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Foreword (Billy Joel & the Law Conference)

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CONFERENCE
BILLY JOEL AND THE LAW
FOREWORD

*Samuel J. Levine**

I. INTRODUCTION

On March 22-23, 2015, Touro Law Center hosted a Conference on *Billy Joel and the Law*.¹ Speakers at the conference included judges, lawyers, law professors, and music scholars, who considered ways in which Billy Joel's work relates to American law, society, and culture. The conference panels addressed a variety of interrelated topics, including: Billy Joel and Legal Doctrine; Billy Joel and the Practice of Law; Billy Joel, Law, and the Performing Arts; and Billy Joel, Law, and Society.

In some ways, the conference was a sequel—or rather, the third in a series—following in the path of previous conferences exploring connections between the work of a singer-songwriter and the American legal system. In 2005, Widener Law School initiated this set of loosely-connected conferences, with *The Lawyer as Poet Advocate: Bruce Springsteen and the American Lawyer*,² and in 2011, Fordham Law School hosted *Bob Dylan and the Law*, co-sponsored by Touro Law Center.³

* Professor of Law & Director, Jewish Law Institute, Touro Law Center; Conference Organizer. I thank Dean Patricia Salkin for her support and encouragement, and the faculty, staff, and students at Touro Law Center for their participation.

¹ See *Billy Joel & the Law Program*, <http://www.tourolaw.edu/pdf/billy-joel-program.pdf>; *Touro Law Focuses on Long Island's Piano Man*, THE TOURO LAWYER, Fall 2015, <http://www.tourolaw.edu/tourolawyer/15tlawyer/>, at 13.

² See Randy Lee, *Symposium: The Lawyer as Poet Advocate: Bruce Springsteen and the American Lawyer: An Introduction*, 14 WIDENER L.J. 719 (2005); *The Bruce Springsteen Special Collection*, NEXXTBLOG (Jan. 21, 2012) <http://brucespringsteenspecialcollection.nexxtblog.com/widener-law-journal/>.

³ See Samuel J. Levine, *Symposium: Bob Dylan and the Law: Foreword*, 38 FORDHAM URBAN L.J. 1267 (2011); Nat Schweber, *At Seminar, Exploring the Writings of the Legal*

Building on the success of these events, participants at the conference on *Billy Joel and the Law* engaged in a wide-ranging discussion of legal themes, as well as broader cultural and societal implications, that can be found in Billy Joel's music. Along with the formal presentations, many of which revolved around recorded excerpts from Joel's work, the conference proceedings included brief musical performances of a number of his songs, accompanied by scholarly commentary, further contributing to the educational focus of the conference. In addition, given Touro Law Center's presence in Central Islip and Billy Joel's well-known association with Long Island, the conference attracted a fair amount of media attention, both in New York outlets and beyond.⁴

Indeed, the conference's setting, a law school located near the geographical center of Long Island, inspired several speakers to take a closer look at Billy Joel, both the person and the musical persona, uncovering themes that are, at once, both particular and universal in relevance and application. Many of the speakers likewise reflected upon their own personal and professional experiences, finding in Billy Joel's words and music a lens through which they presented their insights into various aspects of American law, culture, and society. The articles from the conference published in this Symposium Issue of the *Touro Law Review* provide a sampling of the variety of topics and disciplines explored and the range of perspectives represented.

For example, the opening session at the conference included a presentation by Judge Richard Dollinger, *Billy Joel: The Minstrel Testifies, or How the Rules of Evidence Handcuff the Piano Man*.⁵

Critic Bob Dylan, N.Y. TIMES (Apr. 6, 2011), <http://query.nytimes.com/gst/fullpage.html?res=9C07E2DF163FF935A35757C0A9679D8B63>.

