar Sally Promey. Promey studied public displays of religion and argued that the experience of *seeing* religious difference might broaden conceptions of who we are as Americans. By centering visual displays as a particular medium of contact, Promey calls attention both to how American religious communities express themselves publicly through particular material forms and also to how such material forms might impact and shape religious others. Yet, as I noted above, philosophers of the senses have historically associated sight with detachment and distance. *Seeing* difference might reify it as much as complicate it.²⁴

²³David D. Hall, ed., *Lived Religion in America: Toward a History of Practice* (Princeton: Princeton University Press, 1997); Robert A. Orsi, “Introduction: Crossing the City Line,” in *Gods of the City: Religion and the American Urban Landscape*, ed. Robert A. Orsi (Bloomington: Indiana University Press, 1999), 48.

²⁴Sally M. Promey, “The Public Display of Religion,” in *The Visual Culture of American Religions*, eds. David Morgan and Sally M. Promey, 27-48 (Berkeley: University of California Press, 2001).

In this project, I center sound as a particular medium of contact and conflict among diverse religious communities. I attend to the different ways that Americans have heard and responded to the sounds of religious others, and I consider how, through their responses, they have negotiated religion's place in actual geographic spaces. Such an approach centers themes of embodiment and exchange and offers a vehicle for analyzing the concrete challenges posed by religious diversity without reducing them to intellectual abstractions. Perhaps nothing could be as mundane (or potentially annoying) as noise, yet through the noise disputes that I analyze, Americans also have articulated important concerns about religious difference and about religion's proper place. The central actors in these stories are not philosophers, theologians, or even judges, but "ordinary" Americans, concerned for different reasons about what kind of sounds they would have to tolerate in their communities. In these disputes, negotiating religion's boundaries was a practice of everyday life, enmeshed within other aspects of social life, and shaped deeply by local context. But such an approach to studying religious diversity is not deaf to social power, for, as will be discussed further below, these disputes often have hinged on the authority to define particular sounds as religion or as noise.²⁵

Each of these disputes also was mediated in important ways by American law, yet perhaps not in the ways that legal scholars are accustomed to expect. As noted above, the field of "church-state studies" has tended to focus on constitutional discourses of religious freedom. In particular, scholars have concentrated on the origins and meaning of the First Amendment's religion clauses, which state, "Congress shall make no law

²⁵My thinking also has been shaped by the European historian Benjamin Kaplan's work on toleration as a social practice, rather than an abstract ideal, in early modern Europe. See Kaplan, *Divided by Faith*.

respecting an establishment of religion or prohibiting the free exercise thereof...” In this dissertation, however, I am not primarily concerned with tracing the development of First Amendment jurisprudence, nor do I normatively assess the disputes’ often ambiguous outcomes. In fact, none of my three case studies were resolved with reference to either of the religion clauses, and one of the disputes never even made it to court. Instead, this dissertation contributes to an expanding body of literature that encourages scholars to think more broadly about how American religion and law intersect.

In this dissertation, I imagine American law as a “contact zone,” a social space of encounter and exchange between diversely religious Americans, shaped by imbalanced power relations. Through legal disputes about noise, Americans have engaged each other as they have debated the limits of toleration. In my analysis of these case studies, I listen to how participants articulated what they heard as at stake, how they elucidated the meaning of religious freedom, and how they demarcated religion’s place in their communities. I try to avoid imagining what disputants were “really” thinking, but instead focus on the kinds of rhetorical strategies they employed, the types of arguments they advanced, and the ways that they articulated their own identities in relation to each other and to the disputed sounds. Law provided a structure of sorts, within which contestants negotiated their own place and the place of religion.²⁶

But these disputes also had implications for law, testing its capacity to mediate among competing conceptions of religion and of noise. Regulating religious noise has

²⁶I borrow “contact zone” from Mary Pratt, who uses it to describe “social spaces where disparate cultures meet, clash, and grapple with each other, often in highly asymmetrical relations of domination and subordination.” According to Pratt, the “‘contact’ perspective emphasizes how subjects are constituted in and by their relationships to each other.” Mary Louise Pratt, *Imperial Eyes: Travel Writing and Transculturation* (London: Routledge, 1992), 4, 7.

proven complicated precisely on account of the ways that both religions and sounds blur the kind of clear lines that legal discourse demands. In the case of religion, for example, legal scholars have tended to treat it as a natural category that exists “out there” in the world, readily identifiable if not easily definable. But recent religious studies scholarship has suggested otherwise, charting the particular historical processes through which “religion” was constructed as a discrete category, abstracted and differentiated from other social spheres. As I noted above, this project had legal and social implications, for defining religion frequently has served to legitimate—and thus extend legal protection to—only certain religious forms. Winnifred Fallers Sullivan has argued persuasively that it might in fact be impossible to define religion coherently for the purposes of law. “Modern law wants an essentialized religion,” she writes, a religion defined by clear boundaries, yet my case studies reveal that such boundaries have proven highly malleable and contested.²⁷

In these disputes, opponents advanced competing conceptions of religion and of its normative boundaries. They disagreed about religion’s proper place, about where and when religious practice belonged, and about how they expected religious adherents to behave. Denigrating religious sounds as noise revealed implicit assumptions about the nature of religion itself. Yet participants in these disputes also disagreed about how to

²⁷Sullivan, *Impossibility of Religious Freedom*, 155. There is an increasingly vast scholarship on the development of a particular Western notion of “religion” as a universal analytical category. For examples, see Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993); David Chidester, *Savage Systems: Colonialism and Comparative Religion in Southern Africa* (Charlottesville: University Press of Virginia, 1996); Russell T. McCutcheon, *Manufacturing Religion: The Discourse on Sui Generis Religion and the Politics of Nostalgia* (New York: Oxford University Press, 1997); Richard King, *Orientalism and Religion: Postcolonial Theory, India, and ‘the Mystic East’* (London: Routledge, 1999); Timothy Fitzgerald, *The Ideology of Religious Studies* (New York: Oxford University Press, 2000); Randall Styers, *Making Magic: Religion, Magic, and Science in the Modern World* (New York: Oxford University Press, 2004); Tomoko Masuzawa, *The Invention of World Religions, or, How European Universalism was Preserved in the Language of Pluralism* (Chicago: University of Chicago Press, 2005).

define *noise*, a legal category no clearer or more coherent, perhaps, than religion.

Adjudicating laws with reference to religion or noise required stable definitions of both categories, yet each proved indeterminate, deployable to multiple strategic ends.

Through these disputes, contestants negotiated the meanings of these contested categories in relation to each other, and this dissertation explores the tension that lies at that intersection.

Efforts to define and regulate noise have a long history, which is worth briefly considering. R. Murray Schafer, a Canadian composer who initiated the World Soundscape Project in the late 1960s, suggests that “the only truly effective piece of noise legislation ever devised was in the form of divine punishment.” He quotes *The Epic of Gilgamesh* (c. 3000 B.C.E.):

In those days the world teemed, the people multiplied, the world bellowed like a wild bull, and the great god was aroused by the clamour. Enlil heard the clamour and he said to the gods in council, “the uproar of mankind is intolerable and sleep is no longer possible by reason of the babel.” So the gods in their hearts were moved to let loose the deluge.

Human complaints about noise probably go back at least as far. Emily Thompson cites Buddhist scriptures dating from 500 B.C.E., which list “the ten noises in a great city,” including “elephants, horses, chariots, drums, tabors, lutes, song, cymbals, gongs, and people crying ‘Eat ye, and drink!’” Legal regulations generally have targeted specific types of noises, such as a 44 B.C.E. Roman by-law that restricted the use of wagons and other wheeled vehicles or 13th century English laws that confined blacksmiths to

specially designated areas. Wherever people have lived in close proximity, it seems, they have complained about—and tried to protect themselves from—the sounds of others.²⁸

My interest in this project is not simply to catalogue what sounds have been demarcated as noise nor to evaluate the efficacy of noise regulations, as others have done, but instead to try to understand what it has meant for individuals to hear certain religious sounds as noise. On the one hand, noise can be understood simply as “loud sound.” Medical science has documented the physiological effects of sustained exposure to intense sounds, including hearing loss, headaches, nausea, and fatigue. Some anti-noise advocates, concerned that the world has simply become too loud, have sought to regulate the volume of all sounds, regardless of source or purpose. As will be discussed further in chapter 3, engineers standardized the decibel as a unit for measuring sound in the 1920s and 30s, which made possible quantitative noise legislation. Such ordinances tend to prohibit all sounds over a certain specified decibel limit. In several noise disputes, judges have expressed a preference for such regulations, as they appear objective in application (although may not be). But defining noise in this way ignores the qualitative differences between different types of sounds and different listening contexts. Not all loud sounds sound the same, and sounds need not even be loud to elicit complaint.²⁹

²⁸Schafer, *The Soundscape*, 189-90; Thompson, *Soundscape of Modernity*, 115.

²⁹Schafer, *The Soundscape*, 182-3. For examples of works that emphasize the physiological risks posed by noise, see Siegmund Levarie, “Noise,” *Critical Inquiry* 4, no. 1 (Autumn 1977): 21-31; Dylan M. Jones and Anthony J. Chapman, *Noise and Society* (Chichester: Wiley, 1984); Lucy Kavaler, *Noise: The New Menace* (New York: John Day, 1975). For an example of a group working to combat all unnecessary noise, see the website of the Noise Pollution Clearinghouse, <http://www.nonoise.org/index.htm>. In a 1980 dispute about a Dearborn, Michigan, mosque broadcasting the Islamic call to prayer, the judge expressed his preference for quantitative anti-noise legislation. See *Dearborn v. Hussian, et. al.*, No. 79-933979-AR (Wayne County Ct. June 3, 1980).

Noise far more frequently has been defined subjectively, simply as “unwanted sound,” and this is the meaning reflected in qualitative legislation that targets particular types of sounds or those sounds which annoy others. Sounds may annoy because they are loud, but sounds also annoy because of who makes them and in what context. Cultural values shape how sounds are heard and which sounds are heard as noise. Alain Corbin has argued that social historians should attend more closely to “shifting thresholds of tolerance,” and studying noise disputes offers a valuable means for heeding his call. As Leigh Eric Schmidt has proposed, noise has functioned “as a social category as much as an aesthetic one,” and it is critical to attend to the cultural connotations and symbolic meanings that noise has conveyed, or what Emily Thompson has described as “the cultural meaning of noise.”³⁰

In musical terms, noise is unpatterned or nonperiodic, lacking a discrete tone or pitch. According to the French social theorist Jacques Attali, music might be understood accordingly as the ordering of noise according to normatively sanctioned rules. Attali has traced the relationship between music and political economy and emphasizes the social implications of conceiving of noise in this way. Noise threatens an established order, but also heralds the possibility for new orders, new ways of being. Social and cultural historians similarly have linked complaints about noise to the fear of disorder and disruption. Cacophony has signaled social chaos. For example, Victorian Americans complained about the loudness of immigrants and the poor, and Europeans targeted itinerant street musicians. American slaveholders prohibited slaves from using drums,

³⁰Alain Corbin, “Charting the Cultural History of the Senses,” in *Empire of the Senses: The Sensual Culture Reader*, ed. David Howes, 128-39 (Oxford: Berg, 2005); Schmidt, *Hearing Things*, 67; Thompson, *Soundscape of Modernity*, 9; Hillel Schwartz, “On Noise,” in *Hearing History: A Reader*, ed. Mark M. Smith, 51-53 (Athens: University of Georgia Press, 2004).

horns, and other loud instruments. Critics complained about the noise emanating from evangelical revivals during the First and Second Great Awakenings. In each of these cases, noise demarcated social differences, threats to the social order that had to be contained. Sensory values expressed social hierarchies. Noise constituted the limit of what could be tolerated.³¹

Noise has symbolized disorder, and it also has signaled waste and inefficiency, particularly in urban settings. Emily Thompson has demonstrated how progressive urban reformers of the early twentieth century sought to eliminate all “unnecessary” noises that challenged their dreams of a rationally planned city. Raymond Smilor and Karin Bijsterveld each have traced nineteenth and twentieth century debates about urban noise to broader cultural discourses about civilization and barbarism. Noise was heard as uncivilized and as an obstacle to social progress. Noise was primitive, incoherent, and meaningless.³²

Yet noise as “loud sounds” also has been associated with power, and making public sounds has offered a means for affirming social order as much as disturbing it. As will be discussed further in chapter 2, R. Murray Schafer coined the term “Sacred Noise” to refer to such sounds of power, differentiating them from sounds that constituted a

³¹Attali, *Noise*; Bailey, “Breaking the Sound Barrier”; Mark M. Smith, *Listening to Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2001); Richard Cullen Rath, *How Early America Sounded* (Ithaca: Cornell University Press, 2003); Peter Charles Hoffer, *Sensory Worlds in Early America* (Baltimore: Johns Hopkins University Press, 2003); Schmidt, *Hearing Things*; Karin Bijsterveld, *Mechanical Sound: Technology, Culture, and Public Problems of Noise in the Twentieth Century* (Cambridge, MA: MIT Press, 2008); John M. Picker, “The Soundproof Study: Victorian Professionals, Work Space, and Urban Noise,” *Victorian Studies* 42, no. 3 (April 1999): 427-53; Emily Cockayne, *Hubbub: Filth, Noise & Stench in England, 1600-1770* (New Haven: Yale University Press, 2007).

³²Thompson, *Soundscape of Modernity*; Karin Bijsterveld, “The Diabolical Symphony of the Mechanical Age: Technology and Symbolism of Sound in European and North American Abatement Campaigns, 1900-40,” *Social Studies of Science* 31, no. 1 (February 2001): 37-70; Raymond W. Smilor, “American Noise, 1900-1930,” in *Hearing History: A Reader*, ed. Mark M. Smith, 319-30 (Athens: University of Georgia Press, 2004).

public nuisance. He emphasized that producing the sacred noise was not always about producing the loudest sound, but about the *authority* to make noise without fear of censure. For example, Benjamin Kaplan describes how early modern European churches established powerful public presences by building large bell-towers to ensure that only their bells could be heard. Even in areas where Catholic or Protestant rulers permitted dissenters to build churches, they regularly prohibited rival confessions from ringing bells. Alain Corbin similarly documents how French villages competed to construct the loudest chimes and how the volume of bells was perceived to correlate to the prestige of a parish or municipality. In the United States, urban noise attracted little sustained opposition until the first half of the twentieth century because many Americans heard industrial noise as a necessary byproduct of progress. Factories were loud, but were understood as essential to the advancement of modern civilization. As Karin Bijsterveld has argued, noise thus bears a complicated, ambivalent cultural meaning, associated on the one hand with barbarism and disorder and on the other with civilization, power, and progress.³³

As recent scholarship on sound has established, public sounds mark spatial boundaries, regulate the rhythms of daily life, and orient people in time and space. But such sounds also are contested because they cannot easily be avoided. Not all listeners hear them in the same way. Public sounds affirm order and threaten to dissolve it. They define communal boundaries and demarcate difference. Leigh Schmidt describes how the sounds of evangelical revivals horrified their opponents but attracted potential converts, who could hear them from miles away. Shane and Graham White have argued

³³Schafer, *Soundscape*, 76; Kaplan, *Divided by Faith*, 210-11; Corbin, *Village Bells*, 211; Thompson, *Soundscape of Modernity*; Bijsterveld, "Diabolical Symphony," 44.

that white eavesdroppers heard the noises of African-American slave religion as incoherent, frenzied, and meaningless, while blacks understood their own services as flexibly structured, suggestive, and expressive of deeply shared cultural values. Public sounds can attract and repel, dominate and deafen others, or be forcibly silenced. Disputes about noise thus center as much on authority and social power as on volume and decibel level. Who decides which sounds should be permitted and which prohibited? Who decides which sounds are legitimate and which merely constitute *noise*? Furthermore, perceptions of sound change over time, as what once annoyed grows familiar, or what once went unnoticed comes to be resented. For example, Alain Corbin argues that French villagers did not hear church bells as noise until the shared meaning of the bells had faded. Complaints about bells as noise demonstrated how the rhythms of everyday life had become more individualized.³⁴

Defining noise is thus a highly subjective determination, based on and expressive of a range of cultural values and presuppositions. Noise's unstable meaning complicates legislative efforts to regulate it, but also offers a valuable site for exploring competitions over public power and public order. As I indicated above, noise seems best understood, therefore, as "sounds out of place," drawing on Peter Bailey's work. Attending to noise disputes makes audible underlying assumptions about social order—about what belongs where—and about the authorizing processes that legitimate that order.³⁵

³⁴Schmidt, *Hearing Things*, 66-9; Shane White and Graham White, "'At Intervals I Was Nearly Stunned by the Noise He Made': Listening to African American Religious Sound in the Era of Slavery," *American Nineteenth Century History* 1 (Spring 2000): 34-61; Corbin, *Village Bells*, 305-8.

³⁵Bailey, "Breaking the Sound Barrier," 195.

Although scholars have paid increasing attention of late to the cultural meaning of noise, there has been little sustained attention to how religion fits into this conversation, yet it is striking how discourses about noise have paralleled discourses about religion. As I noted above, defining religion also has been related to constructing social order, and the discourses of civility and barbarity that have attended noise disputes also have figured prominently in the history of religious studies. My case studies raise critical questions about how the categories of religion and noise have intersected and been negotiated in relation to each other. For example, have religious sounds been associated with modern civilization, progress, and power, or imagined as signs of barbarism, primitivism, and disorder? Are religious sounds different from other offending noises, protected by constitutional guarantees of religious freedom, or are loud sounds noisy regardless of source? How have complaints about religion as noise marked the limits of tolerable or legitimate religious practice?³⁶

For the most part, these questions have gone unaddressed. Instead, religion generally appears in scholarship on noise either as something that *used to* make noise or as something to be *protected from* noise. The examples that I cited above—including the ringing of church bells in early modern Europe and the sounds of evangelical revivals and slave religion—are drawn from earlier periods of American and European history, prior to postbellum industrialization and urbanization. When religion appears in scholarship on twentieth-century anti-noise movements, which is rare, it is usually in the context of regulations that carved out special “zones of quiet” around churches, particularly on Sundays. Modern religion either appears as something quiet, set off from the rest of

³⁶For example, see Timothy Fitzgerald, *Discourse on Civility and Barbarity: A Critical History of Religion and Related Categories* (New York: Oxford University Press, 2007).

social life, or as something so dignified and elevated that its sounds could never constitute *noise*. Indeed, the phrase “religious noise” itself seems somehow incongruous, inappropriate; it jars and startles the ear.³⁷

Yet American religious communities have continued to practice religion out loud, and neighbors have continued to complain. There is a more recent history of complaints about religion as noise that warrants a closer hearing. Scholars of American Pentecostalism have probably been most attuned to such disputes, as Pentecostal services frequently have been cited in violation of municipal ordinances. Like disputes about evangelical and African-American religion, these cases have centered on exuberant worship styles. But the case studies that I analyze in this dissertation involve other types of sounds, as well, including church bells, prayer calls, and street preaching—other ways that religious practice has spilled over onto public spaces and city streets. And through these disputes we can learn more about how the “secular” character of these public spaces has been constructed, about how public religious differences have been managed, and about religion’s shifting boundaries amidst changing social conditions. By attending to these case studies, we can listen in on what has made religion sound “out of place.”³⁸

³⁷There is a history to regulations protecting religion from noise. For example, the British historian Emily Cockayne found numerous cases brought to early modern English ecclesiastical courts related to “the noises made in the church or churchyard during divine service.” In one case, a woman was tried for bringing “a most unquiet child to the church to great offence of the whole congregacion.” See *Hubbub*, 116. Such regulations apparently were not without reason. Richard Cullen Rath tells of an 18th century Philadelphia church that fell into disuse because of the loud street traffic outside in *How Early America Sounded*, 116.

³⁸For a discussion of Pentecostal disputes, see Wacker, *Heaven Below*, 187-9. Also see *United Pentecostal Church v. 59th District Judge*, 51 Mich. App. 323 (App. Ct. Mich., 1974).

Through disputes about noise, Americans have negotiated religion's proper place, but they have done so within particular historical, religious, and legal contexts. Particular social dynamics have prompted the re-negotiation of religion's normative boundaries that we find in these conflicts. For this reason, I have found it most useful for the purposes of this project to delve into a few selected case studies, to burrow into the particulars of these disputes in order to understand the concerns that animated them and the reasons why religion was heard as in its place or out of place. I study normative debates about religion's place in American life from the ground up by investigating how ordinary Americans have used sounds to make place for themselves within American society and how others have responded to these sounds spilling over into public space.

In many cases, neighbors have complained when they have happened to overhear the sounds of religious devotion emanating from within a church or other house of worship. But for the purposes of this dissertation, I have selected case studies in which religious groups expressly intended for their sounds to spill beyond the confines of such buildings, cases in which noisemakers explicitly targeted a broader public outside their institutional walls. These cases have made particularly audible competing conceptions of religion's proper place. Noise also appears frequently as a peripheral complaint in legal disputes about religion, such as when neighbors of a proposed church, temple, or mosque complain about the possibility of increased traffic problems. In such cases, noise typically is cited as one in a long list of concerns, and the sounds in question are ancillary to the purpose of the proposed building. In my case studies, however, noise appeared as the principal cause of complaint, and noisemakers contended that they performed the particular sounds in question as part of normatively sanctioned religious practice. These

case studies thus bring to the fore definitional questions about whether disputed sounds constitute religion or noise. They also make audible the contests over authority that attend such definitional disputes. In fact, I selected these three case studies because they each feature different configurations of public power and of pluralism at different moments in American religious history. They also exemplify different types of legal events, featuring different regulatory strategies for dealing with the problem of religious noise that reflect these changing social dynamics.³⁹

In chapter 2, I listen to a dispute about the sounds of power. When Philadelphia's St. Mark's Protestant Episcopal Church installed bells in June 1876, the church's leaders never imagined that anyone might complain. Yet the church's neighbors, most of whom were themselves members of Philadelphia's Episcopalian elite, sought a preliminary injunction from a city court that would restrain the bells from ringing. This primarily intra-denominational dispute transpired within a rapidly diversifying and industrializing urban setting, a context in which Protestant dominance could not necessarily be taken for granted, and this chapter considers what it meant to describe church bells as a nuisance in such a context. Drawing on court records, newspaper accounts, personal memoirs, and other archival sources, my analysis attends especially to how the complainants and defendants situated church bells differently within broader cultural discourses about noise. The neighbors insisted that civilized religion did not need such auditory announcements; it did not need to make noise. But the church's leaders heard in the neighbors' demands a challenge to their public authority, for complaints about the bells'

³⁹These cases are not exactly representative, but nor are they unique. In fact, as I note in the following chapters, there have been several similar disputes throughout American history involving sounds such as church bells, prayer calls, and public preaching.

volume dislodged them from their status as background noise, as unnoticed, or as normal. When the city court found for the complainants and issued the injunction, the church's leaders learned that they could not take for granted their right to make noise publicly. The court went out of its way to affirm a continued public place for Protestantism, but its decision (as well as that of the Pennsylvania Supreme Court on appeal) circumscribed that place, demarcating and delimiting its boundaries. This intra-denominational dispute thus made audible competing conceptions of religion's place and power in the industrial city.⁴⁰

In chapter 3, I listen to the sounds of religious dissent. In 1946, police officers arrested Samuel Saia, a Jehovah's Witness minister, for broadcasting sermons over electro-acoustic loudspeakers in a Lockport, New York, public park. Saia had violated a municipal anti-noise ordinance, the product of early twentieth century regulatory efforts to abate urban noise problems that had not considered potential implications for religious practice. New acoustic technologies, such as the loudspeaker, offered unpopular minorities an important means for making their voices heard, for amplifying religious difference, but they also offered unprecedented opportunities for dominating space with sound. In this chapter, I consult court records, newspaper accounts, local histories, and interviews with Saia's children and other local residents in order to explore how the *Saia* case exemplified this tension. Saia justified his actions in the name of religious freedom, but picnickers complained that the lectures interfered with their enjoyment of the park and constituted a public nuisance. Against the background of an emerging postwar spirit of interfaith harmony and ecumenical cooperation, Saia and other Jehovah's Witnesses

⁴⁰*Harrison, et. al. v. Rector, Church Wardens, and Vestry of St. Mark's Church*, 12 Phila 259 (1877).

tested the limits of religious toleration. After a Lockport police court convicted him, Saia eventually appealed his case to the U.S. Supreme Court, which was asked to consider for the first time whether religious freedom might entail a right to make noise. *Saia* was one of a series of Witness-related cases during the 1940s that resulted in the Court radically expanding First Amendment protections, illustrating a shift toward settling religious free exercise cases in the federal courts. But though the Court found for the Witnesses, it notably did so without reference to the First Amendment's religion clauses, thus treating the sounds of all unpopular dissenters the same, whether religious or not. In critical ways, the decision underscored the unstable meanings of both religion and noise.⁴¹

In chapter 4, I listen to the sounds of religious newcomers. I attend to how the meaning of traditional religious sounds has changed as immigrants have introduced them into new social contexts. In 2004, only a few years after the September 11, 2001, terrorist attacks, controversy erupted in Hamtramck, Michigan, when a mosque petitioned the city council for permission to broadcast the *azan*, or call to prayer, over loudspeakers. A historically Polish-Catholic enclave, Hamtramck recently has received an influx of Muslim immigrants. Hamtramck Muslims used the sound of the *azan*, in part, to place themselves in their new community, but many long-time residents heard the *azan* as signaling their own displacement. Despite numerous complaints, the Hamtramck Common Council went out of its way to accommodate this Muslim practice by passing an amendment to the municipal noise ordinance that exempted the *azan*, differentiating this case study from many other religious noise disputes. But my analysis focuses especially on how this public religious sound mediated contact among diverse religious

⁴¹*Saia v. New York*, 334 U.S. 558 (1948).

communities. Drawing on city council records, video recordings of public hearings, newspaper accounts, personal correspondences, and interviews, I consider how multiple, heterogeneous audiences, both willing and unwilling, listened and responded to the *azan*'s call in different ways. I attend to how the *azan* blurred religious borders, calling everyone to pray, but also to how many complainants tried to re-fortify boundaries by demarcating the *azan*'s sound as distinctly out of place. They asserted a right to choose the extent to which they would have to hear religious others. Hamtramck residents eventually voted to affirm the Council's legislative action, thereby guaranteeing the mosque's right to broadcast the call. This resolution through political processes, rather than by judicial intervention, reflected broader trends since the Supreme Court's 1990 *Oregon v. Smith* decision, which had suggested that religious exemptions were best left to legislative arenas rather than treat them as constitutionally mandated. This case study thus offers a particular opportunity for listening to how ordinary Americans negotiated the place of religion—and religious adherents—in their rapidly changing community.⁴²

After delving into each of these case studies, I conclude in chapter 5 by stepping back to reflect on some of their important common themes and broader implications. I argue that participants in each of these disputes demarcated religion's place by trying to draw clear lines between public and private, among diverse religious communities, and

⁴²In *Oregon v. Smith*, 494 U.S. 872 (1990), the Supreme Court upheld Oregon's decision to deny unemployment compensation to two members of the Native American Church who had been fired by a drug rehabilitation organization for their sacramental use of peyote. Writing for the majority, Justice Scalia rejected the argument that an individual's religious beliefs could excuse him from complying with otherwise valid laws unless the state could prove a "compelling interest." Scalia suggested that religious exemptions were best left to political and legislative arenas. Although there is no evidence that the Hamtramck dispute played out in this way as a direct consequence of the *Smith* decision, it is illustrative of post-*Smith* trends. Because the Hamtramck dispute never went to court, there is no record of court documents. Contestants debated their differences through forums such as city council meetings, newspaper editorials, and letter-writing campaigns.

between religion and non-religion. But at the same time, the disputed sounds crossed and collapsed these symbolically significant and pragmatically useful boundaries. In particular, I consider how complainants conceived of religion as private and voluntary while these case studies offer a conception of legitimate religion as in fact public and involuntary. I examine how participants constructed collective identity in relation to the disputed sounds while these sounds also blurred communal boundaries. And I explore how contestants differentiated religion from non-religion and how they negotiated religion's meaning in relation to the similarly indeterminate category of noise. In the end, I find that these case studies offer a concrete vehicle for analyzing the particular processes through which communities have negotiated difference and managed conflict. Mapping the shifting boundaries of American religious life therefore will require scholars to become more attuned to the sounds of religious difference. In debates about whether religion should be practiced quietly or out loud, I suggest, we hear competing conceptions of religion's place in the modern world.

CHAPTER 2

REDUCING BACKGROUND NOISE: CHURCH BELLS IN THE INDUSTRIAL CITY

Anthony and Luana Impellizzeri were fed up. In 1979, they went to court to restrain a nearby church from playing its carillon. They could not tolerate the clamor of church bells any longer, which they complained was exacerbating their son's neurological condition and aggravating Luana's migraine headaches. But Judge John R. Tenney of New York's Supreme Court cursorily dismissed their case. "Bells in one form or another are a tradition throughout the world," Tenney wrote, "There is little question that the sound is often deafening when these bells start to ring, but for the general enjoyment of the public, it is considered acceptable." Tenney found it difficult to believe that the sound of church bells might constitute a public nuisance. Other U.S. judges have agreed. For example, in at least two other cases, courts struck down municipal anti-noise ordinances as overly broad because, "among many other [sounds] normally heard on city streets," they would have prohibited church bells. Other courts have upheld ordinances that specifically exempted church bells, as in a 1991 U.S. Circuit Court of Appeals decision that described bells as "a traditional and generally unobtrusive aspect of a tranquil environment." Each of these opinions treated church bells as normal features of

American soundscapes. While bells might be loud, certainly no one would consider them “noise.” Certainly no one would deem chimes unwanted or out of place.¹

Or perhaps someone would. In this chapter, I analyze a nineteenth-century legal dispute that might have surprised these twentieth-century courts, for it treated church bells as anything but background noise. In 1876, several distinguished denizens of Philadelphia’s upper-class Rittenhouse Square neighborhood went to court, seeking an injunction that would restrain the highly fashionable St. Mark’s Protestant Episcopal Church from ringing its bells. Philadelphia churches had rung bells since before the Revolution, and St. Mark’s leaders never imagined that anyone might complain. Yet the neighbors, most of whom themselves were Episcopalians, described the bells as harsh, loud, and discordant and alleged that they constituted a distinct nuisance. The ensuing case created a furor. “Philadelphia society was rent in twain,” a later account would relate, “Matrons had to select dinner guests, all of whom either favored or opposed the bells of St. Mark’s. The Centennial Exposition and the Pennsylvania-Princeton football game were nearly eclipsed.” Philadelphia newspapers rushed to make light of the fracas (“grim-visaged war has invaded the peaceful precincts of Rittenhouse Square,” reported the *Philadelphia Times*), but St. Mark’s rector and vestrymen were not amused when a judge sided with the complainants. In an 1877 decision, Philadelphia’s Court of Common Pleas prohibited the ringing of St. Mark’s bells. As one Philadelphia resident

¹*Impellizzerri v. Jamesville Federated Church*, 428 N.Y.S.2d 550, 551 (N.Y. Sup. Ct. 1979); *Fetsch et al. v. Sands Point*, 169 N.Y.S.2d 326 (N.Y. Sup. Ct. 1957); *Mister Softee v. Chicago*, 192 N.E.2d 424, 426 (Ill. App. Ct. 1963); *Stokes v. Madison*, 930 F.2d 1163, 1171 (7th Cir. 1991).

later would recall, the neighbors successfully persuaded the court “to have the ecclesiastical zeal kept within bounds.”²

Ostensibly, this case was about nothing more than noise and the hypersensitivities of Victorian Americans. Yet the dispute raised critical questions about Protestantism’s place in the industrial city. The complaints about St. Mark’s bells dislodged them from their status as background noise. Suddenly church bells were *noticed* and *paid attention to*, and their continued public presence in a rapidly changing society became an open question. Their acoustic dominance could not be taken for granted.

The purpose of this chapter is to explore what it meant to hear church bells as noise, as “out of place,” at a historical moment when Protestant dominance also could not be taken for granted. Just as church bells traditionally announced the transformative sacrament of the Eucharist, the 1870s heralded a period of rapid transition in American history. A mid-nineteenth century mainline Protestant consensus faced numerous assaults from forces such as urbanization, industrialization, and immigration. Between 1860 and 1910, the American urban population increased sevenfold, rising from 19.8 to 45.7 percent of the country’s total population. Fueled both by internal migration and foreign immigration, the urban population also grew increasingly diverse. Between 1840 and 1890, “7.5 million Irish and German immigrants arrived in the United States, 5.5

²*Harrison, et. al. v. Rector, Church Wardens, and Vestry of St. Mark’s Church*, 12 Phila 259 (1877); Claude Gilkyson, *St. Mark’s: One Hundred Years on Locust Street* (Philadelphia: St. Mark’s Church, 1948), 28; “Society Bells,” *Philadelphia Times*, November 20, 1876; Mary Cadwalader Jones, *Lantern Slides* (Philadelphia: Privately Printed, 1937), 106. One of the attorneys for the complainants gathered the court records into a single volume, published as *Report of [George L.] Harrison et al. vs. St. Mark’s Church, Philadelphia: A bill to restrain the ringing of bells so as to cause a nuisance to the occupants of the dwellings in the immediate vicinity of the Church: In the Court of Common Pleas, no. 2. In Equity. Before Hare, P.J, and Mitchell, Associate J.* (Philadelphia, 1877) (hereinafter *Harrison v. St. Mark’s*).

million of them Catholics.” The industrial city challenged dominant conceptions of what it meant to be ethnically and religiously American and threatened Protestant hegemony. When advocates pushed for a “Christian Amendment” to the U.S. Constitution during the 1870s, the Episcopalian minister Ansom Phelps Stokes dismissed it as “unnecessary,” but others interpreted it as an implicit acknowledgment that Protestant dominance could no longer be taken for granted. The St. Mark’s bells dispute transpired against the backdrop of these challenges to Protestant power and privilege.³

As I discussed in chapter 1, scholars such as Alain Corbin, Leigh Schmidt, and Charles Hirschkind have demonstrated how contests over religion’s place in the modern world might be recast productively as episodes in the history of the senses rather than as abstract intellectual debates. Similarly, I consider in this chapter how disputants advanced competing conceptions of religion and its place in the industrial city through their different responses to St. Mark’s bells. In particular, I examine how the disputants situated these religious sounds differently within broader cultural discourses about noise. As I outlined in the preceding chapter, loud sounds regularly have been evaluated negatively, as unwanted, disorderly, and barbaric. But they also have been evaluated positively, as signaling power, strength, and prosperity. The St. Mark’s complainants, who tended more low-church in religious sensibility, defined noise primarily in terms of

³Urbanization and immigration statistics are taken from John F. Kasson, *Rudeness and Civility: Manners in Nineteenth-Century Urban America* (New York: Hill and Wang, 1990), 72; Robert A. Orsi, ed. *Gods of the City: Religion and the American Urban Landscape* (Bloomington: Indiana University Press, 1999), 16. For an invaluable introduction to religion in American cities, see Orsi’s introductory essay in *Gods of the City*. On the drive for a Christian amendment and Stokes’ response, see William R. Hutchison, *Religious Pluralism in America: The Contentious History of a Founding Ideal* (New Haven: Yale University Press, 2003), 82. Especially in medieval Europe, churches rang bells not only to announce the beginning of services, but also to announce the different stages of the service (especially the Eucharist) to those who were unable to attend due to health or old age. See Percival Price, *Bells and Man* (Oxford: Oxford University Press, 1983), 107-110; H.B. Walters, *Church Bells* (London: A. R. Mowbray & Co., 1908).

volume, emphasizing the physiological risks associated with exposure to loud sounds. But they also argued that religious sounds were “uncivilized” and “unnecessary,” implying that modern religion, properly conceived, had no need for such public pronouncements. On the other hand, the high-church leaders of St. Mark’s associated loud sounds with power and influence. Citing the long history of Christian bell-ringing practices, they presumed a right to make noise without censure, and they heard in the neighbors’ objections a challenge to their public authority. They argued that making noise publicly was necessary in order to compete (or perhaps to harmonize?) with modern industry, whose sounds went uncontested.⁴

This intra-denominational dispute centered on the sounds of power and thus differs significantly from many other noise cases. In other chapters, I consider case studies involving the sounds of unpopular dissenters and religious newcomers. As historians and anthropologists of sound have documented, noise complaints generally have targeted groups or classes that threaten the prevailing social order, such as slaves, immigrants, or the poor. “Noise” has offered a useful category for circumscribing the place of these social deviants. In fact, Victorian Americans regularly complained about “the loudness of new immigrants and the threatening cacophony of the cities,” and they constructed racial, ethnic, and religious hierarchies in terms of auditory and olfactory difference. Religious “others” were too noisy. Or, in the famous words of George

⁴Alain Corbin, *Village Bells: Sound and Meaning in the Nineteenth-Century French Countryside* (New York: Columbia University Press, 1998); Leigh Eric Schmidt, *Hearing Things: Religion, Illusion, and the American Enlightenment* (Cambridge, MA: Harvard University Press, 2000); Charles Hirschkind, *The Ethical Soundscape: Cassette Sermons and Islamic Counterpublics* (New York: Columbia University Press, 2006).

Orwell, the “real secret of class distinctions in the West” could be “summed up in four frightful words”: “*The lower classes smell.*”⁵

In subtle ways, these sensory hierarchies shaped the St. Mark’s case, as disputants on both sides linked the enjoyment of bell-ringing to the sensibilities of lower-class, Irish-Catholic immigrants who lived in and around the church’s neighborhood. But for the most part, this was decidedly a case about the sounds of power, the sounds of the socially dominant, not deviant. St. Mark’s Church drew its congregation primarily from among Philadelphia’s upper class, and the complaining neighbors, most of whom also were Episcopalian, occupied a similar social position. While perhaps not great in numbers, these Episcopalian elites dominated the city’s economic and cultural institutions. They differed dramatically from the disputants who I consider in the following chapters. Yet as this case demonstrates, even the sounds of power have not gone unchallenged.

In the first section of this chapter, I consider how Philadelphia’s Episcopalian elites were consolidating class identity during the 1870s while also contesting internal differences related to devotional style. In fact, the St. Mark’s disputants all agreed that Protestantism should retain a privileged place in the industrial city, but they differed as to the forms that Protestant practice should take. In the next section, I review briefly the

⁵Schmidt, *Hearing Things*, 67. Also see Mark M. Smith, *Listening to Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2001); Mark M. Smith, *How Race is Made: Slavery, Segregation, and the Senses* (Chapel Hill: University of North Carolina Press, 2006); Shane White and Graham White, “‘At Intervals I Was Nearly Stunned by the Noise He Made’: Listening to African American Religious Sound in the Era of Slavery,” *American Nineteenth Century History* 1 (Spring 2000): 34-61; Emily Cockayne, *Hubbub: Filth, Noise, and Stench in England, 1600-1770* (New Haven: Yale University Press, 2007), 121-127. For more on olfactory and auditory hierarchies, see Constance Classen, *Worlds of Sense: Exploring the Senses in History and across Cultures* (London: Routledge, 1993); David Howes, *Sensual Relations: Engaging the Senses in Culture and Social Theory* (Ann Arbor: University of Michigan Press, 2003). Stephen R. Prothero discusses how nineteenth-century Americans regarded immigrants as pollutants to the social body in *Purified by Fire: A History of Cremation in America* (Berkeley: University of California Press, 2001), 99.

history of Christian bell-ringing practices, emphasizing how they have called worshippers to pray, but also how they have marked communal boundaries and have announced Christian presence to religious others. I find that the St. Mark's dispute was not as unprecedented as some participants might have presumed.

I then turn to the details of the St. Mark's case. I explore how the complaints about St. Mark's bells made them the subject of public scrutiny and debate. As I proceed to analyze a range of arguments that participants advanced during the dispute, I attend especially to how contestants located these religious sounds differently within broader cultural discourses about noise. Nineteenth- and early twentieth-century debates about noise focused especially on defining which sounds were *necessary* for urban life. I trace how questions of necessity shaped the St. Mark's case in at least three ways. First, I listen in on debates about whether modern religion needed to make noise. Second, I tune in to debates about whether cities needed auditory announcements of religious presence as much as they needed the sounds of modern industry. Third, I attend to debates about whether certain social classes might need noise more than others. Through these various debates, I propose, we hear competing conceptions of the nature of religion, of its relationship to modern industry, and of its place in American cities.

Finally, I analyze the court's decision in *Harrison v. St. Mark's* and how it later was modified by the Pennsylvania Supreme Court to permit bell-ringing but only at specified times. The complaints about St. Mark's bells had dislodged them from their status as background noise. As soon as they were noticed, as soon as attention was paid to them, the chimes became problematic, a threat to public peace and order. The Pennsylvania courts went out of their way to affirm Protestantism's continued public

place in the industrial city, but their injunctions circumscribed that place, demarcating and delimiting its boundaries. Once religion became noise, it seems, it had to be contained. The St. Mark's dispute thus offers a valuable case study for considering how nineteenth-century Americans negotiated religion's place in the industrial city in relation to particular auditory expressions.

An Urban Episcopalian Establishment

Philadelphians inaugurated America's centennial year of 1876 with noise. On New Year's Eve, December 31, 1875, they rang bells, blew whistles, lit firecrackers, and played musical instruments in the streets. One visitor to the city described the celebration as the "most extraordinary noise ever heard." On May 10, 1876, every bell in the city rang again to signal the opening of the Centennial Exposition, a world's fair that would attract over ten million visitors during the next seven months and was the first of its kind on American soil. The Exposition showcased American invention and ingenuity for the world, but it also brought the world to Philadelphia. With foreigners suddenly "rampant," as one Philadelphia resident recalled, "The Centennial came as one comprehensive revelation—overwhelming evidence that the Philadelphia way was not the only way."⁶

Some observers found much to admire about the visitors. "We have been brought face to face with older civilizations than that of America and Europe," the editors of the

⁶Dorothy Gondos Beers, "The Centennial City: 1865-1876," in *Philadelphia: A 300 Year History*, ed. Russell F. Weigley, 417-70 (New York: W.W. Norton, 1982), 459; Elizabeth Robins Pennell, *Our Philadelphia* (Philadelphia: J.B. Lippincott, 1914), 227. For more on the Centennial Exposition, see John Henry Hepp, *The Middle-Class City: Transforming Space and Time in Philadelphia, 1876-1926* (Philadelphia: University of Pennsylvania Press, 2003); Beers, "The Centennial City"; Gary B. Nash, *First City: Philadelphia and the Forging of Historical Memory* (Philadelphia: University of Pennsylvania Press, 2006), 262-283.

Philadelphia Catholic Standard declared at the Centennial's close, "We have met the Tartar and the Turk, the Saracen and the worshipper of Buddha. We have seen that they had industry greater than our own, and skill in execution not inferior." But the newspaper remained convinced of American superiority and located the source of the nation's strength in its religious faith: "Yet we have walked through the Exposition with blinded eyes if we have not learned that this power, the power which has made us superior to the Chinaman, the Hindoo, and the Turk has its source and spring mainly in religion. That it is to Christianity that we owe forces...that carry us forward in a course of progress."⁷

Other religious leaders worried about the effects that exposure to global variety might have on religious faith. As Bishop William Bacon Stevens of the Episcopal Diocese of Philadelphia warned the 1876 diocesan convention, "Owing to the fact that every one of our family circles will be swelled by the presence of visitors to the Exhibition, many of whom will come from foreign lands, bringing with them thoughts and practices alien to our own, here will result a danger of relaxing our stronghold on the importance of Church-going, and there will be a temptation to yield to influences around us, and give up too much the services of the Sanctuary and the Ordinances of grace." Despite his concerns, Stevens was happy to report the following year that Philadelphia Episcopalians had acquitted themselves well: "We have by this Exposition not only benefited ourselves in several ways, secular, social, mental, and moral, but have done good to others, especially to foreigners, by showing as a community, certain great ethical

⁷"The Close of the Exhibition," *Philadelphia Catholic Standard*, November 18, 1876.

principles which are necessarily elevating and beneficial to all who come under their influence.”⁸

If these observers saw both perils and opportunities in the Centennial’s cosmopolitanism, then perhaps they also were responding to Philadelphia’s demographic and economic shifts, apart from the Exposition. Pennsylvania’s Quaker legacy had long made Philadelphia one of the nation’s most religiously diverse cities. In addition to its strong Quaker presence, “Philadelphia was the seat of the mother diocese of the Episcopal Church, the site of the first Presbytery organized in the United States, home to one of the nation’s oldest Jewish communities, the first place in the colonies where Catholics could worship openly, the cradle of American Methodism, the birthplace of the African Methodist Episcopal Church, and a haven for a number of other religious minorities.” But in 1876, Philadelphia was in the midst of an industrial revolution that would transform the city into a major economic center and would diversify its population even more significantly. Iron, steel, coal, and rail companies fueled Philadelphia’s growth and also made it significantly noisier. Steam engines, factory whistles, and streetcars transformed the city’s soundscape. Philadelphia’s population grew exponentially as domestic migrants and foreign immigrants poured into the city. An 1850 population of 121,376 expanded to 565,529 by 1860, making Philadelphia the second largest city in the United States, ranking behind only New York. By 1876, the population had grown to over 817,000. Many of the newcomers emigrated from Ireland and Germany, and they would be joined by migrants from southern and eastern Europe

⁸*Journal of the Proceedings of the Ninety-Second Convention of the Protestant Episcopal Church, in the Diocese of Pennsylvania* (Philadelphia, 1876), 40; *Journal of the Proceedings of the Ninety-Third Convention of the Protestant Episcopal Church, in the Diocese of Pennsylvania* (Philadelphia, 1877), 14.

over the next several decades. Philadelphia's increasing ethnic heterogeneity contributed to its religious variety. An 1876 report boasted 575 churches, or "religious societies with 'distinct places of worship,'" which included 359 Protestant Episcopal, Methodist Episcopal, Baptist, or Presbyterian churches, forty-three Roman Catholic churches, fourteen Quaker meetinghouses, and nine Jewish synagogues. By the turn of the century, Philadelphians remained mostly of English, Irish, or German descent, but Catholics constituted the largest religious group in the city.⁹

As in other nineteenth century American cities, Philadelphia grew heterogeneous yet fragmented, a "divided metropolis." Immigration fueled ethnic and religious tensions, and industrialization sharpened social divisions and class distinctions. Class differences, in particular, separated Philadelphians from each other socially and spatially, as different groups tended to live in different parts of the city. What several scholars have described as a singular, seemingly homogenous upper class emerged, "aloof and apart from the rapidly developing heterogeneity of the rest of American society." Members of this insulated and isolated class tended to emphasize social stability in the face of disorienting change, and they shared Victorian values of conformity, domesticity, and respectability. They lived in discreet neighborhoods, many of them moving westward across the city during the 1840s, 50s, and 60s, to settle around Philadelphia's

⁹Thomas F. Rzeznik, "Spiritual Capital: Religion, Wealth, and Social Status in Industrial Era Philadelphia" (Ph.D. Dissertation, University of Notre Dame, 2006), 15. On religious diversity in Philadelphia, see Roger W. Moss, *Historic Sacred Places of Philadelphia* (Philadelphia: University of Pennsylvania Press, 2005). On noise as one of the costs of the industrial revolution, see Elizabeth M. Geffen, "Industrial Development and Social Crisis: 1841-1854," in *Philadelphia: A 300 Year History*, ed. Russell F. Weigley, 307-62 (New York: W.W. Norton, 1982), 307. On manufacturing and industry in Philadelphia, see Nathaniel Burt and Wallace E. Davies, "The Iron Age: 1876-1905," in *Philadelphia: A 300 Year History*, ed. Russell F. Weigley, 471-523 (New York: W.W. Norton, 1982), 474-87; Rzeznik, "Spiritual Capital," 13-4. Population statistics are from Geffen, "Industrial Development," 309; Russell F. Weigley, "The Border City in Civil War: 1854-65," in *Philadelphia: A 300 Year History*, ed. Russell F. Weigley, 363-416 (New York: W.W. Norton, 1982), 363; Beers, "The Centennial City," 419; Burt and Davies, "The Iron Age," 487-94. The 1876 report on Philadelphia churches is cited in Beers, "The Centennial City," 443.

Rittenhouse Square. There, they lived close together in beautifully designed row houses, and they built important social networks by attending the same schools, clubs, and churches. While these elites may not have been great in numbers, they wielded tremendous social power and dominated Philadelphia's commercial, cultural, and religious institutions, constituting what the sociologist E. Digby Baltzell described as a Protestant Establishment.¹⁰

Philadelphia's social and spatial stratification mapped its religious geography. While upper-class establishments would emerge in other religious communities, as well, the Rittenhouse Square elites gravitated predominantly toward the Protestant Episcopal Church, many of them converts from the Society of Friends. By 1860, one study found three times as many Methodist, Lutheran, and Baptist congregations in Philadelphia than Episcopalian. But in the Rittenhouse Square neighborhood, Episcopal churches outnumbered those of the other denominations combined by a margin of seven to three.

¹⁰E. Digby Baltzell, *Philadelphia Gentlemen: The Making of a National Upper Class* (Chicago: Quadrangle Books, 1971), 188. For two important works on the Protestant Establishment, see E. Digby Baltzell, *The Protestant Establishment: Aristocracy and Caste in America* (New York: Random House, 1964); William R. Hutchison, ed. *Between the Times: The Travail of the Protestant Establishment in America, 1900-1960* (New York: Cambridge University Press, 1989). For classic studies of the Philadelphia upper class, see Baltzell, *Philadelphia Gentlemen*; Nathaniel Burt, *The Perennial Philadelphians: The Anatomy of an American Aristocracy* (Philadelphia: University of Pennsylvania Press, 1999). For a more recent study, see Rzeznik, "Spiritual Capital." On Philadelphia as a "divided metropolis," see William W. Cutler and Howard Gillette, eds., *The Divided Metropolis: Social and Spatial Dimensions of Philadelphia, 1800-1975* (Westport, CN: Greenwood Press, 1980). On Victorian values, see Daniel Walker Howe, "Victorian Culture in America," in *Victorian America*, ed. Daniel Walker Howe, 3-28 (Philadelphia: University of Pennsylvania Press, 1976); Burt and Davies, "The Iron Age"; Baltzell, *Philadelphia Gentlemen*, 187-91. On spatial and social differentiation, see Theodore Hershberg, ed., *Philadelphia: Work, Space, Family, and Group Experience in the Nineteenth Century: Essays Toward an Interdisciplinary History of the City* (New York: Oxford University Press, 1981). Sam Bass Warner also describes "mild to pronounced segregation by income and ethnicity" in Philadelphia between 1860-1930 in *The Private City: Philadelphia in Three Periods of its Growth* (Philadelphia: University of Pennsylvania Press, 1987), 169. But it also is important to emphasize that the Rittenhouse Square neighborhood was never as homogenous as its residents imagined it, for most families employed Irish maids and housekeepers, many of whom came from the nearby Irish Catholic "Ramcat" neighborhood. See Dennis Clark, "'Ramcat' and Rittenhouse Square: Related Communities," in *The Divided Metropolis: Social and Spatial Dimensions of Philadelphia, 1800-1975*, ed. William W. Cutler and Howard Gillette, 125-40 (Westport, CN: Greenwood Press, 1980).

As in industrializing cities throughout the northeast, the Protestant Episcopal Church was evolving “into a denomination of the urban establishment.”¹¹

The Episcopal Church did not experience the same kind of rapid institutional growth as other American Protestant denominations during the first half of the nineteenth century. Its association with the Anglican Church garnered distrust in the decades following the Revolutionary War among those who suspected Episcopalians of harboring lingering loyalist sentiments. Episcopalian emphasis on hierarchy and order seemed out of step with the cultural climate of the Second Great Awakening, and the denomination found relatively little success in evangelizing the western frontier. But the “urban frontier” of the second half of the nineteenth-century offered fertile ground, and the Episcopal Church flourished, particularly among members of the upper class who were “accustomed to quiet, order, decorum, and dignity.” While it is important not to attribute its appeal only to its social function, the denomination proved central to consolidating a common upper-class identity. The construction of the National Cathedral in Washington, D.C., in the early twentieth-century came to symbolize how the Episcopal Church had become culturally, if not legally, established as the religion of America’s dominant elite.¹²

¹¹David Hein and Gardiner H. Shattuck, *The Episcopalians* (Westport, CN: Praeger Publishers, 2004), ix. The study of social and religious stratification comes from George E. Thomas, “Architectural Patronage and Social Stratification in Philadelphia between 1840 and 1920,” in *The Divided Metropolis: Social and Spatial Dimensions of Philadelphia, 1800-1975*, ed. William W. Cutler and Howard Gillette, 85-123 (Westport, CN: Greenwood Press, 1980). On the “Quaker-turned-Episcopal gentry,” see Baltzell, *Philadelphia Gentlemen*. Rzeznik argues in “Spiritual Capital” that we should not assume members of the upper-class converted exclusively for social reasons. He suggests we should take seriously their claims of sincere belief.

¹²Theodore Myers Riley, S.T.D., *A Memorial Biography of the Very Reverend Eugene Augustus Hoffman, D.D., Late Dean of the General Theological Seminary* (New York: Privately Printed, 1904), 486. For an account of Episcopal growth, see Hein and Shattuck, *The Episcopalians*. On the conversion of Philadelphia elites to the Episcopal church, also see Baltzell *Philadelphia Gentlemen*; Rzeznik, “Spiritual Capital.” On the symbolic significance of the National Cathedral, see Thomas A. Tweed, “America’s

The Episcopal Church's established status had to be achieved, however, and its construction should not be regarded as inevitable. In addition to overcoming the problems associated with its loyalist past, the denomination confronted serious internal divisions during the mid-nineteenth century. While other Protestant sects would fight about doctrine and Biblical interpretation, Episcopalians divided over matters of worship and devotional style. Evangelical and high church Episcopalians clashed throughout the nineteenth century about the relationship between piety and practice, most prominently during the "Ritualist controversies" of the 1860s and 70s. Several "Anglo-Catholic" congregations introduced ornate ritual forms, including bowing, genuflections, vestments, candles, and incense. Evangelicals dismissed these practices as "Romanish" and sought to have offending congregations censured, while their defenders argued that such practices lent beauty to worship and tapped into a Romantic aesthetic sensibility. These disputes mostly played out at annual General Conventions, but they occasionally ended up in civil court. In 1871, for example, a Philadelphia court issued a preliminary injunction restraining St. Clement's Church's vestrymen from dismissing their rector after he had introduced Anglo-Catholic practices.¹³

Church: Roman Catholicism and Civic Space in the Nation's Capital," in *The Visual Culture of American Religions*, ed. David Morgan and Sally M. Promey, 68-86 (Berkeley: University of California Press, 2001). On Protestant success in the late-nineteenth century city, see Jon Butler, "Protestant Success in the New American City, 1870-1920: The Anxious Secrets of Rev. Walter Laidlaw, Ph.D.," in *New Directions in American Religious History*, ed. Harry S. Stout and D. G. Hart, 296-333 (New York: Oxford University Press, 1997).

¹³On the Ritualist controversy and nineteenth-century intra-Episcopal divisions, see Hein and Shattuck, *The Episcopalians*; Rzeznik, "Spiritual Capital"; Clowes E. Chorley, *Men and Movements in the American Episcopal Church* (New York: Scribner, 1946); John Wesley Twelves, *A History of the Diocese of Pennsylvania of the Protestant Episcopal Church in the U.S.A., 1784-1968* (Philadelphia: Diocese of Pennsylvania, 1969). On the St. Clement's case, see May Lilly, *The Story of St. Clement's Church, Philadelphia, 1864-1964* (Philadelphia: St. Clement's Church, 1964); *St. Clement's Church Case: A Complete Account of the Proceedings in the Court of Common Pleas for the County of Philadelphia; in Equity before the Honorable James R. Ludlow, One of the Judges of Said Court, to Restrain the Vestry of St. Clement's Church from Dismissing the Rector and Assistant Minister without a Trial and against the*

The emerging urban upper-class of the late-nineteenth century was perhaps not as homogenous as it seemed on the surface, therefore, for liturgical and theological differences divided even those members who belonged to the same religious communion. In 1876, when St. Mark's Church first installed bells and rang them to announce America's centennial anniversary, the upper-class Episcopalians of Rittenhouse Square were consolidating class identity and social power in a city transformed by industrialization and immigration. But they also were contesting internal differences related to devotional style, and the disputants in the St. Mark's bells case occupied opposing sides of this divide.

Investing Bells with Meaning and Power

Founded in 1847, St. Mark's was one of the first churches that Episcopalian elites built as they moved into the Rittenhouse Square neighborhood. Designed in the Gothic style by the prominent Philadelphia architect John Notman, its cornerstone was laid in 1848 on Locust Street between Sixteenth and Seventeenth Streets. St. Mark's was "one of the first churches in Philadelphia and the United States erected with the deliberate purpose of bringing Tractarian principles to fruition." Its high church founders were influenced by the Oxford movement, which originated in England in the 1830s and sought to restore Roman Catholic theological and devotional principles to the Anglican Church. The Oxford Tractarians emphasized apostolic succession and the sacramental system, and their teachings sparked the Gothic Revival in mid-nineteenth century American architecture, which took the medieval English parish church as its model. At

Protest of the Congregation of Said Church, Together with an Appendix Containing Statements of Similar Cases in New Jersey, Michigan, Massachusetts, and Maryland (Philadelphia: Bourquin & Welsh, 1871).

