

Bob Dylan and Philosophy (Popular Culture and Philosophy) (Paperback) by [Peter Vernezze](#) (Editor), [Carl Porter](#) (Editor) from [amazon.com](#)

Great White Wonder:

The Morality of Bootlegging Bob

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In 1969 a blank white double album appeared on the shelves of a few record stores. Dubbed the *Great White Wonder*, presumably because it resembled the Beatles' *White Album* in appearance, in fact it was twenty-three previously unreleased recordings by Bob Dylan—approved by neither Dylan nor his record company. So began the musical bootlegging business: In the ensuing decades dozens more illicit albums, and then thousands more illicit compact discs, appeared with studio and concert recordings of Dylan and of many other musicians as well. But is there anything morally wrong with bootleg recordings?

Waddya Mean?

“I define these terms / Quite clear, no doubt, somehow”

(“My Back Pages”)

Questions like “Are bootleg recordings morally wrong?” provoked the first real philosopher in the Western tradition, Socrates (470-399 BCE), to insist that people *define* the words they use before they tackle difficult questions. While this sometimes appeared

to be hair-splitting to those he talked with, often it is important to know exactly what we are talking about. What is a “bootleg recording”?

Officials in the music and film industries often complain about how much money they lose from “bootlegged” movies and cd’s, usually made in non-Western countries, and marketed throughout the world. They are cheap because no royalties go to the artists or the production companies, and because there are no quality controls.

Accounts in the media of these kinds of problems regularly use the words “piracy” and “bootlegging” interchangeably. But there are good reasons for having the two different words. Cheap, knock-off copies of already-available cd’s and dvd’s made without permission of the production company are “pirated” products. They take an artistic work that is available on the market and reproduce it at a much lower cost. The most familiar form of this kind of reproduction now is illegally down-loaded music and movies, copied for free. Record and film companies estimate that they lose billions of dollars per year to this kind of pirate activity. But bootleg cd’s are not pirated cd’s. Bootleg cd’s contain performances that are not commercially available, because either the artist or the production company has chosen not to make them available.

Pirates steal a product that is already available; bootleggers make a product available. The original bootleg was whiskey, which was sometimes hidden in the leg of a boot. Now the product is a musical performance. Secret recording equipment can also be hidden in the leg of a boot. Ironically, Sony, which owns Dylan’s recording company Columbia Records, makes miniature digital tape recorders with “Stealth” microphones! These are a favorite with bootlegging concert-goers.

By far the most common bootleg recordings are live performances. The *Great White Wonder* album included just two live performances: “The Death of Emmett Till,” from a radio broadcast in 1962, and “Living the Blues,” from a television broadcast in 1969. But now thousands of Dylan’s live concerts are recorded in their entirety and shared or sold in cd form. Also bootlegged are recordings that have been made either in the studio or in less formal circumstances but not used in official releases. The *Great White Wonder* included four unused recordings from the studio in 1963 and 1965, and the rest of the recordings were from home sessions in 1961 and 1967.

Distribution of bootleg music has varied through the years. Originally record albums, like *Great White Wonder*, were carried by some independent record stores. Sometimes they were kept behind the counter. The same has been true of bootleg cds, which could be found in some independent record stores through the late 1990s. But because record companies threatened to withdraw their official releases from stores that carried unofficial releases, there was always a larger black market that operated by mail-order and at swap meets. (“Even the swap meets around here are getting pretty corrupt” [“Brownsville Girl”]). Now business is done primarily over the internet, which is harder to police. There has also been a gradual and now wide-spread shift from pressed cd’s to burned cd-r’s.

Is This Stuff Any Good?

“Some of these bootleggers, they make pretty good stuff”

(“Sugar Baby”)

What, if any, value do bootleg recordings have? If they are worthless or of little value, then there would seem to be no justification for making them available. But if they are valuable, then that would provide an initial—*prime facie*—justification for bootlegs. In fact, they have considerable musical and historical value.

The main reason that bootleg music has a bad reputation is that most people imagine bootleg recordings to be poor quality. This is sometimes true, especially when the recordings are of concerts from the 1960s or 1970s made by audience members using cheap portable equipment. And some studio recordings are early, perhaps incomplete, run-throughs of songs, or alternate arrangements that were ultimately rejected.

But many recordings of concerts come from the soundboard, the way officially released concerts are recorded; and increasingly, portable recording equipment brought by audience members is so good that it is difficult to fault the quality of audience recordings. (Sony has seen to that.) And where early or alternate studio arrangements are concerned, value is truly in the ear of the beholder. Eventual official releases of early versions of “Forever Young” and “Every Grain of Sand” made quite clear not only the historic value but also the sheer musical value of some once-rejected versions.

Infamously, five tracks of *Blood on the Tracks*, recorded in New York City, were later rerecorded in Minneapolis and replaced on the ultimate release of the album—“Tangled Up in Blue,” “Idiot Wind,” “If You See Her, Say Hello,” “You’re a Big Girl Now,” and “Lily, Rosemary, and the Jack of Hearts.” The early New York versions had an intimacy and informality that led Dylan to replace them. Whether this was an improvement is a judgment call that many fans do not want to have made for them. Since then Columbia Records has released early versions of four of the five songs (not “Lily”),

but only one of those four is actually the “test-pressing” take that was originally intended for release (“Big Girl”).