⁴ Reports of the conference appeared in print, broadcast, and internet media outlets. See, e.g., Justin Silverman, *Billy Joel Focus of Long Island Law School Conference, with Lectures like 'How the Rules of Evidence Handcuff the Piano Man'*, N.Y. DAILY NEWS (Mar. 19, 2015), <http://www.nydailynews.com/life-style/billy-joel-subject-long-island-law-school-conference-article-1.2155966>; *Billy Joel's Legal Issues*, LONG ISLAND BUSINESS NEWS (Mar. 18, 2015), <http://libn.com/2015/03/18/billy-joels-legal-issues/>; Christine Corcos, *Billy Joel and the Law*, LAW & HUMANITIES BLOG (FEB. 17, 2015), <http://lawlit.blogspot.com/2015/02/billy-joel-and-law.html>; Paul Caron, *Conference on Billy Joel and the Law*, TAXPROF BLOG (Mar. 25, 2015), http://taxprof.typepad.com/taxprof_blog/2015/03/conference-on.html. Reports of the conference also appeared on 1010 WINS Radio and News 12 Long Island Television stations.

⁵ Hon. Richard A. Dollinger, *Billy Joel: The Minstrel Testifies, or How the Rules of Evidence Handcuff the Piano Man*, 32 TOURO L. REV. 11 (2016).

Alongside a technical analysis of the rules of evidence, applied to claims and statements uttered by characters in Billy Joel's songs, Judge Dollinger offers an intriguing observation: "Like the ancient scores and operatic flourishes utilized by the modern songwriter, the rules of evidence, long sharpened by common law judges seeking the truth, impose a rubric of rules designed to summon truth from the human experience."⁶ Fittingly, as an Acting Justice of the Supreme Court of the State of New York, Judge Dollinger considers whether Billy Joel's "testimony" stands as a reliable description of a "New York State of Mind."⁷ Ultimately, Judge Dollinger concludes that Billy Joel qualifies as an "expert" on the New York state of mind, indeed that he is the "original 20th Century New Yorker. He is the voice of New York and his music brings New York's panorama of people and places to the world."⁸

Complementing Judge Dollinger's comparisons between Billy Joel's work and the judicial function of interpreting and applying rules of evidence, two speakers at the conference found connections between Billy Joel's songs and the practice of law. Professor Bruce Green, a leading scholar of legal ethics, relies on Joel's depictions of romantic relationships as a framework to pose and ponder the provocative question: "Are courts romanticizing the lawyer-client relationship?"⁹ Specifically, according to Green, "just as pop singers might idealize attributes such as fidelity and candor in romantic relationships, courts sometimes romanticize analogous attributes such as loyalty and candor in lawyer-client relationships."¹⁰ Surveying a broad range of Joel's work, Green finds that "Billy Joel's lyrics suggest that the romantic ideals are ideals, not expectations and certainly not guarantees. They are not realistically attainable, at least not always."¹¹ Indeed, Green further notes, "as far as Billy Joel's lyrics go, no one really expects lovers to live up to the romantic ideals in the absolute, at least not for long."¹²

Likewise, Green argues, "One might ask whether the courts,

⁶ *Id.* at 12.

⁷ *Id.* at 29.

⁸ *Id.* at 34.

⁹ Bruce A. Green, *The Lawyer as Lover: Are Courts Romanticizing the Lawyer-Client Relationship?*, 32 *TOURO L. REV.* 139 (2016).

¹⁰ *Id.* at 141.

¹¹ *Id.* at 142.

¹² *Id.* at 146.

as well as lawyers who embrace the judicial rhetoric, are romanticizing professional values and virtues, expressing unrealistic expectations.”¹³ Indeed, Green identifies

two problems with the courts’ romanticization of the lawyer-client relationship. First, courts and others may take the soaring judicial rhetoric too seriously. Courts may treat lawyers with undue harshness, enforcing unrealistic or unfair expectations that fail to take account of lawyers’ human fallibility, the pressures under which lawyers function and the competing interests that they legitimately serve. . . . Likewise, there is a risk that clients reading what courts write will develop unrealistic expectations of lawyers. In addition, lawyers may develop unrealistic expectations of themselves and therefore suffer the stress of trying to live up to an ideal. . . . Second, the inconsistent approaches to the lawyer-client relationship can cause confusion for courts, lawyers and others.¹⁴

Thus, Green calls for “more nuanced views of lawyers’ obligations,” concluding that “surely this is better than romanticizing the lawyer-client relationship in judicial prose.”¹⁵

Another leading ethics scholar, Professor Randy Lee, offers one such nuanced view, pointing to aspects of Billy Joel’s songs and career to construct a complex narrative of “seven melodies to which a lawyer might work.”¹⁶ Like many at the conference, Lee drew an express comparison between lawyers and musicians:

That, after all, is what lawyers do, the good ones anyway: they encounter people experiencing the most important problems in their lives, and lawyers help those people back to a life they can live with. They show them to a hope that’s “real.” Artists, musicians,

¹³ *Id.* at 147.