St. Mark's, liturgy, architecture, and ornament all reflected the Oxford movement's high church aesthetics.¹⁴

By 1852, builders had completed St. Mark's spire, but the tower remained empty for over twenty years. The Vestry had run out of money and could not afford the intended bells. But when Dr. Eugene A. Hoffman assumed his duties as rector in 1869, he immediately began to solicit contributions for a bells fund. A high church ritualist, Hoffman had installed bells at his previous congregation in Burlington, New Jersey, and desired them for St. Mark's, as well. In October 1875, he placed an order with the prestigious Whitechapel Bell Foundry of London for a set of four bells, half of a complete peal. The bells arrived in Philadelphia the following June and were rung for the first time on Sunday morning, June 25, 1876. According to one newspaper account, the bells had a "peculiarly rich, musical tone" and would "doubtless prove to be the best now in our city."¹⁵

Hoffman offered little justification for installing bells at St. Mark's, as he apparently felt that such a decision required no explanation. According to court documents filed in January 1877, Hoffman regarded bell-ringing as a widespread practice

¹⁴Gilkyson, *St. Mark's*, 9. On the history of St. Mark's Church and of the Oxford Movement, also see Rev. Alfred Mortimer, D.D., *St. Mark's Church, Philadelphia, and its Lady Chapel* (New York: Privately Printed, 1909); Phoebe B. Stanton, *The Gothic Revival and American Church Architecture: An Episode in Taste, 1840-1856* (Baltimore: Johns Hopkins Press, 1968); Chorley, *Men and Movements*; Hein and Shattuck, *The Episcopalians*. For more on the architect Notman, see Thomas, "Architectural Patronage," 90-99. On Anglo-Catholicism in the American Episcopal Church, also see T. J. Jackson Lears, *No Place of Grace: Antimodernism and the Transformation of American Culture, 1880-1920* (Chicago: University of Chicago Press, 1994). Lears treats this trend as an aesthetic pursuit with symbolic value for class identity. E. Digby Baltzell argues that the American embrace of the Oxford Movement at St. Mark's Church (and elsewhere) reflected Anglophilia among members of the upper class, rather than an embrace of Romanish or Catholic tendencies. See *Philadelphia Gentlemen*, 249.

¹⁵"St. Mark's P.E. Church," *Philadelphia Inquirer*, June 24, 1876. On Hoffman's installation of bells at St. Mary's Church in Burlington, New Jersey, see Riley, *Eugene Augustus Hoffman*, 495. Hoffman faced no recorded resistance in Burlington. In "Spiritual Capital," Rzeznik notes that nineteenth century churches frequently constructed buildings first and then worked on their beautification later.

of Christian churches, consistent with “ancient modes of announcing divine worship,” and presumed the church’s right to use its tower for that purpose. He did not imagine that anyone might object. Indeed, European and American soundscapes long have featured prominently the chimes of church bells. For at least one thousand years, Christian churches have used bells to announce services publicly, calling those within earshot to join in communal prayer. Bells have celebrated significant life-cycle events, such as weddings, funerals, and confirmations. In earlier periods, Christians rang bells to ward off evil spirits, and many churches would even baptize their bells, a practice that Protestant sects tended to disavow. Parish bells often were used for civic purposes, as well, such as announcing curfews or alerting neighbors to potential danger. European colonists brought these traditions with them to the New World and used bells to regulate social order and map geographic space. Religious and civic boundaries frequently overlapped. For example, several Virginia and New England towns required residents to live within earshot of the church, for the sounds of its bells defined the limits of safe passage. In all of these ways, church bells marked communal boundaries, regulated the rhythms of daily life, and oriented Christians in relation to each other and to God. In fact, the composer R. Murray Schafer described parishes as “acoustic communities,” constituted by those within auditory range of its church bells, its boundaries mapped aurally rather than visually.¹⁶

¹⁶R. Murray Schafer, *The Soundscape: Our Sonic Environment and the Tuning of the World* (Rochester, VT: Destiny Books, 1993), 215. For Hoffman’s statement, see *Harrison v. St. Mark’s*, 19. On the history of church bells, see Price, *Bells and Man*; Walters, *Church Bells*. On their various uses, see Schafer, *The Soundscape*; Richard Cullen Rath, *How Early America Sounded* (Ithaca: Cornell University Press, 2003); Bruce R. Smith, *The Acoustic World of Early Modern England: Attending to the O-Factor* (Chicago: University of Chicago Press, 1999); Corbin, *Village Bells*; David Cressy, *Bonfires and Bells: National Memory and the Protestant Calendar in Elizabethan and Stuart England* (Berkeley: University of California Press, 1989). In some cases, U. S. courts have continued to define “secular” space in terms of the acoustic range of church bells, demonstrating how religious and legal boundaries continue to overlap.

At the same time, Christian churches only have announced services publicly when safe to do so. In the early church, when Roman authorities suppressed Christian practice, Christians would spread news about meetings by word of mouth. Publicly calling attention to their gatherings surely would have invited persecution. Not until after the Edict of Constantine did Christian communities regularly begin to announce services publicly, but they employed a variety of means, including trumpets, pieces of wood knocked together, and the human voice. While the earliest evidence of church bells appears to date from the sixth century, they spread only gradually from monasteries to cathedrals to large churches to country parishes. One historian argues that “it was not until the end of the tenth century or the beginning of the eleventh that country churches everywhere had bells.” Eastern Christianity never developed a strong bell-ringing tradition because Muslim leaders frequently prohibited bells in areas under their rule. They did not want Christian churches to compete acoustically with the Islamic call to prayer. Similarly, in the centuries following the Reformation, Catholic and Protestant rulers routinely banned the bells of their sectarian rivals. All of this is merely to point out that Dr. Hoffman’s confident assumption that St. Mark’s was incomplete without bells and that ringing them necessarily conformed to ancient custom ignored the ways that bell-ringing practices always have been invested both with meaning and power. Only certain groups have been able to announce their services publicly, or to make noise

For example, a 1934 Texas court questioned the validity of common-law marriages that were “claimed to have been contracted in the shadow of the county clerk’s office and within the sound of church bells.” *McChesney v. Johnson*, 79 S.W.2d 658, 659 (Tex. Civ. App. 1934).

without censure, and regulating bell-ringing frequently has offered an effective means for muting dissent.¹⁷

Hoffman did not imagine that anyone might object to St. Mark's ringing its bells. Citing history and tradition, he presumed the church's right to announce its services publicly. In other words, Hoffman regarded church bells as "Sacred Noise." In his study of the modern sonic environment, R. Murray Schafer coined the term "Sacred Noise" to describe sounds of power that were exempt from social proscription. "To have the Sacred Noise," Schafer wrote, "is not merely to make the biggest noise; rather it is a matter of having the authority to make it without censure. Wherever Noise is granted immunity from human intervention, there will be found a seat of power." Indeed, Hoffman assumed the church's right to make noise without censure. Surely no one would contest the right of Protestant churches to ring bells. Yet Hoffman did not recognize how bell-ringing always had been invested with power as well as meaning. As the historical record suggests, church bells have been uncontroversial only when their sound has reached a willing audience of like-minded believers or when the church's power over its surrounding area has been secure, its authority unquestioned. But in heterogeneous settings, or situations where the church's authority was in doubt, bells have been resisted, for their sound can both attract and repel, call people together and push them apart. Much to Hoffman's surprise, such proved to be the case in his own neighborhood, even though it was inhabited mostly by members of the same religious

¹⁷Price, *Bells and Man*, 78-106 (quote on 91). For examples of Catholic and Protestant leaders prohibiting rival confessions from ringing bells in the centuries following the Reformation, see Benjamin J. Kaplan, *Divided by Faith: Religious Conflict and the Practice of Toleration in Early Modern Europe* (Cambridge, MA: Harvard University Press, 2007), 210-11. Visual appearance also has been associated with power, of course. For example, in her memoir of growing up in Victorian Philadelphia, Elizabeth Pennell describes how the fashionable churches (which included St. Mark's) competed to be seen, while her Catholic church was concealed from view in a back alley. *Our Philadelphia*, 188.

denomination. When nearby residents complained about St. Mark's bells, Hoffman discovered that he could no longer take for granted their status as background noise.¹⁸

When St. Mark's was built in 1848, there were few other buildings on its block. By 1876, however, upper-class Philadelphians had moved to the area in great numbers and had surrounded St. Mark's with their elegant row houses, many of whose top stories reached nearly as high as St. Mark's tower (and many of them also designed by architect John Notman). St. Mark's had become one of Philadelphia's most fashionable churches and drew most of its members from the Rittenhouse Square set, yet few of them lived directly next to the church. Instead, most of St. Mark's closest neighbors were low-church or broad-church Episcopalians who attended other nearby churches. They claimed to appreciate St. Mark's visual appearance and agreed that it enhanced the neighborhood's property values. But they preferred St. Mark's to remain seen and not heard. They did not want the peace and quiet of their neighborhood disrupted. They did not find the newly installed bells to be rich in tone, but discordant, and so they complained to the church's authorities. Soon after St. Mark's began tolling its bells in June 1876, its vestrymen discovered that their power was not as unfettered as they presumed. Their bells were not merely background noise.¹⁹

¹⁸Schafer, *Soundscape*, 76. For examples of disputes about church bells in early modern England, see Cockayne, *Hubbub*, 113-114. For examples of disputes about church bells in nineteenth-century France, see Corbin, *Village Bells*. For a provocative account of the relationship between sound and power, see Jacques Attali, *Noise: The Political Economy of Music*, trans. Brian Massumi (Minneapolis: University of Minnesota Press, 1985).

¹⁹*Harrison v. St. Mark's*, 2-3, 10-11; Gilkyson, *St. Mark's*, 28-35. Nicholas Biddle Wainwright describes St. Mark's neighbors as "low church" in "The Bells of St. Mark's: An Address Delivered to the Athanaeum of Philadelphia," 1958, Historical Society of Pennsylvania. George E. Thomas describes the homes designed by Notman as "within earshot of the chimes of one or more of St. Mark's, St. Clement's, or Holy Trinity." See "Architectural Patronage," 93.

A Public Nuisance?

St. Mark's neighbors complained about the bells before they even arrived in Philadelphia. On January 4, 1876, twenty Locust Street residents, most of whom were Episcopalians, signed a letter to the church's rector, wardens, and vestry in which they expressed their "profound regret" to learn of the decision to "erect a chime of bells." The neighbors asserted that they had been drawn to the area precisely on account of its quietness and its "exemption from the ordinary noises even of all the leading streets" of Philadelphia. While they briefly noted that bell-ringing might impact their property values negatively, they emphasized more strongly the threat that bell-ringing posed to their physical well-being. "The health of many of the residents..." they declared, "requires that their nervous systems should not be shocked by the sharp, sudden and loud noises inevitably issuing from a chime of bells when rung." They hoped that the vestrymen might change their mind. But the church's leaders proved unsympathetic. In a brief correspondence dated January 7, the vestry expressed "regret that owners of property in the neighborhood should consider themselves aggrieved," but they insisted that St. Mark's tower always had been intended to hold bells, that the bells already had been ordered, and that they were "confident that the annoyance will not be so serious as seems to be anticipated."²⁰

On June 26, the day after St. Mark's rang its bells for the first time, the vestry received another letter. MacGregor J. Mitcheson, a neighbor and an attorney, wrote to complain about the early morning bell. St. Mark's held four Sunday services, the earliest of which began at seven o'clock. Bells rang to announce each service, so they began as

²⁰*Harrison v. St. Mark's*, 32-5.

early as six-thirty in the morning. “Upon Sunday last,” Mitcheson wrote, this early bell “startled some persons from sound sleep, bringing on violent headache, utterly preventing religious observance of the day by *them* at least.” Bell-ringing actually disrupted proper observance of the Sabbath, Mitcheson alleged. Noise impeded worship, rather than aided it. But Mitcheson received no response from the church, nor should he probably have expected one. Most of Philadelphia’s upper-class elites traveled to the country during the summer months in order to escape the city’s brutal heat. Few of them remained to hear the bells—or to respond to complaints about them.²¹

By November 1876, St. Mark’s neighbors had returned to town, and they took up the issue with renewed vigor. On November 4, Dr. S. Weir Mitchell sent Dr. Hoffman a letter on behalf of his patients. Mitchell lived two blocks from St. Mark’s and was one of Philadelphia’s most prominent physicians. He had built the first clinic in the nation for nervous diseases and had invented the “rest-cure” for treating patients diagnosed with neurasthenia. “Some of my unlucky nervous patients are driven wild by the early bells of St. Mark’s,” Mitchell wrote, “Pray help us to get rid of this annoyance.” Dr. Hoffman responded sympathetically and agreed to discontinue the early morning bell temporarily. But he concluded his note by wishing “that our neighbors, under your skillful care, may soon recover.” His words angered the aggrieved neighbors even more, who assumed that Hoffman sought their speedy recovery only so that he could resume afflicting them with Sunday morning bells.²²

²¹*Harrison v. St. Mark’s*, 36. According to Alain Corbin, French city dwellers increasingly complained about early morning bells during the 1860s. Corbin argues that the determination “to lay claim to one’s morning’s sleep” signaled the de-standardization of daily rhythms. A bell-ringing schedule inspired by monastic life proved less appropriate for the changed conditions of French urban life. *Village Bells*, 302.

²²*Harrison v. St. Mark’s*, 36-7. For more on S. Weir Mitchell, see “Autobiography of Dr. S. Weir Mitchell,” 1943, Diaries and Letterbooks, [1658] -1939, n.d., MS Collection 1995, Historical Society of

Unappeased by, or perhaps unaware of, the Rector's prompt response to Dr. Mitchell, forty eight neighbors submitted a petition to St. Mark's vestry on November 6, requesting the suspension of the early morning bell and "a reduction of the time given to bell-ringing at the other services." Again, the neighbors emphasized the chimes' health risks. While they acknowledged that they might have to put up with those sounds associated with "necessary...secular works," they questioned the need for religious noise. Churches had sounded bells in American cities for a long time, they admitted, but did such auditory announcements truly remain necessary? St. Mark's neighbors proposed a right to quiet.²³

The vestry convened a special meeting on November 6 to consider the neighbors' petition and swiftly drafted a response. "*Resolved*," the vestry members declared, "That while the vestry entirely denies the right of the residents in the vicinity to regulate in any way the manner or the time of ringing the bells of St. Mark's Church, they feel confident that the corporation, through the rector of the parish, will always be ready, as the rector has already been, to hear and consider any special appeal that may be made for stopping the ringing of the bells in any specified case of illness." In the neighbors' complaints, St. Mark's vestrymen appear to have heard a challenge to their public power. They would consider any specific appeals of distress and would suspend the early morning bell temporarily in cases of illness. But they denied their neighbors any authority to regulate the bell-ringing generally. They asserted a right to make noise without censure.²⁴

Pennsylvania, Philadelphia; Tom Lutz, *American Nervousness, 1903: An Anecdotal History* (Ithaca: Cornell University Press, 1991).

²³*Harrison v. St. Mark's*, 38-42.

²⁴*Harrison v. St. Mark's*, 42; Minutes of the Vestry of St. Mark's Church, Vol. 3, 1876-1885, 6 November 1876, St. Mark's Church, Philadelphia (hereafter cited as Minutes, St. Mark's Church).

For their part, the complainants insisted that they had not intended to challenge the church's authority, but that they had presented "a respectful appeal to the vestry of the church to exercise their own authority in the premises." Frustrated by the church's response, the neighbors took their case to the public. They leaked the correspondences to the press, and Philadelphia's newspapers quickly weighed in on the dispute. Many journalists seemed amused by the spectacle of fashionable Philadelphians fighting each other over bell-ringing, and they rushed to poke fun at the contestants. "Grim-visaged war has invaded the peaceful precincts of Rittenhouse Square," the *Philadelphia Times* announced, "There is noise and turbulence where stillness reigned, and the calm surface of the best society is ruffled by a storm...the trouble here is that the clergy of St. Mark's are among those absurd people who think that a church is to be used." Striking a similar tone, the *Sunday Dispatch* informed its readers that "a curious tintinnabulatory difficulty has arisen in the most fashionable part of this city. Even in this Centennial year, during which an entire population has been going crazy over an old bell—and a cracked bell at that—there are to be found people with so little music in their souls that they cannot appreciate the sounds which the poet has sweetly denominated the 'music of the chimes.'"²⁵

²⁵*Harrison v. St. Mark's*, 43; "Society Bells," *Philadelphia Times*, November 20, 1876; "Silence that Dreadful Bell," *Philadelphia Sunday Dispatch*, November 19, 1876. The *Philadelphia Evening Bulletin* criticized the neighbors for leaking the conflict to the press. "The subject of the church-bell evil," its editors wrote, "frequently discussed before, is again brought before the public by the bad taste and breach of trust of an individual who has given to the press of the city a correspondence between a number of citizens residing in the vicinity of St. Mark's Episcopal Church, in this city, and the vestry of that church. The correspondence was printed and furnished to those uniting in it with the express understanding that it was only for private information; but the gentlemen interested in the matter were so unfortunate as to associate with themselves a person who has proved unworthy of their confidence, and a matter intended to be conducted privately has thus been made the subject of public comment." Of course, this "breach of trust" did not inhibit the newspaper editors from entering fully into the public debate. See "The Church Bell Question," *Philadelphia Evening Bulletin*, November 20, 1876.

But most Philadelphia newspapers proved sympathetic to the neighbors. According to the *North American*, the church's leaders resembled "children with new toys." Bells were unnecessary in modern cities, the *Public Ledger* insisted, for who needed to be told when to go to church? "The hours for church service are more universally known than the times fixed for any other purpose and should not require any such warning, in cities at least." Several newspapers emphasized the distinction between rural and urban settings. "In a rural district," wrote the editors of the *Evening Bulletin*, "with a scattered population and usually without any common public standard of time, the church bell is a convenience, if not an absolute necessity; but in the densely populated neighborhoods of large cities, there is no pretext that can be urged with any show of plausibility that justifies the invasion of personal right and domestic comfort by the clang of church bells." The *Philadelphia Press* also emphasized that urban density altered the sound of church bells: "While the remote echoes of the 'church-going bell' may be delightfully romantic among the hills, their resonant pealing at your very door on all occasions speedily dispels every sentiment of beauty." The conditions of modern urban life had transformed the meaning and purpose of this religious ritual, these observers suggested. Bell-ringing had no place in the industrialized city.²⁶

These critics reserved particular scorn for the vestrymen's arrogance. Not only did the church's response to the complainants "lack something of Christian grace," according to the *Philadelphia Inquirer*, but it also undermined the church's moral

²⁶"The Question of Church Bells," *North American*, November 20, 1876; "The Church Bell Correspondence," *Philadelphia Public Ledger*, November 21, 1876; "The Church Bell Question," *Philadelphia Evening Bulletin*, November 20, 1876; "Editorial," *Philadelphia Press*, November 24, 1876. Alain Corbin describes French complaints about bells as "a venerable *urban tradition*," but suggests that such complaints were uncommon in rural villages (*Village Bells*, 299). According to Robert Orsi, many nineteenth century Americans assumed that "the contrast between city and country was morally significant" (*Gods of the City*, 19).

authority. St. Mark's leaders "might perhaps profitably remember," wrote the *Evening Bulletin*, "that a Christian church does not exactly fulfill its functions if it irritates the nerves of a sick man to such an extent as to fill him with a longing desire to punch the heads of the vestrymen." Fighting for its right to make noise might distract the church from its true purpose. The *Philadelphia Inquirer* explicitly articulated the competing conceptions of religion at stake: "We have only further to add that if religion consists in the ringing of bells then the Vestry was right in replying as [it did]; but, if religion consists in gentleness, in courtesy, in respect for the feelings of others, in a gracious following of the spirit of these lessons of charity taught by the Saviour of Men, then the reply of the Vestry was about as wrong as it could well be." True religion consisted not in the aural domination of public space, but in living a life of charity modeled on the example of Christ, especially in an urban context where residents lived so closely together. Fighting for the right to make noise only would distract the church from its true spiritual mission, these critics implied. Properly conceived, religion had no need for noise.²⁷

Finally, some newspapers criticized the hypocrisy of churches that expected their peace preserved, but would not respect the peace of others. For several decades, Philadelphians had been debating Sunday closing laws, which were thought to protect the sanctity of Sabbath worship. Courts had prohibited the use of streetcars on Sundays, and many religious leaders wanted the Centennial Exposition closed on that day, as well. But critics maintained that churches should not claim a privileged position. If they wanted their neighbors to keep quiet, then they should relinquish their own right to make noise,

²⁷"The Situation This Morning," *Philadelphia Inquirer*, November 20, 1876; "Editorial," *Philadelphia Evening Bulletin*, January 4, 1877; "The Bells," *Philadelphia Inquirer*, November 21, 1876.

too. “Vestries and trustees of churches do not hesitate to appeal to the law whenever anybody interferes with their supposed rights or ceremonies,” the *Sunday Dispatch* pointed out, “but they generally do not take into account the noise and annoyance which some people find in the continual clanging of church-bells, or the roaring of the Bosnerges in the pulpits, or the heavy thunders of a blatant chorus, or the screaming and shouting of Methodist meetings.” This writer situated bell-ringing within a broader sonic world of religious devotion, within a history of religion practiced out loud. He recognized that religion was not just something to be protected from noise, but also something that produced public sounds of its own. Yet he denigrated these sounds as noise and criticized churches for infringing on the rights of others. Noise marked the limit of free worship, he suggested.²⁸

The complaints about St. Mark’s bells had dislodged them from their status as background noise. Dr. Hoffman had not anticipated any objections, for he regarded

²⁸“Silence that Dreadful Bell,” *Philadelphia Sunday Dispatch*, November 19, 1876. One of St. Mark’s founders even had ensured that the church’s building should be constructed without undue noise, so that construction workers might engage in their task with proper reverence. “Let it not be profaned by lightness of speech,” Henry Reed had ordered, “much less by unseemly noise, or words of quarreling and anger. Remember in what holy quietness Solomon’s holy temple was built” (Gilkyson, *St. Mark’s*, 10). On Sunday closing law debates and the injunction against streetcars, see Weigley “The Border City in Civil War,” 381. For articles on the Centennial Exposition Sunday closing debates, see “A Plea for the Proper and Christian Observance of the Lord’s Day,” *Philadelphia Public Ledger*, June 3, 1876; “Is It Wise?” *Philadelphia Public Ledger*, June 10, 1876; “Opening the Exhibition on Sunday,” *Philadelphia Public Ledger*, June 24, 1876. Many critics of Philadelphia’s Sunday laws argued that they were intended explicitly to target immigrant Catholic religious practices and to privilege Protestantism. For example, see “General Hawley and the Sunday Question,” *Philadelphia Catholic Standard*, July 1, 1876. One of St. Mark’s neighbors had particular cause for resenting Philadelphia churches’ presumptions of privilege. On Sunday mornings, Philadelphia churches frequently would block off surrounding streets in order to prevent the noise of traffic from disrupting Sabbath services. On one such morning, George L. Harrison, founder of a successful sugar refining company and father of a future provost of the University of Pennsylvania, had driven downtown to obtain the services of a physician for family members. On attempting to return home, Harrison found street after street closed, “and much precious time was consequently lost.” Harrison, though an Episcopalian himself, subsequently persuaded the Pennsylvania Senate to revoke an Act of Assembly that had sanctioned the street closings. When Harrison went on to lead the fight against St. Mark’s bells, it was not the first time that he had sought to deprive churches of special privileges. See Mary Harrison, *Annals of the Ancestry of Charles Custis Harrison and Ellen Waln Harrison* (Philadelphia: Printed for private circulation by J.B. Lippincott Co., 1932), 22.

church bells as normal features of the American soundscape. But the growing dispute had made chimes the subject of public scrutiny and public debate. Their place in the industrialized city had become an open question. In the neighbors' complaints, the church's leaders seemed to have heard a challenge to their public power and authority. And these concerns only intensified when the neighbors took their case to court, asking a civil body to intervene in the escalating dispute.

Defining Church Bells as Noise

On January 5, 1877, seventeen of St. Mark's neighbors filed a bill in Philadelphia's Court of Common Pleas, No. 2. They sought an injunction that would restrain the church from ringing its bells, or, at the very least, would restrict when and for how long they could be rung. Both sides spent the next month canvassing the city to collect evidence that would bolster their cases. By February, they had presented the court with over three hundred affidavits, which offered hundreds of pages of testimony from neighbors, physicians, acousticians, real estate experts, clergy members, bell-ringers, architects, Sunday school teachers, theology professors, and city surveyors. Experts on both sides disputed the injurious effects of noise on health and property values, and they impugned each other's credibility, with one witness dismissed both as "deaf" and as a "Presbyterian." The parties commissioned competing maps of the neighborhood, which disagreed on fundamental points, such as the respective heights of St. Mark's tower and the roofs of the surrounding homes and their proximity to each other. A carpenter constructed an equally contested three-dimensional model of the church. The ongoing dispute also continued to attract public attention. Newspapers covered the proceedings.

Retail businesses tried to take advantage, as in one newspaper advertisement that announced, “If the Chimes of St. Mark’s Church Give you the Headache, Palpitation of the Heart or any Nervous Affection, use Montgomery’s Nervine. For sale at 131 North Ninth Street and all druggists.” And amused spectators even printed and circulated a set of satiric briefs for a fictionalized case, *M. Anthony Turveydrop v. Augustus Hyphen-Smith*, which involved excessively loud piano playing in the “genteel” neighborhood of “Humdrum Row.”²⁹

In February 1877, Judges Hare and Mitchell heard the case of *Harrison v. St. Mark’s*. Spectators packed the courtroom on four successive Saturday afternoons to listen to the oral arguments. The attorneys did not disappoint, offering biting sarcasm, hyperbolic rhetoric, and literary references that ranged from Shakespeare (“Macbeth doth murder sleep”) to Cowper (“how soft the music of those village bells”) to Longfellow (“And I thought how like these chimes/Are the poet’s airy rhymes”). Two of Philadelphia’s most eminent attorneys represented the disputants: William Henry Rawle for the complainants and George Washington Biddle for the church. The two were close friends outside the courtroom but frequently faced off as adversaries inside it. Rawle descended from a long line of distinguished Philadelphia lawyers. A man of delicate appearance, he wore thin glasses, sported long, dangling sideburns, and was renowned for his breadth of legal knowledge and rhetorical dexterity. Classically trained, Biddle was “the acknowledged leader of the Philadelphia Bar,” but had ruined his political ambitions

²⁹One of the attorneys for the complainants gathered the affidavits together in a single volume that also includes the lawyers’ arguments. For the Complainants’ Bill, see *Harrison v. St. Mark’s*, 1-8. For the newspaper advertisement, see *Philadelphia Public Ledger*, January 5, 1877. For the satiric brief, see “Turveydrop v. Hyphen-Smith,” Legal Documents in Connection with Bell Ringing, *Harrison v. St. Mark’s Church*, Historical Society of Pennsylvania, Philadelphia. Nicholas B. Wainwright also refers to this fake brief in “The Bells of St. Mark’s.”

by siding with the Democrats during the Civil War. Within a year of the St. Mark's dispute, Biddle would defend the unpopular Mormon polygamist George Reynolds in *Reynolds v. United States*, a Supreme Court case that again would test the limits of free religious practice.³⁰

The legal principles in the St. Mark's case were relatively straightforward. Few nineteenth-century American cities had ordinances that specifically targeted noise, so the neighbors pursued their case under the more general law of nuisances. One legal authority at the time defined nuisances as including “that class of wrongs that arise from the unreasonable, unwarrantable or unlawful use by a person of his own property, real or personal, or from his own improper, indecent, or unlawful personal conduct, working an obstruction of or an injury to a right of another or of the public, and producing such material annoyance, inconvenience, discomfort or hurt, that the law will presume a consequent damage,” or, to put it more simply (yet perhaps no less ambiguously), as “whatever unlawfully annoys or does damage to another.” While there were a few precedents for considering church bells a nuisance, some observers seemed uncomfortable about asking a civic body to intervene in religious matters in this way. As the *Sunday Dispatch* noted, “It will be something queer for an American court to regulate the ringing of church bells, and to declare at what time it is proper to summon sinners to matins or vespers. We will venture to say that nothing of the kind was ever before asked

³⁰*Reynolds v. United States*, 98 U.S. 145 (1879). For more on the lives and careers of Rawle and Biddle, see Wainwright, “The Bells of St. Mark’s”; “In Memoriam: George W. Biddle,” Proceedings of the Bar of Philadelphia, 1897, Historical Society of Pennsylvania, Philadelphia; *Report of Proceedings at the Meeting of the Philadelphia Bar Held April 27, 1889 Upon the Occasion of the Death of William Henry Rawle, LL.D.* (Philadelphia: J.M. Power Wallace, Office of the Legal Intelligencer, 1889). On Biddle’s involvement in the *Reynolds* case, see Sarah Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2002), 119-42. Biddle’s arguments in *Reynolds* focused especially on federalist principles, rather than on religious freedom.

of a court of justice in this country...The idea that there is no connection between Church and State cannot prevail in the minds of these petitioners.”³¹

Asking U.S. courts to intervene in religious matters was not as unprecedented as these newspaper editors presumed. In fact, Americans called on courts to resolve intra-church property disputes throughout the nineteenth century, which frequently required judges to adjudicate between competing interpretations of church doctrine and authority. In 1871, a Presbyterian dispute had even reached the U.S. Supreme Court. And that same year, Philadelphia’s Court of Common Pleas had intervened in a clash between the rector and vestry of St. Clement’s Church. While these cases differed in many ways from the St. Mark’s dispute, they raised similar questions about the relationship between religion and state in a society with no established church. Yet none of the cases, with the exception of *Reynolds*, were settled with reference to the First Amendment of the U.S. Constitution, which was not applied against the states until the 1940s. Each of these cases centered on property rights. The St. Mark’s contestants asked the court to mediate between the church’s right to use its property in manners consistent with its institutional purpose and the rights of the neighbors not to be disturbed in their enjoyment of their own property. The extent to which it made a difference that St. Mark’s claimed to be using the bells to fulfill a *religious* purpose was itself a matter of contention.³²

³¹On the legal definitions of nuisance, see George Tucker Bispham, *Notes of Prof. Bispham’s Lectures on Practice and Pleading at Law* (Philadelphia: Privately Printed, 1889), 11-14; also see William H. Lloyd, “Noise as a Nuisance,” *University of Pennsylvania Law Review and American Law Register* 82, no. 6 (1934): 567-82.

³²For examples of cases, see *Watson v. Jones*, 80 U.S. 679 (1871); *St. Clement’s Church Case*. For an insightful discussion of nineteenth century church property disputes, see Mark DeWolfe Howe, *The Garden and the Wilderness: Religion and Government in American Constitutional History* (Chicago: University of Chicago Press, 1965), 32-90. In chapter 3, I discuss the Supreme Court’s doctrine of incorporation, according to which it applied the First Amendment’s protections against the states.

In their bill, the complainants emphasized their opposition to noise, not religion. They appreciated St. Mark's visual appearance, acknowledging that "the beauty of [St. Mark's] architecture and the care with which its grounds were kept were justly considered to render the neighborhood more attractive." But they objected to the sound of the bells, which they described as "harsh, loud, high, sharp, clanging, discordant, and...a nuisance which is intolerable." In great detail, the complainants documented the myriad ways that the daily peal disturbed the neighborhood, ranging from disrupting conversations to interrupting sleep to harming physically those with "delicately organized...nervous systems." "The vibration [of the bells] is most disagreeable," George Harrison wrote in his affidavit, "resembling at all times the effect of a continuous electrical current throughout the system, or the whirr of a circular-saw-mill." A mother complained, "My baby starts up out of his sleep at the sound of the bells, and it is impossible to put him to sleep again." While the neighbors mostly focused their complaints only on St. Mark's bells, over twenty physicians submitted affidavits attesting to bells' injurious health effects in general. For example, Dr. Samuel Gross, professor of surgery at Philadelphia's Jefferson Medical Hospital, suggested that many sounds might disrupt a neighbor's slumber, including "the sound of the street organ, the harsh and discordant clatter of the parrot, the barking of a dog...the sound of my neighbor's piano...even the chirping of sparrows at the early dawn of a summer's morning." But Dr. Gross regarded "none of these as at all comparable to the nuisance caused by the ringing of church-bells, if long continued and frequently repeated." Church bells constituted a distinct threat to public health, he maintained.³³

³³*Harrison v. St. Mark's*, 2-3, 49, 73, 113. For the physicians' affidavits, see *Harrison v. St. Mark's*, 97-124.

In these statements, the complainants defined noise primarily in terms of volume. They denied that the source or purpose of the disputed sounds made any difference, emphasizing instead the physiological risks associated with exposure to loud sounds. In fact, they went out of their way to express their “attachment” to the church’s “form of worship and to the members of its vestry, their regard for the rector, and above all, their respect for the institution of divine worship.” Many of the complainants also were Episcopalians, though few of them attended St. Mark’s, and they denied any animus toward the church or its forms of worship. But when the sounds of the bells had spilled outside the walls of the church, onto city streets and into private homes, they had disturbed the public peace and had come to constitute a distinct nuisance. They had become noise.³⁴

Not surprisingly, the defendants heard the sound of the bells differently. They described the chimes as “musical, mellow, soft, well-pitched, sweet and harmonious.” At the very least, they contended, the bells constituted no more of a nuisance than any other features of the urban soundscape. Philadelphia’s other churches, “schools, factories, workshops and other buildings” all rang bells, and “the chiming of St. Mark’s bells is far less calculated to disturb, annoy, distress or injure the complainants or any others than the noises of cars, wagons, steam-whistles, many other church-bells and other sounds to which said residents are and have for a long time been subject to, and of which they never have complained.” Cities were loud, the defense asserted, and there was no qualitative

³⁴*Harrison v. St. Mark’s*, 5.

difference between the chimes of St. Mark's and the other sounds of modern urban life. City residents were hardly entitled to absolute peace and quiet.³⁵

If the complainants conceptualized noise in terms of volume, then the church leaders interpreted noise complaints differently. As I discussed in chapter 1, noise has most frequently been defined as “unwanted sounds,” and the defendants seem to have had this meaning in mind. They denied that the bells constituted a distinct or unusual nuisance. In fact, they implied that this case had little to do with noise at all. Instead, they argued that their opponents were motivated by specific animus toward St. Mark's high church ritualism, maintaining that “the kind of church the bells are on sometimes has more influence upon the likes or dislikes of some neighbors than either the height or the weight of the bells which are rung.” Noise complaints targeted particular producers of sound, the defense alleged, not the quality of the sounds themselves. They reframed the case as about religion, not noise, as an intra-denominational dispute about particular ritual forms.³⁶

If the St. Mark's disputants advanced competing conceptions of noise, then they also situated religion differently within broader cultural discourses about noise. As I outlined in chapter 1, noise has borne a complicated, ambivalent set of cultural meanings. On the one hand, loud sounds evaluated positively have been associated with civilization, power, and material prosperity. On the other hand, when evaluated negatively or as unwanted, loud sounds have been associated with disorder, inefficiency, and barbarism.

³⁵*Harrison v. St. Mark's*, 14, 19.

³⁶*Harrison v. St. Mark's*, 323. To bolster their argument that this case was motivated solely by animus against the church, St. Mark's leaders repeatedly implied that George L. Harrison had instigated the case on his own. Several of the complainants went out of their way to deny this charge. See *Harrison v. St. Mark's*, 273, 277-80. As discussed above (see note 27), Harrison previously had sought to revoke other church privileges.

Debates about urban noise historically have focused on which sounds were deemed *necessary* for urban life, which sounds were conducive to social order and which threatened to overturn it. For example, historian Emily Thompson has argued that “most nineteenth-century Americans celebrated the hum of industry as an unambivalent symbol of material progress.” Noise nuisance lawsuits rarely succeeded, therefore, “as it was only necessary ‘for lawyers in such cases to establish as a defense against a plaintiff that the noise was a part of the very necessary industrial processes and that the industry was a very necessary part of the community and therefore the noise had to be tolerated as a necessary evil.’” But if nineteenth-century Americans celebrated industrial sounds as signals of progress and prosperity, as necessary hazards of modern urban life, then they seem to have valued religious sounds more ambivalently. Were religious sounds similarly necessary for the vitality of American cities, or were they uncivilized, unnecessary, and unwanted? The St. Mark’s dispute offers a useful case study for considering how religion fit into these broader cultural discourses about noise.³⁷

Religion, Noise, and Necessity

Debates about urban noise focused on defining which sounds were necessary for urban life. As I turn now to consider a range of arguments advanced in the St. Mark’s case, I attend to how disputants contested whether and for whom religious sounds might be deemed *necessary*. In particular, what would it mean to describe church bells as

³⁷Emily Thompson, *The Soundscape of Modernity: Architectural Acoustics and the Culture of Listening in America, 1900-1933* (Cambridge, MA: MIT Press, 2002), 120, quoting “The Elimination of Harmful Noise,” *National Safety News* 15 (April 1927), 58. Also see Raymond W. Smilor, “Personal Boundaries in the Urban Environment: The Legal Attack on Noise, 1865-1930,” *Environmental Review* 3, no. 3 (Spring 1979): 24-36; Karin Bijsterveld, “The Diabolical Symphony of the Mechanical Age: Technology and Symbolism of Sound in European and North American Noise Abatement Campaigns, 1900-40,” *Social Studies of Science* 31, no. 1 (February 2001): 37-70.

necessary? As I proceed, I listen especially to how contestants debated whether modern religion needed noise, whether religious sounds were as necessary for urban life as industrial sounds, and whether the enjoyment of noise might be linked to differing class sensibilities. Through these differences, I suggest, disputants advanced competing conceptions of the nature of religion, of its relationship to modern industry, and of its place in American cities.

First, the disputants contested whether modern religion required auditory expression. The church leaders justified their practice by citing history and custom and by appealing to the authority of their denominational institutions. Bell-ringing was a long standing-religious tradition, they maintained, that was in "reasonable, decent and proper compliance with the ancient modes of announcing divine worship, practiced by churches of the communion to which the defendants belong, and practiced in this city for more than one hundred years." Dr. Hoffman solicited affidavits from rectors of several other high church congregations—from Philadelphia, but also from New York, Massachusetts, Connecticut, and New Jersey—who attested to the widespread use of bells by Episcopalian churches. But it was not only these churches that rang bells. St. Mark's practices were "in accordance with the customs of churches of all denominations whatsoever in which bells are used throughout the civilized world." Church bells were customary features of the American soundscape, Hoffman asserted. When St. Mark's neighbors moved into their homes, they should have assumed that the church would install bells in its tower, for such a use was consistent with its institutional purpose. In fact, what could seem more normal than a Christian church ringing its bells to announce

services and to call congregants to worship? Surely bell-ringing could not constitute a nuisance. Surely St. Mark's had a right to make noise without censure.³⁸

The complainants disagreed, of course, and maintained that, despite what may have been true in the past, church bells no longer were a necessary part of Christian worship. And they cited denominational authorities of their own. In one lengthy affidavit, for example, a Professor of Systematic Philosophy at Philadelphia's Episcopal Divinity School, Reverend Daniel R. Goodwin, asserted that bell-ringing had become "comparatively useless" and perhaps even a modern "inconvenience." Goodwin described bells not as normatively prescribed, but as reflecting "mere sentiment," and he insisted that "the gratification of no man's mere sentiment...should be allowed to weigh for one moment against great practical inconvenience to others." If chimes infringed on the rights of others, if they disturbed public peace and order, then they should be silenced, not specially protected. Several of St. Mark's neighbors described in affidavits how the clamor of the bells had invaded the sanctity of their homes and had in fact disrupted their enjoyment of the Sabbath. The bells were not conducive to religious observance, they maintained, but impeded it. They were unnecessary and undesirable. But above all, the complainants insisted that technological advancements had rendered church bells useless as a practical matter. Clocks and watches could announce service times just as effectively, and it could not be "truthfully averred that noises of this kind are needed by the usages or rules of that body of Christians to which the defendants belong."³⁹

³⁸*Harrison v. St. Mark's*, 19.

³⁹*Harrison v. St. Mark's*, 4, 241-3. Corbin argues that in France, the last quarter of the nineteenth century saw "a steady decline in the pragmatic functions of bell ringing" and a corresponding increase in its "symbolic properties and powers of evocation" (*Village Bells*, 215-6). This shift from pragmatic to symbolic value seems reflected in the St. Mark's case, as well—at least in the statements of the complainants.

In his oral arguments, the attorney for the complainants, William Henry Rawle, dismissed the need for church bells even more stridently. Rawle mocked St. Mark's high church ritualism, but suggested that even those practices were more useful than bell-ringing. "I am even tolerant as to many things which some good people look upon as *anathema maranatha*," he declared, and then listed such high church embellishments as "processions, and bowings, and candles, and incense, and vestments, and the like, which seem more appropriate on the stage than in the sanctuary." He put up with such practices because he thought it "better to worship God with a little nonsense, than to have more wisdom and not worship at all." But, he concluded, "this bell-ringing is no part of divine service." Modern religion had no need for such auditory announcements. Noise constituted the limit of what neighbors should have to tolerate.⁴⁰

The parties to the St. Mark's case thus engaged in a dispute about "proper" Episcopalian practice. What were the demands of the religious communion to which most of them belonged, and who had the authority to determine normative practice? Were sounds necessary for religion in the same way that noise might be necessary for industry? But the complainants went further and argued that it would make no difference even if bells *were* deemed necessary. "No one is permitted," they maintained, "upon any such ground, to do an act which is unlawful in itself, nor does the law of the land tolerate injuries to person or property because of any persuasion on the part of the wrong-doer that the act is necessary as a fulfillment of a duty on his part, even though it be a religious duty." Religious obligation did not justify nor excuse any infringement on the rights of others, the neighbors insisted. As soon as the sounds of the bells spilled outside the walls

⁴⁰*Harrison v. St. Mark's*, 413.

of the church, as soon as they disturbed the peace of the neighborhood, as soon as they became noise, they could be muted, whether religiously necessary or not.⁴¹

Again, Rawle made this point even more emphatically during his oral arguments. “No custom, rite, or belief of privilege ever justifies a violation of law,” Rawle argued. Drawing rather startling analogies, Rawle compared bell-ringing to what he deemed to be other patently illegal offenses: “If a Thug were, on his trial for murder in a court in India in which our Anglo-Saxon law is administered, to set up as his defense for having strangled another, that it was part of his religious belief to do, what justification would that be deemed? Or if a man should say to his wife, ‘I have been reading such a charming book about Utah, and Brigham Young must have such a lovely time, and I quite agree with him, and see! I have just married all these ladies, and I hope you will be so happy together!’ your Honors would simply send him to the penitentiary.” In a less than subtle jab at his legal adversary, Rawle anticipated the U.S. Supreme Court’s decision in *Reynolds* that upheld the Mormon defendant’s conviction under an anti-polygamy statute. Claiming religious duty did not excuse polygamy, Rawle contended, it did not excuse murder, and it certainly did not excuse bell-ringing.⁴²

Indeed, two years later, the U.S. Supreme Court would agree with Rawle about polygamy, although its estimation of bell-ringing remained less clear perhaps. In *Reynolds*, the Court famously distinguished religious belief from conduct, holding that the First Amendment protected only the right to the former absolutely. In fact, the legal

⁴¹*Harrison v. St. Mark’s*, 4-5.

⁴²*Harrison v. St. Mark’s*, 369-70. On appeal to Pennsylvania’s Supreme Court, Rawle would add two additional examples of religious adherents who were not exempted from generally applicable laws: Jews who had to obey Sunday laws despite observing the Sabbath on Saturdays and Quakers having to pay war taxes despite their pacifism. See Counter-statement of Appellees at 31-3, *St. Mark’s v. Harrison*, 34 Leg. Int. 222 (Pa. 1877).

historian Sarah Gordon has argued that one important product of the nineteenth-century polygamy cases was to enshrine in the First Amendment religion clauses a particular conception of religion as properly individualistic, voluntary, and believed. Free religion often has meant the right to be religious only in certain ways, ways that did not necessarily make space for the publicly performed, communally-directed auditory practices at issue in the St. Mark's case.⁴³

But the *Reynolds* case tested a law that was generally applicable, for no one was permitted to practice polygamy, whether they justified it on religious or secular grounds. Noise disputes seemed different, for the meaning of noise was determined subjectively, and complainants targeted only certain sounds. As St. Mark's leaders pointed out, the neighbors complained about church bells, but they ignored other urban sounds, such as those produced by factories. While they objected to religious sounds, they seemed willing to put up with the sounds of industry. But was religion any less important for the vitality of American cities? Disputants debated whether religions needed auditory expressions, but they also debated whether cities required certain noises in general. Through their efforts to situate religious sounds in relation to industrial sounds, disputants advanced competing conceptions of religion's place in the city, and this is the second point of contention to which I want to call attention.

The church's attorney, George Washington Biddle, recognized that most of his contemporaries associated industrial noise with material prosperity, so he tried to persuade the court that silencing St. Mark's bells might instigate a broader crusade on urban noise. In other words, this case was not "just" about church bells. Biddle noted

⁴³*Reynolds*, 98 U.S.; Gordon, *Mormon Question*.

that several of the complainants' physicians had issued general warnings about the growing din of industrial cities. "The multiplication of needless noises in modern life is beginning to attract scientific attention in Europe as a cause of discomfort," Dr. S. Weir Mitchell had written in his affidavit, for example. These physicians seemed not to be singling out St. Mark's bells, but to be targeting urban noise more generally. And Biddle expressed concern for the future of a city that might eliminate noise merely to placate its more respectable citizens. Such a course of action might bear dire consequences for the city's prosperity, he warned. While reducing urban noise "might make [the city] a habitation for people of highly organized temperament..." Biddle explained to the court, "it would make it a city of the dead. When the hum of traffic and the noise of business cease to be heard throughout Philadelphia, it will have to look to God alone for its preservation."⁴⁴

The complainants went out of their way to differentiate church bells from the sounds of industry, however. Like Biddle and many of their contemporaries, they also regarded certain noises as necessary components of urban life. As I discussed above, nineteenth century noise nuisance lawsuits generally failed precisely because industrial sounds were heard as signaling material progress and prosperity. Few urban residents bothered to complain about them. Indeed, St. Mark's neighbors assured the court that they would not protest against those sounds that were "part of the necessary apparatus or machinery by which a great city has its wants supplied." But this did not include church bells, they maintained, for bells served no practical function. They offered cities no

⁴⁴*Harrison v. St. Mark's*, 100, 456.

utilitarian value. Bell-ringing was unnecessary, they concluded, and therefore could be muted with little broader consequence.⁴⁵

Not surprisingly, St. Mark's leaders disagreed. What message would be sent by silencing churches but not factories, they wondered. If all engines of progress made noise, then should not churches be included in that category? Was not religion integral to the life and vitality of the city? "They must bear in mind," Biddle urged the court, "that from the first firm establishment of Christianity in this world of ours, [bells] have always been associated in the hearts and minds of worshippers with the service of the church." Bells announced Christian presence, Biddle maintained. Dislodging them from their position of public prominence, from their status as background noise, would be to question Christianity's continued place in the industrial city.⁴⁶

Biddle disputed the narrowly pragmatic sense according to which the complainants defined necessity. They excluded religion from the "necessary apparatus or machinery by which a great city has its wants supplied," Biddle lamented, "as if there were none but physical wants in this world of ours." But bells spoke to the spiritual needs of men otherwise engaged in commercial pursuits and reminded them to set aside time for religious worship. Cities needed church bells just as much as they needed factory whistles, therefore. As the rector of a New York City congregation explained in his affidavit, "[Bell-ringing] was inaugurated in my church because it was believed that the ringing of a chime of bells above the most thronged and crowded of American thoroughfares would be a means of recalling many, to whom such thoughts had been

⁴⁵*Harrison v. St. Mark's*, 4.

⁴⁶*Harrison v. St. Mark's*, 464.

unwonted, to thoughts of public worship and all that the church of God and its ministrations stand for.” In other words, the bells’ advocates maintained, churches needed bells to vie with industry for city dwellers’ attention. Bells were necessary if churches were to compete with the other distractions of modern urban life. In fact, urban conditions had made bell-ringing more vital than ever, for without them, religion might be drowned out by industrial cacophony.⁴⁷

Auditory reminders were particularly powerful, Biddle continued, for they could attract worshippers who otherwise might not choose to attend church at all. “As the spire points heavenward,” he explained to the court, “in the direction which it is supposed we ought to strive to reach, the bells are admonitions to us at all seasons, not only on Sundays, but on every day. I do not know anything more touching or more thoughtful than that arrestation, even for a moment, which a man will involuntarily make when he hears these bells, reminding him that the Saviour took upon him our flesh for our advantage.” Sounding a theme that will recur in each of the cases that I consider in other chapters, Biddle suggested that passersby would have no choice but to hear church bells and respond to their call as their sounds spilled over onto city streets. Their chimes would reach multiple audiences, both intended and unintended, constituting an acoustic community comprised of those within range. Neighbors complained that they could not shut out the ringing of St. Mark’s bells, but Biddle implied that that was precisely what made them effective. They publicly pronounced Christian presence amidst the general

⁴⁷*Harrison v. St. Mark’s*, 229, 456-7.

din of urban life. Their sounds did not challenge social order, therefore, but rather were conducive to it. In short, bells were anything but noise.⁴⁸

Biddle insisted that church bells should resound on city streets “not only on Sundays, but on every day,” their sounds fully integrated into urban life. He seemed to imagine a polyphonic modern city, in which the chords of religious devotion would compete, or perhaps even harmonize, with the hum of mechanical industry, in which churches and factories each would make noise without censure. But by insisting that church bells should be rung every day, Biddle again was subtly reframing the St. Mark’s case as an intra-denominational dispute about proper ritual practice. The Anglo-Catholic movement in America had reinstated daily worship as opposed to Sunday services alone, and St. Mark’s accordingly rang its chimes each day, a practice that many other Episcopalians found objectionable. William Henry Rawle emphasized this point in his oral arguments. “Although at that church, to which I have the happiness to belong,” the Episcopalian Rawle retorted, “we think that we are sufficiently high-church for most purposes of getting to heaven, we have not yet tried the experiment of planting Jacob’s ladder on week-days upon the business community which swarms around us.” Religious practice should not interfere with the commercial activities of daily life, Rawle implied. He rhetorically circumscribed religion’s normative boundaries, suggesting that its observance was properly confined to particular times and places.⁴⁹

Biddle and Rawle thus offered competing conceptions of sacred time, and through these differences, they offered competing conceptions of religion’s place in the city and

⁴⁸*Harrison v. St. Mark’s*, 464-5.

⁴⁹*Harrison v. St. Mark’s*, 406. On the institution of daily mass at Anglo-Catholic Episcopalian churches, see Chorley, *Men and Movements*, 255.

of its relation to industry. The church's advocates maintained that church bells should ring every day, resounding alongside the sounds of factories. But the complainants suggested that religion was best kept apart from commercial life, set off and separate, so that it might offer welcome relief from urban cacophony. Cities needed religion, they agreed, but not religious noise. Dr. S. Weir Mitchell urged the court not to permit bell-ringing to disrupt the Sabbath peace, for "a large class of God-fearing Christians" required Sunday rest in order to resist "the pressures of modern social life." Professor Goodwin maintained that bell-ringing might harm Christianity's standing in the community should it "come to be associated with the greatest discomfort and nuisance of our daily civil life." And at least one of St. Mark's neighbors agreed, stating that "the efforts of a professedly Christian church to maintain its rights to intensify the mental and physical sufferings of a sick man must be an edifying spectacle to the world that it professes to convert."⁵⁰

Again, Rawle emphasized this point even more exaggeratedly. He criticized the hypocrisy of a church that would claim to bring spiritual relief while inflicting physical torture. He compared Dr. Hoffman to a grand inquisitor, describing in vivid detail a painting he had seen in which "a prisoner lay stretched upon the rack and with a brazier of fire at his feet, while the man of God, with the bare feet, the tonsure, the frock and the knotted cord, bent over him, and while with the one hand he motioned to the executioner to give the rack's lever yet another turn, with the other he held high the Cross of God, so that when the soul should depart through the torture inflicted by the one, the pain might be taken away by the consolation imparted by the other." Hoffman lacked compassion

⁵⁰*Harrison v. St. Mark's*, 99-100, 243, 246.

for his suffering neighbors, Rawle continued, which exemplified “the intolerance of those who for near two thousand years have preached the Gospel of Peace,” but have “given nerve to the arm and point to the sword of those who have fought against it.” Such intolerance on the part of professedly religious men had “furnished to such pens as those of Hume and Gibbon in the past, and of Lecky, and Stephen, and Matthew Arnold in the present, their most terrible arguments.” By insisting on its right to make noise publicly, by insisting on its power to infringe on the rights of others, St. Mark’s actually was damaging Christianity’s public standing, Rawle insisted. “Good” religion should respect its bounds.⁵¹

The St. Mark’s disputants thus debated whether city residents needed aural reminders of religious presence. Did religion need to make noise in order to compete with industry for public attention, or should churches instead offer relief from the cacophonous pressures of modern urban life? But the disputants also debated whether urban noise affected all city residents in the same way, for St. Mark’s neighbors suggested that noise harmed certain classes of people more than others. If the church maintained that public religious sounds might be necessary, then *for whom* were they necessary? This constituted a third point of contention through which disputants situated religious sounds within broader cultural discourses about noise. Noise functioned as a key index of class identity in late-Victorian America and England. Nineteenth century noise complaints generally targeted immigrants, the poor, and other groups that threatened social order. Contests over noise were cast as part of a broader struggle between civilization and barbarism. Indeed, St. Mark’s neighbors insisted that upper

⁵¹*Harrison v. St. Mark’s*, 385, 388-90, 404.

class elites maintained a particular right to quiet. But St. Mark's advocates generally occupied the same social position, and they assumed their own right to make noise without censure. As historian Karin Bijsterveld has proposed, "The right to make noise...has long been the privilege of the powerful" (although such a presumption of privilege also could be interpreted as arrogant disregard for the rights of others, as Rawle alleged in the passage cited above). Disputants thus offered competing conceptions of the relationship between public sounds and social power. They debated whether class privilege entailed a right to make noise or a right to quiet.⁵²

St. Mark's neighbors presumed their right to be free from noise. From the start of the dispute, they had insisted that the Rittenhouse Square neighborhood had attracted them precisely because it was quiet. Locust Street notably was exempt "from the ordinary noises even of all the leading streets" of Philadelphia, they claimed, for they previously had fought successfully to keep streetcars off of it. And despite all the rhetoric about industrial noise, there certainly were no nearby factories. Noise seemed particularly "out of place" in this upper-class residential neighborhood. In fact, several real estate experts submitted affidavits in which they argued that the church's neighborhood "most nearly [approached] perfection as to immunity from nuisances." Noise would depreciate home values significantly, therefore, for "being possessed of wealth," the neighbors could "at any time avoid an inconvenience by moving elsewhere."⁵³

⁵²Bijsterveld, "Diabolical Symphony," 44. On noise as an index of class identity in Victorian London, see Peter Bailey, "Breaking the Sound Barrier," in *Popular Culture and Performance in the Victorian City*, 194-211 (Cambridge: Cambridge University Press, 1998), 206-209. On noise disputes as contests between civilization and barbarism, see Bijsterveld, "Diabolical Symphony"; Smilor, "Personal Boundaries."

⁵³*Harrison v. St. Mark's*, 32, 140.

The neighbors also argued that the bells did them particular harm because they suffered more acutely from nervous conditions. As Dr. S. Weir Mitchell explained in his affidavit, “the multiplication of needless noises in modern life” necessarily produced, “especially among professional men, a degree of brain-tire, of loss of power to use the brain, of which the results are terribly alike, beginning with insomnia, irritability, nervous excitement, cerebral derangement, and running the gamut of mischief down to paralysis and death.” Dr. J. M. Da Costa similarly warned about noise’s effects on “the most thoughtful professional men, the original thinker and writer in science, the higher order of men of letters.” Noise produced more injurious effects on the professional classes, these physicians maintained. They appropriated a dominant late-Victorian discourse that interpreted neurasthenia as a “mark of distinction, of class, of status, of refinement,” a condition brought on in the upper and middle classes “by simple exposure to the hectic pace and excessive stimuli of modern life.” According to leading contemporary theorists of neurasthenia, such as Mitchell and George Beard, the disease indicated social advancement, and its prevalence among the upper class offered “proof that America was the highest civilization that had ever existed.” But at the same time, it rendered patients particularly susceptible to the dangers associated with urban noise. Perhaps working class residents could endure the clamor of St. Mark’s bells, but the more “civilized” neighbors should not have to put up with it.⁵⁴

⁵⁴*Harrison v. St. Mark’s*, 99-100, 103. Quotes about neurasthenia are from Lutz, *American Nervousness*, 4, 6. Lutz offers a cultural history of neurasthenia as “an overdetermined discourse” that functioned “in the management of cultural change in a pluralistic society” (*American Nervousness*, 20). For an account of neurasthenia by a medical historian, see Francis G. Gosling, *Before Freud: Neurasthenia and the American Medical Community, 1870-1910* (Urbana: University of Illinois Press, 1987). For a discussion of the effects of urban noise on the growing class of professional Englishmen who worked from home, see John M. Picker, “The Soundproof Study: Victorian Professionals, Work Space, and Urban Noise,” *Victorian Studies* 42, no. 3 (1999): 427-53. Picker interprets the anti-street music movement in Victorian London as a territorial skirmish through which middle-class householders aimed to domesticate city streets.

