The Justinian

Volume 1982
Issue 5 *November*

Article 2

1982

The Justinian

BROOKLYN LAW SCHOOL 1901

Justinian

All I know is what I read in the papers.
—Will Rogers

Vol. XLII | Wednesday, November 24, 1982 | No. 4

Budget in Flux

By Carol Milder

In the last issue of the *Justinian*, it was reported that the House of Delegates had approved a budget pending an investigation into the Special Activities part of the Budget. As of this writing, the Executive Board has not acted on the call for an investigation which was promped by claims that the SBA budget is mandated by the Board of Trustees of Brooklyn Law School.

Most of the controversy has centered around parts I and II of the Budget, SBA Operations and Special Activities respectively. SBA Operations includes parties, Race Judicata, and the like. During the first House of Delegates meeting in October, the SBA Operations part of the Budget was cut by $2,600, eliminating a $2,000 semi-formal and a $600 Chamber Music Concert. At that time there were claims that the House of Delegates had to keep those items in the budget because they were mandated by last year's Permanent Standing Committee on the Budget as well as by the Board of Trustees.

Prior to any cuts, Parts I and II totalled $15,000 out of a total budget of $23,750. This left just under $9,000 for part III, Student Organizations and Clubs. After the October cuts Parts I and II totalled $12,400. In between the first and the second House of Delegates meeting, the Budget Committee chaired by treasurer Bruce Feffer, considered budget requests and held open hearings to allocate money to student organizations and clubs. In order to allocate more money to the clubs, the committee cut parts I and II by an additional $2,950 and added projected income to the budget. Consequently, the total budget now equals $30,000

During the November House of Delegates meeting, SBA delegate Steve Richman and others claimed that the budget was mandatory and that if the money, particularly for the Special Activities part, was not allocated as originally submitted to the Board of Trustees last Spring, it would be taken away. Members of the Budget Committee countered that the Board of Trustees had sent down a paper stating the sum the SBA was receiving with no provision that it be used in any particular way. The committee invited certain members of the Executive Board and SBA delegates to come forward with evidence to the contrary. On that basis the budget was passed.

According to Acting Dean Johnson, the items in the SBA budget are not mandatory. Johnson explained that "every organization submits things to us through Mrs. Zuckerman" and then he submits the budget as a whole including the SBA budget to the Board of Trustees. Johnson indicated that the Board of Trustees doesn't "go over every line-item." He stated, "when I present the full budget to the Board in a sense every line in the budget is approved. [It] doesn't mean any line can't be changed. That's not true." However, Johnson noted that "if the Journal spent money on parties and wasn't publishing, then I'd be upset."

Johnson considered the nature of the con-

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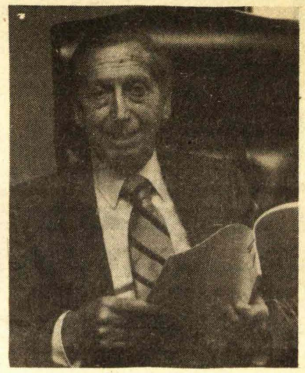
Dean Search: Down to Five

By Ethan Wolfe

The Dean Search Committee, composed of Dean and Chairman Jerome Prince and Professors Zaretsky, Sherman, Gora and Poser, have been working on selecting a new dean for Brooklyn Law School for some time this semester. According to Dean Prince, many applications were received for the position, and the committee has now narrowed the field down to five "prime candidates." The five had been chosen from a group of twenty-two who had been interviewed initially. The next step is for the five candidates to be presented to the faculty, since the rules of the Association of American Law Schools forbid the hiring of a law school dean over the objection of the faculty. A report will then be made to the board of trustees, who will choose the new dean. Although the mehanics of the last two phases of the process have not been fully determined at this point, Dean Prince guessed that it will not be longer than a month before the report is made.



Dean Prince

In addition to supplying information on

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New Security Policy

By Stephen Richards

Concerned about several recent incidents of vandalism at BLS, Dean of Students Lewis Kerman has tightened security at BLS. Under the new policy, students entering the school on weekends and on weekdays after 7:00 must show I.D. and sign in. Acknowledging that he may have "locked the barn door after the horses have been stolen" Dean Kerman insisted, nevertheless, that his policy will strengthen security. He is contemplating additional measures such as locking interior stairwells and blocking off the top floors of the building during off-hours.

Several week ago, an extremely bizarre incident of vandalism took place apparently sometime after the library had been closed.

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On Nov. 17, the 1982 Moot Court National Team was selected in a final round attended by over 200 students and faculty. The judges (back row, l.-r.) were Criminal Court Judge Bernard Fried, United States Court of Appeals Circuit Judge Jon O. Newman, and United States Attorney John Dearie. The new National Team (front row, l.-r.) is composed of Judy Feinberg, Wendy Heller (alt.), Andrew Schwartz, and Elizabeth Manning.

SBA MEETS

by David Howe

The SBA meeting of November 3, 1982, resolved two major issues: the status of the Women's Volleyball League and the Student Organization Budget.

The discussion on the Women's Volleyball League centered around the validity of an organization strictly for women. Several delegates argued that they would not approve funds for an organization that would not allow male participation. The spokespersons for the Women's Volleyball League gave personal accounts of either being denied access to the Football, Basketball, or Softball league, or, having gained admittance, being relegated to the sidelines. After suggestions of a mandatory quota system being imposed on all BLS organizational sports and a threatened Title 9 suit, the delegates approved a volleyball league with separate divisions and funding for women and men.

The major discussions on the budget centered on two key areas:

1) That the Budget Committee presented an SBA budget that totaled $30,000, whereas the administration allocated over $5,000 less. The difference is based upon projected income that is to be derived from various sources (e.g. the *Justinian's* advertising revenues). Briefly stated, the two main viewpoints disagreed on whether the budget should be based on actual allocations or whether it should include projected income. The latter viewpoint prevailed.
2) Whether part II of the budget (funding of special delegates, eg. ABA/LSD Representatives) was mandatory. That is, did the delegates have any real voice in approving these funds. One faction of the SBA, explained that they were told by the Administration that Part II was to be mandatorily financed. Another faction argued that if this was so, then Part II should not be approved on "principle:" that the SBA should not act as a rubber stamp.

The budget as already stated, was passed. The SBA Delegates are requesting that the Board of Trustees specifically detail what is to be mandatorily funded and how exactly the SBA funds are determined.

A final note. Due to the inability of its organizers to attend the SBA Budget Committee hearing, the Cabaret was modestly funded. Its spokesperson made a plea for additional funds. The *Justinian* and the Entertainment Law Society each pledged $100.00 to the Cabaret.

STRIKERS SPEAK

By Tom Gordon

On November 3, the BLS National Lawyers Guild hosted two members of the Association of Legal Aid Attorneys (ALAA). Speakers John Stockhouse and Charles Bobis combined in painting a dim picture of the management practices of the Legal Aid Society (LAS) that contributed to the decision to strike by the more than 500 Legal Aid lawyers.

