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# Carnival and the Law in New Orleans

Joseph Roach

*There are enemies of this Carnival; not those chill-hearted, shrivel-skins who frown on it as a device of the devil; not the clergy, nor any overt opposition. It is the innovators who are to be feared, they do not understand the carnival spirit, and seek to have it new.*

—Henry Rightor (1900:629)

*Festivals are a way of bringing about change. People are allowed to say not only what they voice in ordinary life but what is going on within their minds, their inner grief, their inner resentments. They carry peace. They carry violence. The masks and the songs can teach or curse, saying in their forms matters to which authorities must respond or change. Parades alter truth. Parades see true meaning.*

—Fu-Kiau Bunsekei (in Bettelheim and Nunley 1988:23)

A recent headline in the local daily newspaper culminated a year in the history of Mardi Gras in New Orleans that Henry Rightor, with his professed fear and loathing of innovation, could scarcely have credited: “Rex broadens membership in Carnival revolution” (Finch 1992:A1). Two sub-heads followed. The first, consonant with Fu-Kiau Bunsekei’s claim that festivals provide occasions and even stimuli for change, justified the word *revolution*: “120-year-old color barrier falls.” The second tried to take it back: “Tradition reigns amid change.”

What makes such an event—club invitations to three prominent African American men (a university president, a college dean, and an MD)—worthy of a banner headline? How can tradition, like a monarch, “reign” amid revolution? What kind of carnival is this? The answers to these questions, which must somehow attempt to do justice to the deep emotional hold of a ritualized, collective self-representation upon a profoundly complex society, begin with a law. In December of 1991, a new civil rights ordinance passed by the New Orleans City Council sought to integrate by race and gender the “Old Line” carnival organizations (called “krewes”), which have remained bastions of traditional white (and male) privilege long after most of the city’s other institutions have been officially integrated. Comus, Momus, and Proteus, the oldest krewes, have maintained hallowed social

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traditions organized around exclusive private clubs, debutante balls, and (until 1992) street parades. Old-line parades featured elegantly designed floats mounted on old cotton wagons, accompanied by *flambeaux* (African Americans carrying torches) which illumined masked and sequined krewe members tossing plastic beads and other favors to rapturous but remarkably well-behaved crowds.

In addition to the ancient three, the larger Rex Organization traditionally represents the emerging business elite of New Orleans. The Rex parade and ball, visibly linked to the old-line krewes by a symbolic meeting between Rex and Comus on Mardi Gras night, provide a kind of public climax to a dramaturgy of festive events, many of which necessarily remain invisible to "the People." Mardi Gras protocol is in flux, however, since the secret membership of Comus, Momus, and Proteus voted not to parade ("roll") through the streets and since Rex, in the name of its motto ("Pro Bono Publico"), has integrated—to the dismay of many who believe that carnival "tradition" ought to supersede the law.

The explosive Mardi Gras Ordinance, which was founded upon a similar law in New York City, proscribed discrimination on the basis of race, sex, religious affiliation, or sexual orientation in organizations previously considered private (and thus Constitutionally protected) but which now could now be shown to have social functions "not distinctly private in nature." Mardi Gras parades use the public streets, for instance, and the social activities at so-called "private" clubs may mask occasions on which business in the public interest is frequently discussed. Rather than obey such a law, the krewes of Comus, Momus, and Proteus have packed up their baubles and *papier-maché*, ending a century and a half of Mardi Gras tradition and (incidentally) opening their parade dates for newer, upwardly mobile krewes, some of which have already integrated.

The debates occasioned by the 1991 Ordinance, the responses of partisans with passionate views on its merits, the public and behind-the-scenes negotiations following its adoption, and its disposition after the Lenten season—all bring into vivid focus the interdependence of carnival and the law in the traditional performance culture of the City of New Orleans. This article surveys the historic dimensions of that interdependence, which dates from colonial times and continues in the laws and customs of the Anglo American occupation. The following article by Barbara Vennman takes up the testing of the Ordinance itself in the crucible of the Mardi Gras season of 1991/92, throughout which she followed the day-by-day legal and cultural intricacies of the controversy.

Both articles derive from a seminar called "Carnival and the Law," offered in the Department of English at Tulane University in the spring of 1992 as the events predicated on the Ordinance were unfolding in the City Council chambers, in the local and national press and media, and in the streets.<sup>1</sup> By bringing together the legal history of festival and race in Louisiana with interviews with the New Orleanians who made history this past year, Barbara Vennman and I have collaborated in the demonstration of what we in the seminar came to call a "genealogy of performance." By a performance genealogy we mean the transmission and dissemination of cultural practices through collective representations. This concept draws upon Richard Schechner's formulation of "restored" or "twice-behaved behavior" (Schechner 1985, 1992), but it emphasizes the rootedness of contemporary local performative behaviors in deep historic structures.

In New Orleans we feel the grip of history perhaps more tangibly than in many other places in the United States (some would say that Louisiana history, like its summer, holds on with the choking ferocity of a pit bull),

but as we were working on this project, the juxtaposition of two events made us question the absolute reliability of that self-mocking local commonplace. On the same days that Los Angeles erupted in violence in the wake of the Rodney King verdict, New Orleans hosted its annual Jazz and Heritage Festival, a gala celebration of African American culture especially, in which most of the city participates and of which the entire city is justly proud. Such a rainbowlike performance event looks to the future, we hope, even as it does proper reverence to the past. The progressiveness of Jazz Fest reminded us that our early formulation of the concept of performance genealogy drew upon Jonathan Arac's forward-looking definition of a purposive "critical genealogy": "It aims to excavate the past that is necessary to account for how we got here and the past that is useful for conceiving alternatives to our present condition" (Arac 1987:2).

Like New Orleans itself, carnival and the law in Louisiana share an origin, at once actual and deeply mythologized, in Latin traditions, namely the pre-Lenten revelries of Mardi Gras and the French and Spanish civil codes. But these intertwined historic roots have grown far denser than that, entangling Anglo American and prolific African traditions and customs through centuries of struggle. In an ethnically complex and divided city, carnival and the law obviously still provide antagonistic sites for the playing out of the cultural politics of racial identity and difference. Both carnival and the law have operated as agents of cultural transmission, especially in conserving the exclusionary hierarchies of the social elite; yet both have also served as instruments of contestation and change—in the struggle for dominance between Creole and Anglo American interests in the mid-19th century, for instance, in the agony of Reconstruction and resegregation in the late 19th and 20th centuries, and most recently in the furor over the Ordinance, a law that in actuality represents only one link in a chain of attempts to bring carnival under the regulating thumb of legislation.

At first glance pairing the terms "carnival" and "law" may seem contradictory, a perverse shackling of opposites. Carnival, an occasion for festive transgression, limited only by human imagination or stamina (whichever exhausts itself first), apparently flourishes beyond the law, above the law, and even against the law. In the Bakhtinian construction of the European "carnavalesque," seasonal revelry and masquerade offer release from the oppression of official culture, a suspension of its laws, an exhilarating inversion of its authority, a momentary state of "topsy-turvydom," in which the common people become powerful and the powerful people become ridiculous. To the august majesty of the law, the carnivalesque says, "bottoms up!" (Bakhtin 1984).

In New Orleans, however, this relationship, like almost everything else about the city, is more complex than it may first appear to Eurocentric eyes. Carnival and the law, two deeply symbolic local systems, intersect at key points in the history and culture of the place that is known as the "Big Easy," but which is more profoundly characterized by the rigidity of its festive traditions. These laws of carnival, written and unwritten, reflect the intricate network of impositions, accommodations, and social tensions of a city whose residents, whether they have liked it or not, have lived together in a postmodern global interculture since the 18th century (Fiehrer 1979).

An economically failed possession of both France and Spain and a repository of dispossessed peoples from all around the circum-Caribbean and larger circum-Atlantic world, colonial Louisiana relied heavily on its Native American and imported West African populations for its very material and cultural survival (Hall 1992). This cultural richness amid physical poverty, emblemized by the intense reciprocal exchanges between Africans and Na-

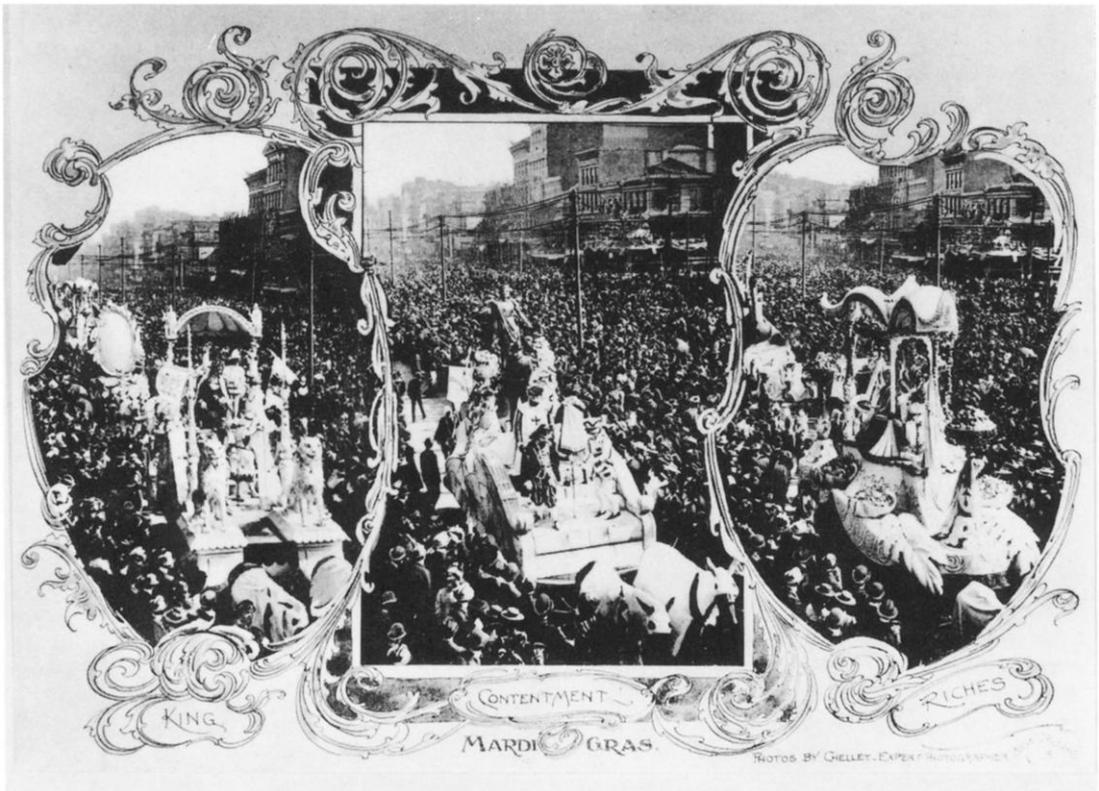
tive Americans, is a fact of history that even the most implacably racist policies could not subsequently erase. The roots of Louisiana's justly celebrated festive life (its food, its music, its carnival), lie tangled, like the roots of its unfolding human tragedy (its lynchings, its supremacist *coups*, its genocide), in the deep, fateful embrace of three continents. Historic New Orleans is partly of European derivation, but it is not to be fully understood as an American city, I believe, until it is proudly appreciated as an Afro-Caribbean one.