For their part, St. Mark's leaders assumed a right to make noise. In fact, they regarded bell-ringing not as "noise" but as a long-established public prerogative of Protestant churches. In response to the initial complaints, the vestrymen had agreed to consider individual petitions in cases of illness, but they utterly denied "the right of the residents in the vicinity to regulate in any way the manner or the time of ringing the bells of St. Mark's Church." They appear to have heard in the complaints a challenge to their public power and authority. Following the conclusion of the legal proceedings, the vestrymen continued for a time to refuse to consent to any regulations that might "bind this Corporation and its successors." They resolved not to drop the case until they had "secure[d] to the Church the unrestricted right to ring bells." The Protestant Episcopal Church was the denomination of the urban establishment, and surely its churches had the right to ring bells. But Dr. Hoffman also solicited affidavits from several Roman Catholic priests, who described bell-ringing practices at their own churches. At the very least, Hoffman maintained, "Episcopal churches have certainly as much right to the customary use of bells as Roman Catholic churches."⁵⁵

But at the same time as St. Mark's leaders defended their right to ring bells, they, too, associated noise with Philadelphia's working class residents. Like the complainants, they subtly reinforced noise's status as an index of class identity and difference. They did this in at least two ways. First, they maintained that it was the city's poor who especially needed the bells to announce service times. Clocks and watches had not

⁵⁵*Harrison v. St. Mark's*, 42, 323. Minutes, St. Mark's Church, 21 June 1877, 30 April 1883. For affidavits submitted by Catholic priests, see *Harrison v. St. Mark's*, 221-3. In response to the church's presumption of privilege, Rawle reminded the court that St. Mark's property was assessed at "\$150,000, but [was] exempt from taxation." Surely the defendants had "no right to presume upon their position," he concluded (*Harrison v. St. Mark's*, 356-7).

rendered bell-ringing obsolete. Instead, many Philadelphia church-goers continued to rely on chimes, “and this [was] especially so among the poorer classes who cannot afford the luxuries of well-furnished residences.” In fact, St. Mark’s reached out extensively to the city’s working class, and the church housed what Dr. Hoffman described in 1870 as “two distinct congregations,” distinguished by class differences. The church charged pew rental and ownership fees for two of its four regular Sunday services. But the other two services, which included the early Sunday morning one, were free and frequently attracted a different type of worshipper. Suspending the early morning bell actually might have affected poorer residents disproportionately, therefore.⁵⁶

One Philadelphia newspaper even suggested explicitly that St. Mark’s bells upset the neighbors because of the type of worshipper that the chimes were attracting. St. Mark’s vestrymen, the *Philadelphia Times* noted sarcastically, “should have considered...that the church on Rittenhouse Square has no need of a bell to summon its select congregation of Sunday worshippers, and that a church which throws open its pews to a miscellaneous congregation in the early morning offends sufficiently against the dignity of the neighborhood without the added injury of chiming bells.” St. Mark’s vestrymen insisted that they needed chimes to carry out their work among the poor. But by linking bell-ringing to the needs of the working class, the bells’ advocates continued to construct noise as a marker of class difference. Even the sounds of power, the noise

⁵⁶Harrison v. St. Mark’s, 20; *Journal of the Proceedings of the Eighty-Sixth Convention of the Protestant Episcopal Church, in the Diocese of Pennsylvania* (Philadelphia, 1870), 149; Riley, *Eugene Augustus Hoffman*, 483, 488.

emanating from one of Philadelphia's most fashionable churches, might signal disorder, a threat to social order and to civilized society.⁵⁷

Dr. Hoffman associated bell-ringing with lower class sensibilities in another way, as well. After the complainants filed their bill in court, Hoffman canvassed the neighborhood, collecting affidavits from poor, working-class, mostly Irish Catholic residents who lived nearby—or, as one account later would describe them, from “obscure people living on side streets and alleys which were not in the bells’ direct line of fire.” These neighbors, many of whom signed their affidavits with an “X,” claimed to enjoy the sound of bells. *They* did not find them to be a nuisance. But by putting forth their testimony, Hoffman further implied that only the city’s working class residents required auditory religious announcements, that only they did not mind noise.⁵⁸

Indeed, the complainants rushed to trivialize this testimony. The sound of the bells caused “great annoyance to everyone in the neighborhood with the exception of certain residents of Irish birth who could neither read nor write,” George Harrison’s grandson later would recall. During oral arguments, William Henry Rawle was even more dismissive of the Irish neighbors’ statements. “I shall not contrast the affidavits of Harrison, and Cadwalader, and Coffin, and Norris, and Dulles,” Rawle announced, citing the names of complainants who hailed from some of Philadelphia’s most prominent families, “with those of Michael Fitzgerald, and Catharine Harkins, and Adeline Blizzard, and Patrick Maloney, many of whom cannot even read or write.” While the latter might

⁵⁷“Society Bells,” *Philadelphia Times*, November 20, 1876.

⁵⁸For affidavits of neighbors who claimed not to mind the bells, see *Harrison v. St. Mark’s*, 171-202. The description of these neighbors as “obscure” comes from Wainwright, “The Bells of St. Mark’s.” On Episcopalian attitudes toward Philadelphia’s Catholics from a Catholic’s perspective, see Pennel, *Our Philadelphia*, 200, 203.

claim not to mind the bells, Rawle continued, they clearly belonged to “a class having placid lymphatic temperaments, with which is usually combined a lower degree of intellectual development.” Rawle introduced here an evolutionary scheme that associated tolerance for noise with lower levels of civilization. As I noted above, Victorian Americans regularly constructed racial, ethnic, and religious hierarchies in terms of auditory and olfactory differences. But surely, Rawle implied, the court could not privilege the sensibilities of ethnic and religious “others.”⁵⁹

Arguing for the defense, George Washington Biddle indeed urged the court to listen more attentively to the Irish neighbors’ testimony. “A Mr. Fitzgerald or a Mr. Tobin or a Mr. McDevitt has quite as high a title to relief as any of the highly respectable plaintiffs named in this bill,” Biddle stated. Moreover, he continued, “these are the affidavits of people who really dwell in their houses.” The affluent complainants regularly escaped to the country during the hot summer months, and they could always choose to move elsewhere. “There is no restriction on them,” Biddle explained, “Let them cross the Schuylkill or go farther West; let them follow Horace Greeley’s advice.” But these options were not available to the neighborhood’s poor. “*They* cannot retire from the city when the torrid sun is scorching us all,” Biddle insisted, “*They* must remain there. *They* are not annoyed.” So why should they be deprived “this daily little pleasure in their lives of hard toil and privation?” Biddle did not dispute that bell-ringing might have been enjoyed especially by Philadelphia’s working-class residents. But he saw no reason to silence the chimes on that account.⁶⁰

⁵⁹*Harrison v. St. Mark’s*, 392, 395. For Harrison’s grandson’s recollections, see George Leib Harrison, *Memories of Sixty Years Written for his Children* (St. David’s, PA: Privately Printed, 1944), 21.

⁶⁰*Harrison v. St. Mark’s*, 463-4.

Like the complainants, St. Mark's leaders thus subtly constructed noise as an index of class difference. The complainants argued that noise exacerbated their already frayed nervous conditions, challenged regularly by the pressures of modern urban life. Upper-class sensibilities could not tolerate any more unnecessary noise. And the church responded, in part, by suggesting that its noise indeed might be intended for the city's working classes. Perhaps it *was* the poor who most needed and enjoyed St. Mark's bells (although they were not the only ones who did so). But the disputants drew different implications from this possibility. The complainants presumed that their class privilege entailed a right to quiet. St. Mark's, however, continued to assume that American churches had a right to ring bells. It continued to assert its authority to make noise without censure.

The St. Mark's disputants thus debated whether religious sounds might be considered *necessary*. Did religions require noise? Did cities require auditory announcements of religious presence alongside the sounds of industry? And did certain classes of listeners need public aural expressions more than others? Through their differences, the disputants situated religious sounds differently within broader cultural discourses about noise. Were St. Mark's bells the sounds of power, signals of progress and prosperity, normative and necessary features of the American urban soundscape? Or were they disorderly, a threat to civilized society, unnecessary byproducts of earlier religious sensibilities, unwanted noise amidst already cacophonous modern cities? How disputants heard the chimes implied competing conceptions of the nature of religion, of its relation to industry, and of its place in the modern city. And these differences also bore real implications for how the chimes would be regulated. St. Mark's continued to

assert its unfettered authority to ring bells, its right to make noise. But the neighbors presumed a corresponding right to quiet. They turned to the court to prohibit St. Mark's chimes from sounding any longer.

Circumscribing Religion's Place

On February 24, 1877, Presiding Judge Hare of Philadelphia's Court of Common Pleas, No. 2, issued his opinion in *Harrison v. St. Mark's*. He broke the case down into two questions. First, was there a real injury? Hare expressed little surprise that the affidavits should reflect varying opinions on this question, for sound affected different people differently, depending on health, temperament, and geographical position. He claimed not to care about family name or social class. Instead, Hare found it reasonable to expect that Locust Street residents might despise the bells while residents of side streets might enjoy them, for they likely would experience different intensities of sound. All that mattered was whether the complainants could claim real injury, and he was "unable to escape the conclusion...that the sound of the bells does cause annoyance and suffering, which is not imaginary or only felt by the hyper-sensitive, but is real and substantial." Hare emphasized the potential physiological harm brought about by exposure to loud sounds, ignoring the church's contention that intra-denominational differences had prompted the complaints. The bells "really" seem to have been too loud, he suggested.⁶¹

⁶¹*Harrison v. St. Mark's*, 486-9. Judge Hare attended an Episcopal church and lived in the Rittenhouse Square neighborhood, yet did not hesitate to mediate this dispute between his peers, co-religionists, and neighbors. He also expressed little ambivalence about his authority as a civil judge to intervene in religious matters. For biographical information about Judge Hare written by a contemporary, see Charles Morris, *Makers of Philadelphia, an Historical Work Giving Sketches of the Most Eminent Citizens of Philadelphia from the Time of William Penn to the Present Day* (Philadelphia: L.R. Hamersley & Co., 1894), 73.

Second, Hare asked, was the injury caused “in pursuance of a right that cannot be questioned or restrained?” In answering this question, Hare sidestepped the issue of religious necessity altogether. He did not address whether religions required aural expression or whether religious duty might excuse practitioners from obeying the law. Instead, Hare focused his attention more narrowly on property rights. Could the court restrain the church’s right to use its property as it saw fit? To answer this question, Hare considered the particular properties of sound that differentiated it from other land uses. Although “a man may do ordinarily what he will with his ground...,” Hare wrote, “he has no such dominion over...the air that floats over it.” Sound was different, Hare maintained, for it crossed legal boundaries between properties as it traveled through the air, spilling over onto city streets and into private homes. And noise was particularly prone to produce “injurious consequences” because it could not easily be avoided. “Light may be shut out,” Hare wrote, “and odors measurably excluded, but sound is all-pervading.” George Washington Biddle had praised church bells because they involuntarily directed city dwellers’ attention to God, but Hare maintained that they were problematic precisely for that reason. Passersby could not *choose* whether to hear them. Therefore, if the bells disturbed the peace of the neighborhood, then they could be silenced. St. Mark’s Church had no right to make noise that caused injury to its neighbors.⁶²

“What, then...is bell-ringing forbidden?” Hare rhetorically asked. What of the defense’s contention that silencing St. Mark’s bells might mute Christianity’s public voice, limiting its capacity to attract attention amidst the cacophonous conditions of

⁶²*Harrison v. St. Mark’s*, 489-90.

urban life? As Hare concluded his decision, he went out of his way to emphasize that religion need not necessarily keep quiet. “Sunday,” he explained, “as observed by the English-speaking races, teaches in the street as well as in the church; and the church-bells should lend grace and gladness to a lesson that might otherwise seem too austere.” Hare affirmed that Christian practice belonged in public, that religious devotion need not be contained by church walls. The sounds of Christian worship *should* spill over onto city streets, he maintained. But St. Mark’s chimes constituted a special case. Although bell-ringing was not necessarily a nuisance, these particular bells were unusually and intolerably annoying. These particular bells were too loud. And when religion became a nuisance, when its sounds became noticed and the subject of complaint, then it could and should be muted. Judge Hare issued a preliminary injunction, therefore, “restraining the defendants from ringing the bells of St. Mark’s Church.” The church’s bells no longer constituted “Sacred Noise,” to borrow R. Murray Schafer’s term. The church no longer could make noise without censure.⁶³

Reactions to Judge Hare’s decision predictably varied. Several newspaper editorials praised the decision as moderate for applying only to these particular bells and not to bells in general. They interpreted the dispute as about nothing more than noise and saw no broader principles at stake. As when the dispute first went public, other newspapers made light of the whole matter, poking fun at the sensitive temperaments of Rittenhouse Square’s fashionable residents. The *Sunday Dispatch* even published a five-stanza satirical poem that feigned relief for “the brownstone folk/Who live in St. Mark’s square.” And the *Commonwealth* dismissed the complainants as members of the

⁶³*Harrison v. St. Mark’s*, 490-1.

“nouveau riche” and as “aspirants for ‘social position’” who resented their exclusion from the “blue-blood” St. Mark’s.⁶⁴

But other responses continued to express the same types of concerns that had been voiced in court. Some commentators worried about the decision’s implications for the city’s vitality. They feared that the decision had gone too far, clearing the way for litigation against all sources of urban noise, whether religious or secular. “If the spirit of the decision is carried out,” one newspaper noted, ignoring Judge Hare’s assurances to the contrary, “every church bell in the city will have to be muffled, and the whistles and fog-horns of certain factories must be silenced.” The courts might muffle the city’s rattle and hum, which signaled power, progress, and material prosperity. Other commentators expressed concern about the case’s implications for religion. For example, the high church *Episcopal Register* published a poem that interpreted the dispute as a clash between scientific and religious authority. In the poem, physicians attended to the bells as a sick patient, convinced of their impending death. The poet implied that the doctors who offered testimony in the St. Mark’s case similarly rushed to pronounce religion’s demise. Yet in the deafening clang of the bells, the doctors discovered religion’s surprising vitality and departed quickly to escape contagion. “When the melody ceased,” the poem ambiguously concludes, “ev’ry Doctor had fled,/and seemed to forget that St. Mark’s was not dead.” Religion had revived, the newspaper suggested, but perhaps only temporarily. What effect would silencing the bells have on the church’s health?⁶⁵

⁶⁴“In Statu Quo Ante Bellum,” *Philadelphia Sunday Dispatch*, February 25, 1877; “The Last Phase of Abolition,” *The Commonwealth*, March 3, 1877. For praise of the decision, see “St. Mark’s Church Bell Case,” *Philadelphia Public Ledger*, February 26, 1877; “The Bells of St. Mark’s,” *Philadelphia Public Record*, February 26, 1877.

⁶⁵“St. Mark’s Bells,” *Philadelphia Sunday Dispatch*, February 25, 1877; “St. Mark’s Bells and the Doctors,” *Episcopal Register*, March 3, 1877. For another editorial that interpreted the St. Mark’s decision

Judge Hare's decision infuriated the leaders of St. Mark's Church, of course, who interpreted it as an assault on their public power and privilege. In a letter to the *New York Times*, Dr. Hoffman hyperbolically (and inaccurately) described the situation as "the first time in the history of Christendom that a church has been enjoined for availing itself of its ancient and time-honored custom of announcing its services by the ringing of bells." Hoffman seemed incredulous that an American court should prevent a Protestant church from calling people to pray. The injunction was "an invasion of [the church's] legal rights" and signaled "the beginning of a crusade against all church bells." Hoffman felt that he had no choice but to appeal Hare's decision to the Pennsylvania Supreme Court. The right of churches to pursue their institutional missions could not be left subject to the dictates of "some nervous or evil-disposed neighbor." Hoffman even rejected an invitation from some of the complainants to discuss a compromise that might avoid further litigation. The rector seemed unwilling to concede to the neighbors any authority over the church's practices.⁶⁶

On June 16, 1877, the Pennsylvania Supreme Court ruled on St. Mark's appeal. In a brief *per curiam* opinion, the Court upheld the injunction but modified it slightly, permitting St. Mark's to ring its bells on Sundays, for no longer than two minutes, but only before "the usual three divine services on that day—forenoon, afternoon, and

as an assault on urban noise in general, see "Bell Ringing in Equity," *Philadelphia Times*, February 26, 1877.

⁶⁶Hoffman's letter to the *New York Times* was reprinted in "St. Mark's Bells," *Philadelphia Inquirer*, March 3, 1877. Hoffman continued to complain that this was the first time in Christian history that a church had been enjoined from ringing its bells in his report to the Diocesan convention the following year. *Journal of the Proceedings of the Ninety-Fourth Convention of the Protestant Episcopal Church, in the Diocese of Pennsylvania* (Philadelphia, 1878), 130-1. Claude Gilkyson also repeats this allegation in *St. Mark's*, 32. Hoffman's refusal to meet with the complainants to seek a compromise was reported in "St. Mark's Bells," *Philadelphia Times*, June 18, 1877.

evening—and not to any early morning services.” The Pennsylvania Supreme Court, a state institution, thus regulated the precise times at which St. Mark’s could ring its bells. Perhaps unwittingly, the judges intervened directly in intra-Episcopalian debates about proper ritual practice, sanctioning a particular worship schedule as normative. St. Mark’s could resume announcing the “usual” Sunday services, but not the early morning service, which especially attracted Philadelphia’s poor, nor the daily mass that it and several other Anglo-Catholic congregations had instituted. The Pennsylvania Court restored St. Mark’s right to ring its bells but only within certain state-imposed limits.⁶⁷

The *Sunday Dispatch* described the Court’s distinction between Sunday and weekday services as “queer,” and St. Mark’s vestrymen agreed. In a resolution dated June 21, they argued that if the bells were tolerable on Sundays, then they certainly should be tolerable on weekdays and festivals, as well, “when their sound would be partially drowned by that of the noise of secular business.” In other words, they implied, the Court’s decision seemed less about noise and more about demarcating religion’s proper time and place. The decision seemed to imply that church bells belonged only on Sunday afternoons and that they sounded “out of place” at other times. “Are we not to be permitted to ring the bells at funerals, on Christmas and other movable festivals, nor on the Fourth of July and other great holidays?” Dr. Hoffman inquired. The church’s vestry decided that it would respect the Court’s decree but “under protest.” On Sunday, June 24, St. Mark’s bells rang to announce three Sunday services. And in January 1878,

⁶⁷*Harrison v. St. Mark’s*, 34 Leg. Int. 222 (Pa. 1877).

despite the injunction, St. Mark's completed its chimes by installing a set of four additional bells.⁶⁸

The church continued to press its case, and on January 18, 1878, the Supreme Court further modified the injunction. The Court again regulated the precise days and times on which St. Mark's could ring its bells, but this time the judges endorsed Hoffman's sacred calendar that included both Christian and American holidays. In addition to Sundays, the church could ring its bells on "New Year's Day; Epiphany; Washington's Birthday; Fourth of July; Ash Wednesday; Good Friday; Ascension Day; All Saints' Day; Thanksgiving Day; Christmas Day; also at Weddings and Funeral Services." But the ban on weekday bell-ringing and on the early Sunday morning bell would remain. St. Mark's could ring its bells but only at those times authorized by the Court. It could not take for granted its right to make noise.⁶⁹

As the St. Mark's case worked its way through the Pennsylvania courts, it thus became less focused on noise and more on time, less focused on the bells' volume and more on when they could be rung. According to the Supreme Court, it seems, St. Mark's bells constituted a nuisance only on particular days of the year. And as I proposed above, these competing conceptions of sacred time also implied competing conceptions of religion's place in the industrial city. The church's leaders had demanded the right to ring bells every day of the week, so that their chimes might resound alongside the sounds of industry. Churches needed to make noise in order to compete for public attention, they

⁶⁸"A Week-day Nuisance, not a Sunday Nuisance," *Philadelphia Sunday Dispatch*, June 17, 1877; "St. Mark's Bells," *Philadelphia Times*, June 18, 1877; Minutes, St. Mark's Church, 21 June 1877. The installation of four additional bells was reported in Parish Yearbook, 1878, St. Mark's Church, Philadelphia.

⁶⁹*Harrison v. St. Mark's*, 35 Leg. Int. 30 (Pa. 1878).

insisted. Urban residents needed auditory reminders of religious presence. Following Judge Hare's decision, Dr. Hoffman had protested that his church at least should be allowed to ring bells for funerals, on Christmas, and on the Fourth of July. His choice of examples seems significant, suggesting that bells played a vital role in the life of individuals, in the life of the church, and in the life of the nation. If all vital engines of progress made noise, Hoffman implied, then surely this must include the city's religious institutions. Silencing church bells might mute Protestantism's public voice.

In their decisions, the Pennsylvania courts went out of their way to affirm Protestantism's continued public place, but their injunctions also circumscribed that place, demarcating and delimiting its boundaries. St. Mark's bells would not be a part of everyday life, integrated into the city's usual soundscape, but would be set off as separate and apart. The bells would not resound alongside factory whistles, but would signal industry's silence at particular times sanctioned by the state. The bells would signal the interruption of the ordinary. The complaints about St. Mark's bells had drawn attention to them and had rendered problematic their public and quotidian character. The Pennsylvania Supreme Court finally had restored St. Mark's right to ring bells. But the manner in which it did so had redefined their place in the industrial city.⁷⁰

Conclusion

For many observers, the Court's plan seemed to offer a fair compromise and a welcome resolution to the bells dispute, although it "probably satisfied neither side,"

⁷⁰Susan Davis describes nineteenth-century Philadelphia festivals and parades as specifically sanctioned times for making noise in *Parades and Power: Street Theatre in Nineteenth-Century Philadelphia* (Philadelphia: Temple University Press, 1986).

William Henry Rawle's daughter later would recall. Indeed, the dispute dragged on for at least the next six years as neighbors continued to complain about the bells while St. Mark's vestry continued to seek the injunction's removal. The church's leaders gradually came to accept the legal limits that the courts had imposed, however. "We do not want to ring the bells any more than at present," St. Mark's new rector, Dr. Isaac Nicholson, informed Episcopal Bishop Stevens in 1884. (Dr. Hoffman left St. Mark's to become the dean of General Theological Seminary in 1879.) Nicholson's willingness to compromise appears to have kept the case from returning to court, for St. Mark's no longer asserted its right to make noise as it pleased. The church continued to ring its bells, but only according to the terms that the Pennsylvania Supreme Court had set. State intervention had transformed its practice.⁷¹

⁷¹Jones, *Lantern Slides*, 106; Minutes, St. Mark's Church, 21 January 1884; Dr. Isaac Nicholson to Rt. Rev. William Bacon Stevens, n.d., Folder 29, Parish Correspondence, 1865-1887, Bishop Stevens' Records, Archives of the Episcopal Diocese of Pennsylvania, Philadelphia. Every account that I have found of the St. Mark's case inexplicably concludes with the Supreme Court's 1878 decision. Yet the parties continued to contest the bells for at least the next six years, and they re-initiated legal proceedings in 1884. As the case appeared to be heading back to court, Episcopal Bishop Stevens intervened and tried to mediate a compromise. The church agreed not to ring the bells "any more than at present," and many of the neighbors agreed to withdraw from the lawsuit. But other neighbors refused to withdraw, and lawyers again began deposing witnesses in February 1884. Over the next year, they gathered hundreds of pages of new testimony that retraced much of the same ground as before. But the dispute then mysteriously fades from the historical record. In April 1885, following a year of testimony from the complainants, St. Mark's Vestry reported that the defense team had begun to depose witnesses. But the Vestry minutes make no further reference to the case, and the Pennsylvania courts never reported a resolution to the renewed legal proceedings. Secondary sources that mention the bells dispute but conclude with the 1877 or 1878 decisions include Baltzell, *Philadelphia Gentlemen*, 250-1; Burt, *Perennial Philadelphians*, 132-4; Robert R. Bell, *The Philadelphia Lawyer: A History, 1735-1945* (Selinsgrove, PA: Susquehanna University Press, 1992), 157-8; Wainwright, "The Bells of St. Mark's"; Gilkyson, *St. Mark's*, 28-35; Riley, *Eugene Augustus Hoffman*, 495-510. Ongoing informal negotiations between the church and the complainants were reported in Minutes, St. Mark's Church, 6 June 1882, 6 October 1882, 30 April 1883, 2 October 1883, 12 November 1883. On Bishop Stevens' intervention, see the correspondences gathered in Folder 29, Parish Correspondence, 1865-1887, Bishop Stevens' Records, Archives of the Episcopal Diocese of Pennsylvania, Philadelphia. For the 1884 depositions, see *Harrison v. St. Mark's Church* (1884), Records and Briefs of the Pennsylvania Supreme Court: 1850-1960 (Harrisburg, PA: Pennsylvania Supreme Court, 1850-1960), 1-289. The last reference to the case that I have found was reported in Minutes, St. Mark's Church, 7 April 1885.

Moreover, there is limited evidence to suggest that the St. Mark's case instigated a campaign against other Philadelphia bells, as well. In 1884, Dr. S. Weir Mitchell asserted "that in this city I have heard more complaints within a year or two about church bells than ever before." Neighbors of Philadelphia's St. Patrick's Roman Catholic Church even persuaded its pastor to stop ringing bells by threatening him with an injunction. It seems that the St. Mark's case had demonstrated that nuisance lawsuits against churches could succeed. Bells could constitute noise.⁷²

The discord soon faded, however, with perhaps a few exceptions. Sixty years later, George L. Harrison's grandson would recall that "the rancor engendered [by the case] was apparently handed down by the choir boys of that time to their successors. For twenty-five years afterwards insulting remarks would be chalked on our house from time to time and when, in the late 'Eighties, the front window was changed, the noses of the figures carved in the stone were damaged." But aside from petty acts of vandalism, the "animosities soon subsided, and the teapot tempest became a thing of the past," as a later account put it. Rittenhouse Square matrons no longer had to choose their dinner guests quite so carefully. The Penn-Princeton football game did not have to compete for attention. Church bells no longer dominated polite conversation.⁷³

Over the next thirty years, Philadelphia's Episcopalian establishment would continue to consolidate class identity and social power. Describing the period between 1876 and 1905, two Philadelphia historians have argued that "never before or afterward

⁷²*Harrison v. St. Mark's Church* (1884), Records and Briefs of the Pennsylvania Supreme Court: 1850-1960 (Harrisburg, PA: Pennsylvania Supreme Court, 1850-1960), 71-3, 235.

⁷³George Leib Harrison, *Memories of Sixty Years Written For His Children* (St. David's, PA: Privately Printed, 1944), 21; Wainwright, "The Bells of St. Mark's."

was the position of [the city's] upper class more secure or its influence more pervasive.” But the 1880s also marked the peak of Rittenhouse Square’s identity as home to Philadelphia’s elite. Over the next several decades, the fashionable denizens of Rittenhouse Square increasingly moved to the suburbs to construct Philadelphia’s famous Main Line. As Biddle had encouraged them in his oral arguments, St. Mark’s neighbors indeed moved west. Few of them remained behind to listen to—or to complain about—St. Mark’s chimes. Although the Supreme Court’s injunction technically remained in effect, the church increasingly seems to have disregarded it. On November 11, 1918, for example, St. Mark’s rang its bells to announce the signing of the Armistice. But no one complained, reports one parish history, for “most of our former ‘neighbors’ by now were sleeping peacefully in the suburbs.” As industrialization and immigration continued to transform Philadelphia, St. Mark’s chimes again faded into the background.⁷⁴

⁷⁴Burt and Davies, “The Iron Age,” 522; Gilkyson, *St. Mark’s Church*, 70. In 1948, Gilkyson wrote that the injunction remained in effect, but that the church continued to ring its bells. According to an account written in 2000, the church actually rang its bells less and less over the years, and “for decades nothing was heard from Saint Mark’s tower.” After decades of decay, the church fully restored the bells in 1999. According to its website, St. Mark’s offers today one of “the only two bell towers in Philadelphia that are equipped for English change-ringing.” The Philadelphia Guild of Change Ringers rehearses at the church on certain Wednesdays and Saturdays and performs after High Mass on Sundays. The Guild’s St. Mark’s tower captain, A. Thomas Miller, has explained to me that “the original suit was still in [their] minds” when they did the 1999 restoration. They remounted the bells and installed a trapdoor, so that, while they are rehearsing, “you can barely hear the bells at the base of the tower outside but very well inside the room where the ringers are.” According to Miller, they have received no complaints in ten years of ringing. Another St. Mark’s staffmember told me they had received complaints once, however. To inaugurate the restored bells in 1999, the Guild rehearsed for several hours on a Saturday afternoon and then performed a full four-hour change the next day. According to this staffmember, several neighbors complained about the noise. “But if you move next to a church, what do you expect?” the staffmember asked me, unwittingly echoing Dr. Hoffman’s same question from 1876. Although no one seems sure, the staffmembers with whom I have spoken believe that the injunction technically remains in effect to this day, but, as Miller explained to me, “the conditions that existed at that time in St Mark’s neighborhood have changed far beyond the imaginings of the people involved in the original lawsuit.” A. Thomas Miller, “Bells on Trial, Bells Restored: The Story of the Bells of Saint Mark’s Church, Philadelphia” (Philadelphia: Privately Printed, 2000); Saint Mark’s Church, “Saint Mark’s Bell Ringers,” <http://www.saintmarksphiladelphia.org/saint-marks-bell-ringers/>; Kent John Pope, conversation with author, May 23, 2008; A. Thomas Miller, e-mail message to author, April 21, 2009.

Although ostensibly about nothing more than the disruption of domestic comfort by an intolerable acoustic annoyance, the St. Mark's case had raised critical questions about religion's place in the industrial city. The church had assumed its right to make noise, but the neighbors' complaints had dislodged the bells from their status as background noise. Even if it only lasted temporarily, Philadelphians suddenly noticed and paid close attention to the chimes' call. The dispute had made the bells' continued acoustic dominance an open question at the same time that Protestant hegemony also was beginning to face challenges from industrialization, urbanization, and immigration. Even a church's right to ring bells could not be taken for granted, it seems. In relation to these particular public sounds, disputants negotiated Protestantism's place in an industrializing city and a diversifying nation.

In other chapters, I listen to the sounds of religious dissenters and newcomers, but this chapter has attended to the sounds of power. The St. Mark's case also took shape, in part, as an intra-denominational dispute about devotional style. Although the Episcopalian disputants all appear to have agreed that Protestantism should retain a strong public presence, they debated what form that public presence should take. St. Mark's leaders argued that churches needed bells in order to attract worshippers and to announce presence. They needed bells to compete acoustically with the sounds of industry, to assert their continued place in the industrial city. But the neighbors insisted that modern religion had no need for bells, though chimes might bear sentimental value. In fact, they suggested, churches might pursue their institutional missions more effectively by keeping quiet, by respecting their neighbors' peace, and by offering

welcome relief from the pressures and cacophony of modern urban life. In other words, if bells became a nuisance, then they could and should be muted.

Disputants thus debated whether religious sounds were necessary—for religion, for the city, and for certain classes of people. And through these differences, I have proposed, they situated religious sounds differently within broader cultural discourses about noise. Scholarship on noise has paid little attention to religious sounds, but the St. Mark's dispute offers a useful case study for considering how religion may have fit into nineteenth-century debates. The church's leaders evaluated their chimes positively, associating their sounds with strength, power, and prosperity. Churches, like factories, constituted a vital engine of progress. But religious sounds also were different.

Appealing to tradition and custom, the church presumed its right to make noise without censure and interpreted the complaints as a challenge to its public authority. On the other hand, the neighbors described noise as uncivilized and disorderly, as unnecessary and unwanted. They heard it as a threat to public order, and they saw no reason to regulate religious sounds differently. In fact, they suggested, religious sounds were easier to contain precisely because they were not needed. The St. Mark's disputants thus advanced competing conceptions of the relationship between religious sound and social power. The church asserted its right to make noise while the neighbors assumed their own right to manufacture quiet.

In their decisions, the Pennsylvania courts affirmed Protestantism's continued public place, but circumscribed that place, limiting its aural expression to particular days and times. Through their regulation of St. Mark's chimes, the courts implicitly demarcated when religious practice was appropriate and when it sounded "out of place,"

when it constituted noise. Judge Hare significantly explained the need to regulate noise by appealing to sound's particular physical properties. Sound traveled through the air, traversing legal boundaries, and spilling over onto city streets and into private homes. Public sounds such as church bells could not be shut out, Hare maintained. Individuals could not choose whether to listen—or respond—to their call. Regulating *which* sounds would be permissible on city streets thus became a matter of defining *whose* sounds would be made unavoidable. As I explain further in chapter 5, we find here hints of an important relationship between public sound and social legitimacy. Judge Hare did not mute all church bells, but only these particular bells. Certain sounds would continue to dominate Philadelphia's acoustic space, while others would be silenced. Philadelphians would have no choice but to hear certain noisemakers and not others.

Judge Hare clearly did not intend to mute Protestantism's public influence, nor did his decision in fact have that broader effect. He even went out of his way to emphasize the importance of public religious practice. "Sunday," Hare wrote, "as observed by the English-speaking races, teaches in the street as well as in the church." But Hare's reference to "the English-speaking races" seems suggestive. It is not clear whether Hare presumed a public place for all religious practitioners or only for Protestants. Did he imagine polyphonic public places, resounding with the sounds of religious variety, or monophonic city streets, dominated by the sounds of a *de facto* religious establishment? As religious newcomers continued to arrive in Philadelphia, they would contribute further to the city's already diverse religious soundscape. But whose sounds would be deemed legitimate? Whose would be rendered publicly permissible and thus unavoidable? Did Hare's reference to the "English-speaking races"

include the devotional practices of Catholics, who would soon be numerically dominant in Philadelphia? Did his generosity extend to Jews, two of whom were arrested in June 1876 for engaging in “worldly employment” on the Christian Sabbath after the noise of their labor had disturbed their neighbors? Could Hare put up with Chinese gongs, used by street hawkers but also by Buddhists, yet explicitly targeted by a Kansas City anti-noise ordinance in 1913? Should the Islamic call to prayer echo through American cities, as it first did in New York City in 1893? In short, could only certain religions be publicly sounded?⁷⁵

Over the next several decades, these questions about the right to make noise publicly would become even more pressing. As we will find in the next chapter, early twentieth-century campaigns increasingly targeted all unnecessary sources of urban noise, including the sounds of industry. At the same time, religious dissenters increasingly came to claim a public place in American life. American churches always had rung bells, St. Mark’s leaders had contended. But might other religious groups similarly assert a right to make noise? In the next chapter, I consider a case involving Jehovah’s Witnesses who used loudspeakers to make their voices heard. New amplification technologies offered new opportunities for dominating space with sound. They also would raise new questions about the right to practice religion out loud.

⁷⁵*Harrison v. St. Mark’s*, 490. On the arrest of the Jews for creating a nuisance on the Sabbath, see “The Sunday Law,” *Philadelphia Evening Bulletin*, June 24, 1876. On the Kansas City anti-gong ordinance, see *Anti-Noise Ordinances of Various Cities*, Compiled for the Committee on Health of the Chicago City Council, Dr. Willis O. Nance, Chairman, by the Municipal Reference Library, Chicago, 1913, 1-36. On the Islamic call to prayer in New York City, see “New-York’s First Muezzin Call,” *New York Times*, December 11, 1893.

CHAPTER 3

AMPLIFYING RELIGIOUS DIFFERENCE: JEHOVAH'S WITNESSES, LOUDSPEAKERS, AND THE RIGHT TO BE HEARD

Daniel P. Falsioni, Police Court Judge of Lockport, New York, was confused. At a 1946 trial testing a Jehovah's Witness minister's right to operate loudspeakers, the defense attorney had noted the volume of local church bells. And Falsioni did not follow the analogy. "I don't think there is any connection between church bells and a loudspeaker," he explained. Falsioni differentiated a religious dissenter's use of relatively new amplifying technologies from the more traditional sounds of bell-ringing. But he might have been surprised to discover that many churches were starting to use loudspeakers, too. For example, the *Lockport Union-Sun & Journal* reported on January 2, 1945, that "the tower of the [Middleport] Methodist Church has been wired with an amplifier and plans have been made to broadcast the Chimes every day at noon. The music can be heard for several miles around and [the church's pastor] said that it should remind all who hear them to pray for loved ones far from home." Electronic amplification enabled this church to expand its acoustic reach, to call more listeners to pray. In chapter 2, St. Mark's neighbors suggested that new technologies, such as clocks and wristwatches, had rendered church bells unnecessary. But it seems that other technological innovations, such as loudspeakers, actually could enhance churches' means for attracting worshippers. Some critics objected to amplified chimes on aesthetic

grounds, but complaints about their volume (as in the St. Mark's case) proved relatively uncommon. However, the use of amplifying devices by unpopular religious dissenters did not always go as uncontested. As the Lockport case made clear, not all groups could expand their acoustic range without protest.¹

In this chapter, I examine this 1946 Lockport dispute, which began when a group of Jehovah's Witnesses used amplification equipment to broadcast religious sermons in a public park. Lockport police arrested the loudspeaker's owner, Samuel Saia, for violating the city's anti-noise ordinance, which prohibited operating sound equipment without a permit. Some Lockport residents complained that the noise emanating from Saia's loudspeaker interfered with their enjoyment of the park. But Saia described his practice as religious worship and maintained that the U.S. Constitution's First Amendment protected his right to broadcast. Saia eventually appealed his case to the U.S. Supreme Court, where he called on the Justices to consider for the first time whether religious freedom might entail a right to make noise.²

¹*Saia v. New York*, 334 U.S. 558 (1948), Transcript of Record, 165 (hereinafter I refer to the record of the testimony at trial as "Transcript"); "Methodist Chimes Play at Noon," *Lockport (NY) Union-Sun & Journal*, January 2, 1945. For a discussion of complaints about amplified chimes on aesthetic grounds, see Thomas F. Rzeznik, "Spiritual Capital: Religion, Wealth, and Social Status in Industrial Era Philadelphia" (Ph.D. Dissertation, University of Notre Dame, 2006), 169. Rzeznik cites a 1930 editorial from *Church News* that asked, "How will Churches retain their distinctiveness [when any church] can put a record of the Bok Carrillon on its little victrola and amplify it out of a broken second-story window, [thinking it will sound] just as sweet and rich [as] real Belgian chimes?" As we will see, the fact that loudspeakers and phonograph players rendered religious sounds portable and reproducible was precisely the source of their appeal for many Jehovah's Witnesses.

²As will be discussed, the Supreme Court already had decided a number of cases related to Witness proselytizing activities, but *Saia* was the first case to frame the issue explicitly as about noise, testing the validity of an anti-noise ordinance. I should emphasize that the Court did not rule on this question as I have framed it, although Saia and his attorneys did put this question before the Court. Saia argued that his freedoms of worship and speech were at stake, although the Court decided the case exclusively on free speech grounds. For important studies of the Witnesses' legal battles, especially during the 1940s, see William Shepard McAninch, "A Catalyst for the Evolution of Constitutional Law: Jehovah's Witnesses in the Supreme Court," *University of Cincinnati Law Review* 55 (1987): 997-1077; Merlin Owen Newton, *Armed with the Constitution: Jehovah's Witnesses in Alabama and the U.S. Supreme Court, 1939-1946* (Tuscaloosa: University of Alabama Press, 1995); Eric Michael Mazur, *The Americanization of Religious*

The early twentieth-century “electric revolution” introduced new mechanical sounds into American cities and intensified debates about urban noise. Perhaps no sounds were as contested as the amplified noises of electro-acoustic loudspeakers. Loudspeakers offered invaluable means for extending acoustic space, but also offered unprecedented opportunities for dominating space with sound and for drowning out the sounds of others. The loudspeaker “allows one to impose one’s own noise and to silence others,” the cultural theorist Jacques Attali has argued. “The loudspeaker was...invented by an imperialist,” composer R. Murray Schafer similarly has contended, “for it responded to the desire to dominate others with one’s own sound.” As if to prove Schafer’s point, no less an imperialist than Adolph Hitler claimed in 1938 that “without the loudspeaker, we would never have conquered Germany.” Indeed, scholars of auditory culture have tended to focus on the loudspeaker almost exclusively as a vehicle of power, enabling “aural aggressors” to infringe on the rights of others by imposing their sounds on unwilling listeners.³

But at the same time, loudspeakers also have functioned as vehicles of dissent, allowing religious and political “others” to compete acoustically with the sounds of power. Loudspeakers have provided unpopular minorities with a critical means for making their voices heard. In fact, their portability has made them especially well-suited

Minorities: Confronting the Constitutional Order (Baltimore: Johns Hopkins University Press, 1999); Shawn Francis Peters, *Judging Jehovah’s Witnesses: Religious Persecution and the Dawn of the Rights Revolution* (Lawrence: University Press of Kansas, 2000).

³Jacques Attali, *Noise: The Political Economy of Music*, trans. Brian Massumi (Minneapolis: University of Minnesota Press, 1985), 87; R. Murray Schafer, *The Soundscape: Our Sonic Environment and the Tuning of the World* (Rochester, VT: Destiny Books, 1993). On the “electric revolution,” see Schafer, *The Soundscape*, 88-102. On the transformation of the American soundscape by electronic and mechanical sounds, see Emily Thompson, *The Soundscape of Modernity: Architectural Acoustics and the Culture of Listening in America, 1900-1933* (Cambridge, MA: MIT Press, 2002). I borrow the phrase “aural aggression” from Justice Frankfurter’s dissent in *Saia*, 334 U.S. at 563-4 (Frankfurter, J., dissenting).

for speakers who have lacked access to other channels of power. In chapter 2, I noted that Christian churches regularly have assumed a right to make noise without censure. Church bells frequently have faded into the background, their chimes taken for granted as customary acoustic features of daily life. But, as we find both in this chapter and in chapter 4, religious dissenters have used loudspeakers to introduce their own sounds into the auditory environment, to assert their own right to make noise. And by diversifying the American religious soundscape, they have de-naturalized the status of those sounds that previously went unnoticed. In other words, loudspeakers have functioned as vehicles of power, but they also have been used to amplify difference.

The purpose of this chapter is to explore how the *Saia* case exemplified this tension between competing conceptions of sound and power. On the one hand, Jehovah's Witnesses used loudspeakers to make their voices heard. They used loudspeakers to render religion portable, to expand the boundaries of religious space, and to enlarge the acoustic community constituted by their preaching. Loudspeakers enabled these religious dissenters to amplify their presence to neighbors who might have preferred not to hear them. But at the same time, the Witnesses caused a public nuisance, disturbed the peace, and infringed on the rights of unwilling listeners. Critics complained that the Witnesses were not defining space with their sounds, but were dominating it. They argued that at stake was not the Witnesses' right to worship, but rather their own right to peace and quiet. Participants in the Lockport dispute thus debated whether this case centered on concerns about religion or about noise, about discrimination against an unpopular

religious minority or about preserving the public peace. Through this dispute, contestants debated the limits of religious freedom and toleration.⁴

The *Saia* case called on the Supreme Court to adjudicate for the first time a dispute about religious noise, and I briefly examine the Court's decision in the final section of this chapter. The Court overturned Saia's conviction, though it did so in a way that sidestepped the religious issue almost entirely, settling the case instead on free speech grounds. The Court thus affirmed Saia's right to make his voice heard, but it avoided determining whether religious freedom might entail a right to make noise. It did not make space for religious sounds defined as such. My primary interest in this chapter is not to consider *Saia*'s implications for First Amendment jurisprudence, however, but to attend to how Lockport residents heard and framed what they understood as at stake. As in other chapters, I consider how disputants contested religion's place in their community's public life.⁵

In the first section of this chapter, I briefly narrate a history of Lockport's Christian institutions, focusing on their vitality and their variety. Jehovah's Witnesses tested the limits of Lockport's postwar ecumenical spirit, I suggest. In the next section, I

⁴In his discussion of loudspeakers' effects on acoustic space, Paul Rodaway differentiates between "defining space *by* sound" and "dominating space *with* sound." *Sensuous Geographies: Body, Sense, and Place* (London: Routledge, 1994), 108. I should emphasize that discrimination was not as overt in the *Saia* case as it was in many other cases involving Jehovah's Witnesses from the 1940s. The Lockport Witnesses faced no violent attacks, and park-goers denied having paid any attention to the content of the Witnesses' lectures.

⁵My approach thus differs from works such as McAninch, "Catalyst"; Philip B. Kurland, "The Right to Proselyte," chap. 6 in *Religion and the Law: Of Church and State and the Supreme Court* (Chicago: Aldine Pub. Co., 1962), 50-74; Newton, *Armed with the Constitution*; Mazur, *The Americanization of Religious Minorities*; and Peters, *Judging Jehovah's Witnesses*. McAninch, Kurland, Newton, and Peters each focus more on the implications of Witness-related cases for First Amendment jurisprudence. Mazur concentrates on how the interaction of Witnesses with the American constitutional order shaped both Witness traditions and the legal order. At times in this chapter, I consider how this case related to other Witness-related cases, but I am more interested in situating this case within a history of religious noise disputes, rather than within a history of disputes about Witness practices.

argue that Jehovah's Witnesses used new acoustic technologies to expand the boundaries of religious space and of communal membership. But I also consider the ways that these auditory practices infringed on the rights of others, accounting, only in part, for the widespread hostility that Witnesses encountered during the 1940s. I then situate the Lockport dispute within a brief history of twentieth-century noise legislation. The *Saia* case emerged as an unintended consequence of regulatory efforts that had not considered potential implications for American religious life—for religion practiced out loud. Municipal anti-noise ordinances aimed to protect the public from unwanted sounds, but they tended to target particular classes of noisemakers who threatened social order. They could be used to produce city streets on which only certain types of sounds would be tolerated.

As I then turn to the arguments advanced at Saia's trials, I focus on how participants contested whether this case centered on religion or noise. I attend especially to three themes through which disputants debated whether Jehovah's Witnesses were amplifying difference or dominating space with sound. First, I listen to debates about whether civil law or religious law authorized the Witnesses to make noise. Through this disagreement, disputants contested whether religious sounds essentially were different from non-religious sounds. Second, I listen to debates about whether noise complaints targeted loud sounds or unwanted messages. Park-goers denied paying any attention to the content of the Witnesses' lectures, but the Witnesses noted the other religious sounds that dominated Lockport's acoustic space and alleged discrimination against the sounds of religious dissent. Finally, I listen to debates about whether the Witnesses' intended audience included willing or unwilling listeners. Disputants disagreed about whether

they should be able to choose which sounds they would have to hear in public. Through each of these debates, disputants contested whether the Witnesses' loudspeakers amplified difference or dominated space with sound. They debated whether the Witnesses' public preaching constituted religion or noise. And through these differences, I propose, they advanced competing conceptions of religion and of its normative boundaries. They contested where and when religion belonged and what made it sound out of place.

A Christian Enterprise of "Vast Proportions"

The Lockport Public Library local history collection includes a mid-twentieth century drawing titled "Church Steeples of Lockport." In the sketch, the artist has depicted nine local church steeples, which represented the town's denominational and architectural variety and which served as its most prominent visual markers. Located in the northwest corner of New York, approximately twenty miles from Niagara Falls and thirty miles from Buffalo, the small city of Lockport has housed a myriad of religious institutions nearly since its inception. In 1934, the Reverend Harry A. Bergen of Lockport's Plymouth Congregational Church highlighted the town's denominational diversity as a source of its civic identity and strength. "Do you know that there are at least thirteen denominational groups functioning in the city of Lockport at the present time?" Bergen inquired rhetorically, "That in our city of approximately 25,000

population there are 25 church buildings?...The Christian enterprise in this city is one of vast proportions.”⁶

Lockport’s religious variety reflected the town’s particular patterns of settlement and growth. Most significantly, Lockport’s history was tied to the construction of the Erie Canal in the 1810s and 20s. The city was founded at the site of the five locks that “lifted” the Canal sixty feet, raising it to the level of Lake Erie. Hailed as a technological marvel and a feat of modern engineering, the locks gave Lockport its name and led to its designation as the seat of Niagara County in 1822. Land speculators and migrant laborers drove Lockport’s rapid growth and also built its first religious institutions. In 1816, a group of Quaker families settled in the area. Their meetinghouse constituted Lockport’s first church, and their religious values “set the spiritual tone of the community from the outset,” including a commitment to religious toleration. Within two decades of the Canal’s construction, Baptists, Methodists, Presbyterians, Episcopalians, Lutherans, and Congregationalists all had built churches in Lockport. Lockport residents participated in the religious revivals that swept through New York’s “burned-over district” during the Second Great Awakening, and, like other communities in the area, experienced Protestant proliferation and fragmentation. Religious institutions engaged in benevolent work, aiming to attend to the spiritual needs of canal workers, and Lockport became an important seat both for the antebellum abolitionist and temperance movements. Irish laborers also brought Roman Catholicism to the area, building Lockport’s first parish in 1834. Catholic residents faced some bigotry and

⁶Manning McCandlish, “Church Steeples of Lockport,” n.d., Lockport Churches (General) File, Local History Collection, Lockport Public Library, Lockport, NY. Rev. Bergen is quoted in Kathleen L. Riley, *Lockport: Historic Jewel of the Erie Canal* (Charleston, SC: Arcadia, 2005), 104.

discrimination, and religious, ethnic, and class tensions occasionally erupted into conflict. But Lockport's Catholic community continued to grow and thrive. The Irish laborers were followed by German immigrants in the mid-nineteenth century and by Italian immigrants in the early twentieth century, who built their own national parishes and helped to secure a place for Roman Catholics within the broader community. By 1934, Rev. Bergen could celebrate a religious landscape characterized by institutional strength, denominational diversity, and ecumenical cooperation.⁷

During the first half of the twentieth century, Lockport was transformed into a manufacturing city. Its leading companies produced a wide range of goods, including radiators, steel, textiles, leather, and plumbing supplies. While the city was not unaffected by the Depression, its factories contributed greatly to the war effort, and Lockport emerged from World War II with a revitalized economy, a bustling commercial downtown, and a sense of optimism about its future. Its religious institutions also thrived, as Lockport residents attended church in high numbers. A 1955 study found twenty-six churches or other houses of worship in the city, representing fourteen denominations. Out of a total population of twenty-five thousand residents, over twenty-one thousand claimed to belong to a religious congregation, split almost evenly between

⁷Riley, *Lockport*, 24. For histories of Lockport, see Riley, *Lockport*; Paulette Peca, *Lockport* (Charleston, SC: Arcadia, 2003). Kathleen Riley is an historian of American Catholicism and focuses especially on Lockport's religious history. For other sources on Lockport's religious history, see "Mrs. Frank Patten Tells Lockport Church History," *Lockport (NY) Union-Sun & Journal*, November 21, 1934; and the Lockport Churches File, Local History Collection, Lockport Public Library, Lockport, NY. For classic studies of the Burned-Over District, see Whitney R. Cross, *The Burned-Over District: The Social and Intellectual History of Enthusiastic Religion in Western New York, 1800-1850* (Ithaca: Cornell University Press, 1950); Paul E. Johnson, *A Shopkeeper's Millennium: Society and Revivals in Rochester, New York, 1815-1837*, 1st rev. ed. (New York: Hill and Wang, 2004). For histories of the Erie Canal, see George E. Condon, *Stars in the Water: The Story of the Erie Canal* (Garden City, NY: Doubleday, 1974); Carol Sheriff, *The Artificial River: The Erie Canal and the Paradox of Progress, 1817-1862* (New York: Hill and Wang, 1996); Peter L. Bernstein, *Wedding of the Waters: The Erie Canal and the Making of a Great Nation* (New York: W.W. Norton, 2005).

Roman Catholicism and various white mainline Protestant denominations (primarily Methodist, Baptist, Episcopal, Lutheran, and Presbyterian). Little tension existed between the city's religious communities. Instead, Lockport seemed swept up in the ecumenical spirit that marked postwar American religious life. Lockport's residents generally cared little about *which* church one attended, provided one attended a church.⁸

This ecumenical spirit was reinforced through a variety of channels. The Lockport Federation of Churches encouraged interdenominational cooperation, particularly through its joint Lenten churches that brought together the city's leading Protestant churches. A Catholic priest contributed a weekly column to the local newspaper, clarifying Catholic beliefs and customs for its Catholic and non-Catholic audiences alike. And a series of editorials in the local newspaper also reinforced this ecumenical spirit. For example, a 1949 editorial encouraged Lockport residents to support the city's churches financially, but emphasized that "we are not particularly interested in the church to which an individual belongs. This is a matter for each person to decide for himself. Some persons like religion served one way and some like it otherwise." A 1947 editorial argued that public officials should not use their positions to promote the practices of any particular church, but should be guided, in general, by religious principles. "I am for religion," the writer concluded, "and against all religions." Anticipating President Eisenhower's memorable assertion that "In other words, our form of government has no sense unless it is founded in a deeply felt religious faith, and I

⁸On Lockport's manufacturing and commercial history, see Lockport Board of Commerce, *Lockport Today* (Lockport, NY: Lockport Board of Commerce, 1935), 35-6; Lockport/Eastern Niagara Chamber of Commerce, *Lockport—to the Canal and Beyond: A History of Lockport's Settlement and Growth* (Lockport, NY: Lockport/Eastern Niagara Chamber of Commerce, n.d.); Peca, *Lockport*, 7-9. For the 1955 study, see Nancy A. Disinger, "The Government of Lockport, New York," 1956, Lockport Box, Lockport Local History Collection, Lockport Public Library, Lockport, NY.

don't care what it is," the newspaper's editors encouraged a vague religious sentiment that could be mutually affirmed both by Lockport's Protestant and Catholic communities.⁹

Above all, the editors of the *Lockport Union-Sun & Journal* emphasized the civic virtues of religious adherence and located religious life firmly within the walls of its institutional structures. "The great task of civilization," a 1946 editorial began, "is the making of finer human beings. This is also the aim of Lockport whether we always realize it or not...Probably the greatest single agency for the advancement of mankind is the church...Going to church may or may not be a necessity to what is termed 'salvation,' but it is a source of comfort and solace to millions every week in the United States." The newspaper's editors valued religious worship not for its soteriological promise, but for its cultivation of those values necessary for living a better life. "Basically, religion is faith in spiritual values and the approach to life's problems in the light of those values..." another editorial declared, "That needed faith can be kept alive by the institutions which religion has created—the churches...There is no one who reads these lines who does not owe far more in happiness, in security, and in success to institutions of religion than they have received from the individual. If you don't believe this, just try to imagine Lockport

⁹"Churches Deserve Wholehearted Support," *Lockport (NY) Union-Sun & Journal*, June 4, 1949; "Officials and Religion," *Lockport (NY) Union-Sun & Journal*, October 20, 1947. On the Lockport Federation of Churches, see "Church Council Holds Same Aims Nearly 34 Years," 1955, Lockport Churches (General) File, Local History Collection, Lockport Public Library, Lockport, NY. For an illuminating discussion of the different ways that Eisenhower's quotation has been rendered and interpreted, see Patrick Henry, "'And I Don't Care What It Is': The Tradition-History of a Civil Religion Proof-Text," *Journal of the American Academy of Religion* 49 (March 1981): 35-49. In my choice of wording, I have followed Henry's reconstruction of what Eisenhower most likely said on December 22, 1952. Interpreting Eisenhower's comments as recognition of the deep religious roots of democracy, Henry notes that "Eisenhower's statement leaves open the possibility that there might be, for instance, a Buddhist democracy" (41). Despite his use of religiously neutral language, however, Eisenhower was clearly locating the roots of *American* democracy in Judeo-Christian principles.

as a churchless city.” The newspaper’s editors hailed the city’s religious institutions as sources of civic pride, strength, and identity.¹⁰

Lockport’s postwar spirit of religious toleration seemed premised on the assumption that religion had a proper time and place. Although religious practice occasionally spilled over into the streets, particularly in the form of Roman Catholic festivals and processions, religious worship in Lockport generally meant going to church on Sunday. “Sunday was a ritual,” recalls one long-time Protestant Lockport resident, “You go to a church. That’s the way it was with me and, of course, I thought everybody got up on Sunday morning and went to church because that’s just what we always did.” Another long-time Catholic resident has expressed his feeling that “with the practice of religion and faith, its greatest impact is when we see love and goodness and then find out that you’re a Christian... You don’t have to broadcast that you are a Christian... [that] would be far better than trying to force [it] on someone...” Sectarian differences were best managed by keeping them to oneself, this speaker implied. Yet not all religious adherents agreed. And not all religious adherents confined their worship to the institutional setting of a church. Local Jehovah’s Witnesses brought their religious practice to Lockport’s public parks. Could these also constitute religious spaces? When Jehovah’s Witnesses began to broadcast their sectarian differences for all to hear, they tested the limits of Lockport’s ecumenical toleration.¹¹

¹⁰“Church Plays its Part,” *Lockport (NY) Union-Sun & Journal*, July 13, 1946; “Easter Calls for Consideration of Year-Around Devotion,” *Lockport (NY) Union-Sun & Journal*, April 20, 1946.

¹¹Lockport’s Roman Catholic churches made annual requests to the city’s Common Council to block off the surrounding streets for public processions or festivals. For example, see *Proceedings of the Common Council and Municipal Boards of the City of Lockport, Niagara County, New York for Municipal Year 1946* (Lockport, NY: Lockport Common Council, 1946), 287, 319. For the recollections of long-time Lockport residents, see Joseph Dumphrey, interview by Dave Marmon, August 23, 2005, transcript, Oral Histories of Lockport, Lockport Public Library, Lockport, NY.