Mr. Stockhouse began by detailing the struggle Legal Aid lawyers face in the courts. "Attitudes have changed toward plea bargaining," asserted Mr. Stockhouse." The courts are becoming increasingly hostile toward defendants." This recent change in attitude has caused more cases to be brought to trial, thereby increasing each attorney's caseload. Often attorneys are forced to maintain caseloads of over 100 cli-

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Justinian

BROOKLYN LAW SCHOOL
250 Joralemon Street, Brooklyn, NY 11201
Telephone: (212) 780-7986

Editorial Collective. . . Tom Gordon, Deborah Henkin, Lisa Heide, Carol Milder, Steve Richards, Warren Shaw.

Staff. . . Bridget Asaro, Bruce Feffer, Ann Galen, Risa Gerson, Joan Gottesman, David Howe, Anthony Paonita, Adam Pollack, Ethan Wolfe.

Photography. . . Allan Young

Contributor. . . Evan Gordon

EDITORIALS

Race to the Swift: Part II

As the semester draws to an end, law students are beset by anxieties. Their appearances are more bedraggled; their brows are more deeply furrowed. Tense and irritable, they might snap at you if you look at them the wrong way. Such is the ambience of competition.

Would it be preferable is this unsettling atmosphere were attributable to the lofty pursuit of excellence—the love of legal learning—rather than the quest for wealth and status allegedly in store for the top 10% of the class? Or is the competitive struggle both unnecessary and avoidable.

Many students are caught up in competing for the few positions supposedly available in a purported dearth of legal jobs. The onslaught of Reagonomics has led to a retrenchment in the legal profession, and we all know it is difficult for those with mediocre grades to procure employment. However the fact remains that there are many people in this country who need lawyers but who lack the financial means needed to retain them. The unrepresented, therefore, are precluded from having access to the courts. Is there not some way to resolve the problem of having a pool of highly trained yet unemployed attorneys on the one hand and an enormous number of indigent pepople in need of counsel on the other? Or does the law school curriculum exacerbate the problem by never ackowledging the problem's existence?

Legal education is designed to instill cynicism. Professors deflate idealism ("leave your values outside the classroom") while they inflate egoism ("lawyers are better thinkers") and avarice ("my one student who read all the outside cases got a job for $43,000 a year"). We are encouraged to be intellectual prostitutes who sell our analytical "tricks" to the highest bidder.

Contrary to what many would have us believe, THE LAW does not exist in a vacuum. Our legal education is incomplete if we do not understand that THE LAW reflects the underlying structure of society. We must understand that the system of law that we are taught is a system which buttresses up the extant distribution of wealth and power. We must reject the notion which permeates our legal education that the judicial process is objective, neutral and scientific. The inequities rife in our society are neither perpetual nor inevitable. The same is true of the competitive treadmill—the petty pace—with which we are daily plagued. Competition is no more natural than, say, cooperation.

Many oppressed groups of people in our society have come to the realization that competing against each other is futile and a dangerous dissipation of energy. Rather they are banding togethr to wrest their fair share of liberty and prosperity from those who have too long horded it. And so it should be among law students. Rather than competing against each other we could unify and fight for those things we commonly desire—a more relevant curriculum, lower tuition, meaningful work for *all* of us and a healthier, happier social fabric.

Who wants to be swift in a rat race, anyway?

For What It's Worth: Part II

Having seen the "short-list" of candidates for the now vacant office of Dean of the Law School, the *Justinian* wishes to reiterate its endorsement of Acting Dean George Johnson for the permanent post.

The case for retaining Dean Johnson, as outlined in last spring's editorial, is still valid. Indeed, the case has grown stronger as the Dean has grown into office. His door is still open to students who wish to speak with him, even on very short notice. He still attends a large number of student functions. His pragmatic and flexible approach to confict within the law school community stands in sharp contrast to his predecessor's aloofness. His presence is felt.

Whatever the faculty decision, it should be noted that the criteria for selection, as outlined by Dean Prince, are clearly correct. Brooklyn stands at a crossroads: between traditional and modern approaches to legal education, between "local" school and "national" school, between Court Street and Wall Street. The person who would fill the office must have a plan for the school's future and the vision and ability to carry out that plan.

While we are not privy to George Johnson's "plan" we feel confident that he, among all the candidates is most likely to consider the students' point of view in whatever he undertakes. Moreover, his oft-expressed distrust of Brooklyn's transformation into a tool of the "monied interests" bespeaks a healthy strain of Southwestern populism which could be of real benefit to the school. The mindless pursuit of the prestige accorded a "national school" no substitute for a reasoned consideration of what Brooklyn is, and what it should be.

We recognize that the faculty and the Board of Trustees have the ultimate power to select. Nevertheless, it is in the interest of the Dean Search Committee to consider carefuly the track-record of a candidate who has exercised the powers of the office for almost a year; and part of that track record is that candidates proven ability to communicate with the student body. Certain aspects of law school administration can only be seen from a students'-eye view.

It is therefore unfortunate that only one member of the Committee, Dean Prince, has seen fit to inform the student body of the Committee's selection criteria, much less consult student opinion.

We also recognize that, given our lack of information, we may be slighting the merits of the out-of-house candidates. In addition, we recognize Professor Trager's immense contributions to the school, and if we cannot wholeheartedly endorse his candidacy it is only because of the fear that his tenure as Dean might be cut short by an early, and well deserved translation to the federal bench.

To Our Critics

The *Justinian* has been pleased to hear that a number of students and faculty object to the style and content of this year's *Justinian*. Our pleasure stems, first, from the desire that people read what we write, and, second, from that the hope that what we write has an effect on our readers. Those who dislike us have at least read us, and even those who like us least may derive some profit from the contemplation of our iniquities.

We are not so pleased, however, about the manner in which we have heard this criticism. Someday, we hope, the *Justinian* will be the chief source of news and information in Brooklyn Law School. But we are forced to admit that it will be quite some time before the *Justinian* displaces BLS's favorite source of news and information. We refer, of course, to Rumor.

As Professor Leitner once reminded us, all BLS rumors are false. Since we have received most of our reports of criticism second or third hand, we might be entitled to presume them likewise false. In reality, we are quite certain that these reports are true. But Professor Leitner's statement, while literally erroneous is essentially correct.

By its very nature, Rumor is not subject to correction or analysis. It changes each time it passes from mouth to ear. Rumor is true one moment, and false the next.

It is no accident that Rumor dominates BLS. Its use as a source of news inevitably favors those in a position to receive "inside" information, often those in positions of power. Rumor personalizes all discourse. Knowledge depends not on what you know, but upon whom you know.

The *Justinian* is dedicated to the eradication of Rumor. We urge all students and faculty to join us in stamping out this menace. If you disagree with us, write us. If your opinion is worth sharing with your neighbor, it is certainly worth sharing with the Law School community. Moreover, we welcome corrections as to any errors of fact, and will gladly print a retraction if and when an error is brought to our attention.

All letters must be double-spaced typed. Spelling errors and typos corrected gratis.

LETTERS:

The views expressed in the following letters are not necessarily those of the members of the Editorial Collective.

Open Letter to Maher

One would have thought, Richard, that as a prospective practicing attorney, you would have, by now, grasped the basic and essential principle of separating the person from the issue. The argumentum ad hominem is the last resort of a feeble case.