In the grip of such historical conditions, the laws and customs relating to carnival have necessarily taken different forms than the ones developed by more homogenous societies, even those European traditions afflicted by deep religious hatreds and class resentments (Le Roy Ladurie 1979). Under a violently self-terrorized slave culture, and then under its only partially reconstructed successor regimes, Louisiana law has created a number of contradictory regulations concerning carnival.

On one hand, the law has deliberately created in its interstices a space for easily overlooked transgression, which heightens the fleeting pleasures of apparent escape from its reach, if only because enforcement, in the absence of a wronged and privileged constituency, is unrewarding. Performers and performances have often traded on the fruits of this variety of guilty pleasure. In Louisiana, however, overlooked transgression seems to have offered a release of pent-up furies, a publicly enacted dream of escape from race-hatred's waking nightmares. That is one reason why theorists of carnivalesque inversion debate to what degree, if any, ludic transgression contributes even momentarily to the subversion of the dominant orders and the majesty of their laws (Stallybrass and White 1986). This skepticism seems all the more persuasive (to put the case in its most defeatist terms), in situations where groups of differently empowered people have tolerated living together side-by-side for centuries without the hope of justice among them.

On the other hand, Louisiana law relating to Mardi Gras tends eventually to annex the ludic space at its margins simply by legalizing the offenses it declines to prosecute. Carnival becomes law. This is an historical process: today many carnivalesque practices have entered into law; in earlier times, especially under slavery, they were unpunished illegalities. In the absence of a law that makes one race the property of another, there seems to be greater need for a more elaborated regulation of carnival activity to sustain at least the symbolic supremacy of the favored group. This process, whereby once transgressive activities become dignified, sanctioned, and even legally protected practices, seems to reflect the anomalous origins of New Orleans street parades as upper-class performances by a closely knit local aristocracy, in contrast to the predominantly "vernacular culture" of other popular American parading traditions like those of Philadelphia (Davis 1986; Ryan 1989).

Amidst the experience of total civic participation in a collective cultural performance (plate 1), carnival "tradition" asserts and enforces historic claims of entitlement, priority, and exclusivity. As I propose to demonstrate, these claims date especially from the post-Civil War period of Reconstruction and Southern Redemption, though their history reaches back to colonial times. Nurtured in the fierce legalities and illegalities of racial politics, they remain festering there, rendered intensely visible at Mardi Gras but present on a year-round basis. At carnival time, race serves as a master-trope for a broad spectrum of exclusionary designs and practices: classism, anti-Semitism, sexism. Even now, standing in the public gaze of other kinds and other classes of people at the end of the 20th century, the



1. An illustration from *Human Passions and Characteristics* with photos of the 19 February 1901 Rex Parade labeled "King," "Contentment," "Riches," shows at once the total participation of a city as well as claims of entitlement, priority, and exclusivity. (Photo courtesy of the Louisiana Collection, Howard Tilton Memorial Library, Tulane University)

ultra-elite will not, and perhaps cannot, renovate the stage on which its dignity, usurped from the Creoles in the 1850s, fought for outside the law and "won" in the 1870s, and gradually consolidated within the law ever since, is still seasonally performed. Even in the meticulously exclusive privacy of its own social gatherings, which is all that remains after the cancellation of the parades, the die-hard clique seems to insist on acting out the self-reassuring spectacle of its historic privilege beyond the uttermost limit of superannuation.

The subject matter of these festivities—the transformation of a bourgeois elite into a mystified pseudo-royalty through the iconographic manipulation of costumes, tableaux, and floats—reiterates polarities of race, gender, and class even as it boasts, more or less accurately, of involving the whole city (and its hordes of cash-bearing guests) in an communal rite of fleshly participation. For New Orleanians steeped in the tradition of Mardi Gras, everything has depended on where one participates, with whom, at which occasions, public and private, and thus on the minutely detailed laws, written and unwritten, of inclusion and exclusion by which one is socially located and judged. The established pecking order of the old-line krewes, for instance, with the Mystick Krewe of Comus (founded in 1857) at the apex, enforces social discipline on the families of the elite, including those accepted under the more "democratic" aegis of the Rex (founded in 1872), whose annually selected monarch ascends to the honor of "King of Carnival" (plate 2).

What kind of carnival is this? Not an occasion for seeking release from a way of life, it would seem, but an institution dedicated to its perpetuation.

Summarizing the supposed violence and vulgarity of New Orleans street carnivals of the 1850s (“the disgraceful actions of ruffians”) before the advent of the Anglo American krewes, the commemorative pamphlet issued by the Mystick Krewe of Comus on the occasion of its centennial constructs the history of New Orleans carnival in Pavlovian rather than in Bakhtinian terms. Remarking on the good behavior of the crowds, it observes:

Undoubtedly, this is due to the fact that the people of the city, naturally orderly, are “conditioned” to restrain themselves to innocent fun. Also the Carnival is conducted by the leading citizens and representative people of the City. Comus has done more than its share to bring about this sense of dignity and orderliness which characterizes the Mardi Gras celebration in New Orleans. (*One Hundred Years of Comus* 1957:5–6)

Anyone who has experienced the excesses of Mardi Gras in the streets of the French Quarter might wonder at this description, but it actually asserts the prior claim of traditions that serve a more explicit social function than the generalized license of pre-Lenten crapulence and its expiation.

The power of such traditions may be seen in the images of the mini-krewes organized a generation ago for the enculturation of children, whose experience presumably “conditioned” them from an early age to read correctly the relationship between the symbolic gestures of carnival and their future social positions (plate 3). Perry Young, historian of the Mystick Krewe of Comus, once explained the salient peculiarity of the local culture’s historic rites of kinship, the intervention of its patriarchy into a sphere that most high societies delegate to women:

The carnival—this fashionable end of it—is the social system of New Orleans. Its season is the social season, no matter how sociable the



2. *The coronation of the Rex, His Queen, and His Court culminated the Mardi Gras 1971. Rex, as “King of the Carnival,” has achieved ultimate social status. (Photo courtesy of The Historic New Orleans Collection, Museum/ Research Center. 1974.25.19.332.)*

3. *The Children's Carnival of 1938, exhibits at an early age the relationship between symbolic gestures of carnival and the children's future social positions.*

(Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1979.325.7532.)



others. And the social system of New Orleans is run by men. Women have their place, dowagers their say, but when there's justice to be done, carnival defies the female fiat. It is generous and adamant, and male. [. . .] The most beloved man in town may have a wife that simply could not dance, friends that would not fit. It is the Membership Committee that preserves the inner social equilibrium. (Young 1939:64)

By regulating krewe memberships and ball invitations through discrete and rigorous black-balling, fathers and brothers have renewed the homosocial compact annually, exerting themselves to keep the dance floor safe from threats of misalliance. That the excluded are themselves still Mardi Gras participants (by virtue of their performance on the streets, cast as social inferiors) is made excruciatingly plain in Perry Young's celebration of the proper role for "Negroes and *Gens de Couleur*" in carnival (plate 4), which is to re-enact festively their assigned place of menial servitude in Young's racist version of real life:

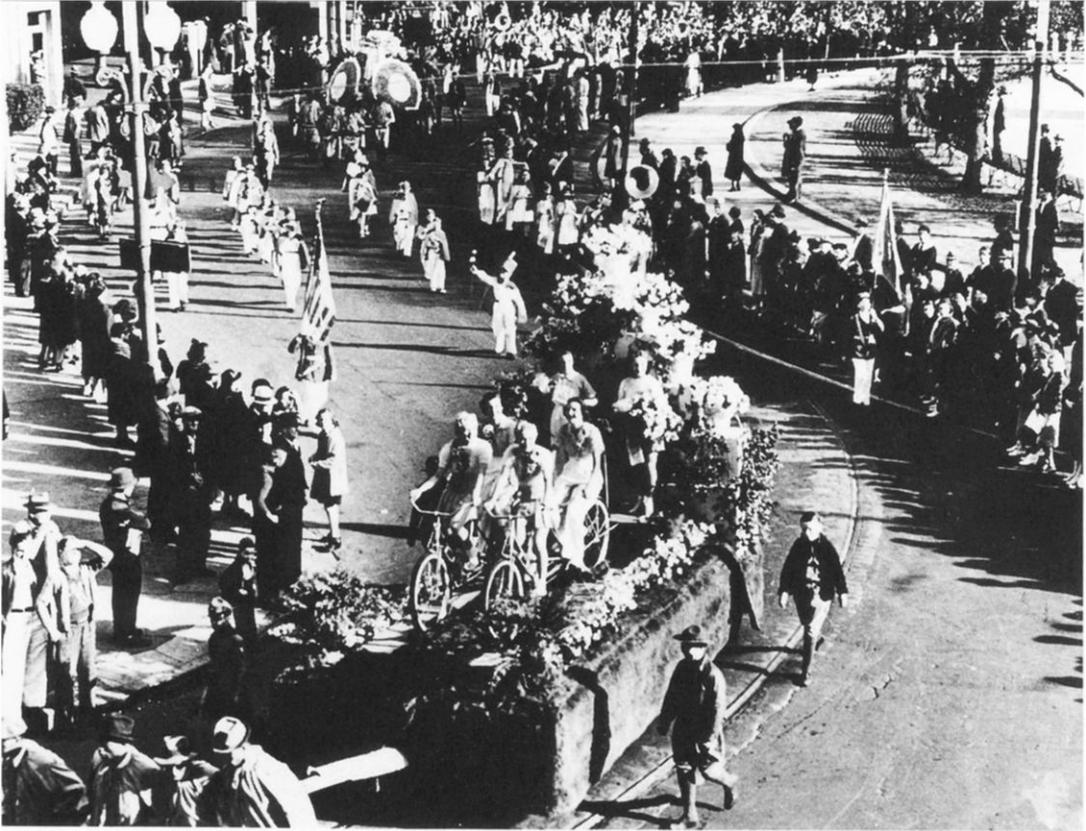
In the white parades no element is more essential, or more sincerely part and parcel, than the thousand or fifteen hundred black torchbearers and muleherds, white-shrouded, cowled, that dance before the cars, between them, alongside, toiling, but dancing. They think that they belong, and they earn the affiliation. A dollar apiece they get, or a dollar and a half, the way is long, the asphalt hard, the blazing torches hot and heavy—but they dance. Not for the dollar and a half—they do it for being part of the parade—a part that can't be done without—a part that cook and chambermaid, scrub-woman and black mammy, admire as much as madame on the Avenue admires the masks that might be son and heir, lord and master, or fine and chosen true-love. (Young 1939:63)