¹⁴ Bruce A. Green, *The Lawyer as Lover: Are Courts Romanticizing the Lawyer-Client Relationship?*, 32 TOURO L. REV. 139, 159-60 (2016).

¹⁵ *Id.* at 161.

¹⁶ Randy Lee, *Billy Joel and the Practice of Law: Melodies to Which a Lawyer Might Work*, 32 TOURO L. REV. 163 (2016).

the good ones anyway, do the same thing.¹⁷

Deriving lessons from Joel's music as well as Joel's work ethic, Lee declares that "everyone should write their masterpiece on whatever kind of canvas they were called to paint on."¹⁸ Applied to the work of lawyers, Lee emphasizes that:

[W]hat we lawyers make in the world, the lives we alter, the people we influence, encourage, and discourage, all of that, may for a moment be attributed to a client, but in the end, that all must come back to us, and we are, therefore, forever accountable for it all.¹⁹

More directly, Lee finds:

Billy Joel reminds us that law is a profession of diverse opportunities. We can be the lawyer who sits in the Piano Man's bar. We can even be the lawyer who lives on the hill above the oyster fishermen. But we can also be the lawyer who helps the person to see color and feel seasons and the lawyer who helps his clients to get to a place in their lives they can live with.²⁰

Other scholars at the conference likewise drew upon their respective fields of scholarship to analyze some of the salient legal and social issues that frequently arise in Billy Joel's work. For example, following her opening remarks welcoming the conference participants, Dean Patricia Salkin presented a paper describing Billy Joel as "The Chronicler of the Suburbanization of New York."²¹ As befits the Dean of a law school in suburban Long Island, who is also a leading scholar in the field of land use and a fan of Billy Joel's music, Salkin's article interweaves historical and legal discussions of

¹⁷ *Id.* at 164-65.

¹⁸ *Id.* at 170.

¹⁹ *Id.* at 173.

²⁰ *Id.* at 184.

²¹ Patricia E. Salkin, *The Chronicler of the Suburbanization of New York*, 32 *TOURO L. REV.* 111 (2016).

the suburbanization of Long Island, all within the context of Joel's professional work, personal history, and communal activism. As Salkin notes, "A native son of Long Island, essentially a suburb of New York City, Joel didn't have to look far for stories to tell."²² Indeed, Salkin traces the arc of Billy Joel's career through the decades of suburbanization and development that have taken place in Long Island, finding legal and social analogs—if not the actual models—for many of his songs. Salkin concludes that: "Even in the 21st century, Billy Joel and his lyrics have stood strong and established the messages he intended to portray. At 65 years young, Joel is still touring around the country and providing his fans with music that is both enjoyable and meaningful."²³

In a joint presentation, Professors Rebecca Roiphe and Doni Gewirtzman similarly explored some of the legal, historical, and cultural implications of Billy Joel's work, with particular attention to the 1982 album *The Nylon Curtain*.²⁴ In their article, Roiphe, a legal historian, and Gewirtzman, whose scholarship focuses on the intersection between constitutional law and social science, apply their interdisciplinary methodology to examine the "disaggregation" of both American culture and, correspondingly, legal culture in the early 1980s.²⁵

Placing the album in the context of both the decades that preceded its composition and the election of Ronald Reagan in 1980, the authors rely on *The Nylon Curtain* "to provide a snapshot of a transitional moment for culture and law at the dawn of the Reagan Revolution, a moment where hyper-individualism and atomization caused many to abandon the idea that national character, collective industry, or social cohesion could give meaning to individual lives."²⁶ In short, they ask, "Should Americans define themselves as individuals unmoored from any sense of national or communal identity or as members of smaller communities based on shared cultural traits or normative beliefs?"²⁷

Relying heavily the work of Robert Cover, the authors find:

²² *Id.*

²³ *Id.*

²⁴ Rebecca Roiphe & Doni Gewirtzman, *Behind the Nylon Curtain: Social Cohesion, Law, and the Disaggregation of American Culture*, 32 TOURO L. REV. 63 (2016).