The Berrigans may be lousy poets—or lousy priests, or maybe even lousy lovers. But they did raise their voices against the obscene war in Vietnam, and, by symbolic acts, repudiated the drafting of the young that supported that war. The establishment went after their heads and Bill Kunstler defended them.

The Chicago 7 may be bourgeois "sellouts," but they too, raised their collective fists against the horrors and injustices of that war at a time when opposition was sorely needed. They drew the wrath of the establishment who set the full weight of its legal machinery against them. Bill Kunstler defended them.

You were obviously quite young when these things were happening, so you probably know too little of the issue or the political climate of the time to realize how essential Bill Kunstler's actions were for the preservation of everything worthwhile in our democracy and its legal structures. And can you, or anyone else estimate the extent to which the actions of his clients and his defenses informed and alerted the public to pressure for an end to that grotesque adventure in Southeast Asia?

Which is what Bill was talking about and what you were apparently not hearing. You don't have to like Bill Kunstler. Or use him as a role model. Or march to his drum. But the right to legal defense must extend—perhaps even more so—to those whose political positions and actions strike out against the established powers. To do otherwise would be to undermine the democratic structures that support every other legal concept. The people who threw the tea into the Boston Harbor may have been lousy Indians, but Bill Kunstler would have defended the engineers and the perpetrators of the Boston Tea Party. And most wouldn't! How about you?

I suspect, Richard, that when you free your mind from the tyranny of your rage (wherever it comes from) and develop some mental discipline and objectivity, you'll be on your way to becoming a decent lawyer. And maybe even a decent revolutionary!

Gianna Torre

Clinical Studies

To the Collective:

Thank you for publishing Leslie Gruenwald's article about her experiences in the Inmate Legal Counseling Program. After six years of clinical teaching at BLS, it was grati-

Letters continued on page 3

Letters, cont.

fying to see public praise for the learning experience offered by clinical education.

A well designed clinical program provides practical experience in the legal process which is then analyzed and closely supervised by an instructor. A clinical program differs from a legal job because of its focus on the relationship of substance and process and the development of lawyering skills.

Clinical education provides a transition between law school and the working world. A student benefits from in depth critique and feedback about his/her performance which combines knowledge of substantive law and lawyering skills. The simultaneous inquiry into both substance and process distinguishes clinical education from both traditional classroom teaching and ordinary jobs.

Although employers may be impressed by written credentials on a resume, maturity and self-confidence acquired in a well supervised clinical experience truly stands out in any job interview.

I know that current economic realities often make it hard for students to participate in clinics without measurable rewards. Leslie Gruenwald explains how such rewards can be found in the personal and professional growth taking place in the clinical program.

Very truly yours,
Stacy Caplow
Chief of the
Criminal Court Bureau
Kings County District
Attorney's Office

BULLETIN BORED

To the Collective:

Having just read Brooklyn Law School's new Bulletin, I cannot restrain myself from commenting on its quality—or notable lack thereof.

The format may be the "latest thing" in law school catalogues, but somehow the old format seemed more appropriate and informative. Perhaps, in the long run, it would have done more to further Brooklyn's desired reputation as a national law school.

The message of the new Bulletin is clear: we are a national law school unlike any other. Yet, we might have made this point more effectively. This tacky piece of merchandising does nothing to reflect the quality of Brooklyn's professors and their ability to educate first-rate attorneys. The text sounds as if it had been written by someone with a chip on his shoulder.

A few examples:

—After proclaiming BLS a national law school ad nauseum, the catalogue then presents three full pages of statistics that clearly belie this representation. Out of a total student body of 1138, 1057 are from New York State (page 71). The bulletin does a poor job of making a valid point.

—The text is poorly written, unclear, and ungrammatical. The layout is misleading. I opened to page 6 and discovered that BLS is located in the Post Office building. The text that faces this page may be someone's idea of "witty copy," but it nonetheless sounds absurd. I didn't know there were any other national law schools located in historic Brooklyn Heights. The book looks and reads like a travel brochure. Perhaps, given the quality of Brooklyn's writing program, the catalogue should have been reviewed by someone with a reasonable command of the English language.

—The most objectionable aspect of the Bulletin, however, is its point of view. Dean Johnson is quoted as having said: "Our graduates used to serve people. Now they serve people and moneyed interests in a proper mix." (page 17). I would like to assume that he was misquoted. I am shocked that anyone would admit with pride that they *serve* monied interests and this would be equated with serving people.

Thus, we have what, at best, is a slick piece of advertising that fails. At its worst, the Bulletin is a confusing, poorly written tribute to a point of view to which many BLS students do not subscribe. The sad part of all of this is that the catalogue might have focused on the positive things that the school has to offer: a solid reputation, a sound and thorough legal education, and a sense of what it means to serve people and society through the legal system as demonstrated in the achievements of its graduates.

If the purpose of this Bulletin is to attract applicants, then someone miscalculated its effect. It would have sent me elsewhere. The original catalogue, in its tasteful, quiet, dignified way, accomplished its purpose. The new catalogue does a disservice to the school and its students. It is simply embarrassing.

Jane Welsh

Glaring Omission?

Justinian,

In order for Acquired Immuno-Deficiency Syndrome (A.I.D.S.) to get the attention it needs from the medical establishment and the Center for Disease Control, communities like Brooklyn Law School need to know that they suffer losses as a result of this (70%) fatal disease. AIDS may be in epidemic proportions, primarily among gay men and Haitian immigrants. Because of the homophobic notion that something implying that someone is a homosexual is better left unsaid, information about this disease doesn't make its way to the many people who lose colleagues, teachers, and friends as a result of it. I think you did Jeffrey Rockwell a disservice by not naming and describing the illness that took his life, because by suppressing that information you contribute to people's ignorance about how much they stand to lose as a result of a disease which is threatening, primarily, gay men.

Beatrice Dohrn

To the Editor(s):

Your obituary of Jeffrey Rockwell omitted one important fact. The "sudden illness" that Professor Rockwell contracted last spring was Kaposi Sarcoma, a form of cancer that has killed over 300 gay men in the past year.

Had you not heard of Kaposi Sarcoma, or did you withhold that fact lest *Justinian* readers realize that Jeffrey was gay? The *Justinian*'s omission is excusable if due to sloppy journalism or poor research; if for any other reason, the omission is not only inexcusable, it is homophobic.

A disease that has killed more people in one year than Legionnaire's Disease and Tixic Shock Syndrome combined is an epidemic. Death by KS is slow and brutal. Every member of New York's gay community is aware of the horror.

The task of raising money to fund research has been frustrated by media like the *Justinian* which prevents public awareness of the problem by neglecting, or refusing, to even acknowlege the existence of gay diseases. KS is only one of a series of gay-related immunological diseases. Your omission, whether heartless or just thoughtless, is distressing. People are dying of a disease that dare not speak its name.

James Hurley

Way to Bet

To the Collective:

In reference to your editorial in the November 8th issue regarding competition: The race may not always be to the swiftest nor the battle to the strong—but that's the way to bet.