Prominent though they may be in the consciousness of carnival in New Orleans, the old-line krewes actually represent a small fraction of the over-



4. The African American and “Gens de Couleur” flambeaux carriers exercise their “proper role” in the festivities. An illustration by Joseph Pennell entitled “In Carnival Time—New Orleans,” 1884. (Photo courtesy The Historic New Orleans Collection, Museum/Research Center. 1974.25.19.389.)

all scene. For days leading up to “Fat Tuesday,” the streets of New Orleans and its suburbs fill with revelers drawn from every segment of the community. As of 1992, there are over 50 other parading krewes, including the newer, larger “super-krewes” of Bacchus and Endymion and all-female krewes such as Venus and Iris (Hardy 1992). The newer krewes ape the pseudo-classical names, the parading practices, and some of the traditional icons of older groups (plates 5 & 6). Although outsiders may be forgiven for failing to mark distinctions based on outward spectacle, insiders master the coded relationships between exclusivity and cultural capital: “It is understood,” remarked Young with a wink, knowing that a word to the wise is sufficient, “that a king of Hermes was a Jew” (Young 1939:73). The krewes-centered images of hierarchies and polarities tend to be recycled by the “promiscuous maskers” in the streets (plates 7 & 8).



5. Floats pulled by African American men carry riders on stationary bicycles in the 1937 Women's Krewe Parade. (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1974.25.19.223.)

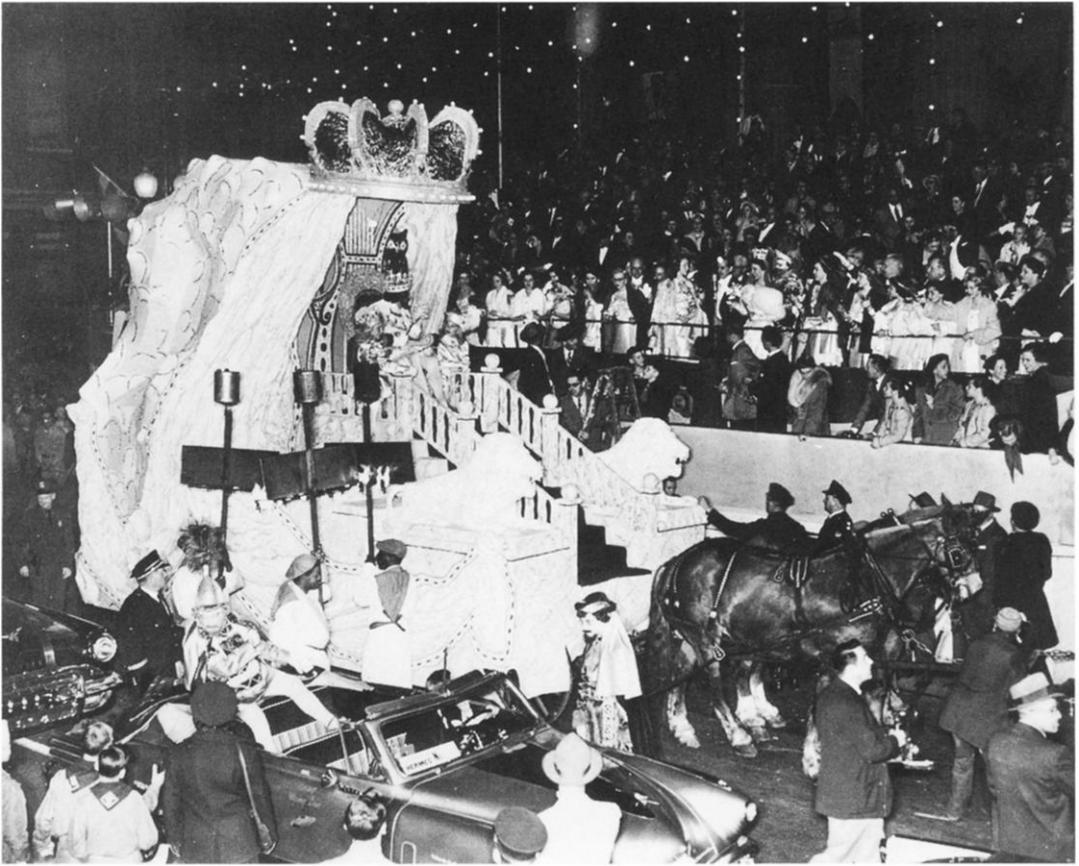
6. Hermes, lit by flambeaux, salutes the Old City Hall in 1955. The newer krewe ape the pseudo-classical names, the parading practices, and some of the traditional icons of the older groups. (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1980.257.81.)

7. The krewe-centered hierarchy is depicted in a 1935 photo of a "shotgun wedding" of "promiscuous maskers." (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1979.325.3878.)

Then there is also Zulu. This predominantly African American krewe (organized in 1909 to parody demeaning stereotypes of black people) rolls on Mardi Gras morning, shadowing and sometimes interrupting not only the route of the Rex parade, but also the festively absolutist claims of its monarch (plate 9). Tossing coconuts, as the riders in Rex and other krewe floats toss plastic beads and other trinkets, Zulu royalty, garbed in grass skirts and black-face, have always walked a thin line between ridiculing and reinforcing the imagery of abject racial hatred with which Mardi Gras in New Orleans is historically replete.

In addition to these officially recognized and legally protected groups, there is a "hidden carnival," the most spectacular expression of which occurs in the "Mardi Gras Indian" processions, in which "gangs" or "tribes" of African Americans parade on unannounced routes through the neighborhoods, seeking out rival tribes for ritualized contests of dance, song, and costume. Internationally celebrated for their extraordinary music and their heart-stoppingly brilliant "suits" (plate 10), the Mardi Gras Indians remain obscure to many New Orleanians, even to some who pride themselves on their knowledge of the history and lore of local carnival. But the traditions of the Mardi Gras Indians, I believe, are vital to an informed understanding of the linked meanings of carnival and the law.

That understanding must somehow take into account the contradictory claims made by the authors of the two epigraphs at the head of this paper. Henry Rightor thought that carnival in New Orleans would be utterly ruined by innovation of any kind (1900:629). Fu-Kiau Bunsekei of the Kongo Academy in Bas-Zaïre believes that festivals are themselves instruments of critique, redress, and transformation (in Bettelheim and Nunley 1988:23). Rightor sees seasonal festivals as symbolic of a world that ought to be kept as it is. Bunsekei views them as a way of imagining the world





8. Another cross-dressed example of the “promiscuous maskers,” this time in the roles of Maid and Lady, 1934. (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1979.325.3870.)

as it ought to become. These contrasting opinions about carnival parallel contrasting interpretations of the law: one as a precedent-bound bulwark of continuity, the other as an agent of expansive change. These contradictions also characterize a culture that invents and keeps two kinds of time: one constructed as the slow, peristaltic rhythms of social custom and cultural transmission over what historians of the French *Annales* school call the *longue durée* (Braudel 1980), which New Orleanians like to call “timelessness”; the other conceived as the “history of events,” as eruptions of sociopolitical topicality, the keyword of which is “timeliness.” During the Mardi Gras season of 1991/92, these positions collided head-on in the streets and council chambers of New Orleans; but, in reconstructing their



9. The predominantly African American King Zulu and His Court in 1940 parodies demeaning stereotypes. (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1980.54.)

genealogy of performance, I have traced their antecedents back to the *Code Noir*, the slavery-regulation act of 1724.

The Black Code and its descendent legislation provide a revealing point of entry into the relationship between carnival and the law. Not the least powerful element in their relationship is that carnival and the law both offer themselves as surrogates for more overt forms of violence. Recent scholarship has explored the survival and adaptation of West African festival performance genres within the Eurocolonial slave systems of the circum-Caribbean world, including Louisiana (Bettelheim and Nunley 1988; Sands 1991). The story of their blood-drenched transplantation testifies to the persistence as well as the malleability of cultural forms. Senegambia, the home of most of the Africans brought to Louisiana in the 18th century (Hall 1992), was culturally rich in ceremonial and festive performances (plate 11). Slave traders discovered that allowing music on their ships reduced the number of suicides among their cargoes during the Middle Passage: “the only means to preserve them,” advises Chambers’ practically minded *Cyclopedia*, “is to have some musical instrument play to them, be it ever so mean,” and thus the captives’ “excessive love of country abates as they get farther off” (Chambers [1727] 1741). Song and dance were semiportable amidst the shattering dislocations of removal, sale, and resettlement.