Spiritual Hearing and the Limits of Toleration

On four consecutive Sunday afternoons in September 1946, Lockport police officers arrested Samuel Saia for using loudspeakers in a public park without a permit. Saia had obtained permission to operate his sound car on previous occasions, but his renewal application had been rejected after the police department reported complaints. Saia decided to proceed with the September park meetings nonetheless, knowing that he might face imprisonment. Saia seemed an unlikely candidate, perhaps, to insist on his right to preach publicly. A fifty-two year old immigrant from Sicily, Saia spoke broken English and worked as a garbage collector in Buffalo. He had settled there with his wife and children shortly after serving in World War I. Saia was raised a Catholic and had never read the Bible before arriving in the United States. But during the 1920s, he became friendly with a member of the Jehovah's Witnesses and started to attend their meetings. He began to read the Bible for himself and was attracted to the Witnesses' teachings, for he deemed them to be more in line with the Bible than were the doctrines of the Catholic Church. In 1935, Saia purchased electronic sound equipment, which he affixed to the roof of his Studebaker. He would drive up and down the streets of various upstate New York towns, broadcasting recorded sermons on phonograph records. Because he never felt confident about his English, Saia often brought his son, Joseph, along with him. Joseph would speak through a microphone, announcing the times and locations of upcoming Witness meetings. On Sundays, Saia typically would park his car in local public parks and invite other Witnesses to use his equipment in order to preach

the good news of God's kingdom. On the days that Saia faced arrest, he never spoke over the loudspeakers himself.¹²

Since 1933, sound cars, or cars equipped with electronic amplification devices, had offered Jehovah's Witnesses an important means for spreading God's word. Founded in the 1870s, Jehovah's Witnesses believed that the apocalypse and dawning of a new age were imminent. They followed the teachings of Charles Taze Russell, who came to be regarded as a prophet and who built the movement's central organization, the Watch Tower Bible and Tract Society. Under Russell's leadership, Witnesses focused on preparing themselves for the apocalypse through what they described as "character-building." But Russell's successor, "Judge" Joseph Rutherford, emphasized instead the obligation to proselytize publicly and to vindicate Jehovah's name. He understood evangelism as the means by which God's elect would be separated from those who would be damned. During the 1920s, Witnesses came to regard public preaching as a "sacred duty" and as "essentially the means by which Jehovah's Witnesses get saved." Instead of attending church services on Sunday morning, Witnesses adopted proselytizing as their "highest form of worship." Beginning in 1928, Judge Rutherford explicitly encouraged Witnesses to engage in evangelizing activities on Sundays, arguing that the Sabbath was intended as a day of rest only for the Israelites, not for Christians. "I consider it my Christian duty to preach the Gospel, not by standing up in church and preaching," one

¹²Joseph Saia, interview by author, August 14, 2008. The Watch Tower Society established the Gilead School in 1943 to train ministers and improve proselytizing techniques. With the school's opening, the Society increasingly encouraged ministers to preach for themselves, rather than play recorded sermons on portable phonograph players. See Watch Tower Bible and Tract Society, *Jehovah Witnesses in the Divine Purpose* (Brooklyn, NY: Watchtower Bible and Tract Society, 1959), 213-4; James M. Penton, *Apocalypse Delayed: The Story of Jehovah's Witnesses*, 2nd ed. (Toronto: University of Toronto Press, 1997), 83-4. Jacques Attali argues that phonograph machines channelized "the discourses of power" by preserving and replicating the words of political leaders. While this was the case for the Witnesses in the 1930s and early 40s, it seems to have shifted by the mid-40s. Attali, *Noise*, 92.

Iowa Witness explained in 1940, “but by going from house to house with literature and asking people if they will read it.” Employing house calls, pamphlets, magazines, booklets, phonograph records, radio broadcasts, sound cars, and a variety of other means, Witnesses urged their neighbors to prepare for Armageddon.¹³

“Witnessing” implies a visual orientation to God’s message, but Watch Tower Society publications also laid out an auditory path to salvation. Preaching was to open formerly deaf ears; it was to provide new audiences with an opportunity to hear the truth of God’s kingdom and thus to join the elect. “So it becomes plain how important it is to have an ear for God’s Word and how important it is to preach it,” a 1954 article explained, “because preaching leads to hearing, and hearing to salvation.” A 1941 essay even imagined the apocalypse as an acoustic event. “Jehovah God caused the walls of Jericho to fall down flat at the sound of a multitude of human voices, the voices of His then witnesses in the earth...,” this writer recalled, “But the great shout is yet to come, and is sure to come, whatever be its form.” Hearing was at the heart of the Witness enterprise. “Jehovah’s witnesses,” the 1941 article continued, “go about the earth with the witness by word of mouth, by sound-car, by phonograph, by radio...and sound enters into it all.” But hearing was both a physical and a spiritual sense, for listeners had to be trained how to hear properly. Spiritual hearing required one to be open to the word of God. It required faith, love of righteousness, and humility. These Watch Tower

¹³Penton, *Apocalypse Delayed*, 32. The Iowa Witness is quoted in Peters, *Judging Jehovah’s Witnesses*, 32. My understanding of Jehovah’s Witness history, beliefs, and social organization has been shaped especially by Penton, *Apocalypse Delayed*. For an institutional history published by the Watchtower Bible and Tract Society that dates the initial use of sound-cars to 1933 and that also describes proselytizing as a form of worship, see Watch Tower Bible and Tract Society, *Divine Purpose*, 129, 177. For examples of Watchtower publications that discuss the “true” meaning and purpose of the Sabbath, see “Real Time of Rest,” *Watchtower* (August 15, 1939): 252-4; “No Sabbath Day for Christians,” *Awake!* (August 22, 1956): 5-8.

publications emphasized that hearing—and thus salvation—implied a necessary relationship between speaker and listener. A preacher required a receptive audience; an evangelist only could offer the opportunity for election. “After that,” instructed a 1948 article, “it is up to the one to whom the message is presented to ‘hear’ it, that is, accept it into a good and honest heart with humility, faith, and obedience.” Spiritual hearing required an ear that could distinguish “truth” and “genuineness” from the “great variety of sounds” to which one typically listens. God’s word was not just a sound like any other, the Witnesses taught.¹⁴

Witnesses made use of a variety of new electronic media in order to make heard the sound of God’s word. During the 1920s and 30s, Judge Rutherford broadcast radio sermons directly into listeners’ homes. Rutherford evinced particular scorn for Roman Catholics, and he frequently colored his speeches with anti-Catholic invectives. Catholic organizations initiated a campaign to keep Rutherford off the air, and Rutherford responded by advocating the increased use of portable phonographs and sound cars instead, each of which could be used to amplify recordings of his sermons. Each of these media—radio, phonographs, and sound cars—made religion portable and radically expanded the boundaries of its acoustic territory. Radio rendered physical proximity between speaker and hearer unnecessary. Phonographs could be played at any time, eliminating the need even for temporal congruence, and the acoustic range of sound cars would shift continually as they were driven. As the composer R. Murray Schafer has argued in his analysis of “the electric revolution,” with the “radio, sound was no longer

¹⁴For examples of articles on spiritual hearing, see “Sound and the Human Ear,” *Consolation* (October 15, 1941): 3-8; “Hearing Ears,” *Watchtower* (May 1, 1948): 131-9; “Do You Have Hearing Ears?” *Watchtower* (May 15, 1952): 293-6; “An Ear for God’s Word,” *Awake!* (November 8, 1954): 25-6.

ted to its original point in space; with the phonograph it was released from its original point in time.” These transformations in the modes of transmitting sound could bear implications for defining the boundaries of religious communities. In chapter 2, I suggested that we might define a parish as including those within acoustic range of its church bells. But deploying devices such as phonographs and sound cars meant that practically anyone at any time or place could be brought within range of the Jehovah’s Witnesses’ call. Anyone could be made part of their acoustic community, and any place could be made a religious space.¹⁵

Phonographs and sound cars were effective precisely on account of their portability. Witnesses often would use them in towns prior to establishing a formal congregation or Kingdom Hall, as Witnesses named their houses of worship. In Lockport, for example, Jehovah’s Witnesses began meeting in a rented downtown apartment on Main Street in 1947. They converted a former store into a Kingdom Hall in 1958 and erected a new building in 1963, which serves as Lockport’s Kingdom Hall to this day. But at least as early as 1945, Samuel Saia and other local Witnesses had sponsored public meetings in Lockport by making use of sound cars in the city’s public parks. And they were not alone. While Witnesses tended to emphasize door-to-door canvassing and private Bible study, the Watch Tower Society’s Yearbook for 1947 counted 101,632 public meetings held that year all over the world in “auditoriums, public parks, and other open-air meeting places.”¹⁶

¹⁵Schafer, *Soundscape*, 89. On the Witnesses’ shift from radio to phonographs and sound cars, see “Modern History of Jehovah’s Witnesses, Part 13: Champions of Freedom of Speech and Worship,” *Watchtower* (July 1, 1955): 392-5; Watch Tower Bible and Tract Society, *Divine Purpose*, 129.

¹⁶Watch Tower Bible and Tract Society, *1948 Yearbook of Jehovah’s Witnesses containing report for the service year of 1947* (Brooklyn, NY: Watch Tower Bible and Tract Society, 1947), 24. On Lockport’s Kingdom Halls, see Al Hopkins, “Church Folk Building New ‘Kingdom Hall,’” *Lockport (NY) Union-Sun*

These public meetings enabled Witnesses to preach to larger audiences than they could reach through individual visits. For example, the 1947 Yearbook estimated that over 250,000 persons had “listened to the good news” on a single Sunday. But sound cars had another advantage that differentiated them from phonographs, radio, and printed literature. By amplifying their religious message with electro-acoustic loudspeakers, Jehovah’s Witnesses could force unwilling listeners to hear God’s truth. In contrast, individuals could choose to turn on a radio or to switch stations. They could choose whether or not to read a pamphlet or Bible. They could offer their consent before listening to phonographs, a point that U.S. Supreme Court Justices found significant in *Cantwell v. Connecticut*, a landmark case to which I will return below. But sound cars and loudspeakers ensured that neighbors might have no choice but to hear the sound of God’s word on city streets, in public parks, and even in the comfort of their own homes. Several Witnesses even praised their effectiveness precisely for that reason. “Judge Rutherford has the idea,” exclaimed one minister in a letter of appreciation published in *Watchtower*, “he makes them hear whether they want to or not.” Or as another sound car operator reported triumphantly in *The Golden Age*, “He can’t get away from this. He can’t shut this off as he can the radio...[he] just can’t get away from that voice. It is clear and distinct wherever he goes.” Sound cars, loudspeakers, and other amplification devices enabled Jehovah’s Witnesses to make their voices—and the sound of God’s

& *Journal*, December 20, 1963; “Services of Dedication Start at Kingdom Hall,” *Lockport (NY) Union-Sun & Journal*, June 12, 1965.

word—heard, but they also enabled Witnesses to dominate space acoustically. Neighbors would hear their message, whether willingly or not.¹⁷

In the disputes that I analyze in chapters 2 and 4, religious devotees claimed only to be targeting like-minded audiences with their sounds. They claimed that the purpose of church bells and prayer calls was simply to announce the times of services and to remind Christians and Muslims to pray (although this was contested by their opponents). In this case, however, Jehovah’s Witnesses explicitly intended the sound of their preaching to reach religious outsiders, potential converts who might not want to hear it. Yet Witnesses also could use sound cars to attract fellow religionists and to construct community. Other Jehovah’s Witnesses also could hear their broadcasted calls. Particularly in areas without an already established Kingdom Hall, Witnesses might be unaware of the presence of others engaged in the same task. Sound cars and public meetings could announce Witness presence not only to outsiders but to themselves. For example, according to a first-person account published in *The Golden Age* in 1935, one sound-car operator was surprised when another car pulled up at the conclusion of a lecture. “The occupants jump out,” he recalled, “and almost stumble over themselves to get to us. It is a carload of Jehovah’s Witnesses from Brownsville. We didn’t know they were there, and they didn’t know we were around, until the lecture began. They locate the sound car, and everybody is happy. On their way back they make arrangements for us to have our supper at Uniontown.” Through the sounds of their preaching, Jehovah’s

¹⁷Watch Tower Bible and Tract Society, *1948 Yearbook*, 24; *Cantwell v. Connecticut*, 310 U.S. 296 (1940); “People Friendly After Sound Car Witness,” *Watchtower* (May 15, 1935): 159; Thomas A. McKnight, “Five Days with the Sound Car,” *The Golden Age* (January 16, 1935): 247-51.

Witnesses announced presence, fashioned collective identity, and strengthened communal bonds.¹⁸

This question of intended audience is significant because of the ambivalent attitude that Jehovah's Witnesses have maintained toward religious outsiders. On the one hand, as discussed above, Witnesses have embraced proselytizing as their highest form of worship, a practice that necessarily brings them into regular contact with non-Witnesses. But Watch Tower publications also have emphasized repeatedly a sense of alienation from and conflict with the world. Jehovah's Witnesses have tended to see themselves as setoff and separate from other peoples. For example, a 1948 *Watchtower* article emphasized that what made "these peculiar people...so different" was their unswerving adherence to God's law. Ironically, Jehovah's Witnesses defined themselves in opposition to the very people whom they sought to convert—the very people whom they hoped would respond to their call. The sounds of their preaching might attract new members, but also might strengthen Witnesses' own sense of being different.¹⁹

In part, the Witnesses' sense of being set apart and different emerged from their belief that the end of the world was imminent and that only the elect would be saved. But their sense of alienation also was shaped by the persecution and discrimination that they regularly faced. Their distinct identity was thus forged in part through their interactions with often hostile, and sometimes violent, religious others. During the 1930s and 40s, many Americans criticized Jehovah's Witnesses as unpatriotic because of their refusal to

¹⁸McKnight, "Five Days with the Sound Car," 249. For other essays that similarly emphasize how religious communities construct collective identity through public performances, see Robert A. Orsi, ed., *Gods of the City: Religion and the American Urban Landscape* (Bloomington: Indiana University Press, 1999).

¹⁹"Why They Are So Different in 1948," *Watchtower* (January 1, 1948): 3-12. For more on Witness alienation and separation from the world, see Penton, *Apocalypse Delayed*, 138-41, 154-6.

salute the flag, recite the Pledge of Allegiance, or serve in the military. In a wartime atmosphere, they were suspected of being Communists, traitors, or worse. But Witnesses also faced virulent opposition to their proselytizing activities. Some critics felt that witnessing on Sundays desecrated the Sabbath. Others were offended by the content of their religious message, which frequently assailed other faiths. And some opponents simply insisted on their right to be left alone, undisturbed by the sounds of public preaching. Witnesses were confrontational in their methods, and some observers accused them of courting trouble purposefully. Even a champion of the Witnesses' civil liberties described them as "a peculiarly aggressive, even obnoxious set of people, at least as judged by ordinary standards of polite, conventional life." Witnesses often would broadcast Judge Rutherford's incendiary sermons in what they knew were predominantly Catholic neighborhoods. In one case, they even built an armor-plated sound car in order to broadcast anti-Catholic invectives to a hostile Quebec audience. Through their public proselytizing, Witnesses tested the limits of religious toleration and of religious freedom. Many observers agreed with U.S. Supreme Court Justice Jackson, who wrote in a 1944 decision, "I think the limits [on religious freedom] begin to operate whenever activities begin to affect or collide with liberties of others or of the public."²⁰

²⁰Peters, *Judging Jehovah's Witnesses*, 33; *Prince v. Massachusetts*, 321 U.S. 158, 177-78 (1944) (Jackson, J., concurring). On Witness selective service cases, see Watch Tower Bible and Tract Society, *1947 Yearbook of Jehovah's Witnesses containing report for the service year of 1946* (Brooklyn, NY: Watch Tower Bible and Tract Society, 1946), 48-53. On the Quebec sound car incident, see Penton, *Apocalypse Delayed*, 71. On opposition to Sunday preaching, see Peters, *Judging Jehovah's Witnesses*, 128; Jennifer Jacobs Henderson, "The Jehovah's Witnesses and Their Plan to Expand First Amendment Freedoms," *Journal of Church and State* 46, no. 4 (2004): 813; Watch Tower Bible and Tract Society, *Divine Purpose*, 123. On opposition to proselytizing techniques, in general, see Penton, *Apocalypse Delayed*, 141-2; Peters, *Judging Jehovah's Witnesses*, 33, 82, 116-17; Newton, *Armed with the Constitution*, 141n20. The *Saia* case centered on noise. But it is interesting to note that many of the acts for which Witnesses were reviled (such as the refusal to recite the pledge or to salute the flag) were acts of *silence*, rather than noise. Refusing to make sound also can serve as an important vehicle of dissent.

During the 1940s, Jehovah’s Witnesses frequently faced mob violence, but they also encountered a series of legal obstacles. Municipalities dusted off a wide range of rarely enforced statutes and ordinances in order to block the Witnesses from engaging in public proselytizing. Witnesses responded with an impressively organized legal counterattack. From 1938 to 1946, they brought nearly forty cases to the U.S. Supreme Court. They contended that their activities were protected by the First Amendment to the U.S. Constitution, which guaranteed the freedoms of religion, speech, assembly, and press. As the historian Shawn Francis Peters has argued, these cases helped “to set the stage for a revolution in constitutional jurisprudence.” While the Witnesses did not win all of these cases, their success on the whole had a profound impact “by helping to bring minority and individual rights—areas long overlooked by the Supreme Court—out of the shadows and into the forefront of constitutional jurisprudence.” Perhaps most significant was the 1940 case, *Cantwell v. Connecticut*, in which the Supreme Court “completed the important task of incorporating the First Amendment’s protections of speech, press, and religion into the due process clause of the Fourteenth Amendment, thus shielding those rights from infringement by the states.” Jehovah’s Witnesses defended their own rights, but they also expanded the scope of civil liberty protections for all Americans.²¹

By 1946, when Samuel Saia was arrested for operating his sound car in Lockport’s Outwater Park, the tide of Witness-related cases had somewhat subsided. In fact, historians Shawn Francis Peters and Merlin Owen Newton each conclude their important studies of Witness legal battles in that year. Among other rights, Witnesses had successfully defended their freedom to distribute printed literature, to canvass door-

²¹Peters, *Judging Jehovah’s Witnesses*, 13, 15. Also see Newton, *Armed with the Constitution*; Henderson, “Jehovah’s Witnesses.”

to-door, and to play phonographs for willing listeners without obtaining a permit from municipal authorities. But for at least the next seven years, Witnesses faced continued efforts to bar them from holding open-air meetings in public parks and from operating sound cars or other amplification devices, with related cases reaching the Supreme Court in 1948, 1951, and 1953. As the Watch Tower Society Yearbook reported in 1948, “The biggest opposition experienced in the field has been because of the public meetings in parks and halls.” Communities seemed to be drawing a line at this practice, putting up with individual solicitation but resisting these public gatherings. In large part, I propose, the use of city parks and sound cars seemed different because of their unparalleled potential to dominate space acoustically, subjecting unwilling listeners to sounds that they did not want to hear and transforming public places into religious spaces. As I noted above, the defendants in the *Cantwell* case obtained consent before playing portable phonographs for passersby on the street. Individuals also could choose whom to admit into their homes. But broadcasting religious messages over loudspeakers took away this critical element of choice. Witnesses risked infringing on the rights of others to a much greater extent. In striving to make their voices heard, they could become aural aggressors.²²

²²Watch Tower Bible and Tract Society, 1948 Yearbook, 50-51. For their explanations of why they conclude their studies in 1946, see Peters, *Judging Jehovah’s Witnesses*, 291; Newton, *Armed with the Constitution*, 141. Supreme Court cases involving the Witnesses’ right to distribute literature without a permit included *Lovell v. City of Griffin*, 303 U.S. 444 (1938); *Schneider v. State*, 308 U.S. 147 (1939); and *Murdock v. Pennsylvania*, 319 U.S. 105 (1943). The witnesses’ right to operate portable phonograph players without a permit was affirmed in *Cantwell*, 310 U.S. 296. For later Supreme Court public park cases, see *Niemotko v. Maryland*, 340 U.S. 268 (1951); *Fowler v. Rhode Island*, 345 U.S. 67 (1953); and *Poulos v. New Hampshire*, 345 U.S. 395 (1953). For articles in Watchtower publications discussing the public park cases, see “Legality of Park Meetings Contested,” *Watchtower* (February 1, 1951): 85-7; “Supreme Court Upholds Park Meetings,” *Awake!* (March 22, 1951): 5-8; “Religious Meeting in Public Park no Union of Church and State,” *Watchtower* (May 1, 1951): 259-60; “Denial of Freedom ‘a Grave Mistake,’” *Awake!* (December 22, 1951): 20. The issue of *choice* also would prove critical in the Hamtramck dispute that I analyze in chapter 4. In that case, Christian neighbors suggested that the First

At least as early as 1937, Witness leaders had acknowledged that the use of sound cars and loudspeakers might be different from other proselytizing activities. In an essay that offered practical instructions for ministers in the field, one author celebrated sound cars as “one of the many effective instruments provided by the Lord for the proper execution of the witness in this the Lord’s day.” But, he cautioned, they were “also one instrument that [had] to be handled with care...,” for “the use of sound equipment [was] different. When you park a sound car on the street and start broadcasting you are to a certain extent infringing on the right of the people to peace and quietness.” This author advocated “good judgment in sound-car operation,” warning ministers not to broadcast overly incendiary messages that might prove counter-productive to their ends. And he even suggested that sound cars might reasonably be prohibited altogether. “If Caesar says ‘no broadcasting on Sunday,’” he concluded, “we go elsewhere on that day. If Caesar says ‘no broadcasting in town at all’, we remain silent in the community.”²³

But by 1946, buoyed by their many successes before the Supreme Court, Witnesses had grown more aggressive in asserting and defending their liberties. Watch Tower publications trumpeted a right to be heard and denied that there might be a corresponding right “to be let alone...in a public place.” Witnesses defended their right to operate sound cars, use electro-acoustic loudspeakers, and hold public park meetings

Amendment guaranteed them the right to choose the extent to which they would be exposed to the sounds of religious difference.

²³O.R. Moyle, “Counsel to Publishers,” *Consolation* (November 3, 1937):5-15. The author acknowledged an important exception to this advice, namely in cases involving unequal treatment. In other words, he wrote, if prohibitions on loudspeakers affected all groups equally, then Jehovah’s Witnesses should respect them. But if other groups were permitted to use loudspeakers, then Jehovah’s Witnesses should be permitted to use them, as well. Witnesses were under no obligation to respect regulations that singled them out unfairly. For discussions of earlier cases from outside of the United States in which Witnesses defended their right to use sound cars on these grounds, see “Amusing Case in Geelong, Australia,” *Golden Age* (April 22, 1936): 467-69; “A Reply to a Half-cocked Editorial,” *Golden Age* (December 30, 1936): 203-5.

because they saw these as indispensable means for a minority group to make its voice heard, not as instruments for “sound imperialism.” But municipal authorities grew equally determined to block Witnesses from engaging in such practices. In many cases, state actions clearly were motivated by animus against a sect perceived as obnoxious, unpatriotic, and subversive. For example, when Jehovah’s Witnesses attempted to hold a series of public meetings in Locona, Iowa, in September 1946, they were physically attacked by a mob that was angered by Witnesses’ refusal to salute the flag or to serve in the military. But other cases were more complicated, offering less clear evidence of overt hostility. When Samuel Saia operated his sound car in Lockport that same month, he was prosecuted under a municipal noise ordinance that regulated the use of loud speakers. As we will see, complainants in this case denied paying any attention to the content of Saia’s lectures. They denied any animus against Jehovah’s Witnesses. Instead, they claimed merely to be “annoyed” because the sounds of his sermons were disrupting conversations and disturbing the park’s peaceful atmosphere. But Saia justified his actions in the name of religious freedom and freedom of speech and contended that he was being treated unfairly. In the lawsuit that followed, the Supreme Court would rule for the first time on whether the First Amendment protected the use of sound cars and electronic amplifying devices. In order to do so, U.S. judges would be asked to determine whether public proselytizing constituted religion or noise—and whether that distinction bore any constitutional relevance.²⁴

²⁴“Right to Hear and to be Heard,” *Awake!* (August 22, 1948): 3-7. I borrow the phrase “sound imperialism” from Schafer, *Soundscape*, 77. The Lacona, Iowa, clash led to a U.S. circuit court decision in favor of the Jehovah Witnesses. See *Sellers v. Johnson*, 163 F.2d 877 (8th Cir. 1947). For discussions of the *Sellers* case in Watchtower publications, see “Mobocracy Legalized in Iowa,” *Awake!* (November 22, 1946): 12-16; “Iowa’s Mobocracy Declared Illegal,” *Awake!* (December 8, 1947): 16-20.

Regulating Loudspeakers

The Lockport police arrested Samuel Saia for violating sections 2 and 3 of Lockport Penal Ordinance No. 38, “Prohibiting Unnecessary and Unusual Noises,” which stated:

Section 2. Radio devices, etc.—It shall be unlawful for any person to maintain and operate in any building, or on any premises or on any automobile, motor truck or other motor vehicle, any radio device, mechanical device, or loud speaker or any device of any kind whereby the sound therefrom is cast directly upon the streets and public places and where such device is maintained for advertising purposes or for the purpose of attracting the attention of the passing public, or which is so placed and operated that the sounds coming therefrom can be heard to the annoyance or inconvenience of travelers upon any streets or public places or of persons in neighboring premises.

Section 3. Exception.—Public dissemination, through radio, loudspeakers, of items of news and matters of public concern and athletic activities shall not be deemed a violation of this section provided that the same be done under permission obtained from the Chief of Police.²⁵

The Lockport Common Council had adopted this ordinance on December 3, 1945.

In many cases, Jehovah’s Witnesses rightly accused municipal authorities of crafting new regulations expressly to target their proselytizing activities, but there is no evidence of such intent in the Lockport case. The city code had not been revised since 1913.

Ordinance No. 38 was one of twelve new regulations that the council adopted on the same night as part of an effort to bring the code up to date. According to the *Lockport Union-Sun & Journal*, the anti-noise ordinance was prompted by complaints about a wide range of city sounds, including the loud playing of musical instruments, the blaring of emergency sirens, the blasting of car horns, and even the jingling of tin cans attached to the cars of newlyweds. Approved exceptions to the law were expected to include

²⁵The relevant sections of Ordinance 38 are reprinted in *Saia*, 334 U.S. at 558-59.

“announcements of Lockport High School and other athletic events as well as salvage, charity, and bond campaign appeals.” No one involved in the discussions about the ordinance appears to have had the Jehovah’s Witnesses in mind, nor did anyone seem to anticipate that this law might bear implications for any of Lockport’s religious communities. It did not occur to the bill’s drafters that religion ever might constitute *noise*.²⁶

This inattention to religion seems consistent with the flurry of anti-noise ordinances that U.S. municipalities adopted during the first half of the twentieth century. In the nineteenth century, noise had been regulated under more general nuisance laws, as in the St. Mark’s church bells case. Complainants had to demonstrate that particular sounds interfered materially with their reasonable enjoyment of property or with the ordinary comfort of life. This is how most of the neighbors in the St. Mark’s case had framed their complaints, describing the sound of St. Mark’s bells as a particular source of personal distress. But several of the physicians in that case had gone further and had associated the ringing of St. Mark’s bells with other acoustic annoyances of industrial life. Over the next few decades, urban noise problems became increasingly contentious matters of public debate as even some industrial sounds came under attack. By the beginning of the twentieth century, many communities heard noise not as a private nuisance, but as a threat to the general welfare and as a problem requiring a distinctive

²⁶“Council to Revise Penal Ordinances,” *Lockport (NY) Union-Sun & Journal*, December 1, 1945; “Council Adopts 12 Penal Laws,” *Lockport (NY) Union-Sun & Journal*, December 4, 1945.

public policy. Legislation provided an important means for combating the growing crisis.²⁷

From the early 1900s until World War I, citizen groups waged an organized legal campaign against urban noise. As historian Emily Thompson has suggested, “‘Noise reform’ was part of a larger program of reform that included urban planning, public health programs, and other progressive efforts to apply expert knowledge to the problems of the modern city.” Noise reformers concentrated their attacks on “unnecessary” noise, which they criticized for its health risks, for its inefficiency, and for its association with “barbarism.” Unnecessary noise had to be eliminated, they argued, for it stood in opposition to civilization, progress, and growth. In 1906, the wife of a wealthy businessman and publisher, Julia Barnett Rice, organized the Society for the Suppression of Unnecessary Noise in New York City, and she successfully persuaded a New York congressman to introduce federal legislation that would prohibit the unnecessary sounding of whistles in ports and harbors. Legislative remedies were more typically sought at the local level, however, and by 1913, cities across the country had adopted municipal ordinances that specifically prohibited certain “excessive” or “unnecessary” noises.²⁸

²⁷For studies of anti-noise legislation, see William H. Lloyd, “Noise as a Nuisance,” *University of Pennsylvania Law Review and American Law Register* 82, no. 6 (April 1934): 567-82; George A. Spater, “Noise and the Law,” *Michigan Law Review* 63 (June 1965): 1373-1410; Raymond W. Smilor, “Personal Boundaries in the Urban Environment: The Legal Attack on Noise, 1865-1930,” *Environmental Review* 3, no. 3 (Spring 1979): 24-36.

²⁸Thompson, *Soundscape of Modernity*, 118. Much of the discussion that follows is indebted to Thompson’s insightful and highly original work. The federal legislation was passed as the Bennett Act of 1907. For other studies of this early campaign against noise, see Smilor, “Personal Boundaries”; Karin Bijsterveld, “The Diabolical Symphony of the Mechanical Age: Technology and Symbolism of Sound in European and North American Noise Abatement Campaigns, 1900-40,” *Social Studies of Science* 31, no. 1 (February 2001): 37-70. Influenced by his own concerns in the 1970s, Smilor (like Schafer) treats this early anti-noise campaign as a forerunner to the movement for environmental regulation. He offers two reasons for why anti-noise legislation was pursued at the local level: 1) local conditions shaped which

These early statutes tended not to restrict noise in general, but rather specific types of sounds. A 1913 report compiled by the Municipal Reference Library of Chicago identified five broad categories of legislation: occupational noises (those sounds that individuals made in carrying out their jobs), motor vehicles (related especially to the use of horns and mufflers), steam whistles, the sounds of animals and fowls, and zones of quiet. The latter category regulated the production of noise in specifically designated areas, usually next to hospitals, schools, and occasionally churches. Within these broader categories, however, there could be some variability from city to city, depending on local circumstances. For example, the city of New Bedford, Massachusetts, expressly targeted “vendors of ice cream, fish, fruit or vegetables,” while Washington, D.C., went after itinerant street musicians.²⁹

Although these municipal ordinances constituted the most prominent means through which early noise reformers pursued their goals, they were not overly effective. Legislative action was hampered by the reluctance of individuals to complain about their neighbors and by the intrinsic difficulties in defining “noise.” The standards by which sounds were deemed “excessive,” “unnecessary,” or “disagreeable” were inherently subjective and varied from case to case and from court to court. Reform efforts were further hindered by public ambivalence about the problem of noise. On the one hand, critics associated noise with inefficiency, waste, and barbarism. But, as I discussed in chapter 2, listeners also associated industrial sounds with material progress and

sounds were targeted as noise; 2) it was easier to mobilize public support on the local level. Bijsterveld studies anti-noise campaigns in Europe as well as in the United States.

²⁹*Anti-Noise Ordinances of Various Cities* (Chicago, IL: Municipal Reference Library, 1913). Also see Smilor, “Personal Boundaries,” 31; Thompson, *Soundscape of Modernity*, 127.

technological advancement. Not everyone was convinced that all noises should be eliminated. Noise could signify the disruption of public order and social hierarchies, but it also could serve as a vehicle of power, for only certain groups could make noise without censure. In fact, these municipal ordinances tended to reflect middle-class values, targeting specific classes of noise-makers, rather than urban noise in general. They most frequently went after street hawkers and pushcart peddlers, whom middle-class reformers regarded as a threat to their dreams of a well-ordered, rationally organized modern city. As would become a point of contention in the *Saia* case, anti-noise ordinances thus could be used to produce city streets on which only certain types of voices and sounds would be tolerated.³⁰

Anti-noise reformers complemented their legislative efforts with public education initiatives, which used moral suasion to inculcate a new “noise etiquette,” and with zoning policies, which aimed to reorganize the city spatially, restricting certain sounds to certain areas. But a second wave of noise abatement campaigns, which peaked in the late 1920s and early 1930s, increasingly turned to scientists and engineers to combat the problem of urban noise. For example, New York City’s Noise Abatement Commission, organized in 1929, dispatched teams of acoustic technicians throughout the city in specially designed trucks in order to survey systematically the sounds of the city. These acoustic experts developed increasingly sophisticated mechanisms for measuring and quantifying sound objectively, such as the audiometer, an electric device that could be used to gauge the intensity of different sounds in uniformly-calibrated units. The

³⁰On the ineffectiveness of anti-noise legislation, see Smilor, “Personal Boundaries,” 33-5. On anti-noise ordinances reflecting middle-class values, see Thompson, *Soundscape of Modernity*, 123. For a discussion of how debates about noise reflected a “cultural symbolism of noise” that introduced discourses about civilization and barbarism, see Bijsterveld, “Diabolical Symphony.”

introduction of the “decibel” as a unit of measurement offered a new standard by which different types of auditory annoyances could be compared. The Commission also distributed questionnaires, polling the public on its attitude toward different types of sounds. Through these various means, the Commission acted on its expectation that mapping the urban soundscape might offer a means for controlling it more effectively.³¹

The Commission’s findings documented a monumental acoustic shift since the early 1900s. Emily Thompson has argued that “the American soundscape underwent a particularly dramatic transformation” between 1900 and 1933, which played a significant role in the production of a distinctly modern American culture. The legal ordinances of the early twentieth century primarily had targeted “natural” or traditional sounds that had long been the sources of complaint in cities, such as those produced by human voices, animals, bells, or whistles. But by 1930, public complaints concentrated on the “mechanical” sounds produced by traffic, elevated trains, radios, and electro-acoustic loudspeakers. Ironically, the engineering experts who had developed new technologies for measuring sound also had been responsible for creating entirely new sources of acoustic annoyance and aggravation. As long as cities have brought residents into closer proximity, there has been an urban “noise problem,” but industrialization exacerbated the situation by introducing fundamentally new types of sounds into the urban environment. New devices such as the radio and the loudspeaker, which Judge Rutherford and the

³¹For discussions of this second wave of anti-noise campaigns, see Smilor, “American Noise, 1900-1930,” in *Hearing History: A Reader*, ed. Mark M. Smith, 319-30 (Athens: University of Georgia Press, 2004); Schafer, *Soundscape*; Thompson, *Soundscape of Modernity*; Bijsterveld, “Diabolical Symphony.” I borrow the phrase “noise etiquette” from Bijsterveld, 50.

Jehovah's Witnesses exploited so effectively, offered unprecedented opportunities for dominating acoustic space and for infringing on the rights of others.³²

Municipal noise ordinances dating from the late-1920s and 30s increasingly tended to target “unnecessary noise” in general, rather than specific classes of sounds, but loudspeakers faced particular resistance and became the subjects of particular legislative action. Over thirteen hundred respondents to a 1930 New York City survey (approximately twelve percent of the total received) cited the noise of loudspeakers as most bothersome. Approximately nineteen percent of the letters of complaint received by New York City's Noise Abatement Commission that same year cited the noise of loudspeakers, the single greatest source of annoyance. New York City's Board of Aldermen worked to rectify the situation, passing a bill in 1930 that required “anyone desiring to operate a loudspeaker out of doors to obtain a permit from the city.” The city's Board of Health similarly amended its Sanitary Code to regulate the use of “any mechanical or electrical sound making or reproducing device.” Other cities, such as Lockport, gradually followed suit, adopting ordinances that specifically targeted the use of loudspeakers, singling them out from other producers of urban noise. As Emily Thompson has argued, “The new, amplified sounds of loudspeakers were clearly distinctive enough to mobilize into action a legal system that had been almost uniformly unsuccessful in addressing the problem of more traditional sources of sound.” But the

³² Thompson, *Soundscape of Modernity*, 2. The results of the questionnaire are reprinted in Thompson, *Soundscape of Modernity*, 159. For further discussion of the Commission's work, see Smilor, “American Noise”; Blijsterveld, “Diabolical Symphony.”

Saia case would test the constitutional validity of such legal action when enforced against members of a religious minority.³³

Given their widespread use of such amplifying technologies, it might seem surprising that even Jehovah's Witnesses joined the chorus of mid-century voices complaining about the urban noise problem. For example, a 1950 article in the Watchtower publication *Awake!* documented in detail the physiological risks associated with excessive noise and praised the noise abatement measures that cities were adopting. The article decried the apparent increase of noise in modern society and urged Witnesses to do their part in "the battle against useless noise." Noise reformers relied on communal involvement, the author emphasized, for "to a large extent they depend on you and other citizens to tell them where there is excess and useless noise and what noises are irritating. Don't be ashamed to complain." With no apparent sense of irony, a 1941 article in *Consolation* even singled out loudspeakers as a source of irritation. "A loudspeaker device uses a new series of sound waves," this author explained, "They travel at twice the speed of ordinary sound waves and are capable of hurling the human voice many miles. Who would want to live in a world where titanic bellowers could project their words in tones stupendous?" While these articles encouraged Witnesses to complain about offending sounds, they never seemed to consider that the sounds of their own proselytizing activities might engender similar opposition. They assumed that what they were doing was different—that Witness ministers were not simply "titanic bellowers" and that their religious sermons were not merely noise.³⁴

³³ Thompson, *Soundscape of Modernity*, 149-152, 158-160.

³⁴"Noise Can Drive You Crazy," *Awake!* (August 22, 1950): 17-19; "Sound and the Human Ear," *Consolation* (October 15, 1941): 3-8.

In fact, strikingly absent from the early twentieth-century debates about urban noise was any consideration of religion or of the implications of anti-noise ordinances for religious practice. There were a few exceptions, of course. There were occasional complaints about the volume of church bells, as in the St. Mark's case. Churches and other religious institutions also were included sometimes within zones of quiet that restricted noise-making activity in their vicinity, but usually only on Sundays. But otherwise, religion hardly appears in the various accounts of these noise abatement campaigns. Noise reformers seemed deaf to the ways that their efforts might shape American religious practice.³⁵

Perhaps this inattention to religion can be explained by assuming that religious sounds were different, that religious sounds could not be deemed "unnecessary," a critical point of contention in the 1877 St. Mark's bells case. Perhaps we find in this absence implicit evidence of secularization, buttressing the assumption that religion had no place in the modern city or that religious voices would be drowned out by the din of modern urban life. After all, the acoustic technicians of New York City's Noise Abatement Commission had surveyed the city, documenting in detail the various sources of urban noise, yet had made no reference to religious sounds in their 1930 report. Or perhaps noise reformers heard religion as quiet, private, or personal, regarding religion not as a producer of noise, but as something to be circumscribed and protected from noise, as in the case of the legislatively enforced zones of quiet.

But as the cases to which I attend in this dissertation demonstrate, religious groups also have been noisy, and urban religion regularly has been practiced out loud.

³⁵For examples of complaints about church bells, see Smilor, "Personal Boundaries," 29. For examples of zones of quiet, see *Anti-Noise Ordinances of Various Cities*; Smilor, "Personal Boundaries," 32.

Although the early twentieth-century noise abatement campaigns did not appear to have religion in mind, their legislative legacy bore implications for public religious practice, especially for unpopular minorities and other dissenting groups. After all, were street preachers really any different from pushcart peddlers, beyond the fact that they hawked a different kind of product? When the Lockport police arrested Samuel Saia in September 1946, they unwittingly put that question to the test. But despite the increasingly objective standards available for measuring and categorizing different types of sounds, the definition of noise—or of what made certain sounds undesirable or out of place—remained essentially subjective. Could religious worship constitute noise? Did religious freedom include a right to make noise publicly? Were dissenting religious groups, such as the Jehovah’s Witnesses, striving to make their voices heard or to dominate public space acoustically? What were the limits of a city’s right to protect its citizens from unwanted sounds—and from unwanted religious messages? In the trials and hearings that followed Saia’s arrest, to which I now turn, U.S. courts were asked to adjudicate each of these contested issues.³⁶

Contesting Religion’s Boundaries at Trial

On September 10, 1946, and again on September 28, 1946, Samuel Saia stood trial in Lockport’s Police Court for violating the city’s anti-noise ordinance. Saia pleaded not guilty, maintaining that the U.S. Constitution’s First and Fourteenth Amendments protected his actions and that the ordinance therefore was “invalid and void on its face.”

³⁶The frontispiece of the 1930 report is reproduced in both Thompson, *Soundscape of Modernity*, 118 and Blijsterveld, “Diabolical Symphony,” 54. The picture classifies a wide range of urban sounds, including bells and loudspeakers, but does not differentiate between religious and non-religious sounds.

Over the course of the two trials, testimony was solicited from police officers, city officials, Lockport residents, and a number of local Jehovah's Witnesses who had attended the disputed public meetings. Saia was prosecuted by Lockport's well-respected city attorney, James A. Noonan, and the case was heard by Judge Daniel P. Falsioni, a registered Independent in a strongly Republican-leaning town. Falsioni was a temporary appointment to the bench, selected in February to finish the term of the previous police judge, who had resigned in disgrace following charges of misappropriating public funds. Falsioni would lose his bid for election that November to a Republican challenger, serving for less than a year, yet issuing a ruling in the *Saia* case that would be challenged before the U.S. Supreme Court. In the first trial, Saia was represented by a fellow Jehovah's Witness, Walter Reid, a Lockport resident with no formal legal training who had in fact used Saia's amplifying equipment himself to preach on the days in question. In the second trial, the Watchtower Society arranged for Julius Himmelfarb to serve as defense counsel, a Jewish lawyer from Buffalo who was sympathetic to the Witnesses' cause. At the conclusion of each trial, Falsioni found Saia guilty and ordered him to pay a fine or face imprisonment. Following the example of the Christian Apostles who "never paid fines," Saia refused to make payment to the city, but Falsioni suspended his prison sentence pending appeal.³⁷

The witnesses who testified at Saia's trials agreed on the basic facts of the case.

On at least four occasions prior to the passage of Lockport's anti-noise ordinance,

³⁷Transcript, 41, 69; "Jehovah Man Scorns Fine, Goes to Jail," *Lockport (NY) Union-Sun & Journal*, September 12, 1946. On Falsioni, see "Record is Good," *Lockport (NY) Union-Sun & Journal*, August 19, 1946. On Himmelfarb, see Saia, interview. Citing the example of the Apostles, Watchtower publications instructed ministers to accept imprisonment rather than to pay municipal fines. They hoped to make it costly for cities to prosecute Witnesses, not profitable. See Hayden C. Covington, *Defending and Legally Establishing the Good News* (Brooklyn, NY: Watchtower Bible and Tract Society, 1950), 81.

Jehovah's Witnesses had used Saia's sound car to offer sermons in Lockport's Outwater Park without interference. Following the statute's passage, they had obtained a permit from Lockport's chief of police, William Newell, to hold a series of four public meetings in the park during the summer of 1946. When they applied to renew the permit in order to sponsor four additional meetings in September, Newell denied their request, citing anonymous complaints about noise. They appealed to Lockport's mayor, Fred A. Ringueberg, who also denied their request. The Witnesses decided to proceed with the meetings nonetheless.

On Sunday, September 1, 1946, Saia parked his sound car on a road adjacent to Outwater Park at around 3:30pm and began to set up his amplifying equipment. Outwater Park was the largest of Lockport's eight public parks, about sixteen hundred feet long and from two hundred and fifty to four hundred feet wide. The park was used primarily for recreation. One side of the park housed a playground, wading pool, and horseshoe pitch. The other side of the park offered benches and small fireplaces for picnickers. In the far corner of the park was a stadium where Lockport residents could watch the city's Pony League baseball team compete. On a beautiful summer afternoon, Outwater Park might attract as many as a thousand people, though on the days that Saia was arrested, witnesses estimated only fifty to hundred park-goers.

On September 1, Saia parked his truck near the picnic area, generally the park's quietest section. He was joined by approximately fifteen to twenty other Jehovah's Witnesses, several of whom expected to take turns preaching. They arranged benches in rows facing Saia's car. As the Witnesses prepared for their meeting, a special park officer called the Lockport police department, and two police officers quickly arrived on

the scene. They approached Saia and asked if he had a permit to operate loudspeakers in the park. Saia showed the police officers an identification card, which named him as an ordained minister in the Watchtower Bible and Tract Society, and he showed them a booklet that cited various decisions from Witness-related Supreme Court cases. Saia asserted that these documents guaranteed him the right to preach in the park, with or without a permit. The police officers responded that they “did not give a damn” about these documents, shut off the sound equipment, and arrested Saia. Saia posted bail, returned to the park the following Sunday, and was arrested again, following a very similar pattern of events. On September 10, he stood trial and was convicted for these first two offenses. On the following two Sundays, September 15 and 22, Saia returned to Outwater Park and was arrested yet again. On September 28, he stood trial for the third and fourth offenses. On none of these occasions were there physical altercations between the Witnesses and the police officers, nor did the Police Department ever receive formal complaints from any of the other park-goers, though several of them did offer testimony at trial. The Lockport police officers arrested Saia simply because he was operating sound equipment without a permit.³⁸

Although there was general agreement about these basic facts, the participants in the *Saia* case did not agree on how these facts should be interpreted. Throughout the trials, the attorneys, witnesses, and judge debated whether this case was essentially about religion or noise, whether it was about the right of religious dissenters to make their

³⁸Transcript, 73. A series of Watchtower publications trained Witnesses in highly specific detail how to conduct themselves when facing arrest, how to interact with police officers, and how to defend themselves in court. The Lockport Witnesses followed these strategies almost exactly step-by-step. The Watchtower Society frequently initiated “test cases,” purposefully inviting arrest to test certain types of municipal ordinances, but that does not seem to have been the case in *Saia*. For an example of one of these publications, see Covington, *Good News*. For an insightful analysis of the Witnesses’ organized legal strategies, see Henderson, “Jehovah’s Witnesses.”

voices heard or about the city's right to bar individuals from dominating public space acoustically. The Jehovah's Witnesses repeatedly tried to enter into the record evidence about the content of their sermons. In part, this was because Witnesses regularly took advantage of their appearances in court as prime opportunities to proselytize publicly, using their time on the witness stand to bear witness to the good news of God's kingdom. But the Witnesses in the *Saia* case also emphasized the religious content of their sermons in order to assert that their amplified sounds constituted religious worship and therefore were different from other types of sounds and were specially protected by the U.S. Constitution. They alleged discrimination, implying that their voices were being silenced on account of the message they were trying to convey. "The whole question, Your Honor, is the question of religion," Defense Counsel Himmelfarb explained at Saia's second trial, "When the statute prohibited the freedom of worship and speech the appellate courts have held that it is unconstitutional and illegal." But Judge Falsioni disagreed. "There is no question of any religious principle whatsoever," he responded. Both Falsioni and City Counsel Noonan did their best to keep all discussion of religion out of the courtroom, preferring instead to focus more narrowly on the question of whether or not Saia had a permit to operate his sound equipment. They seemed more concerned with the public's reasonable expectation of peace and quiet than with Saia's asserted right to be heard.³⁹

This debate about what was at stake in the *Saia* case played out especially through three contested issues to which the courtroom testimony returned repeatedly. First, participants in the trials debated the nature of the authority on which the Jehovah's

³⁹Transcript, 230. On Witnesses using court testimony as an opportunity for proselytizing, see Peters, *Judging Jehovah's Witnesses*, 127-28; Covington, *Good News*, 25.

Witnesses claimed the right to engage in their proselytizing activities. Whose sanction did the Witnesses require in order to produce their sounds publicly? By requiring a permit to use loudspeakers, the Lockport Common Council unwittingly had placed Witness practices squarely under the jurisdiction of city officials, limiting the manner in which they could fulfill what they perceived to be a religious obligation. Only Lockport's police chief had the authority to determine which sounds would be permitted in public spaces. "We are living in Lockport," one of the police officers was purported to have told Saia on the day of his first arrest, "and you are to observe the laws of the City of Lockport." But the Witnesses appealed to a higher authority. They denied needing a permit because they believed that God's laws sanctioned their actions and that God's laws superseded those of Lockport. "We get our authority from Isaiah 61 and 62," Lockport resident Walter Hammond explained to the court. "When the ordinance is contrary to the law of God, it is not an ordinance," Roy Mort maintained. These Witnesses insisted that their right to amplify religious lectures came from God, not from the city, and that city officials had no authority to curtail that right.⁴⁰

Ironically, perhaps, the Witnesses relied on U.S. courts—on the authority of state institutions—to legitimize their claim that their authority came from God and not from civic officials. This was why Saia had shown the arresting officers a booklet citing previous Supreme Court decisions. "They come to me and I present this card and this here book," Saia explained to the court, "to show them the rights we have from this

⁴⁰Transcript, 79, 90, 98. Watchtower publications regularly reinforced this message that Witnesses' fundamental obligation was to follow God's law, not the law of the state. Witnesses regularly advanced this claim in court. For example, see "Fear Jehovah the Superior," *Watchtower* (June 15, 1952): 368-73. Mormon polygamists had advanced a similar defense in the nineteenth-century, but Witnesses were quick to differentiate their practices from polygamy. Polygamy was immoral and violated God's law, they maintained. See Watch Tower Bible and Tract Society, *Divine Purpose*, 176.

Constitution.” Indeed, the validity of requiring a permit in order to preach had been at the heart of several previous Witness-related court cases, most notably in *Cantwell v. Connecticut*. In that case, the Supreme Court had struck down a New Haven, Connecticut, municipal ordinance regulating public soliciting because it vested in a single city official the authority to determine what constituted a “bona fide” religious cause. Lockport Witnesses hoped to apply similar principles in their own case. But Lockport officials did not think that their law curtailed the right to preach in any way. According to them, the ordinance’s sole purpose was to regulate the use of amplifying equipment, which surely could not be regarded as an essential component of religious practice. Surely there was nothing in God’s law that mandated the use of electro-acoustic loudspeakers.⁴¹

The Witnesses and the city officials advanced competing conceptions of the relationship between civic and religious authority, and, at several points throughout Saia’s trials, they sounded as if they simply were talking past each other. Consider this exchange between City Counsel Noonan and Witness Roy Mort:

Q. And you knew, of course, at that time a permit was required, didn’t you?

A. Well, see, this work, you understand—

Q. I am asking you: You only had a permit issued by the Chief of Police to operate under that this year, didn’t you?

A. Yes.

Q. By reason of that you knew that the permit was required, isn’t that true?

A. I knew. But here is the point—

Q. Answer the question.

A. I am not going to commit myself. On this Book I swore to tell the truth. They may have an ordinance conflicting with God’s law.

⁴¹Transcript, 72. The booklet that Saia showed to the police officers was Covington, *Defending and Legally Establishing the Good News*. Covington had distributed this updated manual to Witnesses at the Cleveland Assembly in August 1946. The manual instructed Witnesses to cite Supreme Court decisions when asserting their rights. This practice led Newton to title her book with the apt phrase, “Armed with the Constitution.”

Q. If you can't answer, say you don't understand and I will make it plainer...Can you answer that?

A. This permit is required, but here is the point, and I want you to hear this—

The Court: Answer the question yes or no.

A. Not a permit required to preach the gospel, which I am an ordained minister to do.⁴²

Back and forth they went. Noonan and Judge Falsioni demanded a direct answer: was Mort aware of the permit requirement or not? But Mort repeatedly tried to qualify his response, explaining that any ordinance that restricted his right to preach the gospel was necessarily invalid. The two sides disagreed about precisely what the permit was purported to permit, for the city officials did not think that the permit requirement had anything to do with preaching the gospel. “The only question here is whether or not there was a permit to use the loudspeaker,” Judge Falsioni explained, “there is no question here as to Jehovah God or anything of that nature.” According to the Witnesses, however, religious sounds were different, and thus amplifying a religious sermon differed from other public uses of loudspeakers. After all, they regarded their actions as a form of religious worship. The arresting officers had “interfered with our work,” explained Witness Willard Wendt, “I mean, preaching the gospel of Jehovah’s kingdom.” Without the use of loudspeakers, the Witnesses claimed that they were unable to make their voices heard, and thus unable to fulfill what they perceived to be their most important religious obligation. Their sounds constituted religion, not noise, they maintained. They were not street hawkers nor pushcart peddlers, but ministers, and thus subject to a different authority.⁴³

⁴²Transcript, 221-2.

⁴³Transcript, 83, 90.

But the Witnesses pressed their claims further. It was not just that religious sounds, in general, should be regulated differently, they asserted, for many religious sounds already were treated differently. The problem was that the Witnesses' sounds were being singled out—that their voices alone were being silenced. They alleged that they were the victims of discrimination and that their permit application had been denied not because of complaints about noise, but because of animus against their teachings. They insisted that they were not trying to dominate space with their sound, but were simply striving to make themselves heard amidst the cacophonous chorus of Lockport religious voices. They demanded not special privileges, therefore, but only equal treatment.

This question about whether opposition to the Witnesses' preaching was motivated by objections to volume or to content constituted a second critical point of contention throughout the legal proceedings. Over and over again, Defense Counsel Himmelfarb questioned park-goers about whether they deemed the Witnesses' message objectionable or offensive. "Were you in disagreement with what came out of the loudspeakers?" he asked one picnicker. "Was that religious sermon contrary to your religious principles?" he demanded of another. Himmelfarb hoped to demonstrate that the complaints had nothing to do with noise at all, but instead were driven by religious intolerance.⁴⁴

Even more central to the defense's strategy were the analogies that the Witnesses drew between their proselytizing and other religious sounds. If other religious groups could make noise, the Witnesses insisted, then their activities had to be permitted, as

⁴⁴Transcript, 133, 145.

well. They called the court's attention to two other practices, in particular. First, Lockport's Lutheran churches sponsored an annual outdoor rally in Outwater Park's baseball stadium, for which they received a permit from the city. The 1946 rally had been held on Sunday, September 8, on the same day and at the same time as Saia's second arrest. Over two thousand Lutherans had gathered at the stadium to hear an amplified lecture delivered by Rev. Walter A Maier of St. Louis, but the police department had not received any complaints. Why, Himmelfarb wondered, should the Lutherans be permitted to broadcast their religious message but not the Jehovah's Witnesses?⁴⁵

Second, Himmelfarb repeatedly compared the Witnesses' preaching to the chiming of Lockport's church bells, a strategy that disputants also would adopt in the call to prayer case that I discuss in chapter 4. Typical of Himmelfarb's approach was this exchange with Walden Sidebottom, a Lockport resident who was picnicking in the park on one of the Sundays :

Q. Now, Mr. Sidebottom, in the city of Lockport do you ever hear church bells rung?

A. Sure...

Q. Would you say the sound of the church bells, are they louder than this loudspeaker?

A. Well, as you said before, they ring at six o'clock in the morning. I am not up then.

Q. I am not asking you about six o'clock in the morning. I am asking you if you ever hear them?

A. Sure.

Q. Are they louder than the loudspeaker?

A. Yes.

Q. Do they annoy you?

A. Bells don't annoy me.

Q. But the loudspeaker did?

⁴⁵For example, see Transcript, 63-4. For more on the Lutheran rally, see "Peace Without God Declared Impossible," *Lockport (NY) Union-Sun & Journal*, September 9, 1946.

A. Yes.⁴⁶

Over and over again, Himmelfarb successfully coaxed prosecution witnesses to admit that they never had complained about church bells even though bells produced louder sounds than those emanating from Saia’s speakers. Surely this was evidence of discriminatory treatment, Himmelfarb alleged, evidence that park-goers objected to the Witnesses’ message, not their volume—evidence that this case was about religion, not noise.

Analogizing their practices to those of more “mainstream” religions constituted an effective legal strategy, and one that Jehovah’s Witnesses (and other religious minorities) often pursued in their myriad legal disputes. But this strategy also had an important social effect, for the Witnesses invited Lockport residents to *notice* church bells. And in so doing, they implicitly called attention to the ways that mainline Protestantism and Roman Catholicism collectively shaped—and dominated—the city’s public culture. The ordinary, unremarkable status of church bells as customary features of Lockport’s soundscape spoke precisely to their power, for they had long since faded into the background—unnoticed and unchallenged, and therefore distinctly unlike the sounds of the Witnesses’ preaching.

At one point during Saia’s trial, even Judge Falsioni disputed the connection that Himmelfarb was attempting to make between chimes and loudspeakers. “Church bells have been rung since the Revolution,” Falsioni interjected, expressing surprise that anyone might find them objectionable. Falsioni’s attitude echoed that of St. Mark’s leaders, whom I discussed in chapter 2. Like Falsioni, they could not believe that anyone

⁴⁶Transcript, 147-8.

might challenge an American church's right to ring its bells. But this was precisely Himmelfarb's point. His analogy to church bells de-naturalized their position as background noise. He implied that chimes were not inherently pleasing and unobjectionable. Instead, their apparent unobtrusiveness reflected Christianity's normative status in American society. In other words, Himmelfarb suggested that sounds became noticeable on account of who produced them, rather than because of the volume at which they were produced. As I suggested in chapter 2, sound production regularly has functioned as an exercise of power, for only certain groups have been able to make noise publicly without censure. Therefore, when the Lockport Witnesses broadcast sermons over loudspeakers, they were fulfilling a religious obligation, but they also were claiming a place for themselves within the broader community. They were asserting that religious toleration required making space for the sounds of religious dissenters, alongside those of the majority. They were aspiring to make their sounds as unremarkable as those of church bells—or, perhaps, to make church bells seem as remarkable as their preaching. Church bells already dominated Lockport's public space acoustically, the Witnesses implied. Through their broadcasting, they simply were adding their voices to the mix, amplifying the sounds of religious difference.⁴⁷

But the Lockport residents who picnicked at Outwater Park heard things differently. Those who testified at Saia's trial denied paying any attention to the content of the Witnesses' lectures. All they noticed was the noise, not who was producing it. "I have no quarrel with any religious sect at all..." insisted Gilbert Van Wyck, but the amplifier made it difficult "when you were carrying on a conversation." He and other

⁴⁷Transcript, 164.

park-goers professed annoyance at having to raise their voices in order to hear each other, but cared little about the source of the disturbance. “I wasn’t interested [in the substance],” Francis Sheehan explained, “I didn’t pay attention to it. I didn’t hear a thing.” Some of the witnesses hardly even seemed disturbed by Saia’s activities at all. For example, one picnicker denied being “annoyed,” “irritated,” or “angry,” though he finally admitted that he found the noise somewhat “disconcerting.” But he, too, insisted that this had nothing to do with the content of the lectures. These Lockport residents supported the city’s contention that this case had nothing to do with silencing members of a religious minority; it was only about whether Saia had obtained a permit to operate his loudspeakers as the law required.⁴⁸

Over and over again, prosecution witnesses denied any animus towards the Jehovah’s Witnesses or any other religious sect. Each of them avowed a basic commitment to religious liberty, responding affirmatively each time Himmelfarb asked if they believed that “every man has a perfect right to worship Almighty God as he pleases.” But at the same time, it was not clear that all Lockport residents understood the Witnesses’ activities to constitute worship—at least not in the manner to which they were accustomed. Even as the park-goers maintained that their annoyance had nothing to do with the content of the Witnesses’ lectures, their testimony raised critical questions about the nature of religious practice and about its proper time and place. Whether or not the Witnesses’ sounds constituted a nuisance, in other words, did they belong in a public park on a Sunday afternoon?⁴⁹

⁴⁸Transcript, 131-3, 184.