Damon Runyon a.k.a. Ira Cure

Adam & David

Twice a year we position ourselves with worksheet and course-list in hand and endeavor to plan out yet another semester of our legal education.

The normally barren environment of the cafeteria is transformed into an exchange; a market place where suggestions are traded and advice is swapped. The novices are at a disadvantage. The veterans have savvy. What is being revealed are professors' reputations and what is being determined are future teaching assignments.

This biannual ritual forces us to make short-term decisions which prompt longer-term considerations.

But what sort of considerations?

Do we weigh the subject matter of a course against how early we need to get out of bed?

Is the interest in a course determined by whether or not it's traditionally on the Bar exam?

Or do values and ideology play an active part?

We should not lose sight of the societal role of a lawyer or of the political ramifications of *each* area of the law—tax law no less than prisoner's rights. For there is no neutral or apolitical branch of the law. Individually we may not be politically active, but we cannot deny that as lawyers we serve a political function, either through our involvement or our acquiescence.

Let us not waste our time in idle discourse! Let us do something, while we have the chance! It is not every day that we are needed. Not indeed that we personally are needed. Others would meet the case equally well, if not better. To all mankind they were addressed. Those cries for help still ringing in our ears! But at this place, at this moment of time, all mankind is us, whether we like it or not. Let us make the most of it, before it is too late! Let us represent worthily for once the foul brood to which a cruel fate consigned us! What do you say?

—Samuel Beckett

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Cable and Anti Trust Law Problems Addressed

By Warren Shaw

The Entertainment, Arts, and Sports Law Society held its second guest speaker program of the semester on October 21, with an unusually technical presentation entitled "A State of the Art Program on Cable Television Law." Guest speakers were R. John Cooper, esq., General Counsel for Home Box Office (HBO), and Roy Langbord, esq., Legal Consultant for Showtime (SHO).

Mr. Cooper spoke first, and concerned himself with the impact of antitrust questions of market definition and regulation raised by cable. HBO is a subsidiary of Time, Inc., a conglomorate with a variety of interacting video enterprises. Its holdings include HBO, a subscriber-supported "premium" cable program distributor; regular broadcast stations such as WOTV in Grand Rapids, Michigan; cable franchisees such as American Telecom Communications (ATC); Manhattan Cable TV (MTV); USA, an advertiser-supported (basic) cable service; and the experimental TVIS, an electronic publishing system that broadcasts printed "pages." There are both one-way and two-way varieties of TVIS, and it is unclear at present which system will ultimately prevail. Time's subsidiaries represent most of the largest branches of cable television.

Regulation of this surfeit of acronyms is accomplished by an equally multifarious combination of parties. On the federal level, the Department of Justice influences cable via its Merger Guidelines; the Federal Trade Commission and the Federal Communications Commission also play important roles. Private parties have a voice too, in the guise of antitrust suits. State-level regulatory agencies are common as well. New York, for instance, has promulgated a variety of procedures affecting the franchising and operation of cable facilities. The major new member of the regulatory cast is the municipality. The FCC preempts the field of broadcasting, but its jurisdiction over cable is sharply limited. Hence, municipalities have imposed fees to lay cable lines, minimum numbers of channels, and other requirements.

As one might expect, the process of program distribution in cable is also quite complicated. Once a company such as ATC acquires a franchise and lays its cables, it needs Programming. One source is regular broadcast TV programming, received by a "head-on" antenna and transmitted through the cables, yielding superior reception. Satellite programming is largely the province of pay services such as HBO and Showtime. Advertiser paid services, e.g., USA, also provide programming for viewers, free of charge.

The variety of cable services, and their close relationship with more conventional television, raises a difficult question: What is "the market" for cable? How many markets are there? Market definition is critical, because it determines which parties are held to be in competition with each other, and this in turn affects the issues of the market power possesed by a given firm, and what type of regulation is appropriate for that firm and the market in which it conducts business.

Market definition is derived from an analysis of "reasonable interchangeability," i.e., demand elasticity and supply elasticity. As to the former, it concerns the question of what products can substitute for others, and how readily will changes in price induce consumers to switch to such substitutes. The test established by the DOJ Merger Guidelines is if a price increase of 5% in a product for one year will work a significant change in buying habits, then the products involved are substitutable. Demand for the product is elastic and a broad definition of the market side will be applied. Supply elasticity measures potential competition, ie., the degree to which increases in price will lead suppliers to begin manufacturing a product. Those suppliers which would make this transition are included in the market definition.

Geographic markets are also an important variable in determining which firms are in competition with each other.

Definition of the market in cable is a hotly debated issue. Is New York a geogrpahic market, or is Manhattan? Is cable the market, is premium cable a distinct market, or is all TV to be included? One problem which greatly complicates analysis here is the fact that different companies in the cable distribution chain feed to different levels in the industry. There are essentially four links in the chain: 1) the copyright owners of works that form the basis of all video programs—the stories themselves; 2) producers, who create the programs; 3) program packagers, and 4) outlets, e.g., theaters, TV sets, radios, clubs. Market definition varies according to which link is under scrutiny.

Copyright owners have a legal monopoly over their products, and the U.S. Supreme Court has held that each work constitutes a distinct market. Not so, said Mr. Cooper, and he pointed to the extremely intense competition among copyright owners to get their works produced as evidence suggesting a more inclusive definition of the market for copyrighted works.

A more important controversy surrounds market definition at the program packaging level. A broad definition would include all distributors—e.g., the networks, satellite services (HBO, SHO, etc.) and syndicators—within the relevant market. Under this definition, HBO, for example, controls only 4-5% of the market. If, on the other hand, HBO's market is narrowly defined as pay TV, HBO's share becomes a more worrisome 50%. The cautious antitrust attorney will assume that the narrower definition applies.

Caution aside, Mr. Cooper suggested several arguments in support of the broader definition. For example, all packagers vie for programming from the same relatively small number of producers. Hence, from a supplier's perspective, all packagers constitute a single market.

"Windows" is the term given to outlets. Theaters, video cassettes, pay-per-view TV, pay TV, broadcast TV, syndication—each is a window. Negotiations for programs include such questions as the life span of a program in various windows, whether the windows overlap, and of course, the numbers of predicted viewers. A larger packager, e.g. a network, may buy out all the other windows and hence obtain exclusive broadcast rights, if negotiations concern a huge hit such as *Star Wars*. In other words, each packager competes for outlets and viewers. Since the whole industry competes for viewers from among a similar population, as between packagers and their buyers, i.e., windows, the whole industry is one market, asserted Mr. Cooper.

The same argument is applicable to the question of whether cable constitutes a monopoly. Mr. Cooper pointed out that an article in the Spring 1982 issue of the Federal Communications Commission Law Journal assumes that cable *is* a monopoly. And indeed, in most cases, there is only one cable company per locality. But, said Mr. Cooper, that is like being the only Exxon station in town—hardly a monopoly. 85% of all towns have two or more local TV stations, in addition to the three networks, and all compete for the same viewers. Actually, cable is at a competitive disadvantage, in that it costs viewers money, while the others don't.