Louisiana planters had more ambivalent views than the slave traders on the admissibility of the remnants of African cultures that the new arrivals had managed to carry with them. On one hand, the chanted songs and dances raised the morale of slave holders as well as slaves; on the other, the planters (French, Spanish, creoles of color, Native Americans, and eventually Anglo Americans) discouraged assemblies of any large numbers of slaves. The specter of the revolt of a numerically superior and vindictive slave population, potentially allied with Native American peoples (as in the successful Natchez slave revolt of 1729), was provocation for the violent provisions of the Black Code: Article XIII forbids slave assemblies, “espe-

10. Mardi Gras Indian Larry Bannock, 1984 Chief of the Golden Star Hunters, displays the detailed beadwork of his costume. (Photo by Michael P. Smith)

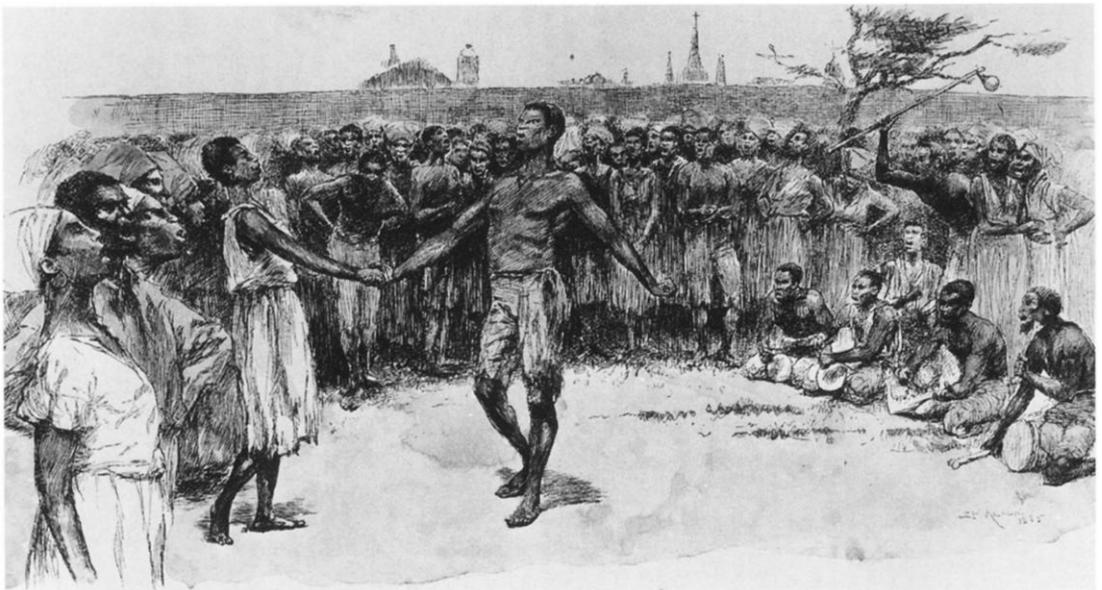
11. From the book *Afrique Occidentale* (1728), a depiction of a circumcision ceremony in Senegambia, the African base for most of the Louisiana slave trade. (Photo courtesy of the Amistad Research Center, Tulane University)

12. Sanctioned by New Orleans law, the bamboula was performed in Congo Square, antebellum New Orleans (c. 1850). This depiction ran in "Creole Slave Songs" by George Washington Cable, *Century Magazine*, April 1886. (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1974.25.53.)



cially along the highways or isolated places," with violations punishable by flogging, branding with hot irons, and death for repeat offenders (*Code Noir* 1742:328). The *Code Noir* thus provides the first of many precedents for the regulation of carnival activities under Louisiana law.

Subsequent legislation, spurred on by the bloody slave revolution in Saint-Domingue, refined the law further, as in the Amendments of 1807 to the Anglicized Black Code of 1806: "Every person is prohibited from permitting in his or her negro quarter, any other assemblies but those of his or her own slaves, and from allowing his or her said slaves the liberty to dance during the night" (Lislet 1828:120). Here the official culture, wrapping itself in the majesty of its laws, asserts its interest in regulating carnivalesque leisure activities, even if those activities occur on private



property and involve celebrants who are themselves defined as private property (“real estate” and “chattels” under the Black Codes). The official existence of the Black Codes made Afrocentric public culture something for slaves to get away with, a transgressive and even subversive act, the origins and meanings of which, for safety sake, were best effaced or at least disguised.

The enactment of rigorous laws, however, and the rigorous enforcement of those laws are two different things, at least under the notoriously lax French and Spanish regimes. Evidence from the entire colonial period shows an increasingly prominent performance culture, organized particularly around the festivities of the pre-Lenten period, in which slaves, free men and women of color, and creole high society participated (Smith 1993). The emergence of costume balls and masquerades, open-air gatherings on the levee, and eventually the celebrated “bamboulas” in Congo Square (a commons in back of the French Quarter, adjacent to what is now Louis Armstrong Park), show a pattern of indulged transgression. The law created on its margins a space for play, a liminal zone in which dances, masquerades, and processions could act out that which was otherwise unspeakable (plate 12).

Historically, Mardi Gras season came at the end of the most onerous part of the cycle of sugar production on the plantations, and it allowed a certain specialized release of collective feeling, in which the surviving (and developing) African celebrations could be accommodated within, around, or adjacent to the European-Catholic rites and festivities. Perhaps whites and blacks alike thought that they could be released momentarily from the looming violence of their intolerable relations. Perhaps they thought that they could hide such violence through disguise. Perhaps they felt that they could act it out through disguise, making it concretely visible and yet unreal through masquerades, inversions, and carnivalesque laughter.

To this day a very similar pattern—of speaking across racial divisions through masks—continues to shape the carnival spirit of New Orleans, and contemporary students of the contradictions of Mardi Gras will recognize the weirdly amiable laissez-faire tone of Pierre Laussat’s *Mémoires*. In 1808, the year following the reiteration of the ban on assemblies in the amended Black Code, Laussat encountered slaves crowded along the riverbank on Ash Wednesday, dancing the African bamboula and European contredanses, saying their wistful “farewell to carnival”:

Some sour flageolets and a dull rumble [of drums?] mingled with outbursts of laughter and shrill shouts, helped to enliven the scene and to make it heard from afar. It might well have furnished Teniers with an atmosphere worthy of his genre scenes, one all the more fine since the landscape, the characters, and the apparel would have had the attraction of novelty for the people of Europe. (Laussat 1831:394–95)

If the blood-bath in Haiti occurred to him at all, the resulting frisson did not even so much as rustle the leaves in the middle-distance of his transparent pastoral vision of the scene. White people liked to think or at least pretend to think that carnival provided them with a holiday from the rigors of enforcing their own laws, and the Mardi Gras spirit even allowed the slaves to mimic (and most likely parody, in a sophisticated, West African way) the up-tight quadrille of their masters (Drewal 1992).

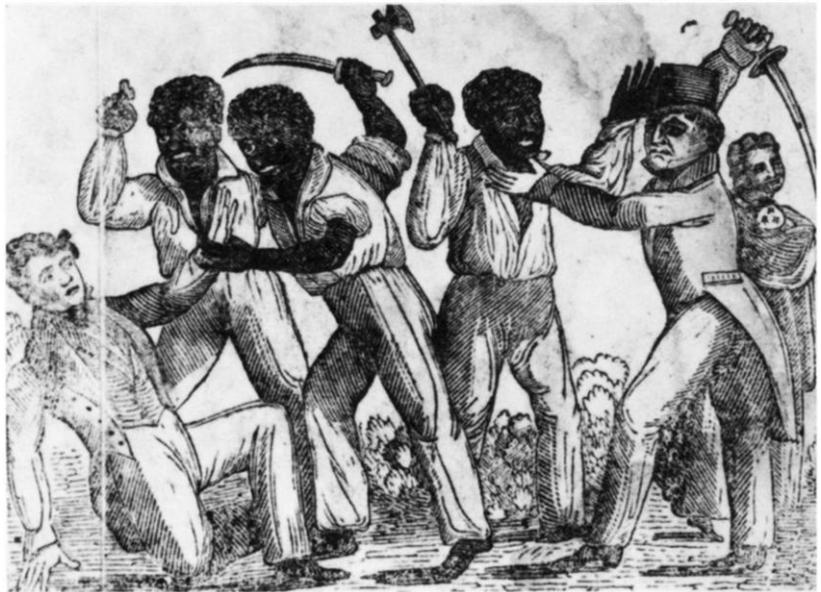
In the eerie symmetry of Laussat’s account, the French diplomat frames Afro-Caribbean public festivity as a European genre painting while the Africans frame a European society ball as the festive bamboula. They danced on a solemn Catholic Holy Day; that is, they were ironically recognizing Ash Wednesday by illicitly extending Fat Tuesday. This was an offense not only against the Black Codes but against the Catholic religion; it apparently did not offend the authorities. Samuel Kinser, in his recent study of Gulf Coast carnival (in Mobile as well as New Orleans), interprets such

episodes as indicative of a double culture, one in which an element of disguise is present in any festivity, whether physical masks are used or not: "A tacit agreement evolved between these two races over several hundred years of New World coexistence which allowed a system of unabated holiday enjoyment to emerge in return for the suppression or concealment of the deeper ritual, religious, and political roots of African peoples" (Kinser 1990:57).<sup>2</sup> Kinser does not go on to explore the paradox that masquerade can be the most powerfully revealing form of self-expression, but he illuminates the interactions whereby carnival and the law conspire together to craft a contingent margin of behavior that remains easily within the laws' reach, if need be, but which hovers provisionally outside of their grasp. In such carnivalesque parodies across races and cultures, there resides a kernel of understanding that could grow into mutual appreciation; but in the very same caricatures, there also fester the bitter seeds of mutual hatred.

In fact, violence in Louisiana flourished in such surfeit that only a portion could be surrogated as play. In January 1811, only three Mardi Gras seasons after Laussat's essay in the picturesque when hundreds of slaves revolted and marched on New Orleans, the captured rebels were savagely executed and their severed heads displayed on pikes at intervals on the Mississippi levee above the city (Hofstadter and Wallace 1970:190). Yet in many accounts planters reportedly said that they found the sights and sounds of celebrating negroes irresistibly reassuring. For instance, in New Orleans on the eve of the Civil War, days after the execution of John Brown, an editorial entitled "Contentment of the Blacks" soothed its readers with contrasting images of the horrors of the working poor in the North and the idyllic conditions enjoyed by slaves in the South, as evidenced by the very performances and festivities legally forbidden by the Black Codes: "Day and night, the sounds of merriment ring forth from plantation negro quarters and the merry dance never ceases" (*Daily Picayune*, 24 December 1859).

Festive public assembly by slaves was not the only racially transgressive behavior sanctioned by custom and performed in masquerade. The development of a three-caste system, based in part on semi-sanctioned liaisons between white creoles and creoles of color, led to the practice of *plaçage* and the attractions of the Quadroon Balls. At these private affairs, from which slaves and white women were excluded, gentlemen of means and leisure could select their mistresses from an array of more or less cultivated, bi- and even trilingual mulattas, defined as having one-fourth "negro blood," and, in the fullness of time, from their daughters, the even more exquisite octoroons. The Quadroon Balls doubled the society balls in which the nubile daughters of the elite class made their debuts, an important rite of cultural transmission and exclusion that the white Anglo-Protestants took over from the old creole aristocracy. Mardi Gras coming-out balls added the polarization of gender to that of race in the genealogy of carnival performance.