²⁵ *Id.* at 64.

²⁶ *Id.* at 63-64.

²⁷ *Id.* at 64.

Just as these questions emerged for Billy Joel within the context of popular culture, they emerged in law as well As courts began to encounter a stronger and more assertive vision of American pluralism, they were forced to consider how law should balance these competing objectives, and the extent to which legal norms should respond to the culture's overall move towards disaggregation.²⁸

They conclude that:

An awareness of cultural moments helps shape our sense of possibility, and also enables us to look for ways that this reality might rupture. It is, in a sense, both humbling and empowering: it places in stark relief how many factors outside the legal system constrain the potential for change, while also allowing for the possibility that the shared assumptions, values, and premises that drive law can change radically over time.²⁹

Another conference presenter, Dr. Morgan Jones, also analyzed *The Nylon Curtain* and its place in American social and cultural history, with particular focus on one song: "Goodnight Saigon."³⁰ Jones, a musicologist whose doctoral dissertation was titled *The Other Sides of Billy Joel: Six Case Studies Revealing the Sociologist, the Balladeer, and the Historian*, situates Joel's musical treatment of the Vietnam War in historical context, noting that "Joel actually arrived on the scene of war-related music fairly late."³¹ As Jones documents in his article, "[f]rom the beginning of the war, artists in North America and the United Kingdom produced innumerable songs related to the Vietnam War in some way, or the hostile atmosphere that the war and subsequent peace protests and

²⁸ *Id.*

²⁹ Roiphe, *supra* note 24, at 81.

³⁰ Morgan Jones, *Goodnight Saigon: Billy Joel's Musical Epitaph to the Vietnam War*, 32 *TOURO L. REV.* 37 (2016).

³¹ *Id.* at 38.

anti-war rallies produced.”³² Grouping these songs into a number of different categories, Jones cites approvingly Stephen Holden’s appellation for “Goodnight Saigon,” accordingly classifying Joel’s work as an “epitaph” to the Vietnam War.³³ Jones provides a complex analysis of the “dramatic musical and lyrical elements” Joel incorporates into the song “in order to create such a poignant and successful elegy for the war in Vietnam.”³⁴ In addition, Jones further analyzes the manner in which Joel presented and performed the song, in both the music video and the concert setting. Jones concludes that:

Joel never forgot for whom he wrote this song. Through the song and the accompanying video, he made sure that the collective sacrifice of the hundreds of thousands of soldiers who served in Southeast Asia remained the main focus of the song. Perhaps for this reason most of all “Goodnight Saigon” deserves Holden’s accolade of “ultimate pop music epitaph to the Vietnam War.”³⁵

While likewise focusing on a single song, “The Downeaster Alexa,” in some ways Processor Maureen Eggert’s presentation addressed one of the broadest themes to emerge at the conference. In Eggert’s view, “The Downeaster Alexa documents the struggle of an iconic everyman engaging in one of the classic literary conflicts, man against society.”³⁶ As a legal librarian, Eggert applies the tools of close and careful research and analysis to decipher and identify the cryptic—and often mysterious—vocabulary and geography that Billy Joel employed, in a song that rings authentic in its depiction of Long Island fishermen. As Eggert notes:

[I]n The Downeaster Alexa the lyrics are not just entertaining; they provide geographical evidence that allows the listener to establish the legal jurisdiction of the song’s protagonist. The lyrics also tell what types of fish the protagonist is catching and how he is

³² *Id.*

³³ *Id.* at 45 (quoting Stephen Holden, *The Nylon Curtain*, ROLLING STONE, October 14, 1982, <http://www.rollingstone.com/music/albumreviews/the-nylon-curtain-19821014>).

³⁴ *Id.* at 46.

³⁵ Jones, *supra* note 30, at 61 (quoting Holden, *supra* note 33).