Mr. Cooper concluded by stating that issues of how to regulate and how much regulation is appropriate depend on market definition. Billions hang on decisions here, as well as what prorams will be produced—and, ultimately, the future of the entertainment business for the next 30 years.

Mr. Langbord spoke next, and addressed practical antitrust problems in cable. He began by dividng the industry into two parts: 1) program suppliers (packagers), made up of premium/pay services and basic (advertiser spported) services, and 2) franchisees. In theory, there should be competition among suppliers for programming, channel space, and subscribers. But in reality, cable is very capital intensive—CBS cable, for instance, lost $35-100 million in one year, and it is typical for a program service to start off losing $500,000 a week. Franchising licenses, laying cable, and video technology are all big-ticket items. In consequence of these high start-up costs, cable is dominated by giants such as Time (HBO) and Viacom (SHO). Further, these huge firms are among the largest multiple systems operators (MSOs)—i.e. companies that own several video windows. For instance, Time owns HBO; it also owns ATC, which is itself one of the ten largest MSOs, while Time also has an interest in USA. Warner Brothers Communications has a similar array of subsidiaries. In short, cable is a model of vertical integration. But even though the big companies grow and fight each other, none of them dares bring an antitrust action. The litigation costs would run into millions, and a judicial decree might well work injury to both plaintiff and defendant.

The "new technology" companies—e.g., SMATV (Satellite Master Antenna Television), stations with a broadcast radius of a few city blocks—are not so constrained, however. With the lower start-up costs of this branch of the industry, horizontal competition is fierce. Moreover, these small firms see the "big guys" as conspiring to exclude them. In fact, said Mr. Langbord, the "big guys" continue to muscle out the "little guys," not because of a conspiracy, but because their larger budgets make for a better product. Notwithstanding this, an antitrust suit could well be a "little guy's" main asset. Thus, antitrust suits are proliferating. For example, in New York, HBO and SHO were sued for $120 million by a TV tradeshow programmer (A tradeshow is a small-budget production targeted at members of a particular industry). The validity of the claim is irrelevant, as the cost and time absorbed even in a suit that is abandoned are an enormous drain on the big guys—which was the little guys' object all along. The little guys are inflating the cost of the cable industry, and making it an "attorney-intensive" business. But the antitrust suits won't stop until vertical integration does—and it probably won't. The final irony, concluded Mr. Langbord, is that the litigious attacks on the big guys are encouraged by the FCC's hands-off policy, which was intended to get government *out* of the communications industry.

Following the formal presentations, the floor was opened up to questions. As to whether it is rare for a company to buy out all the "windows" for a particular program, Mr. Cooper said that because pay TV is beginning to hurt the networks, if the stakes are high enough, they will buy a program out, although the order and length of window licenses are more usual subjects of negotiation. Mr. Langbord added that syndicators such as Viacom sometimes buy out all the windows, only to resell to the highest bidder. Competition is getting so intense that packagers are beginning to sidestep the whole issue by producing their own shows, Mr. Cooper rejoined.

This situation was further detailed in response to another question. Producers and packagers are trying to get into each others' businesses. A packager may, for instance, produce or pre-buy a large number of films. The antitrust ramifications of this depends on issues such as exclusivity and how large a portion of the market is absorbed by the deal.

Other questions brought out the following points: the Department of Justice antitrust department has not yet taken a position on market definition in video. Different areas of video have differing degrees of elasticity, but overall demand and supply reamins elastic. Demand is in fact extremely fluid: viewers constantly buy and drop large numbers of services. At present, 40% of viewers have no cable available, 50% of basic cable viewers purchase premium/pay services as well. Each of these groups bring different segments into direct competition.

Both Langbord and Cooper felt strongly that the role of municipalities in regulating cable franchising should be reduced. Although municipalities have a valid right to charge for the license to lay cables down their streets, they have no business interfering with the content of programs. Too, municipalities often engage in a pernicious practice of refranchising, such that the original franchisee can be "Knocked out," thus losing hundreds of millions spent in assembling the technology and penetrating the market, as well as future profits. This greatly inhibits parties who might otherwise by interested in building new cable facilities.

In brief, the program surveyed some of the legal problems afflicting a fledgling industry. As Mr. Cooper put it, "we are in 1910 in the auto business, and 1942 in TV—it's all in the future." And on that note, the program ended.

The Entertainment, Sports, and Art Law Society is in its third year of existence. It plans to hold several more programs this year, and it welcomes new members.

N.E.B. Update

By Bruce Feffer

"A central responsibility of an organization of progressive lawyers is consistent involvement in defense of radicals, political prisoners and those under attack by the government."

This was the theme of a program entitled, "Defending Political Prisoners and Grand Jury Resisters," held at the National Lawyers Guild National Executive Board meeting on November 14 at the Statler hotel in New York. A panel of prominent lawyers and political activists addressed an audience of approximately 100 people about the United States government's attacks upon political dissidents.

Julio Rosado, an activist in the Puerto Rican independence movement, declared his opposition to what he referred to as the "2020 Plan." This, says Rosado, is a plan to establish the heavy industrialization and militarization of Puerto Rico by the year 2020, as part of the Reagan Carribean policy. The recent, highly publicized, arrests of FALN membes and the unsolved murders of five Puerto Rican activists since 1978 are, according to Rosado, "an attempt to intimidate" activists opposed to the policy.

Debby Edwards, a member of the Grand Jury Project of the NLG, discussed how the grand jury has become a "repressive instrument" used to gather intelligence, disrupt activities, and "legally intern" dissidents. She stated that in addition to locking up dissidents who refuse to respond to prosecutorial questions at a grand jury proceeding, the government uses the process to drain funds from political organizations by forcing them to spend money for the support and defense of activists held in contempt.

Addressing the question of whether individuals might be better off cooperating with the grand jury, Edwards said, "The question of good faith of the government does not apply." She explained that the government can in some cases use the information a witness provides to indict that witness.

Edwards also criticized the efforts of the government and the news media "to project the legitimate aspirations of political groups as terrorism."

Attorney Leonard Weinglass, who was among the attornevs for the Chicago Seven and who now represents Kathy Boudin spoke about the distinctions between the political trial and the more common trial. "The process of a political criminal trial is a totally different case because it's entirely controlled by the politics of the case."

He noted that the prosecution, in a sense representing the government, puts forth its own political view, which turns the trial into a confrontation of ideologies.

Weinglass stressed the importance of being familiar with both the law and the political views of the client. "Your legal knowledge is critical," he said, but added, "You're not simply an advocate, you are speaking for a person whose entire political life is on the line ... A word misspoken can completely undermine or viscerate the strength of the position that brought them there."

Weinglass said he spends a lot of time talking with his clients and studying their political literature so as to enable himself to effectively speak for them.

When asked by a member of the audience whether he can justify representing people who have committed acts which some might feel are counter productive to leftist goals such as the defendants in the Brinks case), Weinglass replied that even if the value of he act to the political cause is arguable, the attorney should not make judgements as to whether to take the case or not if the principles behind the act are proper.

He added that no attorney should make judgments about the defendants without becoming fully acquainted with the facts and evidence of a case.