With the Louisiana Purchase and thereafter, the Anglo Americans sought to dismantle the three-caste system in favor of a strict black-white dichotomy, imposing broad segregationist restrictions beyond the provisions of the original Code Noir. This trend, which attempted to channel the creolized interculture of Louisiana into a binary system, refashioned the legal codes (and the unwritten laws of carnival) into more rigidly polarized black/white, high/low, and male/female oppositions. In 1806, for instance, the revised Black Codes stipulated for the first time the same penalty—death—for "any slave, free negro, mulatto, Indian or mustee" who committed arson, poison, vandalism, or "rape upon the body of any white woman



13. From *An Authentic Narrative of the Seminole War (1836)*, a war of the “Black Indian versus Anglo-Americans,” this illustration reflects the acute anxiety present among whites. (Photo courtesy of the Amistad Research Center, Tulane University)

or girl” (Lislet 1828:115). The Codes reflected the acute anxiety among whites during the sanguinary Seminole “Indian” Wars, which were actually multicultural race wars, pitting the combined forces of mixed African American and Native American revolutionaries against the Anglo American regime of reenslavement, deportation, and genocide (plate 13).

The alliance of Africans and Amerindians, still symbolically visible today in the Mardi Gras Indian parades, deeply disturbed the authorities. The Spanish regime tried and failed to eradicate bands of maroons (escaped slaves intermingled with Native Americans) who lived unsubdued in the swamps and bayous outside the city. Anglo Americans inherited the problem: cooperation between two populations, one the leading import and the other eventually destined for export (along the Trail of Tears), would have unforeseeable but almost certainly disadvantageous consequences, not

the least of which was a place to which slaves could escape on the apparently limitless frontier. Moreover, the very fact of African and Native American encounter in the “New World” sets up a potentially subversive alternative to an uncontested narrative of exclusive Anglo/European expansion as world-historical inevitability.

Some of the earliest accounts of “masking Indian” at Mardi Gras date from the time of the Seminole Wars (Smith 1993), which followed the Haitian revolutions of the 1790s and the Louisiana rising of 1811. “Masking Indian” thus draws upon a violent genealogy of performance that illuminates the continued preoccupation of the Black Codes with slave assembly and recreation. The spectacular appearance of the gangs on the fringes of “official” carnival enacts a scene of defiant counter-entitlement, and the wide, arm-length gestures of Big Chiefs, Spy Boys (scouts), Flag Boys, and Wildmen claim the space through which they move as if to abrogate the “law” of manifest destiny on the very borders of a contested and “lawless” frontier (plate 14).

Not surprisingly, the revised Black Codes attempted to channel the remnants of African public culture into acceptable, even desirable directions, further mixing it with traditions and values drawn from European sources. In the revisions to the Black Code of 1855, slaves were still forbidden assembly (under penalty of 10 to 25 lashes), but exceptions were made explicitly for church, funerals, and strictly controlled public recreation: “They may assemble on the commons for the purpose of dancing, or playing ball, or cricket, permission to that effect being first obtained from the mayor, but such permission to that effect shall be granted by the mayor for no other day than Sunday, and shall expire at sunset.” In other provisions, slaves were prohibited from attending masked balls where free persons of color were admitted or to “quarrel, yell or sing obscene songs, or in

*14. Bo Dollis, Chief of the Wild Magnolias, 1979. The spectacular appearance of the gangs on the fringes of the “official” carnival enacts a scene of defiant counterentitlement. (Photo by Michael P. Smith)*



anywise disturb the public peace" (Leovy 1857:258–59). These laws seek to open a narrow, carefully regulated space for collective performative expression, a space that Frederick Douglass and others denounced as a sinister illusion in which insurrectionary emotions could be released through a "safety-valve" of revelry, dance, and play (Genovese 1972:577). This genealogy of slave performance interprets the sanctioned assemblies such as the bamboulas in Congo Square as surrogates for rebellion, as symbolic substitutions of uninhibited physical performance for unconstrained physical violence, as trade-offs of carnival for carnage.

The measure on Sunday recreations, which governed the mixed African and Native American assemblies at Congo Square, was passed to regulate a practice that had clearly been tolerated for some time, and in that respect it fairly characterizes the general development of Louisiana law governing carnival activities. The open question was, for whom and under what circumstances could the law be suspended?; or, differently put, in whose interests would it be more definitively rewritten? In the years between the Louisiana Purchase and the Civil War, the Anglo Americans agreed to rewrite the law in their own best interests. For instance, under "Offenses and Nuisances" of the *Laws and General Ordinances of 1857* (the first year in which the upper-class, Anglo American Mystick Krewe of Comus officially paraded on Mardi Gras in masquerade costumes), the City of New Orleans re-reiterated an ordinance that made it unlawful "to abuse, provoke, or disturb any person; to make charivari, or to appear masked or disguised in the streets or in any public place." Another, related ordinance stated: "No person on Mardi Gras, or at any other time, shall throw flour or any other substance on any person passing along the streets or any public place" (Leovy 1857:173).

The contradiction between these laws in plain English and the emerging practice of Anglo American krewe parades, in which masked revelers throw objects from floats, is revelatory: Creoles made charivari and "rough music"; Italian-Americans and other working-class ethnics threw flour on people at Mardi Gras; Afro-Caribbean-style revelers masqueraded (as Amerindians and other ironic, perhaps threatening personae). The Mystick Krewe of Comus, however, masqueraded by night, and its exotic floats carried the masked and hooded whites through public streets cleared for their passage, protected from the mixed and swirling crowds, in flagrant, public violation of the City ordinances (plate 15).

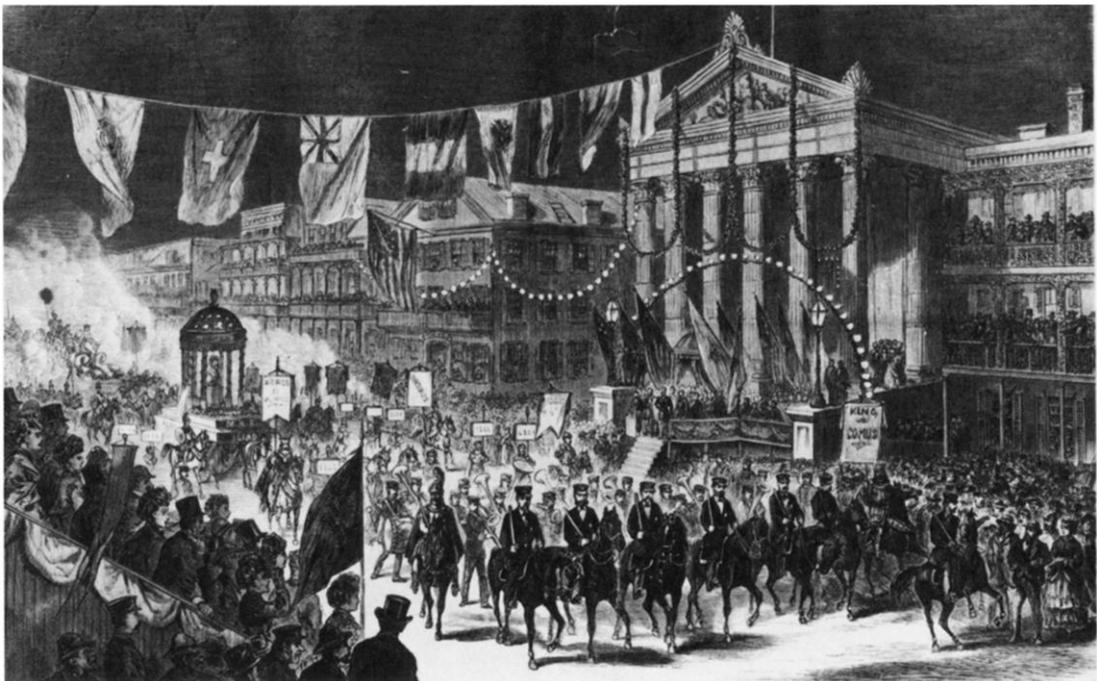
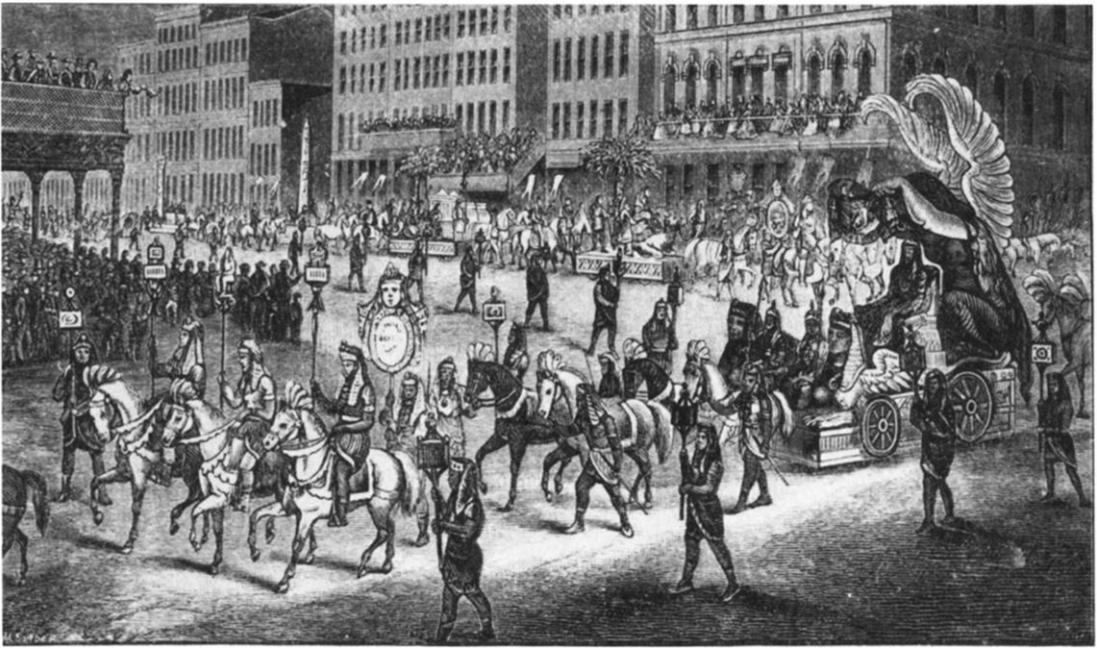
The *ad hoc* vortices of Latin street festival, in which chance encounters among maskers put ordinary social and racial distinctions at risk, parted before the regulated entry of Anglo "royalty." Rather than opening the streets for willy-nilly mischief, krewe parades occupy them in a style evoking the civic entries of Renaissance princes (plate 16). A local reporter's description captures the already imposing pretensions of an early Comus parade, which drafted marching bands, police escorts, and equestrian pomp into the well-disciplined service of the carnivalesque:

After the usual vanguard of mounted police and torch-bearers, and a military band, appeared the jovial God upon a noble steed, which seemed conscious both of the honor conferred upon him, and of the brilliant trappings with which he was decorated. *Comus*, sitting with an easy grace, smiled recognition of the enthusiastic greeting which met him at every step. (*Weekly Budget*, 6 March 1878)

Today's Mardi Gras parade-goers will note that basic elements of contemporary parades, including the self-important tone of *noblesse oblige*, had al-

15. *The Mystick Krewe of Comus from "The Classic Pantheon,"* London Illustrated News, 8 May 1858. *Comus masqueraded at night in flagrant defiance of the laws instituted in 1857 which forbade New Orleanians to "appear masked or disguised in the streets."* (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1959.172.12.)

