

Cabaret Law Hearing  
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Good afternoon. My name is Julie Malnig and I am a professor of dance history and theory, and an author of books about dance, in particular social and popular dance. I will be reading a testimonial written by my colleague, Sally Sommer, also a professor of dance history and theory, a dance writer and filmmaker. I want to note that Sally and I are in full agreement regarding the statement I am about to read now:

I would like to address what I consider the most crucial issue underlying the latest ruling upholding the 1926 Cabaret Law, "social dancing was not an expressive activity protected by the First Amendment."

If social dance is **not** an expressive activity, what is it? The entire world dances. Dancing is an essential cultural identifier: "I dance this way because I belong and come from this country, this group, this family, or even this neighborhood." Dancing is exchanged and exported throughout the world to everyone's advantage. It is a system of nonverbal communication, embodied knowledge, passed from person to person, as basic as the body-to-body communication between mother and infant. What happens is—we just grow up and start dancing, keeping up a powerful nonverbal communication with more people than mom.

There is no legal definition of dancing. In the most general definitions that try to be as simple as possible, dance has been defined as "rhythmic movement performed to music" or "formal mobilized rhythmic movement."

Other “rhythmic movements done to music” or “mobilized movements” would be parades, marching bands, football games, half-time entertainments, even church choirs. All of these movement-based practices done to music are protected under the First Amendment **because** they represent instances of freedom of expression. Why are these activities protected and social dancing is not?

The 1926 Cabaret Law had nothing to do with dancing and a lot to do with misperceptions about what dancing might **cause**. It was assumed that dancing would lead to immoral sexual behaviors; it encouraged drinking and drug taking that ended in addiction and addicts. And, as an uncontrolled large group activity, dancing could devolve into chaos, violence and murder. The underlying assumption is that dancing **arouses destructive** emotions and actions. These same reasons were used to ban the waltz in the late 1700s in certain European cities and countries; in 1739 in colonial America, Africans and African Americans were forbidden to congregate and dance because it might lead to insurrection and slave uprisings; in the 1920s and 30s the Charleston was banned in several US cities; in the 1950s the police cracked down on Rock n Roll in New Jersey.

In NYC however, since 1926, dancing (whether the waltz, the Charleston, the Turkey Trot, the Lindy Hop, RnR, or any variety of hip hop dancing and house dancing) has been banned using the Cabaret Law to shut down clubs. The real issue is not dancing, but noise, drugs and real estate development.

Dancing itself is not noisy; in fact dancing is very quiet. Loud music should be controlled by the laws already in place, and the drug laws should be enforced. **Real estate** is the actual culprit. Manhattan clubs were shut down to make way for high-rise development, which paralleled city intentions to improve “quality of life” and to gentrify Manhattan. The outdated 1926 Cabaret Laws were handy and were and are used to clear out large spaces in buildings. The proof surrounds us: look at what has happened by 2017 in SoHo, NoHo, Tribeca, Nolita, the Lower East Side and Westside river developments. Clubs that can afford cabaret licenses are the most expensive and cater to the elites. They are less about dancing and more about **seeing and being seen in the right places**.

The serious dancers I know do not have the money to go to those clubs and they don't buy high-priced drinks. Serious dancers don't care about who sees them. Serious dancers go to dance and go home. For them, dancing IS their quality of life. For me, as a writer, as a professor, as a filmmaker, dancing is what makes life worthwhile. My question is: Why are dancers and dancing being penalized? They are not the problem.