⁴⁹Transcript, 163.

A few of the park-goers were not even sure if they would characterize the Witnesses' speeches as "religious" at all. For example, Francis McLoughlin did not know what to make of their political content. As he explained to Himmelfarb, these were unlike the sermons he was accustomed to hearing:

Q. Would you say it was religious?

A. I never heard the League of Nations discussed in a religious lecture.

Q. In any kind of lecture where they put in "League of Nations" it could not be a religious lecture?

A. I think you are stretching a point.

Q. You make a conclusion here. You heard the League of Nations and therefore it couldn't be a religious lecture. Did you hear anything about Jehovah God, Christ?

A. I heard Jehovah God, yes.

Q. Anything about Christ?

A. Dates and other incidental things.

Q. Did you hear quotations from the Bible?

A. I don't recall that; might have been quotations from the Bible, quotations, I didn't pay any attention.

Q. You wouldn't form a conclusion because the lecture contained some reference to the League of Nations it wouldn't be a religious lecture, would you?

A. I wouldn't say references to the League of Nations would definitely label it religious.

Q. I am not saying that. I am merely saying this: due to the fact any lecture which contained or referred to the League of Nations, would you say because it referred to the League of Nations it couldn't be a religious lecture?

A. No, I wouldn't say that.

In order for the Jehovah's Witnesses to argue that their sounds should be treated differently because they were religious in nature, they had to establish that their speeches in fact were religious, and for this they had to introduce the content. These were not just any sounds. Yet the definition of what made certain lectures religious was itself a point of contention. Was it sufficient to make reference to God, Christ, or the Bible? Were speeches essentially religious *or* political? And did this practice really constitute worship? Lockport residents like McLoughlin seemed unsure.⁵⁰

⁵⁰Transcript, 208-9.

Other community members acknowledged that the speeches were religious but questioned whether this was the proper time and place for such activities. As noted above, Witnesses had been criticized for Sunday proselytizing since the late 1920s, yet they maintained that it was their obligation to spread the good news each and every day. “I preach the gospel of Jehovah God’s Kingdom and Jesus Christ every day of the year,” Walter Reid told the court. But several Lockport residents maintained that Sundays were properly observed as a day of rest and quiet. Walden Sidebottom told the court that he went to Outwater Park for “peace and relaxation.” Gilbert Van Wyck admitted that he often heard loudspeakers used at the park’s baseball stadium, but “never on Sunday.” A lifelong resident of Lockport recently recalled Sundays during the 1940s as “a special day” when many people “felt you had to be quiet.” Although the Witnesses understood their practices as constituting religious worship, these critics heard their sounds as desecrating the spirit of the day. Churches might announce their services with bells, but chimes rang at regular, predictable intervals and marked the rhythms of daily life. In contrast, these park-goers heard the Witnesses’ amplified lectures as irregular and unexpected interruptions, which served only to disturb the sacred peace of the Sabbath.⁵¹

If Sunday was the wrong time for these amplified lectures, then a public park was definitely the wrong place. “Understand, a park is a place of assembly to worship God,” Witness Roy Mort explained to City Counsel Noonan. “No,” Noonan replied, “I don’t understand that. I don’t understand that the park is for that... We will differ on that part.”

⁵¹Transcript, 132, 144, 233; Dumphrey, interview. Long-time Lockport resident John Hall similarly has recalled Sundays as a special day of rest and quiet. John Hall, interview by author, July 24, 2008. In the mid-nineteenth century, Lockport actually had proven relatively permissive on the Sabbath. Residents had debated whether the Erie Canal should remain open for business on Sundays. Sunday law opponents carried the day, permitting the Canal to remain open. See Riley, *Lockport*, 59-61.

City officials denied that their prosecution of Saia had anything to do with his religious affiliation, but they also rejected the analogy between a park and a church and between the Witnesses' lectures and church bells. They did not think of a public park as a place for religious worship. According to the city, the park was maintained for picnicking, recreation, and games; churches were where religion happened. And there were no churches in Outwater Park, Noonan emphasized, nor could one hear any bells there. Churches rang their bells in order to attract willing worshippers to join together in service, but parks attracted adherents of diverse religious traditions who did not expect to be called collectively to pray. In Outwater Park, religious sounds would mediate contact among religious communities, blurring the boundaries between religious and public space. Non-Witnesses, too, would hear the sounds of the Witnesses' amplified lectures. In fact, that was precisely the point. The Witnesses claimed that they were engaged in worship, but they also were proselytizing, targeting an unwilling audience of religious "others."⁵²

This question of intended audience constituted the third critical point of contention through which disputants debated whether this case centered on religion or noise. Park-goers objected to the use of loudspeakers because they would have no choice but to hear the Witnesses' preaching. They would become an unwilling audience. "You didn't go to the park to listen to the amplifier?" Noonan inquired of Lockport off-duty police officer Francis McLoughlin. "No, I certainly didn't," McLoughlin replied, "I went

⁵²Transcript, 148-9, 224. Although several of the prosecution witnesses implied that proselytizing in a public park was inappropriate, at least one witness maintained that a park was at least better than approaching his home. During his cross-examination by Himmelfarb, Police Officer Francis Sheehan admitted holding a grudge against the Jehovah's Witnesses because "they approached my home several times and annoyed my wife...I want them to stay away from my home." Of course, Sheehan also maintained that the Witnesses had a "perfect right to preach their Gospel as they see fit." For Sheehan, then, religious freedom seemed to be a matter of time and place. Transcript, 186.

to enjoy the facilities of the park and relax.” Walden Sidebottom similarly testified that he did not “expect any amplifier” and that he “didn’t go out there to hear an amplifier.” These witnesses supported the city’s efforts to regulate the use of loudspeakers and the production of noise because they assumed a right to choose what kind of sounds they wanted to hear in public. Or, at the very least, they implied that certain sounds belonged in certain places. Perhaps it simply was a matter of expectations. They did not *expect* to hear amplified religious lectures in this public park, a setting that they felt was best preserved for peace and quiet. Just as early-twentieth century legislation had marked off schools, hospitals, and churches as specially designated zones of quiet, these Lockport residents expressed their hope that Outwater Park might similarly be protected from unwelcome auditory intrusions. They heard the Witnesses’ preaching as distinctly *out of place*.⁵³

Perhaps disingenuously, the Jehovah’s Witnesses at first denied that their intent had been to target unwilling listeners. In his affidavit on appeal, Samuel Saia maintained “that the only people who gathered around this loud speaker were Jehovah witnesses and were all interested in hearing the lecture being delivered.” At trial, some of the Witnesses went further and suggested that even the non-Witness picnickers had flocked to the park in response to advertisements publicizing the meetings. Despite testimony to the contrary, they claimed that everyone in the park was there for the purpose of hearing their lectures. “Do you think all the people in the park came to hear the lecture?” City Counsel Noonan inquired of Witness minister Walter Reid. “I believe they all did,” Reid replied, “They are very curious to hear this lecture.” Roy Mort similarly explained the

⁵³Transcript, 149, 207.

purpose of the gathering as an opportunity to preach to a willing audience that had been “invited...by giving handbills and placards to a public assembly to worship Almighty God.” Mort denied Noonan’s contention that “the sole and only purpose of taking that amplifier in Outwater Park and using it [was] to attract the general public in the park, not only your group but everyone else.”⁵⁴

Noonan had little difficulty contesting the Witnesses’ claims. Arresting police officers testified that “the [loud] speaker was not pointed toward the audience of the speaker” and that “the further you were away from it, the better you [could] hear it.” Superintendent of Parks Nelson Goehle, who had been picnicking at Outwater Park on one of the Sundays, testified that there were “quite a few more” people gathered in the park away from the Witnesses’ meeting than were gathered “in front of the microphone.” In his cross-examination of Roy Mort, Noonan established that Mort had continued preaching to the assembled audience after the police officers had shut off the sound amplification equipment. In other words, Mort had not needed the sound car to preach to his fellow Witnesses, but only to expand his acoustic range in order to reach other areas of the park. When pushed by Noonan, even Walter Reid admitted that he “hoped those who were not members of Jehovah’s witnesses would get the message.” By broadcasting their lectures in a public park, the Witnesses targeted a heterogeneous listening public, a diverse audience consisting of both willing and unwilling hearers.⁵⁵

For the Witnesses’ critics, it seemed that this element of choice was what differentiated the Witnesses’ gathering from the Lutheran rally held at Outwater Park’s

⁵⁴Transcript, 17, 224, 241.

⁵⁵ Transcript, 46, 56, 116, 225, 241.

baseball stadium. Police Officer Joseph Chausse testified that the Lutherans held their service “within a fence, an enclosed fence.” Officer Paul Moorehouse further clarified that the fence was over six-feet high, that the stadium was close to a thousand feet from the part of the park reserved for picnicking, and that people were admitted to the stadium “in the regular way,” meaning that they had to pass through an entrance gate. In other words, Lockport residents *chose* whether they wanted to attend the rally and listen to the amplified sounds of Rev. Maier’s sermon. Furthermore, the six-foot tall fence separated the Lutherans from the other park-goers, physically circumscribing and containing the sounds of their gathering. Even within the space of this public park, religion had been set off as separate and distinct, confined to its own place. By setting up their loudspeakers in the picnicking area, the Jehovah’s Witnesses had challenged this arrangement, blurring the boundaries between public and religious space.⁵⁶

Indeed, the city implied that the Witnesses might have received a permit had they been willing to hold their meeting in the baseball stadium. But that would have defeated their purpose, for it would have limited their acoustic range and the size of their potential audience. They did not wish to be set apart, but to operate in the midst of other park activities and so to reach the greatest number of people, as Walter Reid finally admitted to City Counsel Noonan:

Q. You picked out for the point of your amplifier this particular spot?

A. That is right.

Q. And you set up this amplifier which had horns on top of it, and which would carry the voice a considerable distance, didn’t you?

A. As far as it could be carried.

Q. And you intended that these amplifiers would carry the voice as far as could be?

⁵⁶Transcript, 63-5.

A. Everyone that came to the park to hear we hoped would hear.⁵⁷

But the Witnesses hoped to attract the attention not only of those who had come to hear, but also of those who had come to the park for other reasons. And they clearly accomplished this aim, even if they elicited complaints and curiosity rather than conversions. Lockport resident Harry Moran sat, listened, and “wondered why it was there,” as these sounds seemed unlike what he was used to hearing at the park on Sunday afternoons. Nelson Goehle said that he “just sat there and listened to it during that time. That was about ten minutes.” Gilbert Van Wyck recollected that he had not observed the Jehovah’s Witnesses in the park until they began to broadcast over the loudspeaker. “No, I don’t think—particularly didn’t take notice of them,” he explained. The visual spectacle of the Witnesses’ gathering had garnered little attention, but the loudspeaker had enabled these religious dissenters to amplify their presence, to make their voices heard by calling the attention of a heterogeneous listening public.⁵⁸

As discussed above, Jehovah’s Witnesses of the 1930s and 40s deemed sound cars, loudspeakers, and phonograph players effective precisely because they could make religion portable, expanding the boundaries of religious space and of their acoustic community. But as evidenced by the testimony at Saia’s trial, the effectiveness of such devices also was what made them sources of complaint. The Lockport Witnesses justified their use of sound cars and amplifiers in the name of religious freedom, as necessary components of their religious worship, but their manner of worship necessarily involved religious others, unwilling hearers who resisted inclusion. As discussed above,

⁵⁷Transcript, 241.

⁵⁸Transcript, 115, 131, 142.

Witness publications from the period identified hearing as a necessary means for salvation—to hear was to be made open to God’s word, a sound like no other, and potentially to gain entrance to God’s kingdom. The Witnesses used loudspeakers, therefore, to make themselves heard, but also to ensure that others would hear, as well. They amplified and announced their presence, but also dominated the acoustic space around them, broadcasting their message to those who otherwise might not have chosen to listen to it.

Throughout Saia’s trials, Lockport residents, attorneys, and city officials thus debated whether religious sounds were different from non-religious sounds, whether the sounds of the Witnesses’ preaching were analogous to other religious sounds and practices, and whether it mattered that the Witnesses’ intended audience included unwilling listeners. Through these disagreements, the parties to this case articulated an array of assumptions about the nature of religious practice and about its proper time and place. The voices emanating from Saia’s loudspeakers had mediated contact between the varied park-goers, shaping how they responded to each other and prompting reflection on religion’s place within their community. And they framed very differently what was at stake in this case based on whether they heard the Witnesses’ preaching as noise or as worship.

According to Judge Falsioni, however, all of that was somewhat beside the point as Saia’s conviction had almost nothing to do with religion at all. Falsioni framed his relatively brief decisions around a single question: did Saia violate the city ordinance? And the answer to this was clearly yes. Falsioni rejected the defense’s contention that the ordinance was unconstitutional because it violated Saia’s right to freedom of worship and

freedom of speech. Differentiating this dispute from previous Witness-related court cases, Falsioni maintained that the city had not denied Saia’s right to distribute religious literature or to hold a public meeting. Nor was there any evidence of discrimination, for the city required a permit “for all faiths and denominations and for all activities carried on in a public place or public street in said city.” City officials had not silenced Saia, Falsioni contended, they only had regulated his use of loudspeakers, electric devices that bore “no necessary relationship to the freedom to speak, write, print, or distribute information or opinion.” The city had acted reasonably, Falsioni found, quoting a recent Colorado Supreme Court decision, for surely citizens “had a right to protect themselves from concentrated and continuous cacophony” – even if the source of such cacophony was religious. Saia had violated a valid municipal ordinance, Falsioni concluded, and thus had to pay a fine and face imprisonment. Falsioni agreed to commute the sentence, pending appeal, but Saia found no relief from the Niagara County Court nor from the New York State Court of Appeals. Both courts affirmed Falsioni’s decision without comment, leaving Saia with no option but to appeal his case to the U.S. Supreme Court.⁵⁹

A Right To Be Heard

The U.S. Supreme Court heard arguments in the case, *Saia v. New York*, in March 1948. Representing Saia was Hayden C. Covington, the imposing chief legal counsel for the Watchtower Bible and Tract Society. Covington had orchestrated the Witnesses’ legal campaign since the late-1930s, dramatically expanding the scope of civil rights

⁵⁹Transcript, 22-23, 33-39. Judge Falsioni quoted *Hamilton v. Montrose*, 109 Colo. 228, 237 (Colo. 1942). For the decisions of the Niagara County Court and the New York State Court of Appeals, see Transcript, 257-266.

protections for all Americans. He was a tall, experienced orator, who appeared before the Supreme Court in forty-one separate cases between 1939 and 1955. Representing the city was the young, recently appointed Niagara County district attorney, William E. Miller. A Lockport native and skilled litigator, the thirty-eight year old Miller already had served as an assistant prosecutor at the Nuremberg war crime trials and later would enter politics, running alongside Barry Goldwater as the 1964 Republican candidate for vice-president.⁶⁰

The lawyers' arguments rehearsed many of the same points raised at Saia's trials. Covington asserted that Lockport's noise ordinance was invalid on its face, for it abridged Saia's constitutional right to freedom of speech, assembly, and worship. Citing the examples of the Lutheran rally and the chiming of church bells, he alleged that the Witnesses were victims of discrimination. Offering an expansive understanding of religion's proper place, Covington contended that individuals had preached the gospel in public parks "since the days of the Lord Jesus Christ and His apostles," and that "the use to which the public park has been put by the appellant is similar to that of orthodox worshippers and preachers in church buildings where people worship." Religious worship in a public park was not only permissible, then, but it should be constitutionally protected in the same way that worship in a church might be. Covington denied that using amplifiers in a public park entailed any greater degree of compulsion than disseminating religious literature or engaging in door-to-door canvassing, two practices

⁶⁰For news coverage of the oral arguments, see "Lockport Ordinance Said Curbing Free Speech Right. High Court Hearing Saia Case," *Lockport (NY) Union-Sun & Journal*, March 31, 1948. On Covington, see Penton, *Apocalypse Delayed*, 79, 88; Henderson, "Jehovah's Witnesses." As was the case in *Saia*, Covington usually would arrange for local lawyers to argue Witness-related cases at lower levels and then intervene directly either at the Circuit Court or Supreme Court level. On Miller, see Libby Miller Fitzgerald, *Bill Miller—Do You Know Me?: A Daughter Remembers* (Lynchburg, VA: Warwick House Publishers, 2004).

that the Court previously had upheld. In other words, he downplayed any concern for unwilling listeners, rejecting the contention that noise infringed on others' rights to any greater extent than the Witnesses' other public proselytizing practices.⁶¹

For the most part, however, Covington did not focus on Saia's freedom of worship so much as his freedom of speech. "Freedom of speech includes the right to be heard," Covington maintained, and therefore entailed the right to use loudspeakers. Anti-noise ordinances emerged from early twentieth century concerns about the growing problem of urban noise, but Covington argued that industrialization had rendered amplifying technologies all the more necessary if unpopular minority groups were to make their voices heard amidst the cacophony of urban life. This was true not only for religious preachers, but for political campaigners, labor organizers, and a variety of other public speakers, all of whom Covington differentiated from those who would use loudspeakers for commercial purposes, the original targets of much anti-noise legislation. Yes, cities had the right to protect citizens from unnecessary noise, Covington acknowledged. But the problem with Lockport's ordinance was ultimately that it was prohibitory, not regulatory. Lockport might have a right to set time, place, and manner restrictions on the production of sound, but it could not issue a blanket ban on a particular mediating technology. If the problem was noise, then Lockport should regulate decibel levels, not simply prohibit the use of loudspeakers altogether. Finally, Covington cited the *Cantwell* decision as precedent to argue that Lockport's ordinance conferred undue discretionary power on the chief of police, who retained sole authority to issue permits

⁶¹Transcript, 268; *Saia v. New York*, Jurisdictional Statement, 15.

allowing the use of loudspeakers. For all of these reasons, Covington urged the Supreme Court to strike down Lockport's ordinance as unconstitutional.⁶²

The city continued to maintain that its ordinance offered a constitutionally valid vehicle for regulating noise. Attorney William E. Miller filed a short brief with the Supreme Court in which he re-affirmed Police Court Judge Falsioni's findings. Lockport had not abridged Saia's freedom of worship, nor had it interfered with his freedom of speech. The city had not blocked the Witnesses from distributing literature, from preaching, or even from holding public meetings in the park. There was no evidence of discrimination as all religious groups required a permit to operate loudspeakers in the park. Moreover, amplifying devices bore no necessary relationship to speech, Miller insisted, and thus could be prohibited. As discussed above, cities had singled out loudspeaker noise as distinctive enough to warrant specific legislation since at least the 1920s. Miller argued for the legitimacy of such measures and expressed concern for the "chaotic situation" that might ensue if every religious or civic organization in town could insist on its right to operate loudspeakers. The city had a right to adopt reasonable regulations for reducing urban cacophony. Miller urged the Court to affirm the lower court rulings.⁶³

⁶²For Covington's arguments, see Transcript, 266-269; *Saia v. New York*, Jurisdictional Statement; *Saia v. New York*, Reply Brief. By arguing that industrialization made loudspeakers all the more necessary, Covington was (probably unintentionally) echoing an argument that St. Mark's leaders advanced in chapter 2. They had suggested that churches *needed* to make noise in order to compete with the other sounds of the modern city. In his Supreme Court arguments, Covington regularly emphasized free speech claims over free exercise claims. Eric Michael Mazur has argued that this approach made his arguments more palatable to Justices who might have harbored their own bigotries toward Jehovah's Witnesses. Mazur also suggests that the Court deemed speech less threatening to constitutional order than conduct. Mazur, *Americanization of Religious Minorities*, 54.

⁶³*Saia v. New York*, Opposition Brief.

The Supreme Court issued its 5-4 decision in *Saia v. New York* on June 7, 1948. Writing for the majority, Justice Douglas laid aside all questions related to religious freedom. Instead, he held Lockport's ordinance "unconstitutional on its face" on the ground that it "establishes a previous restraint on the right of free speech in violation of the First Amendment which is protected by the Fourteenth Amendment against State action." Following *Cantwell* and other previous Witness-related cases, Douglas found that the ordinance conferred undue discretionary power on the chief of police and failed to prescribe any standards on the basis of which he should issue permits. The right to use loudspeakers was not absolute, Douglas clarified. "Noise can be regulated by regulating decibels," he wrote, "The hours and place of public discussion can be controlled." But "loud-speakers are today indispensable instruments of effective public speech," and could not be prohibited outright. Douglas implied that the decibel might offer an objective means for differentiating noise from unobjectionable sounds. But he also acknowledged that noise complaints tended to target particular sound producers, rather than particularly loud sounds. "Annoyance at ideas can be cloaked in annoyance at sound," he insisted. But this was true for unpopular political groups as much as it was true for unpopular religious groups. Douglas overturned *Saia*'s conviction not because the Witnesses understood their activities as religiously required, but because their sermons constituted protected speech, analogous to political campaigning. For Douglas, it seems to have been the substantive content that differentiated the Witnesses' sounds from mere noise, not the source of obligation.⁶⁴

⁶⁴*Saia*, 334 U.S. at 559-560, 562. Over forty years ago, Philip Kurland argued that the First Amendment's religion clauses should be read as a unity, guaranteeing nondiscrimination in religious matters. In other words, Kurland argued that religion should be treated the same as non-religion. Therefore, Kurland argued that *Saia* was correctly decided as a free speech case (and that *Cantwell* similarly should have been treated

Justice Frankfurter, joined by Justices Reed and Burton, dissented on the ground that Lockport's ordinance constituted a reasonable means for protecting the rights of unwilling listeners, for new amplifying technologies could warrant distinctive regulatory remedies. "The native power of human speech can interfere little with the self-protection of those who do not wish to listen," he wrote, but new amplifying technologies offered "too easy opportunities for aural aggression." The city was entitled to determine that the rights of the picnickers "who sought quiet and other pleasures that a park affords" outweighed "the appellant's right to force his message upon them," for "surely there is not a constitutional right to force unwilling people to listen." Frankfurter thus defined noise in terms of volume and emphatically differentiated this case from *Cantwell*. Municipal officials could not determine what constituted a legitimate religious cause, but they certainly could determine "what is in effect a nuisance." They certainly could identify *noise*. Judicial remedies were available if the chief of police were to abuse his authority, but Frankfurter found no evidence of discrimination in this case. The Lutheran rally was different, he maintained, because it was held in the baseball stadium, far removed from those who had chosen to enter the park for other reasons. Frankfurter thus ignored Douglas' warning that complaints about sound went hand in hand (or ear in ear?)

as a free speech case). According to Kurland, the Court properly treated religious speech as comparable to political speech, rather than singling religious speech out as specially protected. Singling religion out required the Court to define what counted as religion, a project that Kurland understood as violating the Establishment Clause. Kurland, "Right to Proselyte." Over the past few decades, I would suggest that courts increasingly have tended to follow Kurland's proposal, preferring to avoid having to differentiate religion from non-religion at all. But it also is interesting to note that local Jehovah's Witnesses with whom I have spoken do not remember the case as having been decided on free speech grounds. In interviews, both Joseph Saia (Samuel's son) and Eleanor Gehl (present on one of the disputed Sundays and daughter of one of the witnesses at Saia's trial) recalled that the analogy between preaching and church bells had proven decisive. They both remembered the Court's ruling as having centered on religious discrimination against the Witnesses. In fact, the Court avoided having to rule on that question at all, though Justice Douglas implied that discrimination may have been a factor. Saia, interview; Eleanor Gehl, interview by author, July 24, 2008.

with complaints about content. This case had nothing to do with religious toleration, he maintained. It simply was about the problem of unwanted noise.⁶⁵

Justice Jackson wrote a separate dissenting opinion in which he mostly agreed with Frankfurter, arguing that the city had a right to prohibit amplifying apparatuses whose use “could render life unbearable.” But Jackson’s dissent is also notable because he alone took on the religious issue. Jackson pointed out that in another case that same year, *McCullum v. Board of Education*, the Supreme Court had held “that the Constitution prohibits a state or municipality from using tax-supported property ‘to aid religious groups to spread their faith.’” But was not the majority decision in this case requiring Lockport in effect to do just that—to allow the Jehovah’s Witnesses to appropriate a public park for the purpose of spreading their faith?⁶⁶

Jackson was highlighting the apparent tension between the Establishment and Free Exercise clauses of the First Amendment, which seemed to mandate state action in one case that was deemed impermissible in another. But he also was raising critical questions about religion’s place in a diverse society. “I think Lockport had the right...to keep out of [the park] installations of devices which would flood the area with religious appeals obnoxious to many,” Jackson maintained. The Witnesses already had held at least four meetings in Outwater Park, he reminded the Court: “There are 256 recognized

⁶⁵*Saia*, 334 U.S. at 563-4 (Frankfurter, J., dissenting). Justice Frankfurter almost assembled a majority around his opinion. In mid-May, just a couple of week before the Court handed down its decision, Chief Justice Vinson switched his vote from Frankfurter to Douglas. The key issue for Vinson was whether *Saia* was distinguishable from *Cantwell*, and Vinson decided finally that it was not. See Felix Frankfurter Papers (microfilm) (Frederick, MD: University Publications of America), 1986 (hereafter Frankfurter Papers).

⁶⁶*Saia*, 334 U.S. at 569 (Jackson, J., dissenting). The *McCullum* case tested an Illinois law that permitted religious groups to use public school classrooms during school hours to teach religion. The Court struck down Illinois’ policy as unconstitutional, finding that it violated the First Amendment’s Establishment Clause. *McCullum v. Board of Education* 333 U.S. 203 (1948).

religious denominations in the United States and even if the Lockport populace supports only a few of these, it is apparent that Jehovah’s Witnesses were granted more than their share of the Sunday time available on any fair allocation of it among denominations.” In a religiously diverse society, the government could not possibly offer equal time to each religious group, and thus sectarian differences were best kept out of public space altogether. Jackson privileged the ears of the majority and ignored the ways that mainline Protestantism already shaped American public culture, suggesting instead that religious difference was best kept private if certain messages were deemed “obnoxious to many.” Were loudspeakers indispensable for dissenting groups striving to make themselves heard, to announce their presence, and to contribute to the chorus of American religious voices? Or would amplifying religious difference only create chaotic confusion and intolerable cacophony? The majority opinion had left such questions unaddressed and unresolved as it struck down Lockport’s ordinance and overturned Saia’s conviction.⁶⁷

Reactions to the *Saia* decision predictably were mixed. Watch Tower publications celebrated the Supreme Court’s decision as an unequivocal triumph for the Jehovah’s Witnesses. An article in *Awake!* exuberantly praised *Saia* as “one of the great landmarks in constitutional law” and as “a beacon to the right to hear and the right to be heard.” The author interpreted the majority’s decision as a stinging rebuke to the notion that there might be a “freedom to be let alone” in public spaces. “‘Freedom of privacy’ in a public place is too far-fetched to be taken seriously,” he concluded. Buoyed by this success, the 1949 Yearbook of the Watch Tower Bible and Tract Society anticipated that

⁶⁷*Saia*, 334 U.S. at 570 (Jackson, J., dissenting).

“the public meeting work in parks and public squares will be on the increase in the United States because of this fine decision by the United States Supreme Court.” Public parks would continue to serve as places for spreading the good news of God’s kingdom, for opening deaf ears to the sound of God’s word.⁶⁸

National critics of the *Saia* decision found solace in the strongly-worded dissenting opinions. H.L. Mencken and E.B. White each sent letters to Justice Frankfurter praising his position and expressing their concerns about the escalating urban noise problem. “At the rate we’re going in the world of noise,” White wrote, “we may shortly be faced with Supreme Court decisions recorded, amplified, and shouted down from low-flying planes—and even find Justice itself getting to be a public nuisance.” Mencken was characteristically even less reserved. “I am glad you are thinking of the right to privacy,” he wrote, “It seems to me that this is a right even anterior to the right of free speech. This great free Republic is being wrecked by bores and quacks who insist upon forcing their insane ideas upon their neighbors. If anyone ever suggests hanging them I’ll certainly not object.” Some listeners worried especially about the implications of the Court’s decision during an election year in which sound trucks were proving particularly pervasive. “I plead for the establishment of just one more association: the Silence-Lovers of America,” R.W. Elliott wrote in a letter to the *New York Herald Tribune*, “There should be no dues. The only obligation of members should be to refuse adamantly and without exceptions to support any political candidate or other advertiser who employs offensively loud sound trucks.” These critics did not differentiate between

⁶⁸“Right to Hear and To Be Heard,” *Awake!* (August 22, 1948): 3-7; Watch Tower Bible and Tract Society, *1949 Yearbook of Jehovah’s Witnesses containing report for the service year of 1948* (Brooklyn, NY: Watch Tower Bible and Tract Society, 1948), 54- 55.

religious and non-religious sounds. Loudspeakers and other amplifying devices posed the same threat to society, regardless of source or content.⁶⁹

These anti-noise crusaders undoubtedly would have been encouraged by the Supreme Court's decision in another sound truck case the following term. In *Kovacs v. Cooper*, the Court upheld the conviction of a New Jersey man for violating a Trenton anti-noise ordinance that prohibited the amplification of "loud and raucous noises." Writing for the majority, Justice Reed differentiated *Kovacs* from *Saia* on the ground that Trenton's ordinance offered a standard for regulating sound trucks that had been absent in Lockport's statute. But other Justices disagreed that the cases differed in any substantial way and believed that the Court's *Kovacs* decision flatly contradicted its finding in *Saia*. In fact, Justices Frankfurter and Jackson each wrote separate opinions in which they outlined the same basic positions they had adopted in *Saia*, although they concurred with the *Kovacs* decision rather than dissent from it. Similarly, Justice Black wrote a dissenting opinion in which he re-affirmed the principles of Justice Douglas' majority opinion in *Saia*. The Supreme Court Justices continued to disagree about whether loudspeakers constituted a particular nuisance that warranted distinctive legislative redress. The Jehovah's Witnesses' legal victory in *Saia* perhaps was not as conclusive as they had claimed.⁷⁰

⁶⁹E.B. White to Justice Felix Frankfurter, 29 June 1948, Frankfurter Papers; H.L. Mencken to Justice Felix Frankfurter, 14 June 1948, Frankfurter Papers; R.W. Elliott, Jr., "The Loud Speaker Fallacy," *New York Herald Tribune*, November 1, 1948.

⁷⁰*Kovacs v. Cooper*, 336 U.S. 77 (1949). It should be emphasized that *Kovacs* lacked any religious element. The *Kovacs* broadcaster was commenting on an ongoing Trenton labor dispute. The Court decided both *Saia* and *Kovacs* on free speech grounds. But Philip Kurland has suggested that the cases' disparate outcomes might be attributed to the fact that *Saia* was engaged in religious proselytizing. In other words, without acknowledging it, the Court actually might have been treating religious sounds differently. Kurland, "Right to Proselyte," 72.

In Lockport, the situation on the ground after *Saia* was even more mixed. A local newspaper editorial offered lukewarm praise for the Court's decision, but urged residents to practice "moderation in all things, especially when adjusting the volume control." Samuel Saia certainly felt vindicated to an extent, although his son, Joseph, describes Samuel's response to the decision as more relieved than anything else. Joseph also thinks that the experience strengthened his father's faith. "He took a position that he felt was based on not only law, but based on the Bible," Joseph recalls, "That he took the Bible as law for him, and he thought that the Bible taught you must preach the good news of the kingdom, just like Jesus did. And he took that to heart, and he stood by it." Saia interpreted the decision as unambiguously affirming his right to use his sound car to preach the good news, but also emphasized in interviews that it was not only his own rights that were at stake, "for when the rights of just one individual are involved, the rights of all Americans stand in jeopardy."⁷¹

Lockport's city officials appear to have drawn a different message from the Court's decision, however. According to City Counsel Noonan's interpretation of Justice Douglas' opinion, Lockport's anti-noise ordinance had two problems, namely that it delegated undue discretionary authority to a single city official and that it prohibited loudspeakers and sound trucks, rather than regulate their time, place, and manner. In response, the Lockport Common Council passed two amendments to the anti-noise ordinance in June 1949. First, permits had to be obtained from a Board of Police Commissioners, consisting of four city officials rather than the police chief alone, though

⁷¹"Moderation Philosophy Applies Also to Noise," *Lockport (NY) Union-Sun & Journal*, June 8, 1948; Saia, interview; "Noonan to Study Court Decision on 'Free Speech,'" *Lockport (NY) Union-Sun & Journal*, June 8, 1948.

the ordinance continued not to offer any standards to guide deliberations. Second, and even more significant, the council placed a series of new restrictions on sound car use. According to the new ordinance, sound cars only could be operated between 11:30am and 1:30pm or between 4:30pm and 6:30pm, *never* on Sundays, and always had to be moving at least ten miles per hour. Furthermore, their acoustic range could not exceed one hundred feet, and they could not be operated within one hundred feet of a hospital, school, church, or courthouse. Lockport styled this new law after a model ordinance provided by the National Institute of Municipal Officers, and there is no evidence that the city officials specifically targeted the Jehovah's Witnesses. But these new restrictions seemed to preclude precisely the kind of activity in which Saia had been engaged. They continued to single out sound trucks and loudspeakers as posing a particular threat to public peace and order. They also protected particular times and places—including Sundays and churches—from unwanted noise, perhaps subtly implying that religious devotion was best kept quiet or at least out of the shared spaces of communal life. Lockport's amended ordinance seemed to threaten the very rights that the Witnesses had fought to defend before the Supreme Court.⁷²

Meanwhile, Lockport Witnesses with whom I have spoken do not recall ever again holding public meetings in Outwater Park. They continued to canvass door-to-door and to distribute religious literature, but they do not seem ever to have acted on their legal victory. It does not appear that this decision was a direct result of the council's new regulations, although they undoubtedly had an effect. Instead, Eleanor Gehl, who

⁷²Lockport, NY, Code § 125 (1980); "City Amends Anti-Noise Ordinance," *Lockport (NY) Union-Sun & Journal*, June 7, 1949; "Ordinance Sets Fee for Sound Trucks," *Lockport (NY) Union-Sun & Journal*, June 21, 1949.

attended at least one of the meetings at which Saia was arrested and whose father testified at Saia's trials, thinks that the construction of a Kingdom Hall in Lockport rendered park meetings unnecessary. Lockport Witnesses begin to sponsor services in their own space. "We invited people to our Kingdom Hall, same purpose," she recalls, "The work was getting started...it was growing. And that's how they felt it was helpful to get people interested." Ironically, as the Jehovah's Witnesses established themselves more firmly in Lockport, they appear to have moved increasingly indoors, into the more "traditional" built institutions that dominated Lockport religious life. As the Witnesses made a place for themselves in Lockport, perhaps they found it less necessary to make a claim on Lockport's public space. Perhaps it no longer seemed necessary to make their voices heard quite as loudly.⁷³

Conclusion

The *Saia* case had focused on an unpopular minority group's use of new amplifying technologies to announce presence, to claim space, and to fulfill a religious obligation to preach God's word to others. But in so doing, Jehovah's Witnesses also had caused a public nuisance, infringing on the rights of unwilling listeners as they dominated acoustic space with their sounds. Lockport officials had enforced the city's anti-noise ordinance in order to protect the rights of local residents, of those who did not wish to hear, but such ordinances also could be applied discriminatorily, acting as effective mutes on dissent. Throughout the legal proceedings, participants had disputed these varying interpretations of what was at stake, disagreeing fundamentally about whether this case

⁷³Gehl, interview.

centered on concerns about religion or about noise, about protecting one group's freedom of worship or about preserving the public peace. They disagreed about whether the loudspeaker functioned as a vehicle of power or dissent.

This case makes audible one of the central problems associated with regulating religious noise. As I explore more extensively in chapter 5, regulating noise has required a stable definition of what constitutes *noise*, and regulating religion similarly has required *religion*. Yet disputants advanced competing conceptions of each of these terms. Religion and noise were not fixed categories, but instead proved pragmatically malleable, negotiated in relation to each other and toward distinct strategic ends. By defining their sounds as religion, the Jehovah's Witnesses presented themselves as victims of discrimination, singled out because of their unpopular beliefs and deserving of special constitutional protection. But Lockport officials defined the same sounds as noise. And in so doing, they presented themselves as defenders of the general welfare and as advocates of equal treatment for all Lockport residents, whether religious or not. They dismissed the Witnesses as sound imperialists, aural aggressors who were insensitive to the rights of others.⁷⁴

But disputants did not contest whether the Witnesses in fact were engaged in religious practice so much as they disagreed about whether religion was out of place in this particular context. They demarcated religion's normative boundaries differently, offering competing conceptions of religion's place in pluralistic public spaces. By using loudspeakers to make their voices heard, the Witnesses had rendered religion portable, spilling over into Lockport's streets, homes, and public parks. They had transformed a

⁷⁴For classic articles by legal scholars on the problem of defining noise legally, see Lloyd, "Noise as a Nuisance"; Spater, "Noise and the Law."

public park into a religious site, constructing public space as a place for amplifying religious difference. But some Lockport officials and residents sought to protect public space from chaotic cacophony, implying instead that sectarian differences were best kept quiet. They aimed to shelter public space from the sounds of religious variety, circumscribing religion's boundaries and confining it to certain times and places where individuals could choose whether to encounter it. But in so arguing, they also turned a deaf ear to the acoustic dominance of Lockport's more "mainstream" religions, to the ways that church bells already shaped Lockport's public culture. Disputants thus offered competing conceptions of the relationship between religious sounds, public space, and social power.

The Supreme Court's *Saia* decisions mostly ignored the case's religious dimensions, yet they remain the Court's most direct statements on the relationship between religion and noise. Over the next fifty years, a series of other cases would continue to challenge U.S. courts to adjudicate between the rights of religious adherents and the rights of unwilling listeners. Judges often referred back to the *Saia* decisions, particularly to Justice Douglas' memorable assertion that "annoyance at ideas can be cloaked in annoyance at sound." Indeed, courts have continued to struggle to separate complaints about volume from complaints about content, complaints about noise from complaints about particular noisemakers. The *Saia* case involved members of a new religious movement, a group of particularly aggressive religious dissenters. But over the next fifty years, new religious immigrants also increasingly would introduce sounds of their own into American cities. They would further diversify the American religious

soundscape, claiming a place for themselves while further dislodging church bells from their normative status. But these sounds also would not go uncontested.⁷⁵

In a blistering 1989 dissenting opinion, Justice Thurgood Marshall reminded the Supreme Court that “new music always sounds loud to old ears.” Although he was not talking about religious sounds, Marshall’s words easily could have applied just as well to recent religious noise disputes. In the next chapter, I turn to a 2004 case about broadcasting the Islamic call to prayer in a historically Polish-Catholic Michigan community. By attending to this dispute, I consider how “old ears” have responded to “new music”—or to the sounds of religious newcomers. I consider how some Americans have continued to hear “new” sounds as distinctly out of place.⁷⁶

⁷⁵As I discuss in chapter 4, a Michigan judge quoted Justice Douglas’ *Saia* assertion in 1980 while upholding a Dearborn mosque’ right to broadcast the Islamic call to prayer. *Dearborn v. Hussian, et. al.*, No. 79-933979-AR (Wayne County Ct. June 3, 1980).

⁷⁶*Ward v. Rock Against Racism*, 491 U.S. 781, 810 (1989) (Marshall, J., dissenting). Justice Marshall was quoting Nicolas Slonimsky, *Lexicon of Musical Invective: Critical Assaults on Composers Since Beethoven’s Time* (New York: Coleman-Ross, 1953), 18.

CHAPTER 4

CALLING EVERYONE TO PRAY: PLACING MUSLIMS IN HAMTRAMCK, MICHIGAN

Joanna Golen was upset. “My main objection is simple,” she explained to the *New York Times* following a contentious Hamtramck Common Council meeting in April 2004. “I don't want to be told that Allah is the true and only God five times a day, 365 days a year. It's against my constitutional rights to have to listen to another religion evangelize in my ear.” Golen spoke for many long-time residents of that Michigan city, located next to Detroit, who opposed a proposed amendment that would exempt the *azan*, or Islamic call to prayer, from a municipal noise ordinance. A historically Polish-Catholic enclave, Hamtramck has received an influx of immigrants in recent years from Bangladesh, Yemen, Bosnia, and other Muslim countries. Golen interpreted the city's effort to accommodate Muslim practice as a violation of *her* religious freedom, for the *azan* would spill over into Hamtramck's streets and homes, calling everyone to pray. But others heard the *azan* differently. Its sound was no more out of place than the chimes of nearby church bells, Rahiji Auooon contended. “Just like we hear the church bells, which I have no problem with that because I love the sound of the church bells, they should not have a problem with our call for prayer,” Auooon explained to a National Public Radio reporter. “I mean, like I told everybody inside, we're all one. Just as they're

Americans, I'm an American citizen. I was born and raised in America, and we should all be treated equally.”¹

As in Hamtramck, the call to prayer frequently has functioned as a flashpoint in disputes about the integration of Muslims into American communities. While many mosques have chosen not to broadcast the *azan*, others have used it to claim a place on the American religious soundscape alongside the chimes of church bells. But the *azan*'s call rarely has gone unnoticed. Neighbors regularly have resisted and regarded as inappropriate its public pronouncement of Islamic presence. Even when they have put up with the visual display of new mosques, many communities have insisted that these mosques remain quiet. In 2005, for example, another Michigan city approved construction permits for a mosque only after a contentious series of public hearings and a U.S. Justice Department investigation. But even then, city officials insisted on a legal provision that “there be no loudspeaker or other device mounted on the building that can be heard from the outside of the building for the purpose of call to prayer five times a day.” Even though the proposed mosque had not even intended to broadcast the *azan*, the city made clear that it would not tolerate any noise.²

In this chapter, I delve into Hamtramck's discordant *azan* dispute, which began in December 2003 when the al-Islah Islamic Center requested permission to broadcast the *azan* over electric loudspeakers. For the next six months, controversy raged in Hamtramck, receiving national attention, as residents such as Golen and Auooon debated

¹John Leland, “Tension in a Michigan City over Muslims' Call to Prayer,” *New York Times*, May 5, 2004; Quinn Klinefelter, “Analysis: Michigan Town's Residents Divided on Muslim Prayer Calls Being Broadcast over Loudspeakers,” *Morning Edition*, NPR, April 27, 2004.

²Steve Elturk, interview by author, July 24, 2007; Minutes of the Planning Commission of Warren, Michigan, March 13, 2006. Among other outlandish allegations, some Warren, Michigan, residents had complained that Muslims might perform animal sacrifice at the proposed mosque.

the council's proposed noise ordinance amendment and interpreted the *azan*'s call in different ways. They disagreed about whether the *azan* was too loud. They differed as to whether its call belonged in public or whether religious differences were best kept quiet. And they debated the social and political implications of their city's shifting demographics. As they contested whether the *azan* constituted noise, whether it sounded "out of place," they negotiated the place of Muslims, Catholics, and religion in their community.

The Hamtramck dispute offers a useful case study for considering both how immigrant religious communities have used public sounds to make place and how neighbors' noise complaints have circumscribed that place. By broadcasting the *azan*, Hamtramck Muslims placed themselves in their new community, alongside Hamtramck's longtime Polish-Catholic residents, but some complainants heard the *azan* as signaling their own displacement. The dispute also amplifies how religious sounds take on new meanings in new social contexts. When Hamtramck Muslims broadcast the *azan*, they were not targeting a homogenous audience, but rather multiple, diverse listening communities, both willing and unwilling, who did not hear the call in the same way. Scholarship on religious auditory cultures has tended to concentrate on how sound functions within particular bounded traditions. But this chapter attends especially to the ways that public sounds cross boundaries, mediating contact among diverse religious communities and shaping the terms of their encounters. It attends to how the *azan* blurred religious borders, inviting Muslims, Catholics, and others all to respond to its call. And it also attends to how critics re-fortified these boundaries by demarcating the *azan*'s sound as "foreign" or "out of place." As the *azan* spilled over into Hamtramck's

streets and homes, residents debated whether it signaled new pluralistic possibilities or intolerable cacophony.³

Broader national debates about American religious pluralism shaped the Hamtramck dispute in significant ways. While America always has been diverse, changes in immigration laws in 1965 have expanded the range of non-Protestant options, increasing the presence of Muslims, Hindus, Buddhists, Latino Catholics, and others. As in the Hamtramck case study, this expanded pluralism has raised practical questions about fairness, accommodation, and equality, while scholars also have debated its implications for civic unity, moral consensus, and national identity. At the same time, political events have thrust American Muslims into a particularly public spotlight. Events such as the 1979 Iranian Revolution came to symbolize a global Islamic revival that has called “for a renewed intentionality about the role of Islam in the running of the state and in the public as well as private lives of Muslims.” These movements have raised questions about Islam’s compatibility with liberal democracy and have shaped how Americans have received and responded to Muslim immigrants. As is common among immigrant communities, American Muslims also have debated among themselves the extent to which they should adapt their beliefs and practices to the American context. The September 11 terrorist attacks only have intensified these discussions about

³ My understanding of how religious groups have used sound (and other public practices) both to make place and to claim space has been shaped especially by Robert A. Orsi, ed., *Gods of the City: Religion and the American Urban Landscape* (Bloomington: Indiana University Press, 1999); Thomas A. Tweed, *Our Lady of the Exile: Diasporic Religion at a Cuban Catholic Shrine in Miami* (New York: Oxford University Press, 1997); Barbara Daly Metcalf, ed., *Making Muslim Space in North America and Europe* (Berkeley: University of California Press, 1996).

Muslims' place in American society, accounting for much of the national interest in the Hamtramck dispute.⁴

These broader factors shaped the Hamtramck dispute, but so, too, did particular local dynamics. In the first section of this chapter, I trace how Hamtramck developed as a Polish-Catholic enclave and how its residents fashioned a distinct civic identity, defined in opposition both to Detroit and the more affluent suburbs. In the next section, I consider how the *azan* placed Muslim newcomers in Hamtramck but also how it mediated contact among diverse listening communities. The *azan* took on new meanings as it sounded in this new acoustic space. I then situate the Common Council's decision to accommodate Muslim practice within the context of Hamtramck's rapidly shifting

⁴For an account of colonial diversity, see Jon Butler, *Becoming America: The Revolution before 1776* (Cambridge, MA: Harvard University Press, 2000). Of course, some regions were more diverse than others. On diversity in the Middle Atlantic region, for example, see Randall Balmer, *A Perfect Babel of Confusion: Dutch Religion and English Culture in the Middle Colonies* (New York: Oxford University Press, 1989); Douglas G. Jacobsen, *An Unprov'd Experiment: Religious Pluralism in Colonial New Jersey* (Brooklyn, NY: Carlson Pub., 1991). For one prominent study of post-1965 immigrant religious communities, see R. Stephen Warner and Judith G. Wittner, eds., *Gatherings in Diaspora: Religious Communities and the New Immigration* (Philadelphia: Temple University Press, 1998). In their introduction, Warner and Wittner consider various ways that scholars have differentiated the experience of post-1965 immigrants from nineteenth century immigrants. These factors include the salience of race for more recent immigrants and the increasingly transnational context in which immigration occurs. Some scholars have contested these findings, for both of these factors shaped nineteenth century immigration, as well. They have suggested that, if anything, the differences between nineteenth-century and twentieth-century immigration are of degree, not kind. For an important national study of how Americans are responding to the challenges posed by religious diversity, see Robert Wuthnow, *America and the Challenges of Religious Diversity* (Princeton: Princeton University Press, 2005). Wuthnow argues that American Christians always have been aware of religious differences, but "that this awareness is probably greater among rank-and-file Americans now than in the past because of mass communications, immigration, and our nation's role in the global economy" (xiv). The Islamic revival quote is from Jane I. Smith, *Islam in America* (New York: Columbia University Press, 1999), xi-xii. Charles Hirschkind argues that the Islamic Revival should not be thought of as a unified movement, but rather as "a contingent and shifting constellation of ideas, practices, and associational forms." *The Ethical Soundscape: Cassette Sermons and Islamic Counterpublics* (New York: Columbia University Press, 2006), 207. The *azan* has figured prominently in debates between conservative and liberal American Muslims. In the late 1970s, for example, a conservative faction seized control of a Dearborn, Michigan, mosque that previously had been considered highly "Americanized." Shortly thereafter, they began to broadcast the *azan*, which led to a lawsuit that is discussed below. For accounts of this takeover, see Tom Hundley and Stephen Franklin, "Worship in a World Apart," *Detroit Free Press*, November 28, 1983; Nabeel Abraham, "Arab Detroit's 'American' Mosque," in *Arab Detroit: From Margin to Mainstream*, eds. Nabeel Abraham and Andrew Shryock, 279-311 (Detroit: Wayne State University Press, 2000).

political landscape. The council's permission distinguished this dispute from the *Saia* case in important ways.

Next, I analyze the arguments that speakers advanced at a series of contentious council meetings. I listen to how they debated whether the *azan* belonged in Hamtramck or whether it sounded out of place, whether it was placing Muslims or displacing Catholics. I attend especially to three common themes. First, as in other chapters, disputants contested whether the *azan* constituted religion or noise, categories that proved pragmatically malleable and thus strategically useful. Second, disputants contested whether religious sounds belonged in public. The *azan*'s proponents imagined polyphonic public places overflowing with the sounds of religious variety, while its opponents demanded a right to be shielded from religious difference. Third, disputants situated the *azan* differently within competing conceptions of American religious identity. Opponents heard the *azan* signaling a threat to Christian consensus, while its proponents heard an opportunity to fashion new, more inclusive collective boundaries. Finally, I follow how the Hamtramck dispute was resolved through political processes, rather than by judicial intervention. In the end, city residents voted to affirm the mosque's right to broadcast, and the sound of the *azan* gradually faded into Hamtramck's background. This case study thus offers a particularly rich opportunity for listening to how ordinary Americans have responded to the sounds of religious difference, and, through their responses, how they have negotiated religion's place in a pluralistic society.

"A Touch of the World in America"

The official website for Hamtramck, Michigan, invites visitors to experience “a touch of the world in America.” The website includes pages written in Arabic, Polish, Albanian, and Serbo-Croatian. Storefront signs throughout the 2.1 square mile city located just north of downtown Detroit similarly attract customers in a variety of languages. Diners can choose from any of a number of ethnic cuisines, including Lebanese, Mexican, Polish, Indian, Bangladeshi, Thai, Greek, and Ukrainian. Walking around town, one gets the sense that the website’s boast is not far from the truth. Yet it was not always this way in Hamtramck. The call to prayer dispute emerged, in part, from the remarkable demographic, religious, and economic shifts that the city has experienced over the last several decades, as an almost exclusively Polish-American community has struggled to redefine itself.⁵

Named after a French Canadian soldier in 1798, Hamtramck Township remained rural throughout the nineteenth century. Settled first by French explorers and then German immigrants, Hamtramck’s population barely had topped thirty-five hundred by the end of the twentieth century’s first decade. But that all changed when the Dodge Brothers chose to build their new automobile factory in Hamtramck in 1910. The Dodge Main, as it came to be called, attracted tens of thousands of Polish immigrant workers, who settled in Hamtramck and helped to transform its sprawling farmland into a densely packed, working-class urban neighborhood. By 1920, Hamtramck’s population had skyrocketed to 48,615. Its current geographic boundaries were fixed in 1922, when it

⁵City of Hamtramck, Michigan, “Official Website,” <http://www.hamtramck.us>.

was incorporated as politically independent, yet surrounded by the city of Detroit on all sides, except for a small section that borders Highland Park.⁶

The Dodge Main workers lived close together, within walking distance of the factory. Eighty-five percent of Hamtramck's homes were constructed between 1915 and 1930, mostly two- and three-story bungalows on thirty-foot lots, with little space between neighbors. Following political incorporation, the Poles quickly came to dominate local politics, displacing their German predecessors from all positions of power in the city. And the Polish workers also began to build religious, civic, and educational institutions, gradually transforming Hamtramck into an "island of Polish-American culture within the metropolitan area of Detroit," as one sociological study described it in 1955.⁷

As in other Polish-American communities, Hamtramck's three Roman Catholic parishes quickly became the city's most important social institutions, offering its factory workers significant sources of strength and support. Polish immigrants spreading northward from Detroit had organized St. Florian's parish in 1907, three years before Dodge Main opened, and Hamtramck's rapid demographic growth soon led to the organization of Our Lady Queen of Apostles parish in 1917 and St. Ladislaus parish in 1920. In addition, a Polish National Catholic Church was built in 1922. Polish Catholics constructed their collective religious identity around these parishes. As late as 1979, one urban anthropologist described "what it means to be an urban working-class Polish American" as "an individual whose life revolves around the family, the parish, and the

⁶Greg Kowalski, *Hamtramck: The Driven City* (Charleston, SC: Arcadia Pub., 2002); Arthur Evans Wood, *Hamtramck, Then and Now: A Sociological Study of a Polish-American Community* (New York: Bookman Associates, 1955); Greg Kowalski, interview by author, July 11, 2007.

⁷Kowalski, *Hamtramck*; Wood, *Hamtramck, Then and Now*, 21; Kowalski, interview.

neighborhood.” Detroit’s Polish Catholics largely lived in a world apart. They segregated themselves from other Roman Catholics, maintained a distinct ethnic identity, and advocated strong lay authority, which frequently put them at odds with the Irish-dominated Detroit Archdiocese. They were proud of their parishes, and built magnificent churches, perhaps none as fine as St. Florian’s, which opened a new building in 1928. St. Florian’s dominated Hamtramck’s visual and auditory landscapes, and it came to symbolize the community’s coalescing identity. Located “in the midst of the small homes of those it served,” its two-hundred foot tall spire could be seen from miles away, and its bells resounded throughout the city. Boston architect Ralph Adams Cram expressly intended St. Florian’s to replace the Dodge Main as emblematic of Hamtramck, hoping that it would stand for “beauty, prayer, community, and order at the very center of the world of ugliness, smoke, noise, profit and materialism.” The dedication of its bells in 1928 provided an important opportunity for Hamtramck’s Polish Catholics to celebrate their communal growth. As one historian described the event, “In a very tangible way the bells brought together the parish community as the first step in giving life and making their own the structure that was soon to become the center of their neighborhood and their lives.”⁸

⁸Paul Wrobel, *Our Way: Family, Parish, and Neighborhood in a Polish-American Community* (Notre Dame, IN: University of Notre Dame Press, 1979), 39; Frank Serafino, *West of Warsaw* (Hamtramck, MI: Avenue Pub. Co., 1983); Leslie Woodcock Tentler, *Seasons of Grace: A History of the Catholic Archdiocese of Detroit* (Detroit: Wayne State University Press, 1990); *St. Florian Parish, Hamtramck, Michigan, 1908-1983: History of a Faith Community* (Hamtramck, MI: St. Florian Parish, 1983), 80, 83; *St. Ladislaus Parish, Hamtramck, Michigan, 1920-1970: The Growth of a Community* (Hamtramck, MI: St. Ladislaus Parish, 1970); *Our Lady Queen of Apostles Parish, Hamtramck, Michigan: 1917-1992* (Hamtramck, MI: Our Lady Queen of Apostles Parish, 1992). For a historiographical essay on Polish-American religion, see William J. Galush, “Polish Americans and Religion,” in *Polish Americans and the History: Community, Culture, and Politics*, ed. John J. Bukowczyk, 80-92 (Pittsburgh: University of Pittsburgh Press, 1996).