16. *In mythic, regal style, the Mystick Krewe of Comus presents "Dreams of Homer" in this illustration.* From Frank Leslie's Illustrated Newspaper, 9 March 1872. (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1974.25.19.366.)



ready become commonplace in the early years of Anglo-American carnival.

Bourgeois carnival cleanses as it dignifies. The krewes appropriated the insulting act of throwing offensive materials on passersby, a time-honored carnival prank, and transformed it into the condescending, but apparently good-hearted act of throwing cheap baubles to the acquiescent crowd, whose members continually plead, "Throw me something, Mister." As the black carnival substituted revelry for revolution, white carnival substituted trashy "throws" for real garbage: each gesture substitutes an act of festive

performance for one of physical violence. Occasionally, the atavistic violence of the genealogy of Mardi Gras “throws” breaks forth, as it did in 1992 when a krewe member emptied a bucket of urine on the crowd, an insult that may well have passed unrecorded had not the victims included a captain and a lieutenant of the New Orleans Police Department (Ussery 1992:B3). One interesting point here is the detail to which—in the Anglo American-imposed City Ordinances of 1857—Mardi Gras behaviors (gestures, customs, and practices) are already explicitly put within reach of the law. The other interesting point is how certain groups could apparently ignore the law with impunity; or, differently put, how their privileged exemption from the law was so obvious as to require no written reiteration.

The “lawlessness” of white carnival takes on a particularly sinister meaning during the years of Reconstruction, 1865–1877, which were also (not coincidentally) the formative period for the iconographic and thematic material of the old-line floats and ballroom tableaux that exist today. In 1865 the ex-Confederate Democrats of Louisiana reinstated the Black Codes on a platform that pointedly travestied the words of Abraham Lincoln: “We hold this to be a Government of the White People, made and to be perpetuated for the exclusive political benefit of the White Race” (in Hofstadter and Wallace 1970:218). Overthrown by “Radical” Republicans backed by Federal troops, the white supremacists carried on a guerilla war until the Compromise of 1877 ended Reconstruction: by official estimates they murdered over 3,500 people, mostly blacks; in 1866 they stormed the state Constitutional Convention in New Orleans and shot 38 delegates and spectators dead, wounding 146. In 1874, reorganized into a military formation under the aegis of the “White League,” they carried out a far from bloodless *coup d'état* against Governor William Pitt Kellogg and his racially integrated administration, when they captured three howitzers and two Gatling guns and turned them on the loyalists (Hofstadter and Wallace 1970:101–03, 218; Taylor 1974:253–313).<sup>3</sup>

All claims for the transcendence of New Orleans “Mardi Gras tradition”—its supposedly disinterested existence outside the contingencies of law, politics, and time in “the city that care forgot”—must be weighed against the events of 14 September 1874 and the evidence of krewe participation in the coup. A boast, attributed to a Comus Captain by the official historian of the Mystick Krewe, proudly implicates the membership of the men’s clubs and secret carnival societies: “It is safe to say that every member [. . .] capable of bearing arms, participated” (Young 1939:34). The centennial pamphlet of the Mystick Krewe lists the coup of 1874 as an historical highlight: “Many Comus maskers took part in the battle” (*One Hundred Years of Comus* 1957:23). The official historian of the Boston Club, center of the krewe activities of the Rex Organization, claims that the plot against the Kellogg government was hatched at the Club and quotes approvingly a memoir, written in 1899, which states: “The Boston Club party grew into public utterance as an expression standing for the supremacy of the white man and the perpetuation of the white man’s institutions” (Landry 1938:115–16). These are boasts, made after the fact, but further research supports their veracity: by comparing the muster-rolls of the White League’s military formations with the names of known krewe members (whose secret affiliations the archives sometimes accidentally disclose), the general picture of overlapping membership can be substantiated with details.

William J. Behan, for instance, wrote a nostalgic account of his initiation into the Mystick Krewe of Comus in 1871 (Behan 1912:2). He also appears as a Brigadier General at the top of “The Rank and File of Our Heroes and Patriots” of the Crescent City White League (*The Roll of Honor* 1877:1). He

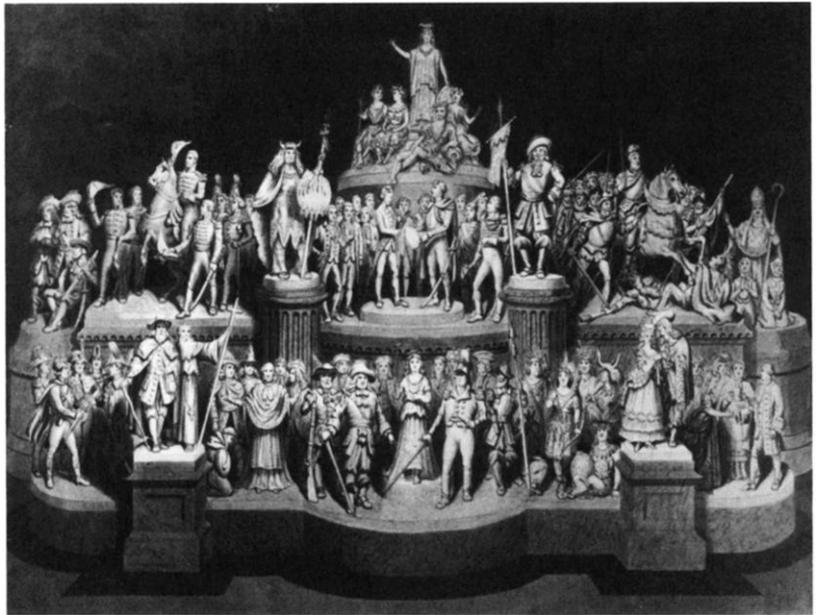
later served as President of the Pickwick Club, the membership of which was identical to that of the Mystick Krewe, and his daughter reigned as Queen of Carnival in 1891 (*Biographical and Historical Memoires* 1892:280). His Adjutant during the coup, Captain J.O. Nixon, Jr., was the son of one of the founding members of the Mystick Krewe (*One Hundred Years of Comus* 1957:16), and he went on to become an active member in his own right, heading the Reception Committee for the 25th anniversary of the Pickwick Club (Miceli 1964:84). Lieutenant James C. Murphy, who left a firsthand account of the battle in letters to his wife (Murphy Family Papers), was a Comus-Pickwickian (Miceli 1964), and the commander-in-chief of the White League; Major General Fred Nash Ogden, belonged to the Chalmette (later Boston) Club and the Twelfth Night Revelers, an early Mardi Gras krewe (Landry 1955:67). These upper-class New Orleanians were either veterans of the Civil War—as were Behan, wounded at Gettysburg, and Ogden, cited for valor at Vicksburg—or the sons of veterans—as were Murphy, whose father was killed in action at Cedar Run, and Nixon. They were representative of the leadership of an armed force of several thousand men who overwhelmed the Metropolitan Police and Negro Militia, usurping the government of Louisiana “in the name of white civilization,” and replacing it with what they called “that just and legitimate superiority in the administration of our State affairs to which we are entitled by superior responsibility, superior numbers and superior intelligence” (*Platform of the Crescent City White League*, 27 June 1874).

In that light, the floats and tableaux from the 1870s make for some very instructive comparisons to those of 1992: their shared urgency resides in a kind of two-faced panic—queasy resignation punctuated by eruptions of outrage—that local government and its laws are passing from the control of white people; moreover, in each case, carnival emerges as the site where images of violent ridicule may stand in for violent actions. Then as now, their imagery oscillates between “timelessness,” the supposedly innocent realm of fantasy and fairy-story, and “timeliness,” direct interventions in local and national politics, including the denigration of African Americans and their claims for equal protection under the law.

One visual tactic to effect this purpose deals with black people by erasing them from history: the theme of Voyages of Conquest and Discovery (an obvious one for Rex also in the quincentennial year of 1992) graced Mardi Gras in the climactic sixth tableau of the Mystick Krewe of Comus Ball of 1870. Entitled “Louisiana—Her Founders and Defenders!” (plate 17), the living tableau depicts marbled icons of De Soto, La Salle, Marquette, and Joliet flanked by Native Americans and sundry colonists. “Louisiana” surmounts the scene, accompanied by “The Father of Waters,” while “New Orleans” stands downstage center. Africans are missing from the scene of uncontested European conquest, even though colonial Louisiana survived as a society only because the Senegambians brought with them the agricultural skills that saved the colonists from starvation (Hall 1992:59).

Another, more direct tactic was to present hideously racist caricatures in the streets and on the ballroom stages. The Comus parade and tableaux for 1873, which appeared 18 months prior to White League’s coup d’état, provide an instance of the “timely” politics of racial hatred bubbling up into the scene of the “timeless” carnival of fantasy and mirth. In a sequence of brilliantly vicious costumes and tableaux (plate 18), Comus retailed the “The Missing Links to Darwin’s *Origin of Species*,” creating a densely inhabited zoological taxonomy of hated public figures from the Reconstruction, such as Ulysses S. Grant as a verminous potato bug or the “Radical”

17. "Louisiana—Her Founders and Defenders!" The Sixth Tableau, Mystick Krewe of Comus Ball, Varieties Theatre, 1870. Africans are missing from the scene of uncontested European conquest, even though Senegambians saved the starving colonialists with their agricultural skills. (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1959.32.)