Attorney William Kunstler, moderator of the program, responded to the question saying, "If you come to the conclusion that the defendant is fundamentally on the right side, and the right side is the left side, then you shouldn't decline to repesent that person."

Citing the shortage of political lawyers around the country, Weinglass encouraged other attorneys and law students to consider the effort. "Your life expands," he said. "You're pushed to the limit but it's a real privilege to be a part of it."

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L.A.W. Agenda

By Ann Galen

The Legal Association of Women will present its next speaker, Cynthia Fuchs-Epstein, author of the book *Woman and Law*, December 7th at 4 P.M. in the 3rd floor lounge.

L.A.W. is currently participating in the newly formed coalition of progressive and minority student organizations at Brooklyn Law School, consisting of members from L.A.W., BALSA, HILSA, AALSA, Affirmative Action, and the National Lawyer's Guild are invited to attend.

This month members from L.A.W. represented Brooklyn Law School at a meeting held at N.Y.U. Law School to discuss the formation of a consortium of New York women law student organizations. Representatives from Fordham, N.Y.U., Touro, NYLS, and St. John's also attended. Among the topics discussed was the possibility of travelling as a group to the 14th Annual Conference on Women and the Law this April. The Conference will take place at Antioch Law School in Washington, D.C. this year. The Consortium also hopes to co-sponsor a program this year, and publish a newsletter. The next meeting will be at Brooklyn Law School immediately following Cynthia Fuchs-Epstein on December 7th, in the 3rd floor lounge. All who are interested in taking part in the development of the first organization of New York women law students are encouraged to attend.

L.A.W. meetings have generally been at 1 P.M. but in an effort to encourage evening student participation, the last two meetings were held at 5 P.M. L.A.W. welcomes comments on how best to accommodate evening students who wish to become involved.

Natural Resources

By Philip Russell

The Natural Resources Law Society held its first organizational meeting at BLS on November 9.

The focus of the group's program for this year, as developed at the meeting, will include inviting speakers to the school from a variety of environmental/legal professions, and publishng the Natural Resources Newsletter. The Society's areas of interest this year will include hazardous waste disposal and waste regulation, the growing acid rain problem in the Northeastern United States and worldwide, and pending litigation in the nuclear weapons and nuclear power controversies.

New to the Society's agenda this year is the study of noise pollution. This environmental hazard,—which does not share the currency of more dramatic or legal dangers—is a growing source of concern among environmental health specialists and is believed to be one of the most pervasive hazards in modern societiy. Its effects are not clearly understood.

All students of BLS are welcome and invited to join the Natural Resources Law Society, and/or participate in publishing the Newsletter or organizing discussions or lectures. Interested persons are urged to attend one of the Society's well publicized general meetings (watch *Justinian* for announcements), or to drop their name and phone number into the Society's mailbox in the SBA office on the fourth floor.

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Dean Search

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the mechanics of the selection process, Dean Prince also discussed before the announcement of the final five what the basis for the committee's choice would be. He stated that the "ideal man" for the job would be one possessing four principle characteristics. The first was that he have the "vision for further development of the law school in the future" and have in mind a "plan to effectuate it." The remaining three standards for the "ideal man" were "being familiar with the operation of a law school" possessing "leadership qualities," and being "a scholar."

Aside from the four objectives, Prince stated that the "fundamental question" in the selection process was whether the new dean should be from inside or outside Brooklyn Law School (Professor Trager and Acting Jean Johnson are among the five candidates presently under consideration). Another issue for the committee was whether they wanted to steer the school in any particular direction through their choices. Prince commented that the committee did not intend to impose its views, but that it would in part choose on the basis of the candidate's program. Prince stated further that Brooklyn is "now a regional school," and that whether we are to become national in outlook is a "question to be presented to the new dean."

Following is a list of the five candidates selectced.

1. *David Trager*, Prof. Brooklyn Law School; A.B., 1959, Columbia Coll.; LL.B., 1962, Harvard; Assoc., Berman & Frost, Esqs., N.Y., N.Y., 1963-65; Assoc., Butler, Jablow & Geller, NYC, 1965-67; Ass't. Corp. Counsel, Dept. of Law, City of N.Y., 1967; Law Clerk, Judge Kennteh B. Keating, N.Y. Ct. of Appeals, Albany, 1968-69; Chief, Appeals Div., Off. of U.S. Att'y, Eastern Dist. of N.Y., Brooklyn, 1970-72; Assoc. Prof., Brooklyn, 1972-74; U.S. Att'y, E. Dist. N.Y., Brooklyn, N.Y., 1974-1978.

2. *George W. Johnson, Jr.* Acting Dean Brooklyn Law School; A.B., 1961, Davidson Coll.; J.D., 1967, Univ. of Florida; L.L.M., 1971, New York Univ.; Clerk, C.J. O'Connell, Sup. Ct., FL, 1967; Assoc., Johnson, Motsinger, Trismen Sharp, 1968-70; Assoc. Prof., Broolyn, 1973-80; Vis. Assoc. Prof., Tulane, spring 1978.

3. *Peter J. McGovern*, Prof. and Dir., CLE. Univ. of South Dakota School of Law–: A.B. 1961, Notre Dame; J.D., 1964, Fordham; Att'y, Crim. Div., Dept. of Justice, 1971-72; Prof., South Dakota, since 1972.

4. *Covington Hardee*; Chairperson, Lincoln Savings Bank; former Professor of Law, Harvard Law School

5. *Sandford Jaffe*, Ford Foundation.

Legal Aid Strike

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ents. Under these conditions, opines Mr. Stockhouse, Legal Aid lawyers are not able to provide adequate representation to their clients.

According to the two-year contract agreed to last year, the ALAA could only renegotiate the financial terms of the contract after one year. The ALAA came to the bargaining table with a request for a 15% wage increase. The LAS countered with an offer of 4%. Given a nearly identical situation last year, the ALAA decided against striking.

Because of two incidents that occurred shortly before the time for renegotiation, says Mr. Stockhouse, the members of the ALAA decided differently this year. The first incident involved an attorney from Manhattan. Steven Leventhal, faced with what he considered to be an untenable caseload, asked a judge to dismiss him from several of his cases. The judge agreed and complied with his request. The LAS management suspended Mr. Leventhal for one week because they claimed that he could request dismissal from a judge only after such a request is assented to by management.

Shortly after the Leventhal incident, Welden Brewer, a Brooklyn LAS attorney, filed a grievance against LAS claiming that his caseload was too large to properly handle. Mr. Stockhouse claims that after Mr., Brewer had requested arbitration, LAS fired him to avoid any arbitration on the caseload issue. The Society maintains that Mr. Brewer was dismissed because he allegedly mishandled two cases assigned to him.

Although the ALAA has only brought the money issue to the table, says Mr. Stockhouse, the caseload issue actually provided the impetus for the attorneys to strike.

Mr. Stockhouse finished his presentation by noting that although the Legal Aid attorneys were at first apprehensive about striking, the time spent on picket lines has strengthened their resolve. He asserted that the level of compliance was 90%-95%.

Charles Bobis followed with a discussion of the various methods courts have employed to break the strike. Mr. Bobis cited his own run-in. A Manhattan judge, Criminal Court Judge Clifford Scott threatened him with contempt if he (Bobis) did not begin a trial for which he was scheduled.