With its religious and social institutions in place, Hamtramck continued to grow. By the mid-1930s, its population had reached close to 60,000, of whom over eighty percent were ethnically Polish. Union activity was particularly strong during this decade, as the United Auto Workers staged the largest sit-down strike in American history at the Dodge Main in 1937. Hamtramck's Polish community also embraced democracy, voting in remarkably high numbers, always consistently Democratic, leading to campaign visits from Franklin Roosevelt, Harry Truman, and John F. Kennedy. Hamtramck thrived during the 1940s and 50s, thanks in part to a booming postwar economy. Religious devotion and church attendance remained strong, and the parish churches frequently took to the streets, sponsoring numerous processions throughout the year. Its Polish Catholic identity was only reinforced further when Cardinal Karol Wojtyla (later Pope John Paul II) visited the city in 1969.⁹

By that time, the city's fortunes had begun to change. During the 1950s, increasing prosperity and the density of urban living encouraged thousands of Hamtramck residents to leave for the suburbs. A 1940 population of 48,838 declined to 34,137 by 1960 and to 27,245 in 1970. In just thirty years, the city had lost nearly half of its population. A disastrous urban renewal project during the 1960s combined with

⁹Kowalski, *Hamtramck*; Wood, *Hamtramck, Then and Now*, Kowalski, interview. On union activity in Hamtramck, see Mark Steven Freyberg, "Constructing the UAW Dodge Local 3: Collective Identity, Collective Efficacy, Collective Action" (PhD Dissertation, University of Michigan, 1995); Patricia Leslie Pilling, "A Case Study of Skilled Polish American Automobile Workers in Hamtramck, Michigan" (PhD Dissertation, Wayne State University, 1987). On public processions, see *St. Florian Parish*; *St. Ladislaus Parish*; *Our Lady Queen of Apostles Parish*. St. Ladislaus parish claims the largest religious demonstration in Hamtramck history on Marian Day, 1954. Also see Reports of Archdiocese of Detroit Canonical Visitations, 1954, Archives of the Archdiocese of Detroit. These reports list the annual processions performed at each parish. They also further reinforce Hamtramck's sense of its distinct identity. For example, in response to the question, "What special interest is manifested in non-Catholics in the parish?," the report for Our Lady Queen of Apostles says "Nothing special – not too many of them," while the report for St. Ladislaus leaves the question blank. Of course, Hamtramck's homogeneity was partially imagined, for its population has always consisted of about ten to fifteen percent non-Catholic African-Americans who have frequently been ignored by their Polish-American neighbors. See Kowalski, *Hamtramck*.

problems in the automobile industry during the 1970s devastated Hamtramck's economy, the final blow coming when the Chrysler Corporation decided to close the Dodge Main in 1980. Yet for many observers, Hamtramck remained synonymous with Polish-America. A public relations campaign during the early 1980s purposefully played on this public perception, marketing the city as a "touch of Europe in America."¹⁰

While designed to attract shoppers and businesses, this public relations campaign ignored the ways that Hamtramck already was changing. Starting in the early 1970s, Yemeni immigrants began to settle in Hamtramck's south end, drawn by the promise of factory work. Hamtramck's Eastern European population diversified rapidly, as Albanians, Bosnians, Croatians, and Ukrainians moved to the town in large numbers. Immigrants from Bangladesh and other South Asian countries soon arrived, as well. These newcomers transformed the city's ethnic composition, and they also revitalized its economy, opening new shops and restaurants and offering new labor forces. The 2000 Census recorded the first increase in Hamtramck's population since 1930, rising from a low of 18,372 in 1990 to 22,976. Poles remained the single largest ethnic group, but constituted only twenty-three percent of the population. Moreover, various studies found that forty-one percent of residents were born outside of the United States and that public school students spoke close to thirty different languages at home. Hamtramck had grown startlingly diverse.¹¹

¹⁰Kowalski, *Hamtramck*, 130; Serafino, *West of Warsaw*; Kowalski, interview.

¹¹2000 Census; City of Hamtramck, Michigan, "Official Website," <http://www.hamtramck.us>. The Census figure is probably low, since it does not include undocumented immigrants and tends to undercount non-English speakers.

These newcomers brought with them new religious beliefs and practices. At the same time as the Detroit Archdiocese, facing an aging Catholic population, was closing all of Hamtramck's parochial schools, mosques began to appear in converted office buildings and storefronts. Indeed, a vast majority of the new immigrants were Muslim, especially those who had arrived from Yemen, Bangladesh, and Bosnia. Arab immigrants and African-Americans had been building Islam in Detroit and nearby Dearborn since at least the first half of the twentieth century. But Muslims were relatively new to Hamtramck. Their presence challenged this historically Polish-American community to rethink its distinct civic identity.¹²

Broadcasting the Call

One of the newcomers to Hamtramck was Abdul Motlib, who in September 2003 petitioned the Hamtramck Common Council for permission to broadcast the *azan*. Motlib had moved with his family from Bangladesh to New York City in 1984 and had

¹²Most Hamtramck residents with whom I have spoken assume that a majority of Hamtramck's population is now Muslim, though reliable statistics are difficult to obtain in part because the U.S. Census does not ask about religious affiliation. In fact, it is hard to come by reliable statistics for the American Muslim population as a whole, though many accounts describe Islam as the fastest growing religion in the United States today. Recent studies have estimated the number of American Muslims as ranging from anywhere between one and a half million to seven million people. For a discussion of the problems related to obtaining reliable statistics, see Pew Forum on Religion and Public Life, "Muslim Americans: Middle Class and Mostly Mainstream," Pew Research Center, May 22, 2007, <http://pewresearch.org/assets/pdf/muslim-americans.pdf>. The Pew Forum report estimated the American Muslim population at 2.35 million. The "Building Islam in Detroit" project at the University of Michigan currently is studying the history of Islam in Detroit. See their website at <http://www.umich.edu/~biid/>. For a collection of essays that includes some attention to the roots of Islam in Detroit, see Nabeel Abraham and Andrew Shryock, eds., *Arab Detroit: From Margin to Mainstream* (Detroit: Wayne State University, 2000). As the title suggests, this collection focuses on Arab-Americans, many of whom were not Muslim. For one account of African-American Muslims, see Richard Brent Turner, *Islam in the African-American Experience* (Bloomington: Indiana University Press, 1997). Scholars of American Islam recently have turned their attention to the often tense relationship between African-American and immigrant Muslims. It should be emphasized that Hamtramck's Muslim population is both ethnically and racially heterogeneous. St. Florian's school was the last parochial school to close in 2005 and marked the end of Catholic education in Hamtramck. The closings dealt a serious psychological blow to long-time Hamtramck residents. See the *Hamtramck (MI) Citizen*, March 23, 2005.

relocated again to Hamtramck in 1998. The Detroit area had attracted him with its relatively low cost of living and strong Muslim presence. In 2001, Motlib converted a former chiropractor's office into the al-Islah Islamic Center, a small, unassuming mosque located one block from Hamtramck's primary commercial thoroughfare. A factory worker and part-time travel agent, Motlib served as al-Islah's president, gaining prominence within Hamtramck's Bangladeshi community, though he was little known outside of it. Indeed, his congregation remained highly introverted, interacting little with their neighbors. Al-Islah offered religious instruction and worship space, but would hardly have been noticed by passers-by, dwarfed by the more visually imposing St. Ladislaus Roman Catholic Church directly across the street.¹³

All of that changed when Motlib installed electric loudspeakers on al-Islah's roof in order to broadcast the *azan*. While the mosque might have attracted little attention to itself visually, the loudspeakers would amplify its presence aurally, similar to how Jehovah's Witnesses used loudspeakers in the 1940s. In his petition to Hamtramck's council, Abdul Motlib described broadcasting the *azan* as a religious obligation. "As part of the Islamic religion," he wrote, "it is our duty to 'call' all Muslims to prayer five times a day." "Why we make call to prayer?" he similarly has explained to me, "We tell them, now our congregation prays in the mosque. If anyone wants to join, come." But he also has told me that he decided to broadcast the call, in part, because with its "cheap, small houses," and neighbors in close proximity, Hamtramck reminded him of Bangladesh, where hearing the *azan* constituted a regular feature of daily life. Similar to what Thomas Tweed has found in his work on Cuban-American diasporic religion, the sound

¹³Abdul Motlib, interview by author, July 21, 2007.

of the *azan* transported Motlib across time and space, forging a connection between Islamic practice, place, and identity. The call to prayer would help Motlib's community make space for themselves in Hamtramck while connecting them to the place they had left behind. This public sound might place them in their new home.¹⁴

This interpretation seems consistent with what anthropologists of Islam have found elsewhere. The call to prayer echoes as one of the most distinctive features of Muslim cities and towns with its interruption of daily routines five times a day. Since its institution by the Prophet Muhammad, the *azan* has relied on a specially trained human voice, always male. At the appointed time, as set by the cycles of the sun (before dawn, noon, late afternoon, after sunset, and evening), the *muezzin*, or person responsible for giving the call, traditionally ascends to a designated space in a mosque's minaret and reminds Muslims of their obligation to "put aside all mundane affairs and respond to the call physically and spiritually." It has become increasingly common for mosques to use electric loudspeakers for this purpose, as they compete to be heard amidst the other sounds of urban life. Anthropologist Charles Hirschkind evocatively describes the effect of hundreds of mosques broadcasting the *azan* throughout Cairo, engulfing the city "in a sort of heavenly interference pattern created by the dense vocal overlaying. These soaring yet mournful, almost languid harmonic webs soften the visual and sonic tyrannies of the city, offering a temporary reprieve from its manic and machinic functioning."¹⁵

¹⁴Abdul Motlib to the Common Council Members, City of Hamtramck, 28 December 2003 (copy on file with author); Motlib, interview; Tweed, *Our Lady of the Exile*.

¹⁵Tong Soon Lee, "Technology and the Production of Islamic Space: The Call to Prayer in Singapore," *Ethnomusicology* 43, no. 1 (1999), 87; Hirschkind, *Ethical Soundscape*, 124. Hirschkind also discusses Cairo critics who have complained that the *azan* is too noisy. See *Ethical Soundscape*, 125-6. On the rules governing the *azan*'s performance, also see Smith, *Islam in America*, 11; Muneer Goolam Fareed, "Adhan," in *The Encyclopedia of Islam and the Muslim World*, ed. Richard C. Martin (New York: MacMillan Reference USA: Thomson/Gale, 2004), 13.

Through its ritual enactment and prescribed text proclaiming God as uniquely worthy of worship, the *azan* differentiates Muslim time and space, distinguishing sacred from profane and holy from mundane. While visual cues may be more obvious, Barbara Metcalf has argued that “it is ritual and sanctioned practice that is prior and that creates Muslim space.” The sound of the *azan* invests Islamic space with meaning, regulates the rhythms of daily life, and orients Muslims in relation to God and to each other. Borrowing R. Murray Schafer’s terminology, the *azan* constitutes a “soundmark,” analogous to a landmark, which “refers to a community sound which is unique or possesses qualities which make it specially regarded or noticed by the people in that community.” In chapter 2, I suggested that we might interpret a parish as including those within acoustic range of its church bells, its communal boundaries defined aurally rather than visually. Similarly, we might define an Islamic community as including those within range of the *muezzin*’s call. Because of the *azan*’s significant social function, then, its absence might be particularly noted, as seems to have been the case for Abdul Motlib. Henry Munson relates the experiences of a Moroccan immigrant to Europe, for whom the *muezzin*’s silence came to justify his decision to return home: “Sometimes I feel sad because I have no son and no house of my own. Then I hear the call to prayer and it washes my heart....I was never happy working in France and Belgium because I missed hearing the call to prayer.”¹⁶

¹⁶For an introduction to theories of sacred space, see David Chidester and Edward Linenthal, eds., *American Sacred Space* (Bloomington: University of Indiana Press, 1995). Barbara Daly Metcalf makes her argument in the introduction to her edited volume, *Making Muslim Space*, 3. For Schafer’s definition of “soundmark,” see R. Murray Schafer, *The Soundscape: Our Sonic Environment and the Tuning of the World* (Rochester, VT: Destiny Books, 1993), 10. On defining Muslims as an “acoustic community,” see Schafer, *Soundscape*, 215; Lee, “Technology and the Production of Islamic Space,” 87. The Moroccan immigrant’s quote comes from Henry Munson, Jr., trans. and ed., *The House of Si Abd Allah: The Oral History of a Moroccan Family* (New Haven: Yale University Press, 1984), 82.

The *azan* transforms Islamic space, and it also offers an important vehicle through which Muslims have practiced their faith publicly. While public practice might orient immigrant communities in time and space, however, it also brings significant risks, attracting attention in ways that may not always be desired. For this reason, some groups have preferred to keep quiet. For example, many U.S. practitioners of Santeria have devised an array of strategies to conceal rituals involving animal sacrifice, fearing police intervention and public humiliation. In fact, when one Santeria devotee deliberately decided “to bring the practice of the Santeria faith...into the open,” he faced arrest and litigation, which culminated in a famous 1993 U.S. Supreme Court decision. Similarly, broadcasting the call to prayer in a religiously pluralistic context regulates Muslim daily life, but it also makes Muslims audible to others and has invited controversy numerous times. As I noted above, some American communities have permitted Muslims to construct mosques only on the condition that they not broadcast the *azan*. There also have been notable call to prayer disputes in Germany, France, and England. Muslims in Detroit and Dearborn went to court to defend their right to amplify the *azan* in the late 1970s and early 1980s. And as recently as spring 2008, some Harvard University students complained after Islamic Awareness Week organizers publicly broadcast the prayer call on campus. In part to avoid these kinds of conflicts, many American mosques have turned their loudspeakers inwards, incorporating the *azan* into communal prayer and thus transforming its meaning and function.¹⁷

¹⁷For the Santeria case, see *Church of the Lukumi Babalu Aye v. Hialeah*, 508 U.S. 520, 526 (1993). Also see the discussion of this case in David H. Brown, “Altared Spaces: Afro-Cuban Religions and the Urban Landscape in Cuba and the United States,” in *Gods of the City*, ed. Robert A. Orsi, 155-230 (Bloomington: University of Indiana Press, 1999). On call to prayer disputes in France and Germany, see Katherine Pratt Ewing, “Legislating Religious Freedom: Muslim Challenges to the Relationship Between Church and State in Germany and France,” in *Engaging Cultural Differences: The Multicultural Challenge in Liberal Democracies*, eds. Richard A. Shweder, Martha Minow, and Hazel Rose Markus, 63-80 (New York:

Of course, religious rituals always take on new meanings in new contexts with new audiences, and this is perhaps no more true than when mosques broadcast the call to prayer throughout religiously diverse neighborhoods. After all, it was not only Muslims who comprised Hamtramck's acoustic community. Calling Muslims to pray in Hamtramck, Michigan, in 2003, also meant audibly announcing Islamic presence to a Polish Catholic community that was only starting to come to terms with the city's changing demographics. Hearing the call would shape how other Hamtramck residents made sense of and responded to their new Muslim neighbors. For these neighbors, engaging with religious difference would not mean contemplating Islam as an intellectual abstraction, but rather making sense of the new sounds which were entering their shared city streets. Specific public practices would mediate their contact with these religious others and would invite—or demand—response.¹⁸

Russell Sage Foundation, 2002). On call to prayer disputes in England, see John Eade, "Nationalism, Community, and the Islamization of Space in London," in *Making Muslim Space in North America and Europe*, ed. Barbara Daly Metcalf, 217-233 (Berkeley: University of California Press, 1996). I learned about the Detroit case in a telephone conversation with Adam Shakoor, who represented the mosque, May 1, 2008, and in an interview with the mosque's imam, Saleem Rahman, July 17, 2007. For the Dearborn case, see *Dearborn v. Hussian, et. al.*, No. 79-933979-AR (Wayne County Ct. June 3, 1980). Although the Detroit and Dearborn cases offer the most direct precedents for the Hamtramck case, no one involved in the Hamtramck case appears to have known anything about them. As will be discussed below, they were never mentioned in any of the Hamtramck deliberations. Some Dearborn residents even attended the Hamtramck council meetings to protest the call, arguing that Hamtramck would set a precedent for Dearborn. They did not realize that Dearborn already had offered a precedent of its own. On the dispute at Harvard, see Neil MacFarquhar, "At Harvard, Students' Muslim Traditions Are a Topic of Debate," *New York Times*, March 21, 2008; Leon Wieseltier, "Ring the Bells," *The New Republic*, April 23, 2008. Jane Smith discusses loudspeakers being turned inwards in *Islam in America*, 11.

¹⁸Mallory Nye has made a similar claim regarding Hindu temples in Britain. He argues that it is through specific uses of Hindu religious buildings that outsiders are made aware of them and form understandings of them—and of Hinduism, more generally. *Multiculturalism and Minority Religions in Britain: Krishna Consciousness, Religious Freedom, and the Politics of Location* (Richmond: Curzon Press, 2001), 47. Susan Davis describes city streets not as "neutral" spaces, but as sites for displaying and negotiating imbalanced relations of power in *Parades and Power: Street Theatre in Nineteenth-Century Philadelphia* (Philadelphia: Temple University Press, 1986).

I do not mean to suggest that Abdul Motlib had all of these considerations in mind when he decided to broadcast the *azan*, nor that his act should be interpreted strictly in terms of its social function. After all, Motlib described the *azan* simply as a religious obligation, not as a necessary means for making Muslim space or for placing Muslims in Hamtramck. But he also seemed aware that his new neighbors might hear the *azan* as out of place. He seemed to recognize that the *azan* would take on new meanings when broadcast in this new acoustic environment. He had heard Hamtramck churches ring their bells, and he presumed that his mosque similarly could broadcast the *azan*. But he was not certain. And he wanted “to be a good neighbor,” he explains. Unsure of his legal rights, Motlib approached the Hamtramck Common Council and requested explicit permission to broadcast the call to prayer. And in so doing, he voluntarily placed this religious ritual under the regulatory authority of Hamtramck’s elected city officials.¹⁹

Regulating the Call

Sound and law map spatial boundaries differently. In 2003, some Hamtramck residents already could hear the *azan* being broadcast from nearby Detroit mosques. As the *azan*’s sound spilled across the legal boundary separating Detroit from Hamtramck, it incorporated Hamtramck residents into the acoustic community constituted by the

¹⁹Motlib, interview. Motlib was unaware that nearby mosques in Detroit and Dearborn already had secured their right to broadcast the *azan* in court. In a conversation with the author (July 10, 2007), Dawud Walid, director of the Council on American-Islamic Relations’ Detroit chapter, argued that the Detroit and Dearborn precedents made it unnecessary for Motlib to ask the council’s permission. Walid thinks that the ensuing dispute might have been avoided had Motlib simply begun to broadcast the call. Saba Mahmood argues that the rush to interpret the “material expressions of particular religions” as symbols, “linked only contingently to religious truth,” reflects a “project of secular hermeneutics” that aims to construct a religious subject “in a manner consonant with the imperatives of secular liberal political rule.” She encourages scholars to take more seriously the claims of religious practitioners that their rituals are part of religious doctrine or divine edict, rather than merely expressions of religious identity. See “Secularism, Hermeneutics, and Empire: The Politics of Islamic Reformation,” *Public Culture* 18, no. 2 (2006), 341-344.

muezzin's call. These public sounds did not respect legal boundaries. But legal boundaries mattered all the same, for Detroit law regulated Detroit mosques. The al-Islah Islamic Center had a Hamtramck address, however, and therefore its practices were governed by Hamtramck ordinances. And it was far from clear whether Hamtramck's noise ordinance, as written, made space for the *azan*.

On July 13, 1989, the Hamtramck Common Council had adopted Ordinance No. 434, "An Ordinance to prohibit unlawful noise and sounds and setting forth certain prohibited acts and to provide for a penalty for the violation thereof." The ordinance especially targeted boom boxes and car stereos, which had become regular sources of complaint for Hamtramck residents. The ordinance granted Hamtramck's police officers the authority to cite offenders for noise violations regardless of whether they had received prior complaints. The *Hamtramck Citizen* hailed the measure as a necessary weapon in the battle against urban noise. "We're not completely pleased with the ordinance," the newspaper's editors wrote, "it reeks of totalitarian heavy-handedness, if not downright silliness—but what other relief is there? There are times when the civilized are going to have to play tough and demand a curtailment of mindless noise filling the air."²⁰

The ordinance's drafters did not have religious noises in mind, but they included a number of provisions that might have implications for broadcasting the *azan*. Section 1, subsection B applied to "the playing of any radio, phonograph, television set, amplified or unamplified musical instruments, loudspeakers, tape recorded, or other electronic

²⁰Charles Sercombe, "City Moves to Turn Down Noise," *Hamtramck (MI) Citizen*, July 20, 1989. As I have discussed in other chapters, anti-noise advocates frequently have described noise as a "barbaric" threat to "civilization." For example, see Karin Bijsterveld's discussion in "The Diabolical Symphony of the Mechanical Age: Technology and Symbolism of Sound in European and North American Noise Abatement Campaigns, 1900-40," *Social Studies of Science* 31, no. 1 (February 2001): 37-70.

sound producing devices, in such a manner or with volume at any time or place as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling...or of any person in the vicinity.” If the sound were “plainly audible on a property or in a dwelling unit other than that in which it is located,” that would be considered “prime facie evidence of a violation of this section.” Section 1, subsection C applied specifically to human voices on city streets, prohibiting “yelling, shouting, hooting, whistling, singing, or the making of any other loud noises on the public streets, between the hours of 8:00 P.M. and 7:00 A.M.” And section 1, subsection J prohibited “the use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.” By 2003, ice cream trucks and lawn mowers had joined car stereos as Hamtramck’s most commonly cited sources of annoyance, but the 1989 Ordinance made few distinctions between types of noises. A reasonable reading of any of these clauses might include the *azan* within their scope.²¹

A common pattern has emerged in religious noise disputes, including those involving the Jehovah’s Witnesses discussed in chapter 3 and the other call to prayer controversies mentioned above. A religious group makes noise, neighbors complain, the police make arrests, and the parties fight it out in court. The Hamtramck dispute proceeded differently, however, because of Abdul Motlib’s decision to seek the council’s permission before he began broadcasting the *azan*. He wanted to “be a good neighbor,” he has explained, and to ensure that his practice would be acceptable to the broader community, that they would not hear it as out of place. Despite disagreement as to whether he needed to do so, Motlib sought the legitimacy that he thought would come

²¹Hamtramck, MI, Ordinance 434 (July 13, 1989). Michael Rehfus complained about the sounds of ice cream trucks and lawn mowers in “The Power of ‘Hey,’” *Hamtramck (MI) Citizen*, May 27, 2004.

with the council's approval. But the council's involvement also transformed the *azan* into a symbol of Hamtramck's shifting political power dynamics.²²

By as early as the 1920s, Hamtramck had earned a reputation for political contentiousness, hi-jinks, and corruption. Detroit newspapers ridiculed the city as a den of crime, vice, and immorality. One editorialist described Hamtramck in 1924 as the "Wild West of the Middle West." The 1940s and 50s featured a series of bitterly contested municipal elections, replete with personal attacks and legal missteps. Several prominent politicians spent time in jail, which Hamtramck residents tended to accept as normal. But throughout this period, Hamtramck politics remained dominated by Polish-Americans who had grown up and lived their entire lives in the city.²³

Hamtramck's political landscape began to shift during the 1990s. In addition to the new immigrants from around the world, the city welcomed large numbers of artists, musicians, and young professionals, who were attracted by the benefits of urban living without the crime that marked downtown Detroit. Already known for its bars, Hamtramck became *the* place for live music in Detroit, and the *Utne Reader* named it "one of the hippest cities in America." The bohemian newcomers lived awkwardly alongside Hamtramck "old-timers." While some of them were ethnically Polish, most had no prior connection to Hamtramck. Tension between the two groups heightened when some of the new community members took an interest in politics and began

²²Motlib, interview. Winnifred Fallers Sullivan notes "how often religious groups seem to need the permission, even the 'blessing' of the courts and legislatures to do what they say they are compelled to do for religious reasons. Legitimacy is understood to be conferred by the secular, not the religious authority." *The Impossibility of Religious Freedom* (Princeton: Princeton University Press, 2005), 247n16.

²³Wood, *Hamtramck, Then and Now*, 49; Kowalksi, *Hamtramck*. Detroiters ridiculed and complained about Hamtramck, but they also frequented it during the Prohibition Era. Hamtramck boasts that it once had the most bars per capita in America, and Detroiters always knew they could find a drink there.

running for elected office. In 1997, a relatively young artist named Gary Zych defeated longtime Hamtramck mayor Robert Kozaren in an election that symbolized the growing conflict between Hamtramck's "old-guard" and "new-guard." Many long-time Hamtramck residents resented what they perceived as the new-guard's arrogance and disregard for Hamtramck's past. Conversely, members of the new-guard sought to bring "an end to backroom, cigar-smoking, old boy network politics, and bring a focus on professionalism" to Hamtramck city government, as one of the new politicians has explained. Campaigns grew increasingly nasty and divisive over the next several years as Zych fought constantly with his old-guard opponents.²⁴

Abdul Motlib understood very little about this political context when he submitted his initial petition to broadcast the *azan* in September 2003. Embroiled in a bitter re-election campaign at the time, Hamtramck's old-guard-dominated council wanted nothing to do with the issue. The council president summarily denied Motlib's application, citing concerns that the *azan* might disrupt the school located across the street from al-Islah. But by the time Motlib renewed his request in December 2003, the November election had swept into office a new council, composed entirely of new-guard Zych supporters. The new council president Karen Majewski was a scholar of Polish history, who had moved to Hamtramck in the mid-1990s after completing her doctorate in immigration and ethnic history. New council member Scott Klein was a poet, who had led a Hamtramck team to compete in a national Poetry Slam competition. Perhaps most notably, new council member Shahab Ahmed was the first non-white, non-Polish-American elected to Hamtramck's council since 1922. He also was the first Bangladeshi-

²⁴Karen Majewski, interview by author, July 16, 2007. Greg Kowalski offers an even-handed account of these political shifts in *Hamtramck*, 144-149.

American elected to any U.S. political office—and he was Hamtramck’s first Muslim councilmember. Ahmed, in particular, came to symbolize the ways that Hamtramck was changing both politically and demographically.²⁵

The new council proved more sympathetic to Motlib’s petition and expressed its unanimous desire to rewrite Ordinance No. 434 in order to accommodate the call to prayer. Council members appealed to vaguely defined principles of religious freedom, toleration, and multiculturalism to justify their support. Council President Majewski described the call simply as “a basic right, it was just an unquestioned right. I mean, it was a prayer.” Councilman Rob Cedar welcomed the call as “representative of the city’s cultural diversity.” Councilman Klein suggested that the *azan* called Hamtramck’s Catholic residents to extend the same tolerance toward their Muslim neighbors that they had once demanded from American Protestants. In the *azan* issue, council members saw an opportunity to fashion a new civic identity for Hamtramck, defined by its diversity rather than by its historic homogeneity. The council’s support dramatically distinguished this case study from other call to prayer disputes, for Muslim immigrants more frequently have faced resistance from local elected officials.²⁶

²⁵On the previous council’s decision, see “Council Notes,” *Hamtramck (MI) Citizen*, October 2, 2003. In an ironic twist, Zych lost his fight for re-election to a local bar owner and “old-guard” politician, Tom Jankowski. Jankowski barely participated in the *azan* debates, leaving it to the Common Council to decide what to do. His absence was noted by the local newspaper. See Charles Sercombe, “Mayor Follows Council’s Lead on Prayer,” *Hamtramck (MI) Citizen*, May 6, 2004. Based on my conversations with council members, it appears that Motlib was aware that the new council was likely to be sympathetic to his request and that they encouraged him to resubmit his petition.

²⁶Majewski, interview; “Council Notes,” *Hamtramck (MI) Citizen*, January 22, 2004; Hamtramck Common Council meeting, April 20, 2004. John Eade describes a London dispute in which the local council opposed a mosque’s desire to broadcast the *azan* in “Nationalism, Community, and the Islamization of Space in London.” Mallory Nye examines a case in which ISKCON faced local governmental opposition when trying to build a temple in *Multiculturalism and Minority Religions in Britain*.

While the new council members justified their support as consistent with their vision for an open, diverse, and tolerant Hamtramck, their political opponents accused them of crass opportunism. Rumors circulated that Zych and his supporters were actively encouraging Muslims to move to Hamtramck and were capitalizing on the *azan* issue to consolidate their political power. For these critics, accommodating the call was nothing more than political pandering, playing to the new “Muslim vote.” The council members countered these charges by alleging that it was their opponents who were politicizing the issue, exploiting the fears and insecurities of long-time residents to mobilize their own political base. Abdul Motlib had described the *azan* as a normatively prescribed religious ritual, but it also had become a potent political symbol. Broadcasting the *azan* in Hamtramck thus was never simply a religious *or* political act. Instead, this public practice offered a critical site both for investing meaning and negotiating power.²⁷

The Common Council decided that it would amend Ordinance No. 434 in order to accommodate all religious sounds, but that it also would impose reasonable restrictions. It instructed the city attorney to draft language consistent with these general guidelines. On April 27, 2004, the Hamtramck Common Council adopted Ordinance No. 503, “An Ordinance to Amend Ordinance No. 434.” Its three critical provisions read as follows:

1. The City shall permit “call to prayer,” “church bells,” and other reasonable means of announcing religious meetings to be amplified between the hours of 6:00 a.m. and 10:00 p.m. for a duration not to exceed five minutes.

²⁷Majewski, interview; Kowalski, interview; Robert Zwolak, interview by author, July 20, 2007; Scott Klein, interview by author, July 17, 2007; Shahab Ahmed, interview by author, July 18, 2007. Talal Asad argues that reducing the religious to the political or vice versa assumes essentialized meanings of the terms. He encourages attention to how these terms have been defined and deployed in different contexts and in different ways. See “Secularism, Nation-State, Religion,” chap. 6 in *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003), 181-201.

2. The City Council shall have sole authority to set the level of amplification, provided however; that no such level shall be enforced until all religious institutions receive notice of such levels.
3. All complaints regarding alleged violations of this Section shall be filed with the City Clerk and placed on the agenda of the next regular meeting of the Common Council. The Common Council shall take all appropriate action they deem necessary to alleviate the complaints, with such action to include, but not be limited to, an order to reduce the volume or an order to change the direction of the amplification or an order to terminate use of amplification. If the Common Council deems that the means of announcing religious meetings must be reduced, the Council shall amend this Ordinance. The Council may also determine that a complaint is without justification and choose to take no action on the complaint; if such determination is made, such decision shall be made by resolution of the Common Council.²⁸

The noise ordinance amendment thus singled out religion, treating its sounds differently from the other cacophonous noises of urban life. But while the council went out of its way to accommodate the call to prayer, it also placed the *azan* squarely under its own regulatory authority. Hamtramck’s police department would continue to handle all other noise complaints, but the council alone would determine what constituted “reasonable means of announcing religious meetings.” In fact, this was precisely how the council marketed the amendment through a series of newspaper editorials, paid advertisements, and circulated pamphlets. Council members argued that without this amendment, the al-Islah Islamic Center would retain the right to broadcast the *azan* as loud as it wanted and whenever it wanted. But, they proposed, the new amendment would invest the council with the authority that it needed to regulate the call. Council members felt that this was how they needed to frame their case to a public that was not sure it wanted to hear this new religious sound. Through its effort to accommodate the

²⁸Hamtramck, MI, Ordinance 503 (April 27, 2004).

azan, the council also shaped the space available for religious expression, as al-Islah's leaders would have to consent to reasonable time, place, and manner restrictions.²⁹

Before the Common Council could adopt Ordinance No. 503, it was required legally to hold three public meetings for open debate. Complaints about the *azan* were circulating throughout the community, and these meetings already promised to be tense. But council member Scott Klein decided to fuel the flames even further. He believed that the council was setting a positive example for the rest of the country by accommodating Muslim practice. He also sensed that a media spotlight might demonize his political opponents, which would make it easier to ignore any reasonable concerns they might express. So without informing his colleagues and political allies, he sent a press release to several local and national media outlets that publicized the council's proposed ordinance. Klein achieved his intended effect. By the time the first public meeting began on April 13, 2004, numerous news cameras, reporters, and photographers had found their way to Hamtramck's tiny council chambers. Hamtramck's *azan* dispute had attracted the world's attention.³⁰

Debating the Call

For three long and tumultuous evenings on consecutive Tuesdays in April 2004, standing-room only crowds filled Hamtramck's council chambers as community

²⁹The prayer call schedule is fixed according to the cycles of the sun. Depending on the time of year, the earliest prayer time frequently arrives prior to 6:00 A.M., and the last call frequently arrives after 10:00 P.M. In fact, one prominent Hamtramck resident thought that Motlib might do better to oppose the amendment and take his chances with broadcasting the *azan* under the original ordinance because then he would not be subject to these restrictions. Of course, this resident also acknowledged that such an approach might not be politically viable. Personal correspondence from Thad Radzilowski to Abdul Motlib (copy on file with author).

³⁰Klein, interview.

members gathered to debate the proposed noise ordinance amendment. Council President Majewski had been in office for only three months and suddenly found herself in charge of moderating these contentious hearings. “They were a zoo,” she has explained, “It was hot, it was crowded. And the TV cameras were running. My strategy was simply to be centered, calm, evenhanded. To make sure that at the end of the day, no one would leave saying they weren’t heard...Say whatever you want, get as mad as you want, but you have five minutes, and then thank you very much, on to the next person.” Over one hundred and fifteen speakers took the microphone over the course of the three evenings. There was some shouting, and police officers had to escort a few people out of the room, but conversation remained generally civil. Several attendants noticed the meetings’ gendered dynamics, as most of the speakers either were Muslim men or Christian women. And not all of the speakers lived in Hamtramck. Concerned citizens arrived from Detroit, Dearborn, and surrounding suburbs. A group of evangelical Christians from rural Ohio, who named themselves David’s Mighty Men, even drove up for two of the meetings to protest what they perceived as an intolerant attack on Christian freedom.³¹

Meanwhile, debate raged in other media. Local access television brought live coverage of the meetings to Hamtramck homes. Detroit and national news broadcasts carried the dispute to a broader audience. Articles appeared in several national newspapers, including the *Detroit News*, the *Detroit Free Press*, the *New York Times*, the *Los Angeles Times*, and the *Christian Science Monitor*, and these articles elicited numerous letters to the editor. Associated Press reports carried the story internationally

³¹Majewski, interview.

and to regional newspapers around the country. Council members received messages from California, Texas, and West Virginia, and the *Hamtramck Citizen* printed letters from as far away as Japan and Hong Kong. Pundits weighed in on twenty-four hour news channels, and internet chat rooms overflowed with comments. And none of this is to mention the countless conversations that occurred over dinner tables, across backyard fences, and on city streets. “These [council members] never understood the grapevine in Hamtramck,” a long-time Hamtramck resident has explained, “You know, I don’t even really understand, I don’t know where it all goes, who talks to who...but our council meetings are televised, and nobody knows how many people watch it. It’s like Sopranos or 24. You can’t miss an episode...there’s a tremendous amount of people who are seeing it, taping it, and giving it to their friends... So that was one important way that it was getting out.”³²

The *azan* dispute transpired within the particular context of Hamtramck, with its distinctive religious, ethnic, and political history. But the debates also constituted an “imagined community,” a network of strangers who felt similarly invested in whether the al-Islah Islamic Center would be permitted to broadcast the *azan*. Disputants recognized that as the *azan* spilled over into Hamtramck’s city streets and domestic spaces, it would call Muslims to pray, but it would reach other audiences, as well, who would respond to the call in different ways. Perhaps the *azan* functioned as background noise in Bangladesh, as a normal acoustic feature of daily life. But in Hamtramck, residents were noticing and paying close attention to its call. Multiple hearing communities were listening consciously to the *azan*, yet they were not hearing it announce the same thing.

³²Zwolak, interview.

Through the common council meetings, they contested the *azan*'s meaning, and in so doing, they also negotiated the place of religion and religious adherents in this pluralistic urban environment. They debated whether the *azan* belonged in Hamtramck or whether it sounded "out of place," and they debated whether the *azan* placed Muslims alongside the city's long-time residents or whether it in fact signaled the displacement of Hamtramck's historically fragile Polish-Catholic establishment. As I turn now to analyze the arguments that speakers advanced at the council meetings, I attend especially to three themes through which disputants contested the *azan*'s message. First, I listen to debates about whether the *azan* constituted religion or noise. Second, I listen to debates about whether religious sounds belonged in public spaces. And third, I listen to debates about the *azan*'s implications for American religious identity. Through these differences, I propose, participants advanced competing conceptions of religion's place in a pluralistic society.³³

Religion or Noise?

As participants contested whether the *azan* belonged in Hamtramck or whether it sounded out of place, they debated whether the dispute was essentially about religion or noise. Like Abdul Motlib, many of the Muslim speakers described hearing the *azan* as a normatively prescribed religious ritual. They expressed surprise that the issue had become so controversial, and they advocated for the noise ordinance amendment by

³³I borrow "imagined community" from Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983), though I use the term differently. Arjun Appadurai discusses "imagined worlds" in the "new global cultural economy" in "Disjuncture and Difference in the Global Cultural Economy," in *The Anthropology of Globalization: A Reader*, eds. Jonathan Xavier Inda and Renato Rosaldo, pp. 46-64 (Malden, MA: Blackwell, 2002), 50-51. Michael Warner describes a public as a relation among strangers in *Publics and Counterpublics* (New York: Zone Books, 2002), 74-76.

appealing to American constitutional principles. “I would like you to know,” began one speaker, “that the Constitution of this country, which includes freedom of religion and freedom of the press, this is what attracted many people from all over the world to come to this country. It’s the freedom in this country for everyone, not just for particular groups.” A second speaker concurred, “We do have freedom of religion according to the Bill of Rights. And freedom of religion is the call to prayer for the religion of Islam.” These speakers argued that the council was right to single out religious sounds and treat them differently from non-religious sounds. In the name of religious freedom, they asserted their right to broadcast and hear the *azan*. If the *azan* was religious, they implied, then it could not be *noise*.³⁴

These speakers appealed to abstract constitutional principles, but they did not cite any legal precedents nor did they demonstrate any understanding of how courts have interpreted the First Amendment. For example, not a single speaker at any of the three council meetings referenced a 1980 Dearborn court case that would have offered the most directly relevant precedent for the Hamtramck dispute. In 1979, police arrested three members of a mosque in Dearborn’s South End for broadcasting the *azan*. In court, the mosque argued that the U.S. Constitution’s First Amendment protected its practice. The city’s attorneys argued that loudspeakers were neither religiously mandated nor necessary, that the city’s ordinance was facially neutral because it treated all sounds the

³⁴Hamtramck Common Council meetings, April 13, 2004; April 27, 2004. While most of the speakers went on the record with their names and knew their comments were being broadcast on local access television, I have chosen not to use names in the analysis that follows except when discussing the city officials and other civic leaders. A few residents have told me they regret certain things they said at the meetings or that they do not wish to be dragged back into a public spotlight. I am interested in the types of arguments advanced and in the messages that Hamtramck residents heard the *azan* broadcasting, so I see no reason to single out specific individuals. Statements are all quoted from video recordings of the meetings, which I have in my possession. I am grateful to Rev. Sharon Buttry for sharing with me her personal copies of these videotapes.

same, and that broadcasting the *azan* violated the rights of neighbors. In their brief on appeal, they even cited Justice Frankfurter's dissenting decision in the *Saia* case: "Surely there is not a constitutional right to force unwilling people to listen." In his decision, Judge Thomas J. Brennan of Wayne County's Circuit Court ruled for the mosque and struck down Dearborn's ordinance as unconstitutionally vague. Brennan based his decision on two points. First, he agreed with the mosque that stricter scrutiny should be applied in the case of religious sounds. Religious sounds *were* different than non-religious sounds, he maintained, because of religion's special position under the First Amendment. Second, Brennan acknowledged that Dearborn had a right to regulate noise, but criticized the city's targeting of "unnecessary" sounds. He found the standard of "necessity" unconstitutionally vague, as determining what sounds were necessary could lead to discriminatory and subjective application. To buttress his position, he, too, cited the *Saia* decision, quoting Justice Douglas' famous contention that "annoyance at ideas can be cloaked in annoyance of sound." Judge Brennan ordered Dearborn to adopt more objective standards and strongly encouraged them to set a specific decibel level above which sounds would be prohibited.³⁵

³⁵*Dearborn v. Hussian, et. al.*, No. 79-933979-AR (Wayne County Ct. June 3, 1980). Also see Appellee's Brief on Appeal, *Dearborn v. Hussian* (No. 79-933979-AR); Dave Zoia, "Moslems wage 'Holy War' on Court," *Dearborn (MI) Times-Herald*, September 6, 1979; Gary Woronchak, "City Hall Picketed as Mosque Goes to Court," *Dearborn (MI) Press and Guide*, September 6, 1979. Judge Brennan based his decision that religion should be treated with a higher standard of scrutiny on two Michigan precedents. In *City of Dearborn v. Bellock*, 17 Mich. App. 163 (App. Ct. Mich., 1969), the defendant was convicted of breaching the peace under the Dearborn Heights noise ordinance for hosting a "loud and raucous" party. The Court of Appeals of Michigan upheld her conviction because hosting the party was not a constitutionally protected activity. On the other hand, in *United Pentecostal Church v. 59th District Judge*, 51 Mich. App. 323 (App. Ct. Mich., 1974), the same court overturned the conviction of a Pentecostal Church under the same noise ordinance because it recognized the use of sound amplification equipment in worship as a constitutionally protected activity. The Court of Appeals of Michigan thus treated different types of sounds differently depending on whether they were "religious" in nature. See chapters 2 and 3 for further discussion of "necessity" as a standard for evaluating noise.

While Dearborn Muslims celebrated Brennan's decision as having vindicated their rights, the historical record seems more mixed. Dearborn adopted a new noise ordinance that set specific decibel limits but continued to treat all sounds the same. Members of the mosque complained that city officials purposefully had selected a decibel limit below the volume of the broadcasted *azan*, contending that the facially neutral ordinance remained discriminatory. The decibel did not provide as objective a measurement of noise as Judge Brennan had presumed. The mosque's attorney suggested that the city should have exempted the call to prayer from the city's new ordinance as the Hamtramck Common Council would choose to do two decades later. Specific exemptions for the call to prayer have never been tested in court, yet exemptions for other religious practices, such as ritual peyote use, have proven highly contested. Legal scholars continue to debate whether claims of religious obligation exempt devotees from facially neutral ordinances. Muslims in Dearborn and Hamtramck demanded accommodation, but other observers suggested that the Hamtramck Common Council's proposed ordinance in fact might have violated governmental neutrality by privileging religion over non-religion.³⁶

³⁶On the Dearborn mosque's response to the city's new ordinance, see Mary Klemic, "Moslems Protest Curb on Noise," *Dearborn (MI) Times-Herald*, November 6, 1980. A former imam of the Dearborn mosque told me that the Dearborn police occasionally would test the decibel level of the *azan* and require the mosque's officials to lower its volume. He implied that the mosque would test the limits, gradually increasing the *azan*'s volume until neighbors complained and the police arrived. Mohamad Musa, interview by author, July 24, 2004. This seems to be a common pattern, as Hamtramck's Yemeni mosque would similarly test the limits following passage of the noise ordinance amendment. Today, there is little evidence that the Dearborn police ever enforces the noise ordinance against the mosque. In fact, the mosque not only broadcasts the *azan*, but also the Friday afternoon sermon in Arabic – but, significantly, the South End has become an almost exclusively Arab neighborhood, no longer the diverse multiethnic neighborhood it once was. Concerns about the constitutionality of Hamtramck's proposed ordinance were expressed by the Detroit chapter of the American Civil Liberties Union in an editorial in the *Detroit News*. See Kary L. Moss, "ACLU of Michigan: Hamtramck Noise Ordinance Still Needs Work," *Detroit News*, May 6, 2004. For a famous case testing the ritual use of peyote, see *Oregon v. Smith*, 494 U.S. 872 (1990). For a helpful introduction to debates about "exemptions" for religion, see Christopher L. Eisgruber and Lawrence G. Sager, "The Exemptions Puzzle," chap. 3 in *Religious Freedom and the Constitution*, 78-120

The speakers at Hamtramck's council meetings seem to have been unaware of this legal record, or at least they made no reference to it. In fact, because the dispute never went to court, this legal history seems almost beside the point. Through the council meetings, Hamtramck disputants expressed popular understandings of what religious freedom entailed. They agreed that religious freedom required distinguishing religion from non-religion and that religious sounds should be treated differently. And their emphasis on religious rights had real social effects. Kathleen Moore describes "rights talk" as an important social language that has offered American Muslims a valuable tool for overcoming social isolation and facilitating interactions with non-Muslims. By affirming religious freedom as a shared ideal, these Muslim newcomers claimed an equal place in Hamtramck *as Americans*. In fact, several of the Muslim speakers seemed comfortable appealing to American norms even as they emphasized their ignorance of Islamic law. And adopting the language of religious freedom also united these speakers as American *Muslims*, for it brought religious identity to the fore and temporarily effaced the ethnic differences that frequently have divided Hamtramck's Yemeni, Bangladeshi, and Bosnian communities. By defending the *azan* as a religious right, these Muslim speakers claimed a place for themselves in Hamtramck alongside its Polish-Catholic community.³⁷

(Cambridge, MA: Harvard University Press, 2007). They argue that legislative exemptions are permissible, but not constitutionally required.

³⁷For an important study that considers popular understandings of the First Amendment, see Philip Hamburger, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002). Kathleen Moore makes her argument about rights talk in "The Politics of Transfiguration: Constitutive Aspects of the International Religious Freedom Act of 1998," in *Muslim Minorities in the West: Visible and Invisible*, eds. Yvonne Yazbeck Haddad and Jane I. Smith, 25-38 (Walnut Creek, CA: AltaMira Press, 2002). Jason Bivins analyzes how minority communities have internalized and mobilized rights talk in "Religious and Legal Others: Identity, Law, and Representation in American Christian Right and Neopagan Cultural Conflicts," *Culture and Religion* 6, no. 1 (2005): 31-56. John Eade encourages scholars to pay attention to

But if these speakers heard the *azan* as a specially protected religious obligation, then another set of speakers tried to tune out its religious significance altogether. A number of the Hamtramck disputants claimed not to hear religion, but noise. “We have a noise ordinance, a noise issue here,” one long-time Hamtramck resident has explained, “it’s not about religion, it’s not about having a call to prayer, it’s about amplification.” Hamtramck already was a noisy city, these critics contended. “It’s a busy, urban environment,” one speaker at the public meetings declared, “full of people, children, cars, trucks, buses, motorcycles, motor tools, air conditioners, stereos, boom boxes, car radios, taverns, drunks, church bells, and calls to prayer.” These critics saw no reason to single out religious noises or to treat them differently. The 1989 Noise Ordinance did not prohibit or discriminate against prayer calls, they argued. It just regulated them like all other sounds. Let the mosques broadcast the call, and deal with it on a case-by-case basis if people complained, but there was no need to pass a special ordinance to accommodate religious announcements. In so doing, one speaker alleged, it was the council that was making “this a divisive issue.” Another speaker even went out of his way to voice appreciation for the sound of the *azan*. “I came to this town because of its diversity,” he explained, “And I think that if we can find a way to live together, that would be the

when or in what contexts Muslim identity or ethnic identities come to the fore in “Nationalism, Community, and the Islamization of Space in London.” Some observers felt that opposition to Muslims in Hamtramck was racially based, but expressed as an issue with *religion* because of the dispute over the *azan*. Walid, interview. While the Muslim speakers discussed here appealed to the ideal of religious freedom, they also seemed to understand that they needed Hamtramck’s council to guarantee that right. They needed this civic body’s authority to carve out and protect the space in which they could practice their religion freely. “We have a constitutional right to practice our religion in this country,” one speaker asserted, “We would like you to give us a chance to practice our religion like the United States says in the Constitution. We hope the council approves our efforts.” Councilman Shahab Ahmed has expressed the discomfort he felt when asked to grant official permission for Muslims to broadcast the *azan*. “Especially being the only Muslim on the city council at the time,” he says, “I mean, God permitted this two thousand years ago. Who am I to permit it again in the United States?” Hamtramck Common Council meeting, April 13, 2004; Ahmed, interview.

greatest thing. But this is more of a noise issue, then it is a religion issue or ethnic issue, in my mind. I don't care what noise it is, whether it's bells or buzz saws, or my neighbors' dogs, or whatever it is. When I'm trying to sleep, and I get woken up, I get offended. It's not because of a religion or an ethnicity." A life-long Hamtramck resident summed up her concerns succinctly. "You know what?" she said, "The bottom line is noise. We're here to talk about noise. And I'm tired of it. The bottom line is any more noise that I don't have to hear, I'll be glad."³⁸

The first set of speakers drew a line between religion and non-religion, arguing that religious freedom justified treating religious noises differently. But these speakers rejected the significance of that distinction. They defined noise solely in terms of volume and maintained that noise was noise, regardless of source or purpose. The proponents of this position went out of their way to assert that they had nothing against the *azan*. Instead, they encouraged the council to follow the lead of other cities such as Dearborn by setting objective decibel levels that could be applied neutrally against all types of sounds. "I didn't come here to argue religion or anything," one speaker explained, "My point is the decibel limit...At what point do you violate this ordinance?" Instead of a line between religion and non-religion, this speaker sought an enforceable boundary that would unambiguously differentiate noise from sounds that did not disrupt the public peace.³⁹

³⁸Zwolak, interview; Hamtramck Common Council meetings, April 13, 2004; April 20, 2004; April 27, 2004.

³⁹Hamtramck Common Council meeting, April 20, 2004. See chapters 1 and 3 for the history of debates about quantitative and qualitative noise legislation.

If the *azan*'s advocates differentiated religion from non-religion, then these critics drew lines of their own, distinguishing noise from sound. But as we have found in other chapters, the lines between religion and non-religion and between sound and noise have proven pragmatically malleable. Framing the Hamtramck dispute as either entirely about religion or entirely about noise served valuable strategic functions. By arguing that the Hamtramck dispute was about noise, not religion, critics were able to affirm their commitment to religious freedom even as they circumscribed its boundaries. They were able to assert their respect for Muslims precisely as they limited Muslims' public place in their community. This conflict had nothing to do with religion, they maintained. It was about nothing more than dealing fairly with the aural inconveniences of urban life. Conversely, arguing that this dispute was entirely about religion also did important work for the *azan*'s advocates. They were able to place Muslims in Hamtramck while ignoring any legitimate concerns about volume or disturbance of the peace. They readily dismissed their opponents as motivated by religious intolerance, rather than by any "real" concerns about noise. They were able to defend their practice even if it infringed on the rights of others. As I explore further in chapter 5, the definitions of both religion and noise proved indeterminate and thus could be used to countervailing ends.⁴⁰

The first set of speakers had denied that a religious ritual ever could constitute *noise*. For them, noise implied that a sound was meaningless or purposeless. "I told my fellow council members yesterday that it was an insult to my Muslim friends to categorize their religious practice as noise," Councilman Klein insisted. Another Hamtramck resident protested, "It is not a noise. It is a soft, human voice. For less than

⁴⁰Recall that one of Councilman Klein's objectives in making this dispute a national issue was to demonize his political opponents.

two minutes.” Characterizing the *azan* as noise ignored its substantive content and function, its advocates maintained. But significantly, many of their opponents agreed. While some opponents heard noise, others heard only religious content—content that upset them. This dispute certainly was all about religion, they agreed.⁴¹

Religion in Public Spaces

Religious sounds did not belong in public places, these critics maintained, and this constituted a second critical theme through which Hamtramck disputants contested religion’s place in their community. These opponents hastened to affirm their respect for Islam, in general, but they objected to having to hear about it. “I’m here for one reason,” announced a seventy-two year old, life-long resident of Hamtramck, “and it’s not to object to any religion, because God help me, every religion is sacred to its believers....I am here about what is being said in the call to prayer....I respect their love for Allah, but my god is Jesus Christ...I’m asking that we all pray to our god as we should...but not to impose our god on a whole community.” She objected to the *azan* not as noise, but as an affirmation of a faith to which she did not subscribe. Her husband agreed, and couched his objection in the same “rights talk” that Muslim advocates had adopted. “As a citizen of the U.S. protected by the Constitution of this great country,” he insisted, “I and my fellow citizens should not be subjected to the tenets of someone else’s religion.” “Where are my rights?” another woman protested. Offering a new twist on the voluntary

⁴¹Hamtramck Common Council meetings, April 20, 2004; April 27, 2004.

character of American religions, these residents asserted a right to *choose* the extent to which they would encounter religious difference.⁴²

While its Muslim advocates argued that the *azan* was intended for them, as a reminder to them to pray, these Christian opponents recognized that they, too, would come to constitute the *azan*'s audience as it spilled over onto Hamtramck's city streets. They described the *azan* as proselytizing, as a means for imposing Islamic faith on an unwilling audience, comparable to how Jehovah's Witnesses used loudspeakers in public parks. These critics felt threatened by the *azan*'s call, concerned about how this sound might affect and shape their own religious sensibilities and commitments. Numerous anthropologists have noted how Islamic disciplinary practices constitute Muslim subjects. In Hamtramck, these non-Muslim neighbors seemed concerned about how such practices might shape their own affective subjectivities.⁴³

While their appeals to constitutional principles might seem legally questionable—courts have never suggested that we have a right to be shielded from the religious practices of others—these critics were recognizing something significant about the nature of religious sounds. These residents sought to control the extent to which they would be exposed to religious difference, but they realized that sounds could not be contained so effectively. “I do not have a choice as to whether I hear this or not,” one woman

⁴²Hamtramck Common Council meetings, April 13, 2004; April 20, 2004; April 27, 2004. On American voluntarism, see Sidney Mead, *The Lively Experiment: The Shaping of Christianity in America* (New York: Harper & Row, 1963).

⁴³A letter writer to the *Detroit News* explicitly compared the call to prayer to Jehovah's Witness proselytizing. See “Do Calls to Prayer Infringe on Others?,” *Detroit News*, April 23, 2004. For discussions of how disciplinary practices constitute religious subjects, see Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993); Hirschkind, *Ethical Soundscape*; and Sara Coakley, ed., *Religion and the Body* (Cambridge: Cambridge University Press, 1997).

protested. While individuals may choose to enter a mosque, church, or other place of worship, they have less control over what they hear on city streets. In fact, the *azan*'s intrusion into Hamtramck's communal spaces upset these opponents precisely because they would not be able to regulate when they would have to hear it. While Hamtramck residents might be able to shut their eyes to the growing diversification of their community, they realized that they would not be able to shut their ears in the same way.⁴⁴

These opponents sought to contain the *azan* by drawing a solid line between public and private space, aiming to circumscribe religion's boundaries and keep it in its place. "If you want to call your prayer," one speaker offered, "go ahead, but keep it within doors. You guys need to have prayer, fine, but make sure it stays within the walls." Another life-long Hamtramck resident agreed. "Muslims are allowed to pray in their mosque," she maintained, "They are allowed to pray in their mosque, they can have their [call to prayer] in their mosque... that's their right. But why is the loudspeaker so important? A holy prayer is a holy prayer. God hears it whether it's on a loudspeaker, whether it's in your heart, whether it's in a mosque. Why agitate? Why bring all these difficulties?" These opponents located religion's proper place in the built environments of a church or mosque, or in the personal relationship between an individual and God. Religion should stay out of the shared spaces of communal life, they insisted. Reflecting long-standing American sentiments, they conceptualized religion as personal, individualistic, and private. "Freedom of religion is to be able to practice what you want without imposing your religion on someone else," a Polish-Catholic woman explained to me, "It doesn't mean broadcasting." These opponents seemed fearful of how religious

⁴⁴Hamtramck Common Council meeting, April 27, 2004.

sounds might blur the boundaries between religious communities as they entered the pluralistic public spaces of urban life. In such a setting, they maintained, religion was best kept quiet.⁴⁵

Ironically, these opponents' efforts to keep religion private, to keep the sound of the *azan* out of Hamtramck's public spaces, created a forum for publicly exchanging and discussing religious beliefs, albeit one in which they could choose the extent of their participation. In advance of the council meetings, one of the most vocal opponents bought books on Islam, surveyed websites, and learned all she could about the *azan*'s religious significance. During the meetings, she and others engaged in theological debates and contested the *azan*'s true meaning with their Muslim neighbors. Was it a prayer or a call to prayer? Could Christians ascribe to its affirmation of Allah's greatness? Did its text properly include a reference to Ali, the Prophet Muhammad's son-in-law? Did Muslims and Christians share a common belief in Jesus Christ? To the Hamtramck Common Council members' surprise and obvious discomfort, disputants raised each of these questions, transforming Hamtramck's council chambers into an arena for theological debate. This civic body became a religious court, of sorts, sitting in judgment over competing interpretations of Islamic and Christian theology. "I respect their love for Allah, but my god is Jesus Christ," one opponent declared. "We, in the Muslim community," responded the next speaker, "every one of us, believes in Jesus Christ. It is our duty, it is our belief, to believe in Jesus Christ." But another speaker was

⁴⁵Hamtramck Common Council meeting, April 27, 2004; Polish-Catholic Hamtramck resident, interview by author, May 1, 2008 (requested anonymity). On American traditions of keeping religion private, see Sally M. Promey, "The Public Display of Religion," in *The Visual Culture of American Religions*, eds., David Morgan and Sally M. Promey, 27-48 (Berkeley: University of California Press, 2001). I discuss assumptions about public and private religion more extensively in chapter 5.

quick to clarify: “Muslims don’t call Jesus a god. He’s a human being, he’s a prophet. If Christian people want to believe that he’s a god, that’s up to them.” Back and forth it went. As the meetings continued, several participants did not even bother to stake a position on the *azan* issue, preferring instead simply to seize the opportunity to profess their beliefs publicly. Disputants were unable or unwilling to artificially divide belief from practice. To debate the *azan* was also to debate theology. By trying to keep religion private, opponents actually had brought religious differences to the fore, making them the subject of public debate, contact, and exchange.⁴⁶

But many of the *azan*’s advocates denied that these opponents were trying to keep religion private in the first place. Religious sounds already blurred the line between public and private space, they maintained, for when they listened to Hamtramck, they did not hear a religiously neutral or secular soundscape, but rather one marked as normatively Christian. When they listened to Hamtramck’s churches, they heard the sounds of annual festivals and processions, which carried Roman Catholic faith into the streets. More important, they heard Hamtramck’s churches ringing their bells, announcing daily services. How did this differ from a call to prayer? Analogizing the *azan* to church bells constituted the most common line of argument that proponents of the council’s ordinance advanced. “If the churches will ring bells to call to prayer, then we have the right to do

⁴⁶Polish-Catholic Hamtramck resident, interview; Hamtramck Common Council meetings, April 13, 2004; April 20, 2004; April 27, 2004. For a discussion of how American courts frequently function as religious arbiters, see Sullivan, *The Impossibility of Religious Freedom*. As I mentioned in chapter 3, Jehovah’s Witnesses frequently used their court cases as an opportunity to profess their beliefs publicly. The debate about Ali had to do with the fact that some Shi’i versions of the *azan*’s text include an extra line, referring to Ali. An opponent had quoted this version of the text in her public comments, and a Sunni Muslim corrected her in his response. Neither one acknowledged the possibility of contested versions of the text, however – both presented their versions as *the* text. Hamtramck Common Council meeting, April 13, 2004. For a brief discussion of the different Sunni and Shi’i texts, see *The Encyclopaedia of Islam* (Leiden: Brill, 1960), s.v. “Adhan.”

the same thing,” one Muslim speaker insisted at the council meetings. These advocates appealed to ideals of fairness and equal treatment. The government could not discriminate among religions, so if it allowed church bells, then it had to permit prayer calls, as well. As we found in chapter 3, religious dissenters frequently have adopted this analogizing strategy to claim their rights to religious freedom. While some observers have criticized this approach, because it effaces differences among religions, does not protect practices that cannot be analogized, and perhaps implicitly bolsters Christian hegemony, it has proven pragmatically effective.⁴⁷

Analogizing the *azan* to church bells constituted an effective legal strategy, but it also enabled Hamtramck Muslims to claim a place alongside Christians in the community’s public life. A Polish historian and prominent Hamtramck resident argued in the local newspaper that public practice distinguished Polish Catholics from other American Christians. And with the *azan*, Hamtramck’s Muslims merely were joining this tradition. “Hamtramck’s religious communities,” he wrote, “have not fully been

⁴⁷Hamtramck Common Council meeting, April 13, 2004. I also discussed this analogizing strategy in chapter 3, since the Jehovah’s Witnesses also adopted it in their cases. For a discussion of this strategy in the British context, see Metcalf, *Making Muslim Space in North America and Europe*, 14. For a discussion of its use in post-1965 American jurisprudence, see Courtney Bender and Jennifer Snow, “From Alleged Buddhists to Unreasonable Hindus: First Amendment Jurisprudence after 1965,” in *A Nation of Religions: The Politics of Pluralism in Multireligious America*, ed. Stephen Prothero, 181-208 (Chapel Hill: University of North Carolina Press, 2006). In a discussion with Dawud Walid, Executive Director of the Michigan chapter of the Council on America-Islamic Relations, he stressed the importance of this strategy in his work. Walid, interview. Jonathan Z. Smith argues that this analogizing strategy constitutes an act of translation that performs essential cultural work in a pluralistic democracy. He claims that this act of translation negotiates difference, without effacing it. See Jonathan Z. Smith, “God Save This Honorable Court: Religion and Civic Discourse,” in *Relating Religion: Essays in the Study of Religion*, 375-90 (Chicago: University of Chicago Press, 2004). For a critique of this strategy, see Stephen M. Feldman, *Please Don’t Wish me a Merry Christmas: A Critical History of the Separation of Church and State* (New York: New York University Press, 1997). Analogizing the *azan* to church bells seems particularly ironic given the story of the *azan*’s origins. According to one version of the story, Muhammad chose the human voice explicitly to differentiate the *azan* from Christians’ use of bells to announce prayers. Muhammad used the *azan* to fashion a distinct Muslim identity, not one that was easily analogized to or conflated with Christianity. See Muneer Goolam Fareed, “Adhan,” in *The Encyclopedia of Islam and the Muslim World*, ed. Richard C. Martin (New York: MacMillan Reference USA: Thomson/Gale, 2004), 13. Also see my discussion of this point in chapter 5.

absorbed into what Robert Bellah has called the ‘Protestant Structure of American Society,’ in which faith is seen as primarily personal and private. Nor have they accepted the notion that the public square must be naked of religion.” If Hamtramck’s civic identity was tied to Catholic public practice, then Hamtramck’s Muslims could claim their own place in the community by instituting public practice of their own. By diversifying Hamtramck’s soundscape, they simply were demanding a place alongside the historically Catholic majority in shaping the city’s civic identity and public life. Critics had argued that religion should keep quiet in public. But these advocates, many of whom were Christian, imagined polyphonic public places, open to diverse religious forms and overflowing with the harmonies of global religious variety. The *azan* would offer Muslim newcomers an important means for placing themselves in their new community. The *azan* certainly was not just noise.⁴⁸

But the *azan*’s opponents claimed not to hear church bells in the same way. It seems that bells, too, could broadcast mixed messages. Speakers differentiated the *azan* from church bells in at least two ways. First, the *azan* had substantive content whereas bells were “merely” sounds. “A church bell is a sound,” one speaker declared, “A school bell is a sound. But a prayer is a prayer.” “Church bells don’t speak,” another opponent offered. Second, they denied that church bells’ primary function was to call prayer times. Instead, bells marked “secular” time in quarter-hour increments. One opponent acknowledged that bells might once have called Christians to pray, but “the bells are not a call to prayer any longer,” he explained. These speakers responded to efforts to analogize Muslim and Christian religious practices not by denying the significance of the

⁴⁸Thaddeus Radzilowski, “Muezzins and matins—A Hamtramck story,” *Hamtramck (MI) Citizen*, May 13, 2004.