³⁶ Maureen A. Eggert, *The Downeaster Alexa: Iconic Male v. A Perfect Storm of Regulations*, 32 TOURO L. REV. 189, 191 (2016).

fishing. Both of these facts are important for determining the regulations with which the fisherman need to understand and comply.³⁷

As to the regulations, Eggert again engages in careful attention to detail, finding “the continuous flow of regulations [can] drown the average fisherman.”³⁸ Indeed, she observes:

While it is not unreasonable that a dangerous activity, whose purpose is to provide food for the public, requires regulations, the actual number and complexity of these regulations can be daunting. This is particularly true when you consider that people who must comply with the regulations not only have no legal training, but often have only a limited degree of education. Add to the complexity and number of regulations, the fact that many of them change annually, and that they can require the purchase of permits and new equipment, and it is easy to understand how fishermen come to view regulations as an adversary.³⁹

Thus, Eggert aims “to both inform the reader of the broad spectrum of regulations that govern commercial fishing, and to help put the reader into the gumboots of the fisherman as he faces a regulatory perfect storm.”⁴⁰

In a presentation expressing similar concerns, applied to the complex and confusing nature of copyright law, Professor Brian Frye offered a survey of legal issues that have arisen in the course of Billy Joel’s career.⁴¹ According to Frye, an intellectual property scholar, “Joel’s encounters with copyright law were confusing and frustrating, but also quite typical. The banality of his experiences captures the uncertainty and incoherence of copyright doctrine.”⁴² Indeed, Frye relies on Billy Joel’s own words to paint the portrait of an artist who is at once frustrated and bemused by the uneasy and uncomfortable

³⁷ *Id.*

³⁸ *Id.* at 208.

³⁹ *Id.*

⁴⁰ *Id.* at 208-09.

⁴¹ Brian L. Frye, *Scenes from the Copyright Office*, 32 *TOURO L. REV.* 83 (2016).

⁴² *Id.*

relationship between the production of art and the technical legalities that regulate the ownership of the work that is produced. Joel finds accusations of borrowing or infringement particularly painful:

[I]t was like they were taking away my kid! I give birth to these songs. I go through labor pains with these songs For somebody to come up and say, “That’s not your child” No way Don’t take my child away. That’s it.⁴³

Nevertheless, compounding his frustration, Joel felt compelled to follow his lawyers’ advice to settle, because “life is not fair” and “lawyers kind of run the country.”⁴⁴ Appropriately, Frye concludes his survey with a similar note of frustration: “Joel’s experience of the vagaries of copyright law is the rule, not the exception.”⁴⁵

Taken together, the articles in this Symposium Issue of the *Touro Law Review* provide a journey through both Billy Joel’s career and the American legal, social, and cultural landscape. As demonstrated by the articles, over the course of two days, the conference offered a meaningful and entertaining event that fostered thought provoking conversations about the relevance of Billy Joel’s work to our understanding of the American legal system and its broader implications for American culture and society. The articles offer a glimpse into the unique atmosphere of the conference, illustrating both the common themes explored in the presentations and the range of perspectives that were presented.⁴⁶

⁴³ *Id.* at 107.

⁴⁴ *Id.* at 106-07.

⁴⁵ *Id.* at 109. In a final entry to this issue, Richard Underwood briefly considers Billy Joel’s “The Ballad of Billy the Kid” in the context of American tradition of “murder ballads,” and more specifically, as compared with earlier songs that had referenced Billy the Kid. Richard H. Underwood, *A Riff on Billy the Kid*, 32 TOURO L. REV. 225 (2016). Underwood finds that, like his predecessors, “Billy Joel was not interested in the details of Billy the Kid’s life.” *Id.* at 233. Yet, Underwood concludes, musically, “Billy Joel is a lot easier to listen to than Vernon Dalhardt,” one of the earlier composers. *Id.*

⁴⁶ In addition to the speakers whose articles are collected in this Issue, other participants at the Conference included Professor Alex Long, who presented *A Billy Joel Legal Anthology*, Justice Michael Eakin, who presented *The Piano Man as Judge, Juror, and Prosecutor*, David Bilinsky, who presented *Billy Joel and the Demons: Legal, Moral and Ethical Dilemmas*, and Darren Stakey, Touro Law Center, Class of 2015, who presented a multimedia performance of a number of Billy Joel’s songs, along with scholarly commentary.