Mr. Bobis sought relief in Federal Court. Judge Robert Ward of the Southern District ruled that the Legal Aid attorneys have a right to strike and that state judges may not interfere with that right.

A question and answer period followed. Some of the questions which were asked follow:

How do ALAA salaries compare with those in the District Attorney's Office? Mr. Stockman admitted that at first glance there seems to be parity, but argued that because of the numerous bonuses D.A.'s receive, LAS attorneys make an average of $2000-$3000 less than D.A.'s.

How can the ALAA justify the strike in terms of the needs of LAS clients? Mr. Bobis asserted that because of the large caseloads Legal Aid lawyers are forced to shoulder, the goals of eventually lessening the load would work in favor of the clients.

Will the stike change attitudes in the courts? Mr. Stockman reiterated that at the time the attorneys went out, the D.A.'s were not offering decent pleas, thus forcing trials. If the ALAA is successful, asserts Mr. Stockman, the D.A.'s and the courts will discover that LAS is not dispensible and will have to begin to lean in its direction. By the same token, he added, the LAS will realize its own value and hence will not necessarily give into every whim of the courts and the court administrators.

Security

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One of the large movable electric shelves in the basement was toppled over by person or persons unknown. As Dean Kerman reconstructs the incident, someone turned the motor propelling the shelf on and then pushed it over as it was moving. In his opinion, the shelf could not have fallen over by itself, since it is locked into position when the motor is turned off. Moreover, no one person could have exerted sufficient leverage to topple the shelf. Therefore, it is likely that one or more persons were involved.

On the previous weekend, someone broke into the cafeteria, and, using a crowbar, jimmied open a locked refrigerator and stole a plastic container of tunafish salad. The motivation for this first incident remains as mysterious as that for the second. Both incidents were merely the culmination of a continuing problem with theft and vandalism at BLS. Last year someone made off with the copper bushings and nozzles of the school fire extinguishers. On another occasion, the video tape recorder was stolen. Within the last four months, the camera of the VCR was lifted, along with several hundred feet of fire-hose. Particularly mystified by the last incident, Dean Kerman asked, rhetorically: "What kind of craziness is that?"

Responding to the incidents, Dean Kerman decided to enforce selectively a policy which was actually promulgated several years ago. Officially all students are required to show I.D. when entering the building. However, since the regular day guard, Joseph Hughes recognizes most students, this policy has not been enforced. Dean Kerman decided that the crux of the problem was entry by unauthorized persons during the evenings and on weekends, when the maintainance staff is short-handed, and some of the guards are not familiar with all of the students. Therefore, the policy of requiring students to show I.D.s is only being enforced at these times.

Dean Kerman emphasized that he has "no intention of keeping any students out," but is only trying to limit entry into the building to those who have a legitimate reason to be on the premises.

Budget Brouhaha

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tested items in the SBA budget. The Special Activities part consists of ABA/LSD delegates, N.Y.S. Bar Assn/LSD delegates and one fellow (also referred to as a delegate in the final version of the budget) to the Center for the Study of the Presidency. Johnson stated, "One of my goals is to let people who do something around here be recognized for it. If someone is elected to national office, I think we ought to underwrite them [by] putting them through the SBA, largely because students want it."

When asked about the propriety of the SBA funding what appeared to be a fellowship (the Center for the Presidency), Johnson explained that although it was called a fellow, it was not his impression that it was a fellowship. Johnson explained that last year the Center sent BLS a request to send down students to their convention in Washington. Last year Wendy Weinstein and Steve Richman went to the convention. The school did not fund them. "When Steve [Richman] was elected a Center Fellow, I don't know what that is exactly, I said that's great. He asked if he could be helped because it's expensive. I said I think it's a good idea, pass it through the SBA."

When Johnson was informed that the Center Fellow was cut from $600 to $400 he stated, "In point of fact if the SBA came back and said we don't want to spend money from there and (those people who want money) came up and asked what could be done, I'd have to scratch my head and see what to do then."

According to Steve Richman, he was not elected a fellow. Richman was appointed a fellow on the basis of an application, a writing sample, a resume and letters of recommendation. Although he insisted that it was not a "fellowship," he explained that the center is funding his room, board, and meals at the two symposiums he's required to attend. Additionally, he is required to write a paper suitable for publication in the Center's *President Studies Quarterly*. Richman stated that he is currently requesting academic credit from BLS for these activities. The Center is a non-profit educational corporation chartered by the Board of Regents.

Richman indicated that his only expense is transportation to the symposiums. He has already attended the Minneapolis symposium in early November. The airfare was $322. There was also a $50 registration fee. Although the Center Fellow is now budgeted at $400, prior to the second House of Delegates meeting, Richman was given $450. The second Symposium is being held in the Spring in Washington, D.C.

When Richman was informed of Johnson's description of the way the budget process works, he admitted that he really did not know how the Board of Trustees arrived at a budget, or whether or not it was mandated. He stated, "I asked guidance. I put my request through the SBA. I was told there shouldn't be a problem on the ninth floor. On that basis I accepted the appointment because I couldn't afford the $600 out of my pocket." Richman explained that his "understanding was it would not detract from any of the other SBA monies."

Bobby Steinberg, the SBA president, stated that it was also his impression that the money in Special Activities was supplemental and therefore mandated. When asked if he was still planning to investigate, he indicated that he was waiting until a problem comes up because currently there are "other things pending."

Halloween MCMXXCII: Trick or Treat

By Evan Gordon

I went to a Halloween party on Montague Street this year, and although I knew it wasn't going to be a very good one, I'd started looking forward to it as soon as I heard about it, many weeks before the costumes and masks and the dangling skeletons had reappeared in the store windows.

As summer had begun to run out and I began to speculate about school and fall, not only had I realized that I hadn't celebrated Halloween since the days when your man on the street was more used to seeing Roman numerals on the clocks overhead than on movie marquees, but I also remembered how wild and truly remarkable the usually humble campus of one of the four state university centers had been that night. Even people who were utilizing no more than an eyeliner moustache to hide their true identities seemed to feel free to act completely outta line, adopting any and all attitudes and behaviors when they had spot-calculated could convince the next person to approach that they were within the parameters of their chosen character. In fact, I remember the girl I was with, previously and since much more fond of peanut butter than liquor, and chocolate kisses over good sweaty sex walking around from dorm to dorm that night dressed like Claudette Colbert in a 30's movie, spreading the word to every guy whose eye she caught "Long Live Fatty Arbuckle!" as she hoisted a bottle of gin high in the air. Besides, sometimes you can tell a lot about a person by the way they dress themselves.

I knew it wasn't going to be a good party because I'd been introduced to the person giving it, but that hardly mattered. I was gonna go with four or five invariably good friends (not many left in the celler) of mine, people who know how to laugh, so I expected a jolly evening of good cheer, if not a curtain-caller. And anyway, it was Halloween.