Muslim ritual, but instead by denying that their own practice was religious. Church bells had constituted background noise in Hamtramck, unremarkable acoustic features of daily life. But as soon as residents noticed their chimes, as soon as the bells' public presence became problematic, their defenders strategically redefined them as "secular," thus reasserting the normative neutrality of Hamtramck public places over the protests of their opponents. Again, the line between religious and non-religious sounds proved indeterminate and strategically useful. By hearing the church bells as non-religious, these disputants actively constructed and produced secular space. And in so doing, they implicitly rejected Muslims' claims on Hamtramck public space. Disputants thus contested whether religious sounds belonged in public, whether public spaces should be places for amplifying or muting differences. And as they did so, they debated the place of Muslims and Catholics in their community.⁴⁹

American Religious Identity

⁴⁹Hamtramck Common Council meetings, April 13, 2004; April 27, 2004; Polish-Catholic Hamtramck resident, interview. Because of Hamtramck's aging and declining Catholic population, the city's Roman Catholic churches no longer conduct daily services. That is one reason why local residents might not have heard the church bells as prayer calls. In the 1979 case that I quoted in the introduction to chapter 2, a New York judge actually rejected the argument that church bells infringed on listeners' religious freedom precisely because they lacked substantive content. "Plaintiffs also argue that the playing of the music is an infringement on their right to religious freedom," Judge Tenney wrote, "This argument has no merit. The music is played without words although it is the music of well-known Christian hymns. There is no attempt to preach or impose any unwanted views." *Impellizzeri v. Jamesville Federated Church*, 428 N.Y.S.2d 550, 552 (N.Y. Sup. Ct. 1979). In a prominent Supreme Court case that tested the constitutionality of the Pledge of Allegiance, some proponents similarly sought to redefine the Pledge's reference to "God" as secular. See *Elk Grove v. Newdow*, 542 U.S. 1 (2004). Scholars have paid increasing attention to how religious communities construct sacred space. For example, see Chidester and Linenthal, eds., *American Sacred Space*; Louis P. Nelson, ed. *American Sanctuary: Understanding Sacred Spaces* (Bloomington: Indiana University Press, 2006). Less attention has been paid to the practices that produce the secular. For one prominent study of the secular, see Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003).

Many critics worried that Muslims were not claiming a place for themselves alongside Hamtramck's Christians, but instead were displacing a historically fragile Polish-Catholic establishment, replacing it with a new Muslim majority that would dominate Hamtramck aurally, socially, and politically. "Let's face it," one life-time Hamtramck resident declared at the council meetings, "These churches have been here for almost one hundred years...And never in my life did I think this would be a debate in the city. I never thought mosques would outnumber churches." These complainants heard the *azan* not simply as a religious ritual but as announcing Muslim presence and power. "I think they just wanted to prove that they could do what they want," one prominent opponent has insisted. "The statement I hear," said another community leader, "is that they want to dominate the environment and continue to make their presence known." "The prospect is there in people's minds that the whole community could become a fortress of Islam," another community activist explained to me. If sound could make place, critics contended, then it also could dominate space.⁵⁰

But it was not only Hamtramck residents who expressed such concerns. While nearby neighbors debated whether the *azan* placed Muslims in or displaced Catholics from Hamtramck public life, outside observers also claimed a stake in the Hamtramck dispute. Critics contended that the *azan* signaled a broader challenge to American society, a threat to an imagined Christian consensus. And others rushed to defend the *azan*, proposing that the Hamtramck dispute might offer a productive opportunity to re-imagine what it meant to be American. They suggested that the *azan* might signal new pluralistic possibilities. These participants thus situated the *azan* dispute differently

⁵⁰Hamtramck Common Council meeting, April 13, 2004; Polish-Catholic Hamtramck resident, interview; Zwolak, interview; Sharon Buttry, interview by author, October 30, 2007.

within broader debates about American religious identity, and this constituted a third point of contention that merits consideration.

Many opponents heard the *azan* as a daily reminder of the September 11, 2001, terrorist attacks. “How sad,” a Bloomfield Hills resident wrote to the *Detroit Free Press*, “another thing to remind us of 9/11. The thought of a broadcast over loudspeakers calling Muslims to prayer five times a day will only make me think five times a day of 9/11.” Another woman wrote directly to the council members in outrage: “You and Hamtramck, Mich. are an embarrassment and disgrace to all Americans. You have the gall, the insidious arrogance to even consider allowing a call to allah—you know twin towers allah—3,000 plus incinerated in the name of allah and 27 virgins!! And in Arabic no less!! What a disgrace—did you know anyone burned, killed, or maimed in the towers??...Maybe Hamtramck is next for annihilation in the name of allah. What a joke.” These writers heard a literal threat to American society in the *azan*’s public pronouncement of Islamic presence.⁵¹

But other critics also heard the *azan* challenging their conception of what it meant to be American religiously. While Hamtramck residents tended to focus on their own community’s shifting identity, many outside observers interpreted the *azan*’s implications more broadly. In particular, they contrasted the Common Council’s efforts to accommodate the *azan* with what they perceived as Christianity’s removal from American public life. They pointed to Supreme Court decisions that had prohibited prayer in public schools and Ten Commandments monuments in government buildings, and they argued that the United States was turning its back on its Christian heritage.

⁵¹“From Our Readers.” *Detroit Free Press*, April 22, 2004; Correspondence from Nancy Hildwein to Karen Majewski, April 27, 2004 (copy on file with author).

What made those public displays of religion inappropriate but made it acceptable for the Hamtramck Common Council to go out of its way to permit the call to prayer? For these opponents, the *azan* dispute signaled broader efforts to displace Christianity from the center of American life.⁵²

Most prominent among such critics was a group of evangelical Christians, who called themselves David's Mighty Men. Led by their pastor, James Marquis, the group's members belonged to the same nondenominational church in rural Wellston, Ohio. They also shared a commitment to defending Christian freedom, which they perceived as under nationwide attack by the forces of "secularism" and "Islamism." Although they admit that it sounds like a joke, David's Mighty Men came together at a tailgate party preceding a Friday night high school football game in 2003, shortly after Judge Roy Moore had been ordered to remove a two-ton Ten Commandments monument from Alabama's State Supreme Court building. "We decided that we needed to move outside the walls of our church," Pastor Marquis explains, "and actually take a stand for religious freedom." Pastor Marquis and his followers traveled to Alabama and prayed in solidarity with Judge Moore. Less than a year later, they saw a CBN report on the Hamtramck *azan* dispute and drew an immediate connection. While Hamtramck residents analogized the *azan* to church bells, the members of David's Mighty Men compared it to Judge Moore's Ten Commandments statute and were furious that one should be permitted, but not the other. "I realize that we're supposed to be a country that proposes religious freedom for everyone," Pastor Marquis maintains, "But it seems to me that there's religious freedom

⁵²For the two most prominent school prayer decisions, see *Engel v. Vitale*, 370 U.S. 421 (1962) and *Abington Township v. Schempp*, 374 U.S. 203 (1963). For cases that removed Ten Commandments statues from public buildings, see *Stone v. Graham*, 449 U.S. 39 (1980); *McCreary v. American Civil Liberties Union*, 545 U.S. 844 (2005); and *Glassroth v. Moore*, 347 F.3d 916 (11th Cir. 2003).

and tolerance for everyone except...evangelical Christianity.” Pastor Marquis assembled the other members of David’s Mighty Men, and they made the ten-hour round-trip journey to Hamtramck for both the second and third public meetings.⁵³

When he spoke during the meetings, Pastor Marquis appealed to liberal-sounding principles of equality, religious freedom, and minority rights. He urged toleration for Hamtramck’s declining Christian community and respect for *its* religious rights. “I’d like to remind you,” he addressed the council members, “as a publicly seated, elected body, you have a responsibility to support the petitions that come before you, but also to hear from the minority. In this case, the minority might be those who do not wish to hear the public call to prayer.” He then turned and spoke directly to those in the audience. “Many in this room know what it is to be a minority,” he pleaded, “I would like to ask them to consider that perhaps today they are the majority, and those in the community who do not want to hear this forced prayer on them might be the minority that needs protecting.” He adopted the same “rights talk” that Muslim speakers had used to advocate for the noise ordinance amendment. But in private, Pastor Marquis slips into a different style of argument. His rhetoric flows comfortably back and forth between appeals to liberal principles and appeals to America’s Christian heritage. “Of course we believe that our nation was founded, and that our founding fathers had a strong belief in God,” he explains, “and that our laws were written from the word of God. It’s offensive that we

⁵³James Marquis, interview by author, July 26, 2007. Legal scholars might contest Marquis’ analogy between the *azan* and Ten Commandments statues. Nothing prohibits private citizens from posting Ten Commandments statues. Problems have arisen when government actors display the Ten Commandments in public buildings. Presumably, the situation in Hamtramck would have been very different had the Hamtramck Common Council decided to broadcast the *azan* itself. Notice how the efficacy of the analogizing strategy depends on the choice of analogy. Was the *azan* more similar to church bells or to a statue of the Ten Commandments? Acts of translation are invariably acts of interpretation. See Smith, “God Save This Honorable Court.”

would be making prayers to other gods vocal in our nation.” Marquis rejects post-9/11 efforts to recast American religious identity as Judeo-Christian-Islamic. In fact, the Hamtramck dispute was “about the attempted subversion of our culture by the Islamists,” he says, associating “their” sounds with an attack on “our” culture. Muslims do not seek to claim space alongside American Christians, he contends, but to displace Christians and redefine American identity. “Islam has this nation as its goal,” he argues. Pastor Marquis saw in Hamtramck’s shifting demographics a microcosm of what he feared was happening to America as a whole. For him, silencing the *azan* offered a critical step in resisting this challenge to an imagined Christian consensus.⁵⁴

Many Hamtramck residents dismissed the members of David’s Mighty Men as meddling outsiders with no real stake in what happened in their community. But some local opponents agreed that Islam threatened American society, and they used the public meetings to criticize publicly what they perceived as Islamic values. In particular, they focused their critique on gender relations and religious freedom. Several speakers expressed anger about how Hamtramck Muslims segregated the sexes. “They say the call to prayer is for the entire community,” declared one male opponent, “but they direct it to the men and boys of their community. The women can’t come to the mosque, they don’t pray with the men. This is the United States of America. Our women are just as equal as we are.” Other speakers argued that Muslims were seeking religious rights that would not be granted to Christians in their countries of origin. “We have a separation of church and state here,” a Polish-American man asserted, “and just about every one of these

⁵⁴Hamtramck Common Council meeting, April 27, 2004; Marquis, interview. Jason Bivins has described this kind of slippage between appeals to America’s Christian identity and appeals to liberal principles as “the polymorphous discourse of law, rights, and religion.” See Bivins, “Religious and Legal Others.”

people...they came from an Islamic state, where the government was the religion and the religion was the government.” Sounding a similar note, one Catholic clergyman explained to me recently that although he supported the call to prayer at the time, he now believes that Hamtramck missed an opportunity to exert pressure on its Muslim communities. He argues that the council should have adopted the noise ordinance amendment on the condition that Hamtramck Muslims would work to secure non-Muslim rights in their countries of origin.⁵⁵

Regardless of the accuracy or even the coherence of these positions, what seems significant is that each of these speakers heard the *azan* as signaling a threat to “American” values. As they heard the *azan* spilling over onto city streets, they interpreted its sound as fundamentally alien, foreign, or *out of place*—in short, as noise. They could not imagine the *azan* ever constituting background noise, sounding alongside church bells or other “normal” sounds of American public life. The *azan* did not belong in Hamtramck, just as Muslims did not fit into their conceptions of American religious identity. Complaining about the *azan* as noise thus circumscribed the place of these religious newcomers, demarcating the limits of their public participation. Noise complaints aimed to contain the threat that these religious others posed.

⁵⁵Examples of local opposition to the David’s Mighty Men involving themselves in the Hamtramck dispute can be found in Buttry, interview; and Kowalski, interview. Quotes are from Hamtramck Common Council meeting, April 13, 2004. The Catholic clergyman requested anonymity but expressed his sentiments in a conversation with the author on April 30, 2008. On the position of women in American Muslim communities, see Yvonne Yazbeck Haddad, Jane I. Smith, and Kathleen M. Moore, eds., *Muslim Women in America: The Challenge of Islamic Identity Today* (New York: Oxford University Press, 2006). Concerns about gender relations and about religious freedom have constituted two of the most common fronts on which Islam has been criticized by those who see it as fundamentally inimical to “American values.” These same concerns were central to critiques of Catholicism and Mormonism in nineteenth-century America.

But if some opponents heard the *azan* as signaling a threat to American identity, then many of its proponents heard it affirming a different conception of what it meant to be American. They heard in the *azan* an opportunity to improve relations between the different religious, ethnic, and racial groups that called Hamtramck home. They heard an opportunity to build a community in which those of different backgrounds could coexist peacefully. They heard the *azan* as a call “to dialogue” and to “create a new community.” If religious sounds could spark conflict, these advocates maintained, then they also could prompt cooperation. The *azan* could signal new pluralistic possibilities.⁵⁶

Many of the speakers at the council meetings argued that accommodating the *azan* could symbolize the potential for Hamtramck’s diverse peoples to form a single community. “Here in Hamtramck we have a lot of problems,” urged one speaker, “So we have to tolerate each other...in the end, we are one city, one community, we have to come together, work together, to solve all of our problems and responsibilities.” Other speakers tried to mute differences between Islam and Christianity by emphasizing their common beliefs. “I’ve had relatives die in wars for you people to have the capability to worship the lord God of Abraham,” one Muslim speaker stated, “irregardless of what you call Him. There’s only one God. There is only one God. That God is not Christian, He’s not independently Jewish, He’s not independently Islamic. He is all of that. He is all of that.” To claim a place for Muslims in Hamtramck and in America, this speaker emphasized shared military service in defense of religious freedom, and he also emphasized shared belief in God. He adopted the “Abrahamic religions” rhetoric that many political leaders have employed strategically since September 11, 2001, in order to

⁵⁶Personal correspondence from Dennis Archambault to Sharon Buttry (copy on file with author).

re-imagine the United States as a Judeo-Christian-Islamic nation. For these proponents, the *azan* could signal commonality or a shared claim on American identity. The *azan* did not have to sound foreign or out of place. It could harmonize with the other chords of American religious variety.⁵⁷

A group of Christian, Muslim, and Jewish leaders from around Detroit advocated this position most forcefully. They described themselves first as the Hamtramck Interfaith Partners and later as the Children of Abraham, and they joined together to mute the growing discord through a series of community outreach events. Ironically, the group was formed after a prominent Muslim community leader tried to convince Abdul Motlib *not* to broadcast the call. Victor Begg chaired the Council of Islamic Organizations and had built the Muslim Unity Center in West Bloomfield, Michigan. A Detroit businessman and civic activist since the late 1960s, he had worked hard to improve the position of Muslims within the broader community. In the aftermath of 9/11, Begg had created an Interfaith Roundtable that brought together Muslim, Christian, and Jewish community leaders both to demonstrate support for Detroit's Muslims and to educate non-Muslims about Islam. But although he cared passionately about Muslim rights, he found it difficult to believe that a small Hamtramck mosque was making an issue out of the call to prayer. "It sounded crazy in Hamtramck," he explains, "for the Muslim community, in this day and age, to be involved with a silly issue like that....It's not a critically important aspect of our faith." Begg felt that Muslims no longer needed the call to remind them when to pray, and he pointed out that few American Muslims lived close enough to a mosque to hear it anyway. He did not understand why a mosque would draw

⁵⁷Hamtramck Common Council meetings, April 20, 2004; April 27, 2004.

unwelcome attention and negative publicity to a community still reeling from the after-effects of 9/11. “We’ve got enough problems,” he thought, “Why bring them unnecessarily?”⁵⁸

Begg changed his mind after meeting with Abdul Motlib. “I saw that these guys were very simple, very humble,” he explains, “And I know I don’t like, in my own mosque, when some outsider comes in and tries to tell me what to do.” Begg drew on his network of interfaith colleagues from across metropolitan Detroit to offer critical support for Motlib and the leaders of al-Islah. Several Hamtramck Christian leaders, who heard in the *azan* an important opportunity to build interfaith relations in the city, also decided to get involved. Through a series of outreach events, they used the *azan* dispute as an opportunity to display “a show of unity,” intended both for Hamtramck residents and for the broader world. “We were trying to present a statement to the media,” Father Stanley Ullman, pastor of St. Ladislaus Roman Catholic Church, located directly across from al-Islah, has explained, “We were trying to present a statement of support. And definitely we were trying to dispel fear, to work toward some kind of cooperation and a mutually beneficial coexistence.”⁵⁹

Members of the Hamtramck Interfaith Partners heard slightly different messages in the *azan*’s call. For Thaddeus Radzilowski, an ethnic historian and director of a

⁵⁸Begg, interview. Ecumenical activities and displays of spiritual unity constituted one common religious response, nationally, to 9/11. Patrick Allitt discusses this in *Religion in America since 1945: A History* (New York: Columbia University Press, 2003). Other religious leaders interpreted 9/11 as God’s punishment for a nation gone astray. For an analysis of this rhetoric, see Bruce Lincoln, *Holy Terrors: Thinking About Religion after September 11* (Chicago: University of Chicago Press, 2003). For more on interfaith activities in the United States, see Kate McCarthy, *Interfaith Encounters in America* (New Brunswick, NJ: Rutgers University Press, 2007).

⁵⁹Begg, interview; Buttry, interview; Stanley Ullman, interview by author, October 29, 2007; Thaddeus Radzilowski, interview by author, July 12, 2007.

national Polish-American political advocacy institute, the *azan* signaled “real” pluralism and offered an opportunity to educate Hamtramck’s Polish community about its own past. In a series of newspaper editorials, he contrasted “the pallid diversity of the shopping mall food court” or “the exotic but genial community presentations of dances and customs from someplace else far away” with “the raucous, noisy, and messy” pluralism of Hamtramck, in which “neighbors jostle and argue with each other as they evolve a rough and ready toleration.” While its opponents heard the *azan* as necessarily foreign, alien, or out of place, Radzilowski heard in the *azan* the sound of all immigrant communities struggling to place themselves in new homes. He reminded his fellow Polish-Americans about the discrimination they faced when they first moved to the United States and about how fragile and insecure was their own establishment in Hamtramck. According to him, the *azan* dispute offered Hamtramck residents an important opportunity to discuss “who are these new people, and how should we live with them?”⁶⁰

Father Stanley Ulman heard the *azan*’s call as a theological challenge “to reflect on the proper Christian response when neighbors have a vastly different perspective of God.” He seized the opportunity afforded by the dispute to educate his parishioners about Catholic moral obligations toward religious others. Most of St. Ladislaus’ parishioners were aging Polish-Americans, and Ulman expressed sympathy for their concerns about how quickly Hamtramck was changing. But he sought to set an example for his community by reaching out to their new neighbors. “The Scriptures are full of passages that say be kind to the stranger,” Ulman explains, “There’s a sense of, be

⁶⁰Radzilowski, interview; Radzilowski, “Muezzins and Matins.”

hospitable. That's in our culture, to be hospitable. To make someone feel welcome." Theological difference need not be frightening, he maintained. Hamtramck Catholics could hear the *azan* as a celebration of religious diversity and also as a reminder of their moral obligation to welcome newcomers, just as their parents and grandparents had wanted to be welcomed when they came to the United States.⁶¹

Other Interfaith partners went even further and expressed hope that Hamtramck Christians also would hear the *azan* as a call to prayer. Sharon Buttry, a Baptist minister and experienced community organizer, supported the call in the name of religious liberty, but also because of the message that it announced. "I hope that [Christians] hear it as a call for all people to practice their faith," she says, "Wouldn't it be great if all of us practiced our faith in the way that our new neighbors are?" Buttry hoped that the sound of the *azan* might encourage Christians to practice their own faith more stridently. She hoped that her co-religionists also might heed the *azan*'s call.⁶²

Like the other members of the Interfaith Partners, Buttry recognized that broadcasting the *azan* in Hamtramck would reach multiple audiences, and she interpreted its call as she hoped non-Muslims would hear it. She dismissed the fears of opponents who felt that the call infringed on their religious rights, yet she ironically confirmed these very same fears. As I discussed above, many critics argued that religion should be kept private because they did not want to hear a religious message with which they disagreed. They expressed concern about how the *azan* might shape their own religious sensibilities. The *azan*'s advocates had responded that they intended it only for its Muslim hearers, but

⁶¹Ulman, interview; Joe Kohn, "Hamtramck Catholics Get to Know Their Muslim Neighbors," *Michigan Catholic*, June 25, 2004.

⁶²Buttry, interview.

Buttry implicitly acknowledged that the *azan*'s message might affect non-Muslims, as well. In fact, she even hoped this would be the case. She hoped that non-Muslims, too, would respond to it as a call to prayer. As the *azan* spilled over into Hamtramck's city streets, as it crossed boundaries between public and private, Buttry recognized that it also might blur the boundaries among religious communities, potentially shaping the sensibilities and subjectivities of all of its hearers—both intended and unintended audiences, willing and unwilling listeners.

The members of the Interfaith Partners and of David's Mighty Men thus situated the *azan* dispute differently within broader debates about American religious identity. The Interfaith Partners welcomed the opportunity to re-imagine what it meant to be American, to fashion a more inclusive collective identity. David's Mighty Men, however, tried to re-fortify the boundaries among religious communities, to resist the *azan*'s challenge to an imagined Christian consensus, and to circumscribe Muslims' public place. But these disputants all agreed that the *azan* would resonate for more than just its Muslim hearers. While not all audiences would hear the *azan* announce the same thing, most would hear it announce *something*, as it reverberated throughout this pluralistic urban environment.

Voting for the Call

Hamtramck residents thus contested the meaning of the call to prayer. They debated whether the *azan* dispute was essentially about religion or noise, the right of religious newcomers to practice their faith publicly or the right of neighbors to protect the public peace. They debated whether public places properly were spaces for amplifying or

muting religious differences, differing as to whether neighbors should be able to choose the extent to which they encountered religious others. And they debated the *azan*'s implications for American religious identity, disagreeing about whether it signaled new pluralistic possibilities or a threat that had to be contained. Through these differences, disputants contested whether Muslims were placing themselves alongside a Polish-Catholic establishment or whether the *azan* in fact signaled this establishment's displacement. And through these differences, they contested religion's place in an increasingly pluralistic society. Diverse hearing communities were listening consciously to the sound of the *azan*, and they were hearing multiple messages in its call.

But ultimately, the members of Hamtramck's council would decide how they wanted to hear the *azan*—and how they would regulate it. “In the end, I'll tell you, it wasn't going to matter what they said,” Mayor Karen Majewski has explained, “Because I was convinced that this was the way to go...But they can't say they weren't given an opportunity to speak.” On April 27, 2004, at the conclusion of the three public hearings, the Hamtramck Common Council adopted Ordinance No. 503, amending Ordinance No. 434. They exempted the *azan* and “other reasonable means of announcing religious services” from the municipal noise ordinance while also placing those sounds directly under their own jurisdiction.⁶³

The council's decision did little to mute the concerns either of those who supported the *azan* or those who opposed it, and disputants proceeded in different ways. As discussed above, the Hamtramck Interfaith Partners hosted a series of outreach events,

⁶³Majewski, interview. Robert Cover has argued that the role of United States courts is not to settle uncertainty in law, but instead to suppress the multiple narratives that diverse communities tell about law. See “Nomos and Narrative,” *Harvard Law Review* 97 (1983): 4-68.

including a press conference to celebrate al-Islah's ceremonial "first call" under the new ordinance. On May 28, 2004, religious and civic leaders gathered inside the al-Islah Islamic Center. Local media covered the event extensively. Members of the Interfaith Partners expressed support for their new Muslim neighbors and their hopes for how Hamtramck residents would hear the call. "In Hamtramck," stated Rev. Sharon Buttry, "my neighbor worships in the church, in the mosque, and in the temple...I am glad for the call to prayer, because it is not only a call to prayer, it is a reminder to all of us to live out our faith in love and mutual respect." Council members attended the ceremony and offered their own words of encouragement. Several Muslim leaders from across metropolitan Detroit also attended the ceremony, most of whom had been unaware of al-Islah's presence prior to this dispute. Finally, Abdul Motlib recited the call into a microphone that was connected to the loudspeakers atop al-Islah's roof. Many of the news broadcasts that covered the event noted how quiet the call sounded from the street, as if the loudspeakers had purposely been set to a low volume. At least for that day, what Motlib had initially proposed as a normatively sanctioned religious ritual appears to have been reduced almost entirely to a symbolic gesture.⁶⁴

⁶⁴Buttry, interview; Motlib, interview; Majewski, interview. The *azan's* low volume was reported by Detroit's Fox 2 News and Channel 4 News (video recordings on file with author). At the ceremony celebrating the first call, Abdul Motlib presented Council President Majewski with a key to the box that controlled the loudspeakers' volume, symbolizing how this religious ritual had been placed under the authority of Hamtramck's governing civic body. Buttry's comments are taken from Sharon Buttry, "Interfaith Partners Case Study, Hamtramck, Michigan" (unpublished report, on file with author, 2004). Rev. Buttry's language echoes President Bush's frequent post-9/11 references to American "churches, synagogues, and mosques," although she acknowledged Hamtramck's Hindu community by mentioning temples instead of synagogues. For example, two days after the September 11 attacks, President Bush called on all Americans "to attend prayer services at churches, synagogues, mosques or other places of their choosing to pray for our nation, to pray for the families of those who were victimized by this act of terrorism." See "President Bush to Declare National Day of Prayer," *White House Bulletin*, September 13, 2001. Premia Kurien discusses Hindu criticisms of the President's failure to mention their temples in his rhetoric. See "Mr. President, Why Do You Exclude Us From Your Prayers? Hindus Challenge American Pluralism," in *A Nation of Religions*, ed. Stephen Prothero, 119-138 (Chapel Hill: University of North Carolina Press, 2006).

In the meantime, opponents discussed their options. They considered taking their case to court in order to challenge the ordinance's constitutionality but decided instead to settle the issue through a ballot referendum. They launched a petition drive, calling for the repeal of Ordinance No. 503, and gathered enough signatures to bring the question to a city-wide vote. The Common Council agreed to add the ballot proposal to an already scheduled special election. On July 20, 2004, Hamtramck citizens would vote both on whether to recall three school board members and whether to repeal the new noise ordinance. But even the ballot language became a matter of intense public debate. Council members drafted the language themselves, purposefully manipulating it to suit their political needs. The ballot read: "Shall Ordinance No. 503, which amended Ordinance No. 434, to allow the City to regulate the volume, direction, duration and time of Call to Prayer, Church Bells and other reasonable amplified means of announcing religious meetings, be repealed?" In other words, a "No" vote would uphold the council's ordinance, thereby guaranteeing Muslims' right to broadcast the *azan*, while a "Yes" vote would repeal the new ordinance and leave the *azan* in legal limbo. As indicated in the ballot language, the council members marketed the new ordinance as necessary for regulating the call to prayer, implying that Muslims could do whatever they wanted in the absence of such a law. They also realized that voters might think a "No" vote meant no to the call or no to the new ordinance. They even ignored the protests of the city attorney, who declined to approve the proposed language. He explained that he was "of the opinion that the language as proposed by Council is confusing. It suggests that Ordinance 503 was intended to regulate something that was already permitted by

Ordinance 434. The amplification of ‘Call to Prayer’ or ‘Church Bells’ and other religious announcing was not permitted under Ordinance No. 434.”⁶⁵

The squabble over the ballot language amplified the lingering confusion about precisely what the council had accomplished and about the legal status of the call to prayer under the original 1989 noise ordinance. But it also demonstrates how fully the council and its opponents had politicized the *azan* issue, enmeshing it within other Hamtramck disputes. The “new-guard” politicians that dominated Hamtramck’s council opposed the school board recall and supported the call. Their “old-guard” opponents supported the recall and mostly opposed the new noise ordinance amendment. Council members linked the two issues together and distributed literature through their political action committee that encouraged constituents to vote “No” on both issues. They deliberately worded the ballot question to simplify this campaign. What was ostensibly a dispute about a religious ritual had become thoroughly caught up in Hamtramck’s contentious “politics as usual.”⁶⁶

On the day of the vote, local and national media descended on Hamtramck yet again. Political operatives distributed campaign literature and displayed signs near polling stations. The Interfaith Partners, who had decided not to campaign actively on the issue, scheduled a press conference in the morning and a communal meal in the evening as they awaited the results. David’s Mighty Men returned to town, too, wearing

⁶⁵On the opponents’ deliberations, see Zwolak, interview; Polish-Catholic Hamtramck resident, interview. On the council’s manipulation of the ballot language, see Majewski, interview. On the city attorney’s objections, see Letter from John C. Clark to Ms. Genevieve Bukowski, City Clerk’s Office, City of Hamtramck (included in Packet for Hamtramck Common Council meeting, June 15, 2004).

⁶⁶Majewski, interview. Majewski has provided me with copies of the campaign literature. Supreme Court justices repeatedly have expressed concerns that this kind of election might engender “political division along religious lines.” For example, see *Lemon v. Kurtzman*, 403 U.S. 602, 622 (1971); and *Zelman v. Simmons-Harris*, 536 U.S. 639, 718 (2002) [J. Breyer, dissenting].

purposefully confrontational T-shirts that announced “Allah is no God.” They stood across the street from the al-Islah Islamic Center, prayed, and sounded *shofars*, or ram’s horns, in protest. Some Polish-American residents placed loudspeakers in their windows, directed them towards the street, and blasted polka music. These disputants engaged in acoustic warfare as twenty-seven hundred residents went to the polls, a little over half the number that would vote in a regular election the following November. By a two hundred and sixty two vote margin, the referendum failed, preserving the council’s amendment. Hamtramck’s citizens had voted to accommodate the call to prayer.⁶⁷

Given the confusing ballot language, observers disagree to this day as to whether Hamtramck citizens understood how they were voting. Nonetheless, most of the city’s political and religious leaders chose to interpret the vote as a symbolic affirmation of the call, of Hamtramck’s Muslim community, and of a religiously polyphonic public square. It is not clear if a desire for such affirmation prompted Motlib to approach the council in the first place, but he felt gratified by the vote and saw God’s hand in the results. “This is for religion, not my power,” he says, “This issue came from God, to build relations.” In

⁶⁷Charles Sercombe, “Voters Keep Prayer Call, Boot Board Members,” *Hamtramck (MI) Citizen*, July 21, 2004. Local news affiliates also provided extensive coverage of the vote. While voters decided not to repeal the noise ordinance amendment, they did recall the school board members, issuing the Common Council a mixed victory. It is not clear if Hamtramck voters linked these two issues but were confused by the ballot language, or if they treated them as separate issues. I learned about the election day events from several sources including Buttry, interview; Zwolak, interview; Polish-Catholic Hamtramck resident, interview; and Marquis, interview. Pastor Marquis now regrets wearing the T-shirts, explaining, “Upon reflection, I’m not sure that was wise, but we wanted to say, how do you feel about having to see this?” His use of the ram’s horn, or shofar, seems particularly ironic. Proponents of the *azan* also drew this analogy between the Islamic call to prayer, Christian church bells, and the Jewish shofar blast. In so doing, both opponents and proponents appealed to what they perceived as the basic commonalities between the “Abrahamic” religions, implying that Muslims, Christians, and Jews all had prayer calls—they only differed on the means of announcement. Yet this strategy effaced significant differences among the religions, as I discuss further in chapter 5. The Hamtramck Clerk’s office provided me with voting records from both the elections of July 20, 2004, and November 2, 2004. Twenty-two hundred and sixty two residents voted on the *azan* initiative, while over forty-five hundred residents voted in the November election.

the months that followed, Motlib continued to build relations. He co-sponsored a “Unity in the Community” event that brought together clergy and laity from Hamtramck’s churches and mosques at al-Islah. He also conducted an “exchange program” with Our Lady Queen of Apostles Church and with a suburban synagogue, through which children of the three congregations visited each other’s houses of worships and learned about each other’s faiths. By broadcasting the *azan*, Motlib had announced his mosque’s presence, and the surrounding community had taken note. The *azan* dispute had transformed al-Islah from an introverted, insular mosque into one that was widely known and involved throughout Hamtramck and the metropolitan Detroit area. The dispute had transformed Motlib personally, as well, through his lasting friendships with representatives from other religious communities.⁶⁸

But most observers agreed that the July 20 vote brought an end to the public *azan* dispute. Opponents launched no further legal challenges. The media lost interest and moved on to other stories. One other Hamtramck mosque joined al-Islah in broadcasting the call. Some neighbors continue to grumble to this day, but few have registered formal complaints with the police or with the Common Council. When complaints have been lodged, the council has dealt with them quickly and quietly. Hamtramck’s residents

⁶⁸On different views about whether Hamtramck citizens understood the ballot language, see Buttry, interview; Majewski, interview. Sharon Buttry believes the vote may well have gone the other way had people fully understood the ballot. Council President (now Mayor) Majewski thinks people understood what they were doing, and that the vote properly reflected the will of the people. Even the *Detroit Free Press* was confused by the ballot language. On July 16, 2004, its editors corrected a previous article that had gotten the ballot language wrong, mixing up the meanings of a “no” or “yes” vote. See “Getting It Straight,” *Detroit Free Press*, July 16, 2004. Sources that interpreted the vote as a symbolic affirmation include Ulman, interview; Buttry, interview; and Majewski, interview. Abdul Motlib made his comments about God in a conversation with the author, July 12, 2004. Also see Motlib, interview. Ihsan Bagby describes three attitudes of American Muslims toward American society— isolation, insulation, and assimilation. Abdul Motlib appears to have shifted toward a more assimilationist stance through this dispute. See Bagby, “Isolate, Insulate, Assimilate: Attitudes of Mosque Leaders toward America,” in *A Nation of Religions*, ed. Stephen Prothero, 23-42 (Chapel Hill: University of North Carolina Press, 2006).

generally have learned to live with the call, though they undoubtedly continue to hear it in different ways. Despite its contentious beginnings, the *azan* seems mostly to have faded into Hamtramck's background, its sounds no more noticed than those of nearby church bells. As Muslims have claimed an increasingly public place in Hamtramck, perhaps the *azan* no longer has sounded quite so out of place.⁶⁹

Conclusion

When Abdul Motlib petitioned the Hamtramck Common Council for permission to broadcast the *azan*, he did not anticipate the intense discord that followed. "This was a very small issue," he has explained to me, "We thought we'd start a call to prayer." The call to prayer had functioned as background noise in the country where Motlib was born, a religious ritual that also regulated the rhythms of daily life. When Motlib proposed to introduce this religious sound into Hamtramck, however, into a city that was struggling to

⁶⁹The council has received a few complaints about the volume of the call to prayer at the Yemeni mosque in Hamtramck's south end. Neighbors also complained that the mosque was broadcasting the call before 6am and after 10pm. The city attorney sent a letter to the mosque, instructing it to comply with the ordinance's restrictions. Various Hamtramck residents described this back-and-forth as a game of sorts. The mosque would test the limits of the ordinance until neighbors complained. This seems consistent with what happened in Dearborn following the court case there. See Majewski, interview; Polish-Catholic Hamtramck resident, interview; Correspondence from James P. Allen to Dr. Abdul Kareem Al-Gazali, July 6, 2005 (copy on file with author); "City Needs to Crack Down on Noise," *Hamtramck (MI) Citizen*, April 12, 2005; Charles Sercombe, "Wake Up Call Comes Too Early," *Hamtramck (MI) Citizen*, July 6, 2005. The *azan* dispute also resurfaced unexpectedly during the November 2007 city council election. Each of the candidates tried to portray themselves as supporters of the *azan*. Even those who had opposed the noise ordinance amendment argued that they were opposed to the restrictions that the council had placed on the *azan*, not the *azan* itself. The issue also resurfaced following the election. In response to complaints about noise emanating from a local pizza parlor, the council debated whether to adopt a new noise ordinance that would set objective decibel limits. Some council members expressed concern about what a new ordinance would mean for Hamtramck's churches and mosques. They also used the opportunity to express their concerns about the time, place, and manner restrictions that the 2004 ordinance had enacted. Disagreement lingered about whether the 2004 ordinance had been necessary and whether it was in the best interests of Hamtramck's religious institutions. The council failed to adopt a new ordinance, so the 2004 ordinance still stands. See Charles Sercombe, "City Seeks to Fine Tune Noise Law," *Hamtramck (MI) Citizen*, November 21, 2007. Also see the discussion of these debates on the "Hamtramck Star," an on-line blog that covers Hamtramck politics, <http://hamtramckstar.com>.

redefine its civic identity in response to rapid demographic and political changes, many listeners heard it as distinctly out of place. But the council's decision to accommodate this practice enabled Muslim newcomers to make the *azan* "at home" in Hamtramck. And as they claimed acoustic space for the call, they placed themselves in their new community. Attending to this dispute thus has offered a useful case study for considering how religious immigrants have used public sounds to make place. As the *azan*'s call resounded alongside the chimes of church bells, Muslims contributed to re-constituting Hamtramck's civic identity.⁷⁰

Scholarship on religion and sound generally has concentrated on how sounds function within particular bounded religious traditions. But as I explore further in chapter 5, this case study has encouraged attention to the ways that sounds cross boundaries between public and private, mediating contact among diverse religious communities and shaping the terms of their encounters. In Hamtramck's pluralistic public spaces, the *azan* was not reaching a uniform audience of willing Muslim hearers. Instead, the *muezzin*'s call constituted a heterogeneous acoustic community of diverse listeners who did not hear or respond to the *azan* in the same way. And through their differences, they contested the place of Muslims, Christians, and religion in their city. They contested who had the right to hear and to be heard.

In chapter 3, I suggested that loudspeakers offered religious dissenters a critical means for making their voices heard, but that loudspeakers also could dominate space with sound, infringing on the rights of unwilling listeners. Similarly, many Hamtramck neighbors objected to the *azan* simply because they heard it as too noisy, as an

⁷⁰Motlib, interview.

unnecessary aural annoyance. They saw no reason to exempt the *azan* from Hamtramck's municipal ordinance. But as in other disputes, the noise complaints also functioned to circumscribe the public place of these religious others. As I discussed in chapter 1, noise complaints frequently have targeted classes or types of people who threaten the prevailing social order. Indeed, Hamtramck complainants sought to keep these religious newcomers quiet by demarcating their sounds as noise. They sought to keep Islamic practice in its place. Some of the *azan*'s critics argued that religious sounds did not belong in public at all. They asserted a right to *choose* the extent to which they would have to encounter religious difference or to engage with religious others. But they ignored the chimes of church bells that already dominated Hamtramck's religious soundscape, redefining them as secular once their public presence became problematic. Other critics heard the *azan* as displacing Christians from American public life. They heard the *azan* announcing Muslim presence *and* power, as signaling a threat to the nation that had to be contained. But in each of these cases, complainants responded to the *azan* by trying to re-fortify boundaries between public and private and among religious communities. Their complaints sharpened distinctions between "us" and "them," between "our" sounds and "theirs."

But the *azan*'s call also crossed and blurred the boundaries among diverse religious communities. As I discuss more extensively in chapter 5, attending to this case study complicates essentialized notions of religious identity that assume fixed differences between traditions. It encourages us to note that the *muezzin* today calls Hamtramck Christians to pray five times a day, just as church bells invite Hamtramck Muslims to worship. Participants in the Hamtramck dispute made clear that they did not all hear the

azan announce the same thing, but most heard it announce *something*. Regardless of how they responded, they all responded in some way to its call. As I have discussed, many of the *azan*'s proponents even hoped that Hamtramck residents would listen consciously to the *azan* as it spilled over into public space. Many of them hoped that Christians, too, would feel called to pray. Many of the *azan*'s advocates heard in the call an opportunity to re-fashion collective identities and to rethink what it meant to be American religiously. They imagined the public chords of religious difference joining in harmony, signaling new pluralistic possibilities. If hearing the *azan* prompted some listeners to sharpen distinctions and to fortify boundaries, then it invited others to mute differences and to draw new lines altogether.

Through this dispute, then, participants contested religion's place in an increasingly pluralistic society. And because it was resolved through political processes, rather than by judicial intervention, this case study has offered a particular opportunity for attending to the concrete processes through which Americans have negotiated difference and managed conflict. During the council meetings, Hamtramck residents expressed popular understandings of religious freedom, of pluralism, and of toleration, and these understandings had real effects, shaping the terms on which disputants engaged each other. But participants also appealed to these discourses in ways that were shaped by concerns and interests particular to Hamtramck's distinctive history and identity. By attending to this case study, then, we have been able to listen in on how broader debates about American religious identity have played out in particular local contexts. We have been able to listen in on how ordinary Americans have responded to the sounds of religious difference.

Today, the discord of the *azan* dispute mostly has faded away. But Hamtramck residents continue to struggle with disorienting change. Local observers estimate that thousands of new immigrants have arrived since the 2000 U.S. Census, and the aging Polish-American community has continued to decline. “When I go back to Hamtramck,” says Father Stanley Ulman, who has since been transferred to a suburban parish, “I see more and more of the Muslim influence. More and more shops. Fewer and fewer Poles. I see the Muslim, the Pakistani, the Bangladeshi influence much stronger.” Hamtramck’s public schools are struggling to meet the needs of a diverse student body that speaks close to thirty different languages. City council elections continue to be fiercely contested, with Bangladeshi and Yemeni names now appearing regularly on ballots alongside Polish names. But many of the recent immigrants also have begun to move to the suburbs, like the Germans and Poles before them. The city’s future seems fraught with uncertainty. Yet the *azan* continues to call Hamtramck to pray, claiming its place on the local soundscape alongside the peal of church bells, the jingles of ice cream trucks, and the melodic lilts of Polish polkas. As the *azan* enters Hamtramck’s streets, it continues to mediate encounters among diverse citizens who hear it in different ways. And how Hamtramck residents manage their community’s increasing diversity may depend, in part, on how they choose to respond to the *azan*’s call.⁷¹

⁷¹Ulman, interview.

CHAPTER 5

RELIGION OUT LOUD: MAPPING AND CROSSING BOUNDARIES

“It’s not your imagination.” That was the message whispered to New York City pedestrians as they passed by a billboard advertising a new network television show in 2007. The billboards employed speakers that used the human skull as a receiver, emitting sounds at a frequency that only an individual passerby could hear. Known as “hypersonic sound projection,” this new technology potentially will be able to transmit messages at great distances—messages that will reach only targeted listeners. Its advocates claim that it might prove invaluable for search and rescue missions, enabling emergency service workers to communicate with stranded victims of natural disasters, or for car dashboards, transmitting directions or warning signals to easily distracted drivers. Civil rights advocates already are concerned about its potential abuses, however. They fear that this technology will contribute to the gradual eroding of personal privacy, transforming the body into an involuntary receiver and causing it to resonate in response to emitted signals. The technology’s detractors also have imagined how the military or police might deploy it to control crowds. They fear that hypersonic sound projection might constitute the next frontier in state surveillance and mind control.¹

¹Clive Thompson, interview by Brooke Gladstone, “Head Space,” *On the Media*, WNYC, December 14, 2007.

For the foreseeable (fore-hear-able?) future, however, commercial marketers are most likely to exploit this new technology, as in the case of the New York City billboard. Similar to the futuristic billboards depicted in the 2002 movie *Minority Report*, hypersonic sound projection might enable advertisers to target individual consumers with personalized messages. But could religious institutions also deploy this technology effectively? On the one hand, broadcasting religious messages directly into the heads of unwilling listeners might exacerbate the kinds of problems that I have discussed in this dissertation. But on the other hand, perhaps this technology might offer a solution to these religious noise disputes if broadcasters were to target only willing listeners. Perhaps churches and mosques might broadcast announcements directly to those who chose to be called to pray. Preachers might transmit their sermons directly to those who wished to listen. Methodists would not have to be awakened by Episcopalian bells, Catholics could avoid listening to the Islamic *azan*, and Sunday afternoon park-goers might find their picnics undisturbed by unwelcome proselytizing. In short, religious communities might produce sound without making noise.²

Hypersonic sound projection would fundamentally transform these auditory religious practices, however. No longer would these sounds be public in quite the same way, no longer would they constitute a heterogeneous audience of diversely religious hearers, and no longer could they be accused of being too loud (though they might prove objectionably invasive). Perhaps most significant, no longer would they have the kind of unintended effects on unintended audiences about which Immanuel Kant once

² Religious communities already have begun to employ mobile-phone applications in these ways. For example, according to one recent report, the “most popular religious app by far is Azan, which alerts Muslims five times a day that it’s time to pray.” Lisa Miller, “Is That a Bible in Your Pocket?,” *Newsweek*, May 4, 2009, 12.

complained. In his *Critique of Judgment*, Kant compared the visual and musical arts and expressed his preference for the former because they provided the viewer with the choice to look away, whereas music “scatters its influence abroad to an uncalled-for extent (through the neighborhood), and thus, as it were, becomes obtrusive and deprives others...of their freedom.” Sound impinged on personal autonomy, Kant maintained. In the footnote that followed, he emphasized this insight’s implications for religious auditory practices: “Those who have recommended the singing of hymns at family prayers have forgotten the amount of annoyance which they give to the general public by such *noisy* (and, as a rule, for that very reason, pharisaical) worship, for they compel their neighbors either to join in the singing or else abandon their meditations.”³

Like many of the complainants in the case studies that I have discussed, Kant objected to religion practiced out loud because he would have no choice but to hear sounds crossing beyond the contained confines of church or home. Auditory religion could not be avoided as easily as visual displays, he insisted, for sound did not offer the listener freedom to turn away, “compelling” him instead to “abandon [his] meditations.” Moreover, such worship was “pharisaical,” overly concerned with ritual practice instead of belief or meaning, inappropriately and ostentatiously public. It constituted noise, an acoustic annoyance to the surrounding neighborhood, and not religion properly conceived. And yet Kant also expressed his concern that he might feel compelled “to join in the singing.” Kant interpreted auditory religion not merely as noise, but as an invitation to participate, as a call to pray that demanded response. As the sounds of religion practiced out loud spilled over into public spaces, they would mediate contact

³Immanuel Kant, *The Critique of Judgment*, trans. James Creed Meredith (Oxford: Oxford University Press, 1952), 195-6.

among diverse hearers, constituting a heterogeneous acoustic community among those within range. Kant's provocative footnote thus implicitly identifies the ways that religious sounds cross and blur boundaries between public and private, among diverse religious communities, and between religion and non-religion.

The purpose of this chapter is to consider how religious sounds map and cross these three symbolically significant and pragmatically useful boundaries. In the preceding chapters, I delved into particular disputes in order to interpret what it meant to hear religious sounds as noise, what it meant to hear religious sounds as "out of place," in particular historical contexts. I argued that through these disputes, opponants contested and negotiated the proper place of religion and religious adherents amidst changing social conditions. But in this chapter, I step back to reflect more broadly on these noise disputes, to identify some of the common themes that bridge their notable differences. In particular, I examine how contestants aimed to draw clear lines between public and private, between religion and religion, and between religion and non-religion. But I also attend to how the disputed sounds crossed and collapsed these boundaries almost precisely as they were demarcated. First, I consider how complainants conceived of religion as private and voluntary while these case studies offer a conception of legitimate religion as in fact public and involuntary. Next, I examine how participants constructed collective identity in relation to the disputed sounds while these sounds also blurred communal boundaries. Finally, I consider how contestants differentiated religion from non-religion and how they negotiated religion's meaning in relation to the similarly indeterminate category of noise. In each of these case studies, I find that listening to

religious sounds underscores the shifting and permeable boundaries of American religious life.⁴

Public and Private

Americans have long conceived of religion as properly private and voluntary. This notion has prompted numerous complaints about public religious sounds. But in this section, I consider how religious noise disputes also have unsettled these dominant assumptions. Theorists of “the public” have engaged in long-standing debates about whether the public and private stand in rigid opposition to each other, about whether publics are singular or multiple, and about how religion’s place in public life should be normatively defined. My interest in this section, however, is to analyze the notion of the public that emerges from these sound disputes and to consider its implications for the study of religion. I find that in these case studies, the public defined particular places, which contestants invested with meaning through particular embodied practices. But sound mapped these public spaces’ boundaries dynamically, complicating efforts to locate religion’s place within them. And, perhaps most critically, these public places were not necessarily constituted by choice. Contrary to dominant assumptions that American religion is private and voluntary, therefore, I find that these case studies offer a conception of legitimate religion as in fact public and involuntary.

Attempting to demarcate a clear boundary between public and private has constituted a central feature of modern social order. As the political theorist Jeff

⁴For a theory of religion that emphasizes how religion both marks boundaries and mediates crossings, see Thomas A. Tweed, *Crossing and Dwelling: A Theory of Religion* (Cambridge, MA: Harvard University Press, 2006). Tweed uses aquatic metaphors to emphasize religion’s boundary-crossing propensities, while I have called attention to the auditory.

Weintraub describes it, “The public/private distinction stands out as one of the ‘grand dichotomies’ of Western thought, in the sense of a binary opposition that is used to subsume a wide range of other important distinctions and that attempts (more or less successfully) to dichotomize the social universe in a comprehensive and sharply demarcated way.” Most important for the purposes of this project, the public/private distinction regularly has been advanced as a solution to the “problem” of religion in a plural culture. This arrangement makes space for religious differences by confining them to a protected but marginalized private sphere and has its roots in the history of early modern Europe. As one version of this story goes, religious identity was gradually disentangled from political identity in the wake of the religious wars that followed the Protestant Reformation, and liberal political frameworks emerged that rendered religion non-threatening by imagining it as properly individualistic, private, and increasingly irrelevant.⁵

This account proved critical to the historical development of religious liberty and toleration in the United States. Historians such as Sydney Mead and Thomas Curry have described constitutional disestablishment as the product of an alliance between eighteenth

⁵Jeff Weintraub, “The Theory and Politics of the Public/Private Distinction,” in *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy*, ed. Jeff Weintraub and Krishan Kumar, 1-42 (Chicago: University of Chicago Press, 1997), 1, quoting Norberto Bobbio, “The Great Dichotomy: Public/Private,” in *Democracy and Dictatorship* (Minneapolis: University of Minnesota Press, 1989). On the public/private divide as constitutive of religion’s place in the modern social order, also see Jose Casanova, *Public Religions in the Modern World* (Chicago: University of Chicago Press), 1994, especially chapter 2. For a discussion and critique of the public/private divide as offering a solution to interpreting religion’s place in plural culture, see John F. Wilson, “The Public as a Problem,” in *Caring for the Commonweal: Education for Religious and Public Life*, ed. Parker J. Palmer, Barbara G. Wheeler, and James W. Fowler, 9-22 (Macon, GA: Mercer University Press, 1990). Also see Richard A. Shweder, Martha Minow, and Hazel Markus, eds., *Engaging Cultural Differences: The Multicultural Challenge in Liberal Democracies* (New York: Russell Sage Foundation, 2002), especially the introductory essay. For a provocative critique of the dominant historical narrative that describes the gradual rise of religious toleration as the product of the European Enlightenment, see Benjamin J. Kaplan, *Divided by Faith: Religious Conflict and the Practice of Toleration in Early Modern Europe* (Cambridge, MA: Harvard University Press, 2007).

century rationalists and Protestant evangelicals. Both groups conceived of religion as a private matter between an individual and God and thus beyond the scope of civil government's power. As Thomas Jefferson wrote in his *Notes on the State of Virginia*, "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg." Properly conceived as a matter of freely chosen belief, one's religious commitments made little difference for anyone else, Jefferson implied. As long as religion did no "injury" to others, it bore no public relevance.⁶

In 1844, the Presbyterian minister and historian Robert Baird celebrated—and defined the limits of—American religious liberty in similar terms. "The Christian," Baird wrote, "be he Protestant or Catholic, the infidel, the Mohammedan, the Jew, the Deist, has not only all rights as a citizen, but may have his own form of worship, without the possibility of any interference from any policeman or magistrate, provided he do not interrupt, in so doing, the peace and tranquility of the surrounding neighborhood." Baird acknowledged that religious freedom entailed practices and not merely beliefs, but he implied that such practices were best kept private, contained behind the concrete walls of religious institutions or homes and away from the pluralistic spaces of public life. As long as religion did not disturb "the peace and tranquility of the surrounding neighborhood," then it remained irrelevant to others. In both the cases of Jefferson and Baird, prescriptive and descriptive language overlapped. Like many other historical

⁶Thomas Jefferson, "Notes on the State of Virginia" in *Thomas Jefferson: Writings* (New York: The Library of America, 1984), 285; Sidney E. Mead, *The Lively Experiment: The Shaping of Christianity in America* (New York: Harper & Row, 1963); Thomas J. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment* (New York: Oxford University Press, 1986).

thinkers, they each described religion's normative boundaries in such a way as they deemed necessary for accommodating and circumscribing religious differences.⁷

In the noise disputes that I have discussed, complainants alleged that religious sounds had crossed this normative boundary between public and private, and they responded by trying to reinforce it, frequently echoing the language of Jefferson and Baird in the process. For example, St. Mark's Church's neighbors admitted that bell-ringing might have a long history, but denied that it might be considered above the law. "No one is permitted...to do an act which is unlawful in itself," they maintained, "nor does the law of the land tolerate injuries to person or property because of any persuasion on the part of the wrong-doer that the act is necessary as a fulfillment of a duty on his part, even though it be a religious duty." Like Jefferson, they argued that the right to practice religion freely ended as soon as such practice "did injury" to others, and they insisted that noise constituted real injury.⁸

In Lockport and Hamtramck, many of the opponents went out of their way to affirm their commitment to religious freedom and toleration. Like Baird, they insisted that individuals had a right to believe and worship as they pleased, provided they not interrupt the "peace and tranquility of the surrounding neighborhood." They claimed no grievances against Jehovah's Witnesses or Muslims, but merely aimed to keep them quiet, to circumscribe the normative boundaries of their practice. As I noted in chapter 4,

⁷ Robert Baird, *Religion in America; or, an Account of the Origin, Relation to the State, and Present Condition of the Evangelical Churches in the United States, with Notices of the Unevangelical Denominations* (New York: Harper & Brothers, 1856), 645.