18. A strikingly vicious tableaux of Charles Darwin, the Sapient Ass (left), Missing Link, and the Gorilla (right), at the Mystick Krewe of Comus Ball, entitled "Missing Links to Darwin's Origin of Species" was printed in Scribner's Monthly, November 1873. (Photo courtesy of the Louisiana Collection, Howard Tilton Memorial Library, Tulane University)

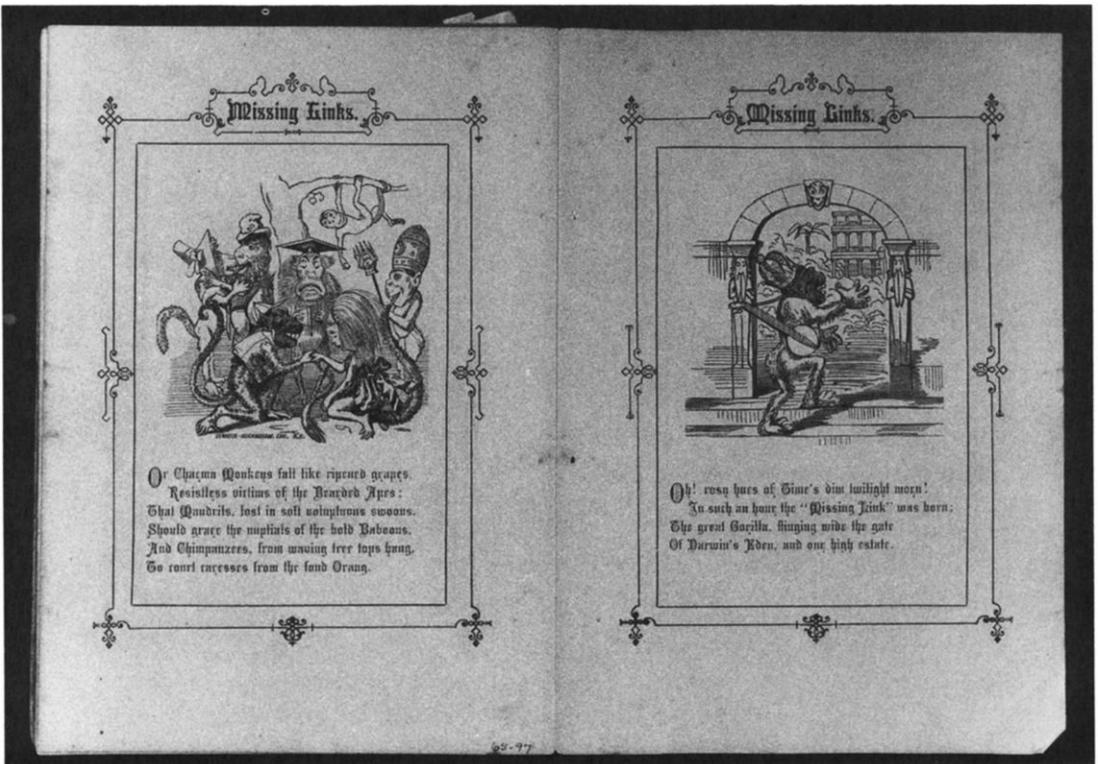
19. The parade and ball booklet from "The Missing Links to Darwin's Origin of Species," published by the Mystick Krewe of Comus, 1873. Depicted is the mock crowning of "The Gorilla" at the gates of "Darwin's Eden," a Louisiana plantation house. (Photo courtesy by The Historic New Orleans Collection, Museum/Research Center)

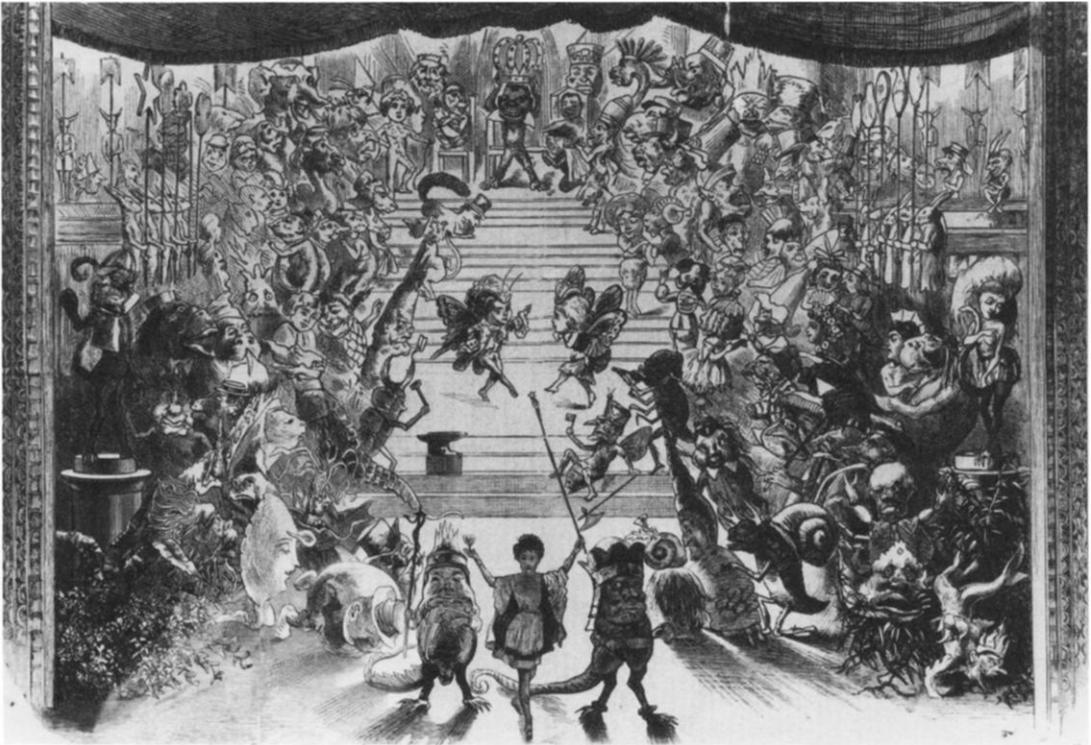
J. R. Pitkin as "The Cunning Fox [carrying a carpetbag] which Joins the Coon." The apostrophe of Darwin, uniting reactionary loathing of modern science with murderous opposition to the Fourteenth and Fifteenth Amendments, culminates in the mock crowning of "The Gorilla," who, holding his banjo in one hand, with the other pushes open the gate of "Darwin's Eden," which the Comus designer depicts as an old Louisiana plantation house (plate 19).

Evocative of the terrors of black usurpation of white privilege and derisive about the evolutionary "rise" of "subspecies," the final tableau at the Comus ball arranged the phyla of the natural world on a staircase in ironic order of "the fittest" (plate 20). A correspondent from *Harper's Weekly* found this spectacle, a twisted form of carnivalesque inversion, "irresistibly laughable":

When the curtain rose on the second tableau the Gorilla had just been crowned, and was seated on his throne under a dais, with Queen Chacona [the Baboon] on his right, and Orang, the Premier, on his left. On either side of the broad ascent to the throne the animal and vegetable world were crowding toward the royal presence, each in the order of his rank, the "Toilers of the Sea," kneeling, in loyal awe upon the pavement below. In the midst of the stair were three musicians—the Grasshopper with fiddle and bow, the Locust with his rattle, and the Beetle with his hammer. A pedestal on either hand bore the statuesque forms of the Baboon and the Marikina. (*Harper's Weekly*, 29 March 1873)

Its designers meant this tableau to be read as a double inversion: Comus, god of mirth, reigns in perfectly proportioned serenity at the bottom of the hierarchy of grotesques; thus, the Bakhtinian displacement of official culture by the grotesque realism of the carnivalesque body turns "bottoms up." The tableau offers a symbolic pre-enactment of the coup d'état in which members of the Mystick Krewe of Comus (among others), attack-





20. This final tableau of "Missing Links to Darwin's Origin of Species," of the Mystick Krewe of Comus Ball at the Varieties Theatre, 1873 was published in Harper's Illustrated Weekly, 29 March 1873. The participants are arranged in the order of the "fittest." (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1953.69.)

ing "the most absurd inversion of the relations of race" (*Platform of the Crescent City White League* 1874), violently displaced the reconstructing "monkeys" at the top. Rex, "King of Carnival" for 1874, appeared garbed as an usurping warrior prince, seated in state (plate 21). Comus then celebrated the final collapse of Reconstruction in 1877 with a triumphant float parade entitled "The Aryan Race" (Young [1931] 1969:222).

In the succeeding era of Southern Redemption, white lawlessness evolved incrementally into law. The emerging ordinances regulating Mardi Gras provide a direct insight into the convergence of carnival and the law at the point of the restored behavior of legal transgression and immunity. Transgression and immunity, in fact, while they define the carnivalesque in Bakhtin's sense, are eventually written into Louisiana law itself, setting New Orleanian performance culture apart from other carnival traditions. The antebellum ordinance forbidding masking was still on the books verbatim at century's end (Flynn 1896:548), but other city ordinances now protected the parade routes of "carnival societies" from obstruction by vehicles, provisions that involved the City police in clearing the streets to make way for the activities that the antimasking ordinance proscribed (Flynn 1896:1158 "Of Vehicles"). The law thus required practical civic assistance to the outlaw practices of the social elite, who could then merrily flaunt their transgressions, making a seasonal public spectacle of their eternally exceptional status (plate 22).