It's important at this time to define some terms. A good costume is generally one that is imaginative. A modest example is Zorro the Gay Blade, inclusive of two whips for duality and a clever sword. A bad costume is an unimaginative costume. Going as a Mexican by wearing a wool poncho and Levi cords and telling people your name is Pedro does not cut it.

Our plan for the evening was for everyone to meet at my apartment early and then walk to the party. When we finally did leave after waiting for the final couple we were already so giddy and high after laughing at each other's outfit that even the sight of the guy who we'd just passed, who I'd remarked (quite loudly) had a great mask and who was not wearing any costume at all, being restrained by his girlfriend under the street light at the last corner, did not significantly dampen our spirits.

What did kill mine was the sight before us as the door to the apartment of the girl who'd invited me opened. She had answered the door, dressed in all red and black, like a deck of cards waiting to be dealt. Black fishnets and black spike-heeled pumps, garish black and red on her dolled-up face, and a red shiny number that started with her crotch and ended half-way up the tits it was bunching together like two baseballs the umpire had just rubbed up and were now ready to be thrown to the pitcher to be put into play.

When I first met her, she seemed a little simple-minded maybe, but not *vapid*. Intros, intros, all around, half in and half out of the doorway. "And this is my roommate ... Jesus, and you'd think one of them would have told the other that *she* was going to go as a cocktail waitress this year.

The rest of the party was, of course, no better. There were actually two *more* punched-up cocktail waitresses, and for every cocktail waitress, at least two Pedros, of the spirit, college grads at minimum all. Most of the Pedros wore these real tight jeans instead of corduroys—must be the new, updated Pedro—and not one of them wore a hat you could hat dance to, or any hat at all.

I think things are sometimes more important than they appear to be. Roman numerals on movie marquees. A young woman going to Halloween party dressed up in an old Fifties button-down cardigan sweater to go as Mr. Rogers, putting on a string tie per Roy Rogers, adding a fitting mask and long ball earrings to be Ginger Rogers, and lacing on a pair of running shoes so as for Bill Rodgers. Claudette Colbert. And what happens between you and people you meet on the street are all important things, and I'm not going to let any silly Barbie Doll of a girl who doesn't even know how to throw a Halloween party or any guy trying to look like he just happened to drop by tell me they're not.

Post Punk Political Pop

By Anthony Paonita

The biggest record on New York radio last summer was "The Message" by Grandmaster Flash. You couldn't escape it—it blasted from boxes, cars, apartments, and soon everyone was identifying with the refrain, "Don't push me 'cause I'm close to the edge, I'm tryng not to lose my head." "The Message" was significant in a number of ways. For the first time, a popular rap record carried an explicitly political message, and it "crossed over" to the white audience and clubgoers. Success soon travelled to England, where political pop music has been more popular.

Maybe the Reagon depression has proven to be inspirational. In any event, music with a political content has been popular for some time in the U.K. and Jamaica. Being popular isn't everything, to be sure, but there isn't much gratification, artistic or financial, (someone has to pay the rent), to be had by playing to a tiny core of like-minded people. "The Message" has to be spread in order to be effective. Hard times appear to be a spur to this sort of thing, as anyone in Trenchtown or Brixton would tell you.

The "mother" of newer political music has to be Jamaica, for both musical inspiration and the idea of having a popular, dance-type music mirror social concerns. Reggae music in particular has been the vehicle, especially in the form of the great popularizer, Bob Marley. The Wailers, composed of Marley, Peter Tosh, and Bunny Wailer released a string of political hits that began with the late '60s song "Simmer Down." Much of their early work mirrored life in Trenchtown, Kingston's most notorious slum. The election of the socialist Manley government in 1972 gave anti-imperialists a boost, and reggae attained the status of a Third World cultural force. No reggae band, though follows any sort of doctrinaire ideology (even rastafarianism is open to interpretation), and the music itself seduces you with strong melodies and of course, the "riddim." This meant that no one really minded hearing "Them belly full but we hungry" sung in a sweet tenor, and soon even prosperous Europeans began to listen. Marley eventually grew into virtual statesman status before his death in 1980, as shown by the invitation to play at independence celebrations in Zimbabwe. Reggae has become a vehicle for carrying messages of various types. It's interesting to note that erstwhile funkateers like Rick James and Stevie Wonder put their political songs to a reggae beat.

England has a large Jamaican population as a result of colonialist and neo-colonialist policies. To the young, reggae is the umbilical cord that binds them to their culture. Blacks in England encounter the same sort of racism found here, and young males in particular are subject to internment for "sus," or "suspicion of wrongdoing." Waiting for a bus can be grounds for arrest. Naturally enough, English Jamaicans, and their friends have their own music, which is reggae-based, but often injected with a bit more tension and techno-flash than the island variety. The Beat (called the English Beat here), Steel Pulse, UB40, and the Brixton poet Linton Kwesi Johnson are representative of that strain. The Beat are especially popular in England. A couple of years ago, they scored a number one hit called "Stand Down Margaret," aimed of course directly at Mrs. Thatcher. UB40 is an integrated group, as is the Beat, and its name comes from the number of the British unemployment application. A 1981 song of theirs applies to this country today, called "One in Ten." In England, unemployment now is closer to one in eight. Steel Pulse plays "roots" reggae with a bit of R&B feel, and song topics extend across the ocean as in "Ku Klux Klan."

Reggae to English white youth is much like jazz was to Americans—a bridge to coolness. As a result, much of British rock and roll has a reggae feel and "politically correct" lyrics. The Clash are probably the most famous example. Other bands have just taken the political content, such as the notorious Gang Of Four.

As for the U.S., nothing approaches the scale of the Jamaican and English scenes. Stevie Wonder writes topical songs, and Talking Heads make communal musicmaking a virtue. Some punk bands such as the Dead Kennedys write explicitly anti-capitalist lyrics and set them to virtually unlistenable music. "The Message" may be an auger of things to come, expecially as the economic situation gets more desperate—witness the transformation of former optimists such as Bruce Springsteen. A guy out of Minneapolis called Prince is someone to watch. His style is funk, and his songs are both political and good for dancing. He is also explicitly erotic, which could be more subversive in the age of the Moral Majority.

You might ask though, what does it all mean? One critic wrote that French and Italian kids make revolutions, but Americans and the English form bands. Maybe so-called political music is just a release valve for energies that might be more productively put to use elsewhere. The fact that much of this music is sold through the corporate chain of media distribution is curious—give 'em enough rope? I'm of the opinion that we are shaped by what we see and hear, and it can't hurt to have politically conscious lyrics sung to us as we brush our teeth and get ready to go to work or school—it's much better than the usual corporate pap.

DISCOGRAPHY—If you can afford it, or you have friends who can and buy records, check out . . .

BOB MARLEY—Anything; for politics, Survival and Burnin' (Island/WB)

(English) BEAT—I Just Can't Stop It, Wh'appen (Sire)

UB40—Present Arms (DEP International import)

LINTON KWESI JOHNSON—Forces of Victory (Mango/WB)

GRANDMASTER FLASH—"The Message" (Sugarhill 12" single)

PETER TOSH—ERqual Rights (CBS)

PRINCE—Controversy (WB)

Of course, this isn't an exhaustive list—look at record covers, listen to the radio.