⁸ *Report of [George L.] Harrison et al. vs. St. Mark's Church, Philadelphia: A bill to restrain the ringing of bells so as to cause a nuisance to the occupants of the dwellings in the immediate vicinity of the Church: In the Court of Common Pleas, no. 2. In Equity. Before Hare, PJ, and Mitchell, Associate J.* (Philadelphia, 1877), 4-5.

there have been several other situations in which municipal governments have permitted American Muslims to build mosques only after promising never to broadcast the call to prayer. In these instances, neighbors put up with religious differences provided they remained confined to discrete religious institutions. But they resisted and regarded as inappropriate public pronouncements that intruded audibly into public space. They imagined religion as “private” either in the sense that it properly was a matter of belief between an individual and God, or that it properly was practiced behind the closed doors of particular buildings, set off and apart from the “secular” spaces of common social life. “Public religion” thus pushed against widespread assumptions about how religious groups were expected to behave in the United States.

These noise disputes hinged on competing conceptions of religion’s proper place—or conflicting notions of which spaces were properly invested with religious meaning. In *American Sacred Space*, Chidester and Linenthal argued that Americans can construct “virtually any place” as sacred, citing schools, museums, homes, and cemeteries as examples. But as we have found, Americans also regularly have contested the audible sanctification of certain spaces. In my case studies, complainants cared deeply about *where* they heard the sounds in question. Hearing sounds as noise depended in large part on hearing them as “out of place”—or on hearing religion as out of place, as improperly public. Complainants did not *expect* to encounter religion in these particular public contexts.⁹

In these case studies, therefore, “the public” emerges as a description of particular places, invested with meaning through particular auditory practices. This conception

⁹David Chidester and Edward T. Linenthal, eds., *American Sacred Space* (Bloomington: Indiana University Press, 1995), 14.

diverges from that of many public sphere theorists. For example, Jurgen Habermas, who is widely credited with reinvigorating debates about the public's meaning among American political and social theorists, imagined the public sphere as a third space between the state and the private in which communication could serve as the basis for will-formation. Although Habermas chose a distinctly spatial metaphor in describing the public as a "sphere," his conception mostly disregards the material realities of how people negotiate actual geographic spaces. By describing the public sphere as a singular, abstract, disembodied, discursive realm, he implicitly frames questions about public religion solely in terms of truth claims. Religion becomes something that is believed and talked about.¹⁰

But in these noise disputes, participants responded to the sounds of religious practices and debated how these sounds affected the "public" character of particular places. They debated religion's place in American public life as a question of when and where it was appropriate to hear religious devotion. They responded to religion as practiced rather than as believed. Such a notion resonates more sympathetically with how Sally Promey describes public religion in her essay, "The Public Display of Religion." A practice or display is public, Promey proposes, to the extent that it may be seen by others. Promey interprets the public not as "one term of a static, paired opposition (as in public versus private)," but instead as "one direction along a conceptual, practical, and experiential continuum of accessibility." Practices are thus not simply public or private, she argues, but rather more or less public depending on the degree to

¹⁰For Habermas' most influential writing on the public sphere, see Jurgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge, MA: MIT Press, 1989). Also see Craig J. Calhoun, ed, *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992).

which they are visible. Similarly, we might define religious sounds as public to the extent to which they are audible to others. And I have suggested that religious sounds are heard by multiple audiences, who respond to them and interpret their meanings in multiple ways. Promey likewise emphasizes that “no rhetorically all-inclusive ‘public’” underlies her argument. Instead, she suggests that public displays of religion are viewed by and constitute multiple publics, which can change over time. “Whenever something is set out for others to see,” she writes, “what they see depends on both who they are and on what is displayed. The plurality of publics for the display of religion increases the contingency of the display’s significance.” Promey thus calls attention to public religion’s inherently unstable and unpredictable meanings, which emerge from numerous perceivers’ active engagement with each other and with the object of their attention.¹¹

Promey’s expansive conception of the public seems useful for interpreting these religious noise disputes. But her exclusive emphasis on the visual undercuts the force of her argument, since sight maps a relatively static conception of space, set out before the viewer for inspection. Attending to religion as auditory practice, as heard rather than seen, offers a more dynamic understanding of public space. As the cultural geographer Paul Rodaway describes it, “Acoustic space is dynamic, not static. It is an appearing and disappearing of sounds, of single sounds and sounds voicing together. It is a world of nothing but action.” Indeed, soundfields are fluid and constantly changing, mapping a complex, shifting geography that is distinct from spatial maps organized along visual lines.¹²

¹¹Sally M. Promey, “The Public Display of Religion,” in *The Visual Culture of American Religions*, ed. David Morgan and Sally M. Promey, 27-48 (Berkeley: University of California Press, 2001), 31-33.

¹²Paul Rodaway, *Sensuous Geographies: Body, Sense, and Place* (London: Routledge, 1994), 102-3.

In these religious noise disputes, the “public” defined particular places, but sound mapped these spaces dynamically, not statically. Attending to sound complicates efforts to locate religion and demarcate its proper place, for *where* exactly was “religion” in the case studies that I have analyzed? Sound travels through the air, produced in one place, yet heard in several others while also dissipating with time. Sounds such as church bells and the *azan* originate within the traditionally sacred spaces of the church and mosque, yet are heard throughout surrounding neighborhoods, blurring the boundary between inside and outside, public and private, religious and secular. In the Lockport case, the Jehovah’s Witnesses similarly used amplifying technologies to render religion portable, spilling over into the city’s streets, homes, and public parks. They could temporarily transform any place into a religious space, a site for amplifying difference and for expanding the boundaries of their acoustically-defined community.

Furthermore, listeners hear sounds with varying intensities, depending on position, distance from point of origin, environmental and architectural factors, and other acoustic properties. While visual displays such as religious architecture and works of art can seem relatively stable, sounds are ephemeral, produced and heard only at particular times. In fact, disputants regularly contested competing conceptions of sacred time through these disputes about noise. In Philadelphia, for example, the leaders of St. Mark’s Church asserted their right to ring bells every day of the week, while the Pennsylvania Supreme Court restricted their sounding to particular religious and civic festivals. Through these differences, disputants debated whether religion properly belonged in the midst of social life or set off as distinct and apart. In Lockport, the Jehovah’s Witnesses similarly asserted a right to preach the gospel every day of the

week, yet their opponents complained that the sounds of their preaching actually desecrated the Sabbath peace. In Hamtramck, the *azan*'s advocates compared its regulation of time to the regular ringing of church bells, while complainants insisted that the city's bells marked "secular" time, not religious time. And while many Hamtramck Muslims heard the *azan* as a regularly recurring, five-times-a-day reminder to pray, many of their non-Muslims opponents heard it as an irregular irruption, unfamiliar with its solar-based rhythms.

All of this is simply to say that "soundfields" are not static, but are fluid and constantly changing, distinct from spatial maps drawn along visual lines. When we listen to religious sounds, we confront a complex, shifting, and contested sacred geography. In these disputes, contestants aimed to demarcate religion's proper place by locating it in space and time, yet they could not fix nor circumscribe auditory religion's boundaries so easily. Keeping religion private meant keeping its auditory practices out of particular public places, yet sounds mapped the boundaries of those spaces dynamically and often unpredictably. Sound regularly crossed the very boundaries that were meant to contain it.

If sounds map the boundaries of public space dynamically, then they also imply a conception of publicity that is *not* necessarily defined by choice. Complainants in these disputes repeatedly protested that they could not shut their ears to the sounds that spilled over into public space. In many cases, they objected to public sounds precisely because they were unavoidable. This question of *choice* proved critical, complicating theories of the public that implicitly assume or take for granted its voluntary constitution. For example, Michael Warner has argued that a public is self-organizing, constituted merely through the act of paying attention, existing only "by virtue of being addressed." Warner

defines the public not in spatial terms, but as a mode of address, as a cultural form that mediates relationships among strangers engaged in reading similar texts. This conception offers an alternative means for interpreting these noise disputes, focusing our attention not on *where* these practices were heard, but on *to whom* they were addressed. Or, to put it another way, Warner might encourage us to consider not only the audience that broadcasters intended to target, but also who considered themselves addressed by these sounds, whether intended or not, an issue to which I will return in the next section.¹³

But Warner argues that publics are “united through the circulation of their discourse” and that “the idea of a public” is necessarily “text-based.” Although he defines “texts” broadly enough so as potentially to include the kinds of auditory announcements at issue in these disputes, his notion of texts assumes that they are consciously picked up and read. “A public is constituted through mere attention...,” he insists, “The cognitive quality of that attention is less important than the mere fact of active uptake.” Warner implies that publics are self-organized voluntarily, that individuals freely choose which texts to read and respond to and thus in which publics to participate. I would suggest that Promey’s exclusive focus on the visual achieves much the same effect, for seeing always involves an element of choice. Individuals must turn their bodies in a certain way and choose to keep their eyes open. Individuals likewise can choose whether to enter a church, mosque, or other house of worship. But hearing seems different, for individuals cannot choose as readily what sounds they hear on city streets. As Rodaway describes it, “Auditory phenomena penetrate us from all directions at all times. The auditory perspective is not linear but multidirectional.” In his *St. Mark’s*

¹³Michael Warner, *Publics and Counterpublics* (New York: Zone Books, 2002), 67.

bells decision, Judge Hare made a similar point when he wrote, “Light may be shut out, and odors measurably excluded, but sound is all-pervading.” In other words, the publics constituted by sound are not necessarily constituted by choice.¹⁴

In each of my case studies, opponents assumed a right to regulate what sounds they would have to hear in public spaces, yet they repeatedly found this expectation confounded. In Lockport, for example, park-goers distinguished the sounds of the Lutheran rally from the Jehovah’s Witnesses’ preaching because individuals had chosen to attend the former, while they could not avoid the latter. In Hamtramck, some of the most vocal opponents complained that the *azan* violated their right to be shielded from religious difference. They assumed that religion was properly private and voluntary, that it properly was a matter of personal choice. Therefore, they objected to having to hear the sounds of religious others. For the *azan*’s proponents, however, the competing chords of religious variety merely made audible the realities of American pluralism. These disputants advanced conflicting notions of the nature of public space. The auditory announcements’ defenders imagined public places as necessarily polyphonic and noisy, as spaces for amplifying difference. But opponents aimed to shelter public spaces from the particularistic sounds of religious variety. They circumscribed religion’s boundaries, confining it to certain times and places where individuals could choose how and whether to encounter it. They aimed to protect public spaces from potentially chaotic cacophony.¹⁵

¹⁴Warner, *Publics and Counterpublics*, 67-8, 86-7; Rodaway, *Sensuous Geographies*, 92; *Harrison v. St. Mark’s*, 490.

¹⁵Mark M. Smith similarly has studied racial segregation as an effort to regulate sensory contact with racial others in public spaces. See Mark M. Smith, *How Race is Made: Slavery, Segregation, and the Senses* (Chapel Hill: University of North Carolina Press, 2006).

But interpreting these noise disputes in this way perhaps reaffirms Warner's argument that publics are constituted voluntarily. Hamtramck opponents certainly were listening consciously to the sound of the *azan*, for example. Although they may not have chosen whether to hear it, they did choose, in a way, to consider themselves part of the public to which the *azan*'s call was addressed. And they argued that religion properly was kept private. But in that case, defining publics as constituted by choice would render only certain religious sounds problematic, those to which attention was paid. Only those sounds which were *noticed* could be characterized as improperly public. However, the *azan* was not the only religious sound that spilled over into Hamtramck's streets. Similarly, the Jehovah's Witnesses' preaching was not the only public religious sound in Lockport. While critics complained that these sounds constituted noise and inappropriately intruded onto "secular" space, these same critics regularly ignored the chiming of nearby church bells. The sounds of religious dissenters stood out as aural annoyances, while the sounds of the historically dominant faded into the background. Church bells went unmarked and unnoticed, taken for granted, precisely as they participated in the acoustic construction of public space. Hearers did not even seem to realize that they had become part of the public constituted by the bells' chimes.¹⁶

In fact, what made Christianity public in these particular, dynamically defined spaces was precisely that no attention was paid to its sounds. Indeed, as soon as disputants noticed bells, they heard them as problematic and circumscribed their boundaries in various ways. In Philadelphia, for example, St. Mark's Church's leaders

¹⁶I purposely describe the church bells as "unmarked" in order to echo scholarship on "whiteness" that traces how whiteness came to be "unmarked" racially. For example, see Richard Dyer, *White* (London: Routledge, 1997).

presumed their right to make noise because they regarded bell-ringing as perfectly normal and unobjectionable. But as soon as neighbors complained, as soon as they paid attention to the sound of the bells, as soon as they complained that the bells had come to constitute noise, then a court intervened to restrict the bell-ringing to particular times. As soon as the bells were noticed, they became problematically public. In Hamtramck, Muslims analogized the *azan* to bell-ringing, calling attention to a practice that previously had gone unnoticed. And some opponents responded by redefining bells as secular, maintaining that their only function was to mark quarter-hour time increments. As soon as neighbors noticed the bells, therefore, as soon as neighbors paid attention to them, they rhetorically stripped the bells of their religious significance. They redefined the bells as not religious precisely because they were public and unavoidable. In each of these case studies, in other words, those religious sounds to which attention was paid were circumscribed as properly kept private, while those religious sounds that went unnoticed remained publicly permissible. Attending to these noise disputes thus has illuminated the concrete processes through which certain sounds—and groups—have become normative while others have been contested as “out of place.” It has raised critical questions about the construction of “secular” public spaces that regularly have been shaped by the sounds of certain religious groups and not others.

We find in these case studies, then, an important relationship between public sounds and social legitimacy. Contests over producing religious sounds publicly have hinged on who was engaged in the disputed noise-making and on the power to declare certain public sounds legitimate and others illegitimate. These disputes about religious noise centered on defining which sounds would be rendered publicly permissible and thus

whose sounds would become unavoidable. Defining publics in textual or visual terms has implied that they are constituted simply through choice. But such a notion renders problematic only those religious sounds to which attention is paid while ignoring the sounds of the historically dominant that go unnoticed. Attending to disputes about religious noise thus offers a different conception of the public and of religion's place in relationship to it. As I have argued, the public that emerges from these case studies defines particular places, mapped dynamically, but *not* necessarily constituted by choice. Americans have long conceived of religion as properly private and voluntary. Yet in these case studies, those religions that were deemed legitimate were precisely those which seemed public and involuntary, those whose sounds became unavoidable as they spilled over into public spaces. As I noted in chapter 4, for example, most of the Hamtramck residents with whom I have spoken claim no longer even to notice the sound of the *azan*. Perhaps Islam became public in that context precisely as neighbors stopped paying attention to it, precisely as its sounds came to resound alongside those of the city's church bells, acoustically shaping public spaces in remarkably unremarkable ways.

Religion and Religion

In the pluralistic, dynamically defined spaces of American public life, the sounds of bells, preaching, and the *azan* have been heard by both intended and unintended audiences, willing and unwilling listeners. These sounds have reached not only homogenous, bounded religious groups, but multiple, diverse hearing communities who have interpreted and responded to them in different ways. While scholarship on religion and sound generally has emphasized how auditory practices function within particular

religious traditions, this dissertation has encouraged attention to how sounds mediate contact, both blurring and reinforcing boundaries among religious communities. In this section, I consider how these audible announcements—and the conflicts they prompted—generated social spaces for constructing, negotiating, and reconfiguring individual and collective identities, processes that proved fluid and varied.

On the one hand, these public sounds offered an important site for demarcating difference. Scholarship on religious auditory cultures has emphasized how groups have created their “own” sounds in order to mark the boundaries of communal membership. For example, Charles Hirschkind has examined how cassette sermon tapes constitute modern Muslim subjects. Grant Wacker has discussed how speaking in tongues provided “audible proof of baptism” for early twentieth-century American Pentecostals. Michael McNally has argued that hymn-singing offered an important spiritual resource for Native Americans resisting colonialism. And Daniel Ramirez has studied the sonic world of U.S.-Mexico borderlands religion and found that Latino Pentecostals borrowed elements from Anglo-Protestant, African-American, and Mexican traditions to forge a distinct musical style. In fact, after surveying musical traditions across a wide range of American ethnic and religious communities (including Muslims, Jews, Chinese Christians, Old Regular Baptists, Maine Wabanakis, and Russian Orthodox), the editors of a recent volume presumed music’s role in constructing collective identity to be so strong that they concluded that “American religious experience is fundamentally communitarian, that it depends on the ways music shapes and bounds communities of believers.”¹⁷

¹⁷Philip Bohlman, Edith Blumhofer, and Maria M. Chow, eds., *Music in American Religious Experience* (New York: Oxford University Press, 2006), 12-13. Charles Hirschkind, *The Ethical Soundscape: Cassette Sermons and Islamic Counterpublics* (New York: Columbia University Press, 2006); Grant Wacker, *Heaven Below: Early Pentecostals and American Culture* (Cambridge, MA: Harvard University Press,

In my case studies, religious devotees similarly constructed identity in relation to their “own” sounds. As I have argued in preceding chapters, sounds such as church bells, the *azan*, and public preaching oriented listeners in space and time, acoustically mapping the boundaries of communal membership. But as these sounds reached heterogeneous audiences in pluralistic public spaces, listeners also fashioned identity in relation to or in opposition to others’ sounds. Demarcating which sounds were *not* one’s own proved at least as significant as demarcating one’s own sounds. In Philadelphia, for example, St. Mark’s neighbors came to define bell-ringing as unnecessary for Christian life in response to the odious clamor of a church that most of them did not attend. “We” did not need such auditory reminders, they implied. In Hamtramck, contestants debated whether Christians also might affirm the *azan*’s substantive message, seizing the opportunity afforded by the city council hearings to articulate theological differences. Moreover, in both Hamtramck and Lockport, many Christian listeners differentiated the inoffensive chimes of church bells from the racket of the Witnesses’ preaching or of the *azan*. “Our” sounds were not simply noise, they maintained.

Distinguishing one’s “own” sounds from the sounds of “others” marked religious difference. Jonathan Z. Smith has argued that “The most common form of classifying religions, found both in native categories and in scholarly literature, is dualistic and can be reduced, regardless of what differentium is employed, to ‘theirs’ and ‘ours.’” In these

2001), 39-40; Michael McNally, “The Use of Ojibwa Hymn-Singing at White Earth: Toward a History of Practice,” in *Lived Religion in America: Toward a History of Practice*, ed. David D. Hall, 133-159 (Princeton: Princeton University Press, 1997); Daniel Ramirez, “Alabare a Mi Señor: Hymnody as Ideology in Latino Protestantism,” in *Singing the Lord’s Song in a Strange Land: American Protestant Hymnody*, ed. Edith Blumhofer and Mark Noll, 196-218 (Tuscaloosa: University of Alabama Press, 2004). For the purposes of this dissertation, I have not found it necessary to distinguish music from the broader sonic world of religious devotion, though if I were pressed for a minimal working definition, I might suggest that music is “patterned sound.”

case studies, participants mapped religious boundaries by classifying sounds as “ours” and “theirs”—and as correspondingly welcome and unwelcome. This indicates, in part, the important work that complaints about “noise” performed. Historian Robert Orsi warns, “The mother of all religious dichotomies—us/them—has regularly been constituted as a moral distinction—good/bad religion.” Distinguishing “our” sounds from “their” sounds similarly reinforced evaluative hierarchies. “Our” sounds were pleasing, necessary, melodious, and meaningful. “Their” sounds were offensive, unnecessary, disruptive, and meaningless. “Their” sounds were *noise*. Attending to public religious sounds thus offers a concrete vehicle for studying how Americans have marked and policed the boundaries of religious difference.¹⁸

But at the same time, public sounds crossed these lines precisely as disputants worked to fortify them. Sounds demarcated difference, but they also collapsed boundaries between self and other. Listeners may have differentiated “our” sounds from “theirs,” but they still all were hearing the same sounds. They did not agree about who constituted these sounds’ intended audience. But diverse hearers still considered themselves similarly addressed by the same sounds and felt called to respond to them,

¹⁸Jonathan Z. Smith, “Religion, Religions, Religious,” in *Critical Terms for Religious Studies*, ed. Mark C. Taylor (Chicago: University of Chicago Press, 1998), 276; Robert Orsi, *Between Heaven and Earth* (Princeton: Princeton University Press, 2005), 183. Other scholars also have considered how groups respond to the sounds of religious others. For example, Paul Moore has studied the different sounds associated with Catholics and Protestants in Northern Ireland. Paul Moore, “Sectarian Sound and Cultural Identity in Northern Ireland,” in *The Auditory Culture Reader*, ed. Michael Bull and Les Back, 265-80 (Oxford: Berg, 2003). Shane and Graham White have studied how whites responded to the sounds of black slave religion. Shane White and Graham White, ““At Intervals I was Nearly Stunned by the Noise He Made”: Listening to African American Religious Sound in the Era of Slavery,” *American Nineteenth Century History* 1 (Spring 2000): 34-61. Laurie Maffly-Kipp has studied how nineteenth-century Euro-Americans found themselves alternately attracted to and discomfited by the novel sights, sounds, and smells of Chinese temples in the American West. Laurie Maffly-Kipp, “Engaging Habits and Besotted Idolatry: Viewing Chinese Religions in the American West,” *Material Religion* 1, no. 1 (2005): 66-91. And Leigh Eric Schmidt has described how non-evangelical Protestants responded to the sounds of evangelical revivals in the early nineteenth century. Leigh Eric Schmidt, *Hearing Things: Religion, Illusion, and the American Enlightenment* (Cambridge, MA: Harvard University Press, 2000).

engaging with each other in the process. These public sounds constituted an intersubjective relationship among diverse audiences, blurring the boundaries that separated them. When individuals heard the sounds of church bells or of the *azan*, they actually were participating in the act of being called to pray, whether willingly or not, and even as they interpreted its meaning in different ways. Whether they responded to these sounds positively, negatively, or indifferently, they still were responding in *some* way to the call. Differences mattered, but they also were muted in the common experience of hearing. Sounds were never simply “other.”

In other words, interpreting American religious diversity requires noting that what it means to be Catholic in Hamtramck, Michigan, today, is not only to listen to church bells but also to be called to pray by the *muezzin* five times a day. At the same time, part of what it means to be Muslim in Hamtramck is not just to heed the *azan*'s call, but also to respond to churches' chimes. Hamtramck Catholics and Muslims undoubtedly hear the *azan* differently, but so, too, do Muslims in Hamtramck and in Bangladesh. Different listeners interpret the meanings of these sounds in different ways, but these differences are shaped by the particular contexts in which these sounds are heard, not simply by pre-existing or eternally fixed religious divisions. By suggesting that sounds cross social boundaries, I do not mean to ignore or efface differences, therefore. Instead, I want to encourage attention to how diverse audiences have re-constructed and re-negotiated these boundaries when they have heard others practice religion out loud.

Attending to public sounds thus offers a model for interpreting diversity that avoids reifying difference. In recent years, anthropologists and social theorists have criticized classic conceptions of “culture” that treat discrete cultures as bounded,

meaningful wholes. Lila Abu-Lughod has faulted scholars for interpreting cultures as timeless, coherent, and homogenous, thereby reducing them to their essences and ignoring both internal heterogeneities and interconnections that cut across boundaries. Comparative studies of religion have been criticized in similar ways. For example, Richard King has suggested that in many cases, “Difference is perceived in oppositional rather than pluralistic terms, and differences between cultures become fetishized at the same time as internal heterogeneities within each culture are effaced.” When studies of American religious diversity adopt tradition-by-tradition structures, as is the case in many recent volumes, or when they consider discrete religious traditions in isolation from each other, they similarly risk essentializing religious differences, treating boundaries as necessarily fixed or pre-existing, rather than as actively constructed in situations of contact.¹⁹

At the same time, pluralism discourses that have sought commonalities across religious traditions have risked obliterating difference altogether. For example, many of the advocates for the Hamtramck noise ordinance amendment defended it in the name of religious pluralism. They argued that every religion had a way of calling its adherents to worship and that American law should make space for each of them. Muslims called the

¹⁹Lila Abu-Lughod, “Writing Against Culture,” in *Recapturing Anthropology: Working in the Present*, ed. Richard Gabriel Fox, 137-62 (Santa Fe, NM: School of American Research Press, 1991); King, *Orientalism and Religion: Postcolonial Theory, India, and ‘the Mystic East’* (London: Routledge, 1999), 188. My use of the terms “diversity” and “difference” follows, in part, Homi Bhabha, who distinguishes between cultural diversity, imagined as a pre-existing fact or condition, and cultural difference, understood as actively constructed and articulated in situations of contact. See *The Location of Culture* (London: Routledge, 1994), 49-50. Recent examples of the tradition-by-tradition approach in studies of American religious pluralism include Jacob Neusner, ed., *World Religions in America: An Introduction*, 4th ed. (Louisville, KY: Westminster John Knox Press, 2009); Diana L. Eck, *A New Religious America: How a “Christian Country” Has Now Become the World’s Most Religiously Diverse Nation* (San Francisco: HarperSanFrancisco, 2001); and Stephen R. Prothero, ed., *A Nation of Religions: The Politics of Pluralism in Multireligious America* (Chapel Hill, University of North Carolina Press, 2006), although each of these volumes also include a few thematically-organized chapters.

azan, they maintained, just as Christians rang church bells and Jews blew *shofars*, or ram's horns. But in the rush to celebrate commonality, they ignored significant differences between these auditory practices, differences shaped by particular historical and sociological forces. For example, Jews typically blast *shofars* only at particular times of year, especially around the autumn High Holidays, not as daily reminders to pray. More significant, perhaps, Jews rarely have sounded *shofars* beyond synagogue walls in areas where they have lived among religious others. This fact seems likely connected to Jews' historic status as a minority, facing frequent threats of persecution and discrimination. In some cases by prohibition, in other cases by choice, there were particular reasons why Jews did not audibly call attention to themselves in this way. Furthermore, according to one account of the *azan*'s origins, Muhammad chose the human voice as medium precisely in order to differentiate Muslims from Christians, who used bells and other instrumental sounds. The *azan* thus offered an important vehicle for early Muslims to fashion distinct religious identities. When Hamtramck disputants conflated the sounds of the *azan*, of church bells, and of the *shofar*, treating them all as particular manifestations of the same universal, cross-cultural phenomenon, they ignored the particular historical processes and practices through which differences had been constructed.²⁰

These problems related to essentializing religion have not been confined to discourses about pluralism. American legal discourse similarly has tended to reify

²⁰A Detroit Jewish writer discussed shofar usage in an editorial at the time of the *azan* dispute, writing, "In Judaism, the blast of the shofar welcomes and ends the High Holidays. But the curved horn of a ram is blown inside the synagogue, not over an outside loudspeaker." Robert A. Sklar, "Editor's Notebook: Not Just Noise," *Detroit Jewish News Online*, June 7, 2004, <http://detroit.jewish.com/modules.php?name=News&file=article&sid=1467>. For one account of the story of the *azan*'s origins, see Muneer Goolam Fareed, "Adhan," in *The Encyclopedia of Islam and the Muslim World*, ed. Richard C. Martin (New York: MacMillan Reference USA: Thomson/Gale, 2004), 13. For an example of an early-modern European synagogue that was not permitted to sound the *shofar* publicly, see Kaplan, *Divided by Faith*, 190.

boundaries among religious communities. As Winnifred Sullivan has argued, laws enforcing rights to religious freedom require claimants to establish that their practice is in fact religious or religiously required. Such a project assumes a doctrinal, dogmatic, hierarchical, and institutionalized conception of religion that seems at odds with the fluid boundaries of American religious life. It presupposes religions with clear demands and unambiguously defined sources of authority, rendering internal heterogeneities inherently problematic. Yet in my three case studies, differences within religious communities regularly proved as significant as differences across religious boundaries. In nineteenth-century Philadelphia, for example, Episcopalians debated amongst themselves whether bell-ringing was necessary, and Muslims in twenty-first century Detroit similarly disagreed about the necessity of broadcasting the *azan* publicly. Unexpected alliances also formed across religious boundaries, as Philadelphia Catholics lent their support to St. Mark's bell-ringing, and an interfaith alliance defended the rights of Hamtramck's Muslims. In these case studies, religious boundaries proved permeable.²¹

These noise disputes underscore how devotees make sense of themselves when they encounter others precisely because hearing implies interrelationship and intersubjectivity. The American composer John Cage described hearing as “a quintessentially public sense” because it could “make contact across space.” Indeed, as I have suggested, auditory practices link broadcaster and receiver, the producers of sound and their audiences. In fact, participants in these disputes rarely clarified whether the purported right in question was the right to hear or be heard, the right to call or be called. Practicing religion out loud was not individualistic, but instead constituted a relationship

²¹Winnifred Fallers Sullivan *The Impossibility of Religious Freedom* (Princeton: Princeton University Press, 2005), especially 142-3.

among diversely religious subjects. Sounds mediated contact among multiple listening publics who responded to them in different ways.²²

Sounds collapsed the boundaries among religious communities, and many disputants responded by re-fortifying them, differentiating sounds as “ours” and “theirs,” as welcome and unwelcome, legitimate and illegitimate. Scholars often have defined discrete religious traditions by distinguishing their core beliefs and practices. But such essentialized notions fail to describe how public religious sounds both map and mute differences. Homi Bhabha has suggested that in order to avoid reifying cultural difference, scholars should focus not on the center, but on the margins, and on the spaces between, where subjects actively construct and negotiate collective identities. “These ‘in-between spaces,’” he writes, “provide the terrain for elaborating strategies of selfhood—singular or communal—that initiate new signs of identity, and innovative sites of collaboration, and contestation, in the act of defining the idea of society itself.” Sounds, I propose, focus our attention on these “in-between spaces” as they travel through the air, crossing and potentially collapsing the boundaries between self and other, broadcaster and receiver, subject and object. These audible announcements—and the conflicts they prompted—generated social spaces for constructing, negotiating, and reconfiguring individual and collective identities. If sounds oriented listeners in space and time and in relation to each other, then new sounds invited hearers to re-orient themselves, to imagine new possibilities or new ways of being.²³

²²Mark M. Smith, “Introduction: Onward to Audible Pasts,” in *Hearing History: A Reader*, ed. Mark M. Smith, ix-xxii (Athens: University of Georgia Press, 2004), xiii.

²³Bhabha, *Location of Culture*, 2. For theories of religion that use the trope of “orientation,” see Charles H. Long, *Significations: Signs, Symbols, and Images in the Interpretation of Religion* (Philadelphia: Fortress Press, 1986); Tweed, *Crossing and Dwelling*.

Listening to religious difference thus navigates the fluid and permeable boundaries of American religious identities. In her article on public religious displays, Sally Promey similarly suggests that seeing religious difference in public might broaden conceptions of who we are as Americans, offering witnesses new opportunities “to imagine perspectives different from their own.” But vision implies an overly static conception of social boundaries. Vision reifies the boundary between subject and object as much as it blurs it. Seeing displays of difference turns them into spectacles, potentially reinforcing that they are different from or “other” to oneself. As John Dewey once suggested, “Vision is a spectator; hearing is a participator.” Hearing implies a more dynamic relationship among multiple diverse audiences. Moreover, as I argued in the preceding section, individuals can choose what to look at, just as they can choose whether to enter a house of worship. They can close their eyes to the differences that surround them. Sounds seem more unavoidable, demanding response.²⁴

Finally, acoustic space is also inherently plural and thus potentially more pluralistic. Steven Connor contends that “the singular space of the visual is transformed by the experience of sound to a plural space; one can hear many sounds simultaneously, where it is impossible to see different visual objects at the same time without disposing them in a unified field of vision. Where auditory experience is dominant, we may say, singular, perspectival gives way to plural, permeated space.” In other words, multiple sounds can share the same space without necessarily clashing. The ear can accommodate plurality more readily than the eye. In the case studies that I have analyzed, disputants grappled over the boundaries and content of public acoustic space, aiming to regulate

²⁴Promey, “Public Display of Religion,” 48; John Dewey, *The Public and its Problems* (New York: H. Holt and Company, 1927), 219.

whose sounds would predominate and whose sounds would be excluded. But the plural nature of acoustic spaces implies that dissonance need not necessarily sound cacophonous. Attending to auditory religion, therefore, might in fact open up new possibilities for imagining and interpreting cultural identities in the plural, for analyzing how communal boundaries are constructed and configured, but also how they cross, intersect, and overlap.²⁵

Religion and Non-Religion

In these three case studies, religious noisemakers argued that their sounds were different because they were religious. Justifying their practices, in part, in the name of religious freedom, they distinguished religion from non-religion and suggested that religion could not constitute *noise*. But complainants drew lines of their own. They argued that noise was noise, regardless of source or purpose, while they differentiated noise from sounds that did not threaten public order. Contestants thus debated whether these disputes essentially were about religion or noise. They aimed to draw clear lines—between religion and non-religion, between sound and noise—but these boundaries blurred almost as soon as they were demarcated, complicating legal regulatory efforts that demanded clear, fixed lines. In this section, I consider how the indeterminate meanings of religion and noise proved pragmatically malleable and strategically useful.

Legal scholars have engaged in long-standing debates about the meaning of the First

²⁵Steven Connor, “Sound and the Self,” in *Hearing History: A Reader*, ed. Mark M. Smith, 54-66 (Athens: University of Georgia Press, 1997), 56-7. Richard Cullen Rath makes a similar point about the auditory public sphere as a site of dissonance and its implications for conceptualizing American identities in *How Early America Sounded* (Ithaca: Cornell University Press, 2003), 178-80. On imagining cultural identities in the plural, see Michel de Certeau, *Culture in the Plural* (Minneapolis: University of Minnesota Press, 1997).

Amendment religion clauses and about the normative conceptions of religion and religious liberty that underlie them. My interest in this section, however, is to consider how disputants imagined the meanings of religion and noise, how they deployed these categories to countervailing ends, and how legal frameworks and power dynamics shaped their contests. Rather than treat “religion” as a fixed or natural category, therefore, I examine how it was constructed through these disputes and how its meaning was negotiated in relation to the similarly indeterminate category of noise.

The religious noisemakers defended their rights through a wide range of arguments that varied from case to case. But common to each conflict was the contention that religious sounds could not constitute a public nuisance in the same way that non-religious sounds could. In each case study, religious adherents maintained that their sounds were different and therefore should have been regulated differently. Their sounds were not simply noise.

They justified this claim in different ways. In Philadelphia, St. Mark’s leaders cited history and custom, and they appealed to their denomination’s codified rules and regulations. Bell-ringing was a well-established tradition in Anglican and Episcopalian churches, they maintained, a part of divine worship, and their practice was “in conformity with the recognized usage of such churches.” The Lockport Jehovah’s Witnesses also described their preaching as a form of worship, but they justified their practice as divinely ordained and Biblically sanctioned. They appealed directly to the authority of God, contending that the city of Lockport had no right to interfere with the fulfillment of a religious obligation. Abdul Motlib of Hamtramck’s al-Islah Islamic Center similarly described the *azan* as a “religious duty” or as a normatively sanctioned religious ritual.

As opposed to the Lockport Witnesses, however, Motlib willingly submitted this practice to the Hamtramck city council's regulatory authority. In fact, it was the council members who decided that religion should be regulated differently and who carved out an exemption from the city's noise ordinance for "reasonable means of announcing religious meetings." In each of these disputes, we find claimants grounding religious rights in different sources of authority. The Philadelphia Episcopalians appealed to their denominational institutions, the Witnesses appealed directly to God, and the Hamtramck Muslims appealed to the state's authority. But in each case, they maintained that religious sounds were different, that they were *necessary*, and that they should be regulated accordingly.²⁶

In fact, I should emphasize that these religious practitioners rarely even described their auditory announcements as "sounds." I have chosen that descriptive term in order to avoid the more pejorative and value-laden category of "noise" that complainants applied to them. But those who interpreted these sounds as religious obligations used a different set of terms. They tended to describe these sounds as worship, as preaching, or as prayer. These sounds served particular functions within the context of devotional life. In other words, these sounds constituted *religion*, their proponents maintained, not merely sounds, and certainly not *noise*.

Describing these public sounds as religious implied particular assumptions about the nature of religion. As I have emphasized in the preceding sections, religion out loud underscores the centrality of practices rather than beliefs. Auditory religion is collective, forging an intersubjective relationship between broadcaster and receiver, and it can be

²⁶*Harrison v. St. Mark's*, 19; Abdul Motlib to the Common Council Members, City of Hamtramck, 28 December 2003 (copy on file with author).

understood in a sense as involuntary. Practitioners also justified their practices with reference to institutional authority and tradition. They argued that their sounds should be regulated differently, specially protected *as religion*. If these sounds were religion, they implied, then they could not constitute noise. Yet their conception of religion pushed against how the U.S. constitutional legal order traditionally has understood it. In fact, religious freedom in the United States generally has meant the right to be religious only in certain ways, ways that did not necessarily make space for these kinds of auditory practices.

As an expanding body of scholarship has suggested, the category of “religion” has a particular history. While the term itself may have much earlier origins, Talal Asad has argued that the modern conception of “religion” was the product of particular post-Reformation and post-Enlightenment processes that associated religion with belief, thereby marginalizing it within the conditions of modernity. Jonathan Z. Smith famously has argued that the generic category of “religion” was “solely the creation of the scholar’s study,” while other scholars, such as Richard King and David Chidester, have explored how scholarly discourses about religion emerged in colonial contexts. But particular legal processes also produced “religion,” and the conception of religion that underlies American constitutional order also has a particular history. For example, legal historian Mark DeWolfe Howe argued over forty years ago that nineteenth-century U.S. courts emphasized equality among believers, rather than equality between religion and non-religion, elevating religion to a special status of protection. Howe insisted that the rationale for these special protections was informed by evangelical presuppositions that religion was grounded in belief and that religion should be free so that it might flourish in

pursuit of truth. Philip Hamburger has traced how popular support for “separation” of church and state grew among nineteenth-century anti-Catholic nativists, who regarded clerical authority as inimical to ideals of individualism and personal liberty. And Sarah Gordon has argued that one important product of the nineteenth-century Mormon polygamy cases was to enshrine in the First Amendment religion clauses a particular Protestant conception of religion as properly individualistic, voluntary, and believed. As the U.S. Supreme Court announced in *Reynolds v. United States*, a year after the Pennsylvania Supreme Court resolved the St. Mark’s bells case, “Laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices.” United States courts repeatedly have reaffirmed this distinction between belief and conduct, implying that religion ultimately is something that an individual believes, not necessarily something that a community performs.²⁷

In the noise disputes, many of the complainants seemed to share this conception of religion. Therefore, they were able to affirm their commitment to religious freedom even as they objected to these auditory announcements by arguing that the disputed practices were fundamentally unnecessary for religion. In fact, they maintained, once these sounds became a nuisance, once they became *noise*, it no longer mattered whether or not they were purported to be religious, for surely religion had no need to make noise.

²⁷Talal Asad, “The Construction of Religion as an Anthropological Category,” in *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993), 27-54; Jonathan Z. Smith, *Imagining Religion: From Babylon to Jonestown* (Chicago: University of Chicago Press, 1982), xi; King, *Orientalism and Religion*; David Chidester, *Savage Systems: Colonialism and Comparative Religion in Southern Africa* (Charlottesville: University Press of Virginia, 1996); Mark DeWolfe Howe, *The Garden and the Wilderness: Religion and Government in American Constitutional History* (Chicago: University of Chicago Press, 1965); Philip Hamburger, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002); Sarah Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2002); *Reynolds v. United States*, 98 U.S. 145, 166 (1879).

In Philadelphia, for example, both neighbors and newspaper editorials argued that the purpose of religion was to save souls, not to rattle unsteady nerves or to disrupt the sleep of newborn babies. Church bells might strike some listeners as aesthetically pleasing, but they served no utilitarian function and thus could be silenced without significant consequence. In Lockport, city officials emphasized that they had not prevented Jehovah's Witnesses from distributing literature to further their proselytizing efforts. But how could God's law demand the use of electro-acoustic loudspeakers? Many Hamtramck residents wondered the same thing. In each of these cases, complainants denied that it made any difference whether sounds were deemed religious. They insisted that the disputed sounds should be treated no differently from the other noises of modern urban life. They did not even seem to regard the practices in question as religion, properly understood. Noise constituted the limit of what they counted as free religion.

Defending particular sounds in the name of religious freedom required their advocates to differentiate clearly religion from non-religion. As Winnifred Sullivan has suggested, "In order to enforce laws guaranteeing religious freedom you must first have religion." But opponents in these disputes advanced competing conceptions of what it meant to be religious, and they deployed these understandings in different ways. By describing their sounds as religion and by framing these disputes as entirely about religion, proponents were able to ignore any legitimate concerns that their opponents might have expressed about volume or public disturbance. They frequently dismissed their opponents as motivated by religious intolerance, rather than by any "real" concerns about noise. Most significant, they were able to defend their practices even if these practices infringed on the rights of others. But arguing that these disputes had nothing to

do with religion also did important work for critics. Opponents could affirm their commitment to religious freedom at the same as they circumscribed its boundaries, asserting that noise was not necessary for religion properly understood. Furthermore, they could affirm their commitment to American ideals of equality and fairness by maintaining that all sounds should be regulated in the same way, regardless of source or purpose. Noise was noise, they maintained, whether produced in the context of religious devotion or not.²⁸

Complainants thus engaged in line-drawing exercises of their own. Just as proponents argued that these disputes were entirely about religion, many critics maintained that they had nothing to do with religion. They insisted that they objected only to noise. When religious practices began to infringe on the rights of others, opponents suggested, they ceased to be entitled to absolute protection. But if proponents had to distinguish religion from non-religion, then complainants had to define noise. In order to argue that noise was noise, regardless of source or purpose, they had to differentiate noise from other sounds that did not threaten public order. Yet noise proved no more stable or uncontested a category than religion. Just as contestants deployed competing conceptions of the nature of religion and religious obligation, they also disputed the meaning of noise.

On the one hand, complaints about noise expressed concerns about volume, personal injury, and disturbance of the peace. In Philadelphia, for example, neighbors insisted that the chimes of St. Mark's Church posed genuine health risks, aggravating nervous conditions, disrupting sleep, and even threatening the structural stability of

²⁸Sullivan, *Impossibility of Religious Freedom*, 1.

nearby buildings. In Lockport, it is not difficult to imagine how amplified preaching might have disturbed Sunday afternoon park-goers who were enjoying family picnics and horseshoe tournaments. And in Hamtramck, some opponents of the noise ordinance amendment proposed that the city council might prescribe a fixed decibel level above which sounds would come to constitute noise, rather than single out religious sounds for special treatment. They implied that objective criteria could be applied to differentiate potentially harmful noise from the general din of urban life without discriminating among types of sounds.

This decibel level proposal was not without precedent. As I have suggested throughout this dissertation, noise, like religion, also has a particular history. Since the standardization of the decibel as a unit of measurement in the 1920s and 30s, anti-noise advocates have hoped that precise scientific measurement might offer a workable solution to urban noise problems. Recall that in *Saia*, Justice Douglas permitted cities to restrict sounds above a fixed decibel level, though he would not allow them to prohibit outright the use of amplification systems or loudspeakers. Indeed, United States courts frequently have expressed a preference for quantitative noise legislation that offers the allure of objectivity. By defining noise in terms of decibel level, such regulations imply that noise in fact can be straightforwardly differentiated.²⁹

However, this ideal of objectivity has proven elusive. Complaints about noise have not been prompted “only” by concerns about volume or health risks. Like religion, the category of noise also has a particular cultural history to which I have tried to attend. Early noise legislation tended to target not noise in general, but particular types of sounds

²⁹*Saia v. New York*, 334 U.S. 558, 562 (1948).

or particular classes of noisemakers. Indeed, complaints about noise seemingly always have been entwined with concerns about who was making the noise. Noise has been defined socially as much as it has been defined scientifically. Interpreting noise as “unwanted sounds” has underscored the ways that noise has been used to demarcate certain groups as unwanted. As Justice Douglas emphasized in *Saia*, “Annoyance at ideas can be cloaked in annoyance at sound.” The Jehovah’s Witnesses alleged in that case that facially neutral ordinances could be applied discriminatorily against the sounds of religious and political dissenters. Even the decibel level has failed to offer a clear boundary between sounds and noise as evidenced by the case of the Dearborn mosque that I discussed in chapter 4. In that case, the city of Dearborn followed the advice of a Michigan court and prescribed a decibel limit above which sounds would come to constitute noise. But the members of a local mosque complained that city officials purposely had chosen a decibel limit below that of the *azan*. Defining noise in terms of decibels did not offer a workable solution to the problem of urban noise, therefore, but instead masked the cultural work of containment that noise was performing behind the veneer of objectivity.³⁰

Noise also has been defined as “unnecessary” sounds, underscoring the same theme of necessity that figured in debates about religion’s meaning. Particularly in the case of St. Mark’s Church, these cultural discourses about religion and noise overlapped. Contestants disputed which sounds were necessary in urban contexts just as they debated which sounds were necessary for religious life. Which sounds represented material progress and prosperity, and which sounds were properly heard as inefficient,

³⁰*Saia v. New York*, 334 U.S. at 562; *Dearborn v. Hussian, et. al.*, No. 79-933979-AR (Wayne County Ct. June 3, 1980).

unnecessary, or uncivilized? Were religious sounds such as church bells necessary components of devotional life, complementing the sounds of factories and industrial life, or were they unnecessary relics of the past, serving no utilitarian function? Debating whether religious sounds could constitute noise became enmeshed within broader debates about religion's place in the modern world. Hearing these sounds as noise, as fundamentally "out of place," both expressed genuine concerns about volume and served to circumscribe religion's normative boundaries.

Despite the claims of contestants on both sides, there seems to be no coherent way to determine definitively if these noise disputes ultimately were about noise *or* religion. In many instances, hostility or antagonism toward the noisemakers in question was clear, but at the same time, religion out loud could prove exceedingly annoying. Concerns about volume and about content, about quantity and quality, both crossed and overlapped. Disputants aimed to draw clear lines—between religion and non-religion, between sound and noise—but these boundaries blurred almost as soon as they were demarcated. The meanings of both religion and noise proved indeterminate and thus strategically useful, negotiated in relation to each other and deployed to countervailing ends.

But these unstable boundaries complicated legal regulatory efforts that demanded clear, fixed lines. Winnifred Sullivan recently has argued that it may be impossible for U.S. courts to distinguish religion from non-religion coherently. In these disputes, courts avoided even trying to demarcate this divide. In fact, it seems significant that in none of these case studies did courts accommodate religious sounds *as religion*, even in those instances where the disputed sounds were permitted. In fact, none of these disputes were settled with any reference to the First Amendment's religion clauses. The St. Mark's

bells case was resolved over fifty years before the U.S. Supreme Court began to apply the First Amendment protections against the states through the Fourteenth Amendment (though it did raise some of the same questions that the Court adjudicated in the contemporaneous *Reynolds* polygamy case). In the St. Mark's case, Judge Hare emphasized that Christianity should retain an important public presence precisely as he circumscribed that place, treating its sounds the same as any other sounds which might come to constitute a public nuisance. In the *Saia* case, the U.S. Supreme Court struck down Lockport's noise ordinance as unconstitutional, thereby affirming the Jehovah's Witnesses' right to use loudspeakers, but the Court did so by treating the Witnesses' preaching as speech, not religion. It sidestepped the question of whether religious sounds were inherently different. The Hamtramck dispute offers the only example that I have considered in which religious sounds were protected as such, in which religious sounds were singled out for special treatment under the law. Yet this dispute significantly was resolved through political processes, not through judicial intervention. Hamtramck residents voted not to repeal the council's noise ordinance amendment, and opponents never challenged its constitutionality in court. In none of these case studies, therefore, did U.S. courts carve out space for religion practiced out loud within the protections of the First Amendment's Free Exercise clause. In none of these episodes did U.S. courts even attempt to distinguish religious sounds clearly from non-religious sounds or to suggest that the normative conception of religion underlying guarantees of religious freedom might include a right to make or hear noise publicly.³¹

³¹Sullivan, *Impossibility of Religious Freedom*. Sullivan has argued that courts increasingly seem to be avoiding having to distinguish religion from non-religion and suggests that religious rights increasingly have been governed by politics rather than law. While Sullivan tries to avoid staking a normative position on this development, Marci Hamilton recently has argued that debates about religious exemptions from

But in this project, I have not focused primarily on judicial discourse, but on how “ordinary” Americans constructed the meanings of religion and noise through these disputes. For these participants, it was not so much that they could not differentiate religion from non-religion or noise from sounds, but that they could do so in many different ways toward different strategic ends. While legal scholars have tended to treat religion as a fixed or natural category, I have tried to explore how it was produced, in part, through these legal disputes, through the competing conceptions that disputants advanced. I have attended to the work that these categories performed for contestants in framing what they understood as at stake. An expanding body of scholarship recently has encouraged attention to how the analytical category of religion performs important cultural or political work. But my study has moved beyond the confines of academic discourse to consider how popular debates about religion’s meaning have carried implications for regulating religious life.³²

generally applicable laws *should* be conducted in political or legislative arenas, rather than at the judicial level. Hamilton argues that courts have tended to adopt a romantic view of religious communities that ignores the harm committed in religion’s name. Marci Hamilton, *God vs. the Gavel: Religion and the Rule of Law* (Cambridge: Cambridge University Press, 2005). Christopher L. Eisgruber and Lawrence G. Sager also have argued that legislatures should play an important role in regulating religious freedom, but they understand legislatures and courts as partners rather than adversaries. See Christopher L. Eisgruber and Lawrence G. Sager, *Religious Freedom and the Constitution* (Cambridge, MA: Harvard University Press, 2007), especially chapter 7.

³²My argument here is similar to that of Jonathan Z. Smith, who suggests that the general disagreement among Religious Studies scholars about how to define religion offers evidence only that religion may be defined in several different ways, not that religion cannot be defined. See Smith, “Religion, Religions, Religious.” Even Eisgruber and Sager, two prominent legal scholars who have offered a theory of religious freedom that is premised on *not* treating religion as significantly different from non-religion, continue to assume that religion is readily identifiable, if not easily defined, and can be differentiated coherently from non-religion. See Eisgruber and Sager, *Religious Freedom and the Constitution*. For examples of religious studies scholarship that considers the political or cultural work performed by religion as an analytical category, see Russell T. McCutcheon, *Manufacturing Religion: The Discourse on Sui Generis Religion and the Politics of Nostalgia* (New York: Oxford University Press, 1997); Timothy Fitzgerald, *The Ideology of Religious Studies* (New York: Oxford University Press, 2000).

Framing my approach in this way, as focusing on the countervailing ends to which disputants deployed competing conceptions of religion and noise, makes audible the power dynamics that inevitably accent such definitional disputes. In other words, these case studies centered on the right to define religion and noise as much as they did on the actual meanings of the terms themselves. Disputants did not reject the distinctions between religion and non-religion or between sound and noise so much as they contested who should have the authority to make those distinctions. And in so doing, I have argued, they contested who should have the authority to demarcate the proper place of religion and religious adherents in their communities. Defining sounds as religion or as noise, or defining religious sounds as comparable to or essentially different from non-religious sounds, offered disputants competing strategies for mapping religion's place in American public life. Attending to these case studies thus has offered a concrete vehicle for analyzing the particular processes through which Americans have negotiated religion's normative boundaries.

Conclusion

This dissertation has attended to complaints about religion as noise. Through my analysis of three case studies, involving different religious traditions at different historical moments, I have explored what it has meant for Americans to hear religion as noise. I have considered what it has meant for Americans to hear particular religious sounds—or particular religious practitioners—as “out of place.” Through these disputes, I have argued, Americans have contested religion's proper place in spatial and social order. Noise complaints have offered a useful means for containing religion, for demarcating

and delimiting its boundaries, but religious devotees also have used public sounds to claim place for themselves, pushing against popular notions of what religion was *supposed* to be like. Through these disputes, opponents have offered competing conceptions of the nature of religion and of its place in American public life.

In this chapter, I have explored how religious sounds both mapped and crossed normative boundaries. I have suggested that participants in each dispute aimed to demarcate religion's place by drawing clear lines between public and private, between religion and religion, and between religion and non-religion. Yet religious sounds also crossed and blurred these symbolically significant and pragmatically useful boundaries. Religious sounds regularly proved difficult to contain.

Complainants conceived of religion as properly private and voluntary, arguing that religious practice was best kept quiet. They contended that they should not *have* to hear the disputed sounds as they spilled over into pluralistic public spaces. But soundfields mapped a complex, shifting sacred geography, the borders of which were not easily fixed. The disputed sounds crossed and blurred boundaries between public and private and between sacred and secular. Moreover, those sounds that elicited complaints were only those that were noticed, those to which attention was paid. But other public religious sounds went unnoticed and thus uncontested. These case studies therefore have offered a conception of "legitimate" religion as in fact public and involuntary, as including those religions whose sounds have become unremarkable—and *unavoidable*—as they have spilled over into public space without controversy. Attending to these noise disputes thus has illuminated the processes through which certain sounds—and groups—have become normative while others have been contested as "out of place." In other

words, despite the supposedly “secular” character of American public spaces, arguing that religion should be kept quiet has rendered only certain sounds—and certain groups—problematically public.

Contestants also re-fashioned collective identity in relation to each other and to the disputed sounds. They constructed difference by demarcating sounds as “ours” and “theirs,” as “good” and “bad,” by distinguishing meaning from noise and order from disorder. But sound also muted differences as it crossed boundaries, mediating contact among diverse listening communities. Multiple audiences, intended and unintended, willing and unwilling, heard and responded to the same sounds, albeit in different ways. These public sounds—and the conflicts they prompted—generated social spaces for reconstructing and reconfiguring individual and collective identities, processes that proved fluid and varied. Attending to the pluralistic nature of acoustic space thus has opened up new possibilities for imagining and interpreting cultural identities in the plural, for analyzing how disputants reinforced and re-fortified communal boundaries, but also how these lines crossed, intersected, and overlapped.

Finally, disputants drew lines in different ways between religion and non-religion and between sound and noise. Religious noisemakers argued that their sounds were different, that religious sounds could not constitute *noise*. And complainants responded that noise was noise, regardless of source or purpose, and worked to distinguish noise from other sounds that did not disturb the public peace. But neither the meaning of religion or noise was fixed, complicating legal regulatory efforts that demanded clear lines. Instead, disputants advanced competing conceptions of these categories, and their indeterminate meanings proved strategically valuable, deployable to diverse ends. These

conflicts were never simply about religion *or* noise, but instead about how contestants negotiated these categories' meanings in relation to each other. And through their different understandings, I have suggested, they differently mapped religion's proper place.

By attending to these noise disputes, this dissertation thus has navigated the shifting and permeable boundaries of American religious life. It has offered a model for interpreting American religious diversity that centers themes of embodiment, contact, and exchange, while it also has underscored how American law has mediated and shaped public interactions among diverse religious communities. And it has called attention to the everyday material practices through which Americans have mapped religion's boundaries and negotiated religious difference, rather than analyzing these boundaries as products of abstract intellectual debate. Interpreting American religious life, I have proposed, will require scholars to become more attuned to the sounds of religious difference. In debates about whether religion should be practiced quietly or out loud, we hear competing conceptions of religion's place in the modern world.³³

But I want to conclude by returning one last time to Hamtramck, to once again make these broader themes more concrete by emphasizing how religious sounds mediate contact in pluralistic public spaces. In July 2007, a few years after the *azan* dispute had been resolved, I stood about a block and a half from the al-Islah Islamic Center as four twenty-something urban hipsters passed by me. Dressed in black, one had spiked hair, and another had dyed her hair pink. And at that moment, the call to prayer echoed

³³For a valuable collection of scholarship on the meaning of "everyday life," see Ben Highmore, ed., *The Everyday Life Reader* (London: Routledge, 2002). In his introductory essay, Highmore encourages scholars to attend to the material realities of cultural life and to how social actors enact and perform boundaries.

through the streets. The hipsters looked at each other, and one said, “What is that?” Another responded: “You know, that Muslim call to prayer thing...don’t you remember that whole controversy?” “Oh, yeah,” replied the first, “Hey, anybody want to pray?” And they broke into laughter as they continued down the street. But for that brief moment, the sound of the *azan* had captured their attention. It had publicly pronounced Islamic presence in Hamtramck. It had reminded them of the contentious debates about whether religious practice belonged in public. And it had called them to pray. As this religious sound spilled over into Hamtramck’s city streets, it had taken on new meanings and reached new audiences. While these unintended listeners may have responded sarcastically, while they may have heard the *azan* as “out of place,” they still felt called to respond—in one way or another. Religion practiced out loud had crossed and blurred the boundaries of religious difference. For that brief moment, these Hamtramck hipsters had become part of the acoustic community constituted by the call of the *muezzin*.³⁴

³⁴Fieldnotes, July 9, 2007.

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Philadelphia Public Record
Philadelphia Times
Sunday Dispatch
Watchtower

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