In that same spirit, current State of Louisiana statutes regulating carnival masking and "throws" perpetuate the tradition of making the carnivalesque an elite entitlement under the law. In a state especially celebrated for masquerades, current statutes speak definitively about mask-wearing:

No person shall use or wear in any public place of any character whatsoever, or in any open place in view thereof, a hood or mask, or



21. W.S. Pike, Rex for 1874, styled as "Totila, King of the Ostrogoths." (Photo courtesy of The Historic New Orleans Collection, Museum/Research Center. 1979.208.57.)

anything in the nature of either, or any facial disguise of any kind or description, calculated to conceal or hide the identity of the person or to prevent his being readily recognized. (*Louisiana Revised Statutes Annotated* 14:313)

This proscription, however, though directly descended from the earlier antimasking ordinances, has now incorporated certain privileged exceptions as sanctified by custom: to children's masks at Halloween, to historical pageants, and, significantly, "to persons participating in masquerade balls or entertainments, to persons participating in carnival parades or exhibitions during the period of Mardi Gras festivities," and, with a most revealing qualifier, "to promiscuous masking on Mardi Gras which are duly authorized by the governing authorities of the municipality" (*Louisiana Revised Statutes Annotated* 14:313, emphasis added). This statute recognizes and protects a special class of maskers, who continued even after 1874 to dramatize themselves as the embattled but ultimately triumphant warrior band (plate 23).

Other statutes define the privileges of this class while limiting its membership. Processions, marches, and parades in Louisiana require a permit, which in turn requires the posting of an expensive bond and, within Orleans Parish, the payment of fees for police protection. Explicitly exempted is "any procession, march, or parade directly held or sponsored by a bona fide organization specifically for the celebration of Mardi Gras and/or directly related prelenten or carnival festivities" (*Louisiana Revised Statutes* 14:326). This language excludes the processions of black "Second Line" organizations and Mardi Gras Indian gangs, though it does extend to Zulu. In his mordant article on "New Orleans' Hidden Carnival," Michael P. Smith explains the consequences of such a regressive system: "Black groups [. . .] are required to pay exorbitant fees, upwards of \$4800 per parade, for police monitoring services required by the city—services granted free to



22. The “promiscuous maskers” in Mardi Gras 1902 embody both the law and lawlessness. (Photo courtesy of the Louisiana Collection, Howard Tilton Memorial Library, Tulane University)

clubs parading during the ‘official’ Carnival season” (Smith 1990:6).

Like the Ash Wednesday bamboula observed by Laussat, the season for “masking Indian” still extends past Mardi Gras and into Lent; it ends with a mass meeting of “tribes” on “Super-Sunday” toward the end of March. Like the krewes of Comus, Momus, and Rex, the Mardi Gras Indian clubs are very selective in their membership. Reversing the polarities of the Ordinance controversy, the Indians had their own integration crisis in 1992. The inclusion of Finn Wilhelmson, a Norwegian American who masks with the “Uptown” Black Eagles, has been the source of tension and controversy for 20 years, but this year the Eagles planned to come “Downtown” to meet with rival tribes. Like the old-line krewes, the Indians have a fierce pride in their traditions, and they put on a terrific show: in fact the hand-sewn Indian “suits,” some of which quote Plains Indian styles, others of which more closely resemble Caribbean and West African forms, are vibrantly beaded and plumed floats in themselves. Also like the old-line krewes, the Mardi Gras Indians have a tradition of violence dating from the 19th century (Roach 1992). The beadwork of their suits sometimes narrates this history in images of Native American triumph over white people (plate 24).

Unlike the krewes, however, the Indians have had to be wary about the law. Even the phrase “masking Indian” is rich in the New Orleanian irony of hidden carnivals and dual laws. Around the turn of the century, Henry Rightor encountered some Mardi Gras Indians and noted a characteristic omission from their masquerade dress: “The favorite disguise with the negroes is that of the Indian warrior, doubtless from the facility with which it lends itself to a complete transformation of the personality without the use of the encumbering and embarrassing mask” (Rightor 1900:631). Whether encumbering and embarrassing or not, masks in New Orleans were illegal without exception then. They remain illegal now, save for the



23. In the Rex Parade of 1902, Float #10, entitled "Uneasy Lies the Head that Wears the Crown," featured armed knights defending a castle besieged by dragons labeled "Socialism." (Photo courtesy of the Louisiana Collection, Howard Tilton Memorial Library, Tulane University)

special exemptions enumerated above. Unless the police were entirely occupied in clearing the streets for the white lawbreakers (and their extraordinarily skilled crowd control at Mardi Gras is internationally celebrated), there is no reason to believe they would overlook the same violations by black ones.

The legal status of the Mardi Gras "throws," like that of the masks, reflects the incorporation of once illegal practices (such as the throwing of flour, fecal matter, or even quicklime) into officially sanctioned and legally protected behaviors. Current municipal ordinances elaborate on the permissible and impermissible throws. Recently, as a civic rebuke to the counter-cultural Krewe of Trojan, condoms and "any other sexually oriented device" joined "insects, marine life, rodents, and any other animal (dead or alive)" on the ever-expanding condemned list as "not within the boundaries of good taste and decency," though women's underpants, a popular traditional throw, remain legit (Theim 1991:A1).

Accidents do happen, however. In that event, Mardi Gras krewe parades are protected by a special reiteration of the legal doctrine of assumption of risk. By attending a parade, the individual reveler assumes the risk of being run over by police motorcycle (*Carter v. Travelers, Inc.*, 1965), for instance, or being knocked off a step ladder by a krewe float (*McGinity v. Marquette*, 1963). In one case, however, a Louisiana court made an exception to the assumption of risk: it ruled in favor of a woman attending Zulu who was struck in the head and injured by a flying coconut, the traditional Zulu throw (*Schofield v. Continental Ins.*, 1976). More recently, the state statutes, which had already extended to the Mardi Gras krewes the kind of limitations on tort actions enjoyed by state and municipal governments ("unless the loss or damage was caused by the deliberate and wanton act or gross negligence"), were amended to wrap the krewes' traditional throws specifically in the majestic mantle of Louisiana law:



Any person who is attending or participating in one of the organized parades of floats [. . .], assumes the risk of being struck by any missile whatsoever which has been traditionally thrown, tossed, or hurled by members of the krewe or organization. The items shall include but are not limited to beads, cups, coconuts, and doubloons unless said loss or damage was caused by deliberate and wanton act or gross negligence of said krewe or organization. (*Louisiana Revised Statutes* 9:2796)

Once again, carnival infiltrates and expands the law, this time to accommodate the vulnerabilities, however slight, of the privileged to the redress of the injured: deliberate, wanton, and gross negligence requires a high standard of proof. But deeper meaning of such legal protections is clear. The final incorporation of an ancient carnival tradition within the law reinforces the official *public* status of the krewes under the law. It vitiates any claim to exemption from the law on the basis of “privacy,” a claim that cannot stand against the import of the regulations guaranteeing the krewes’ protection in the public sphere, for the public interest, and at public expense.

Carnival in New Orleans releases some of the tensions caused by social constraints, as well as the contradictions wrought from the strain of living in double cultures, but it also seeks a way to direct them, to focus them, and ultimately to reproduce them. As long as the political and social power in the city remained closely aligned, the historic, legitimating reciprocity of carnival and the law in New Orleans could endure. By 1988, however, when debate opened on what became the Mardi Gras Ordinance of 1991, the balance of power in New Orleans’ racial politics had shifted to reflect more closely the actual demographics of the city. This pitted the opponents of the Ordinance, which passed by a unanimous vote initially, against the authority of the City Council and the Mayor. It put those who practiced racial discrimination in carnival clubs outside the law. It tore away the mask coded “private” from the public face of Mardi Gras. In other words, it returned white carnival once more to its Bakhtinian category of transgression against the official culture; and, in a way not seen for over a century, the world turned upside-down.

In March of 1992, as the fight over integrating the krewes still raged in City Council and in the press, the Mardi Gras Indians, as I have noted, found themselves embroiled in their own crisis. After 20 years of tense relations with rival gangs because they allowed a Caucasian to mask with them, the Black Eagles elevated Finn Wilhelmson to the rank of Second Chief. This acceptance of a white person changed the laws of black carnival, and many said, in so many words, “It is the innovators who are to be feared.” Accompanied by sympathetic Uptown tribes, the Black Eagles came Downtown for a “humbug” (face-off) in Louis Armstrong Park, near the former Congo Square. The meeting was tense, and some participants were reported to be heavily armed. Friendly tribes made a protective circle around the Black Eagles. For a fearful moment, it could have gone either way. But accommodation prevailed: near the very site of the meeting place where the slaves once assembled under the legal threat of torture and death, the Mardi Gras Indians rewrote their laws, embracing as they did so the version of carnival, African in origin, that looks resolutely to the future, and that now has caught up even Rex himself in its irresistible spirit of affirmation: “Festivals are a way of bringing about change.”

24. A young Mardi Gras participant, part of the continuum. (Photo by Michael P. Smith)

## Notes

1. This article draws upon research by Jill Buchanan on Louisiana case law and Kim Wagner on current state statutes; it is also indebted to seminar discussions with Lucy Appert, Susan Bergman, Alice Dierker, Louise Graham, Julia Hodges, Barbara Vennman, Justine Rydzeski, and Linda Winans; Joseph Cohen, Professor Emeritus of English and Jewish Studies at Tulane, provided valuable insights based on his own research into the social practices of the carnival societies.
2. I am much indebted to Kinser's pioneering study, but I want to specify a fundamental difference in our interpretations of performance culture: Kinser states of the predominantly white Mardi Gras krewes that "to understand the Carnival societies' floats, to fathom the meaning of their ballroom decorum requires eight steps of knowledge and nine of imagination, so as to reconstitute the codes which make them more than mutually mirroring clichés"; whereas "in the case of the [Mardi Gras] Indians, you only have to pick up some sticks, beat in time, and move with the others in order to begin to understand" (1990:172). For reasons that I hope I can make clear, the Mardi Gras Indians' codes require at least as many steps of knowledge and imagination "in order to begin to understand."

As this article went to press, Reid Mitchell published a note in *Louisiana History* that corrects the false impression, shared by Kinser and me, that Laussat was in Louisiana in 1808; he was then on Martinique in fact, and the passage refers to carnival revels on that island. See "Where Was Pierre-Clément de Laussat During Carnival 1808?" (Mitchell 1993:107). I am grateful to Bill Meneray for pointing out this error. I stand by my argument about the licensed transgression of slave carnivals on the circum-Caribbean rim, including Louisiana.

3. In 1991/92 the Mardi Gras Ordinance controversy was supplemented by another: three years ago, during improvements to Canal Street, a major parade route, city workers removed the "Liberty Monument," a memorial to the white supremacists who perpetrated the coup of 1874; after a contest of wills between "historic preservationists" and the City Council, the obelisk has been re-erected and re-dedicated at a ceremony in which David Duke participated.

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