Notable alternate versions from other occasions that have yet to be heard officially include “New Danville Girl” (a stripped down version of “Brownsville Girl”), an electric version of “Blind Willie McTell,” two versions of “Visions of Johanna,” and two versions of “Caribbean Wind.” In the 1985 interview published in *Biograph*, Dylan said about “Caribbean Wind”:

That one I couldn’t quite grasp what it was about after I finished it. Sometimes you’ll write something to be very inspired, and you won’t quite finish it for one reason or another. Then you’ll go back and try to pick it up, and the inspiration is just gone. Either you get it all, and you can leave a few little pieces to fill in, or you’re trying always to finish it off. Then it’s a struggle. The inspiration’s gone and you can’t remember why you started it in the first place. Frustration sets in. I think there’s four different sets of lyrics to this. Maybe I got it right, I don’t know. I had to leave it. I just dropped it. Sometimes that happens.

In this case, the earlier versions were the more inspired, yet they remain unreleased. Dylan’s revisions of his songs have not been limited to the studio. Many of his songs have continued to grow and change in live performances. As Dylan said in the spoken introduction to “I Don’t Believe You,” on *Live 1966*: “It used to be like that. Now it goes like this.” For fans who see concerts as an opportunity to hear favorite performers simply reproduce their greatest hits all in a row, these kinds of variations will seem at best uninteresting and at worst unfortunate. But for artists and fans who value growth and

expression, the variations are the lifeblood of performance. This is the main reason that Dylan's concerts have been so thoroughly bootlegged.

The best-known example of this kind of growth is Dylan's electrified versions of songs in the 1965-1966 tour. The on-going changes to "Tangled Up in Blue" have been documented on the officially released *Real Live*. And other fascinating examples are rearrangements of "A Hard Rain's A-Gonna Fall" for the 1981 tour, and even a performance with an orchestra in Japan in 1994. The fullness and pleasure of these arrangements give the song a very different meaning, more hopeful and less apocalyptic.

Dylan's live performances are often criticized for a lack of feeling. It has to be admitted that this is sometimes true, and his performances can be quite variable in this way (as his officially released live albums show). But on some occasions Dylan finds just the right feeling for a song, and this makes all the difference, sometimes making the performance vastly superior to the released version.

His Christian concerts in the fall of 1979 were noticeably more compassionate than judgmental, when compared to the studio renditions on *Slow Train Coming* and *Saved*. And unique live performances of "Abandoned Love" (in 1975) and "Caribbean Wind" (in 1980) simply come alive. In cases such as these the recordings fill us with wonder at Bob Dylan's grasp of life and his ability to convey it.

The fact that Dylan performs some hundred concerts a year, and has been doing so each year since 1988 on his "Never-Ending Tour," suggests that he cares deeply about performing. Even if he doesn't do it well every night, he manages impressive performances on a regular basis, performances that are witnessed by only a few thousand people at a time. If such performances were simply left to the memory of those who were

there, it would be a great loss. But recordings miraculously capture these performances, and bootleg distribution allows us to (re)live them after all.

One of the most important events in the history of popular music was Dylan's decision to "go electric." While there were indications of this on his officially released album *Bringing It All Back Home*, and the single "Like a Rolling Stone," the impact was truly experienced at the Newport Folk Festival in July 1965. There Dylan and a pick-up band of electric blues musicians performed three songs—"Maggie's Farm," "Like a Rolling Stone," and "It Takes a Lot to Laugh, It Takes a Train to Cry." The crowd of mostly folk fans was quite provoked—many negatively. While most fans of rock music have heard the story told, they have yet to hear the actual performance and the reaction of the crowd. Few know that Dylan was then convinced to come back on stage to perform two more solo acoustic songs—"It's All Over Now, Baby Blue" and "Mr. Tambourine Man."

Understanding Dylan as a performer requires knowing how he can use the reactions of a crowd for his energy. The best example of this is the now-released *Live, 1966* concert. But the Newport Folk Festival in 1965 and the Christian concerts of 1979 and 1980 are also important examples.

The most important value of bootlegs is that they provide us with new songs that have never been released—songs that are sometimes every bit as good as the best of Dylan's officially released work. Usually these overlooked songs came during times when Dylan was overflowing with musical ideas. From the early 1960s notable songs are "Dink's Song," "Long Ago, Far Away," "Long Time Gone," "Farewell," and "You've Been Hiding Too Long." From the 1967 period of the *Basement Tapes* there are "Sign

on the Cross,” “I’m Not There (1956),” “Silent Weekend,” and “All You Have to Do is Dream.” From the Christian period there are “Ain’t No Man Righteous, No Not One,” “Ain’t Gonna Go to Hell for Anybody,” “Cover Down, Break Through,” “Thief on the Cross,” “City of Gold,” “Let’s Keep It Between Us,” and “Yonder Comes Sin.”

So there is a strong case that unreleased recordings of some of Dylan’s studio work and his live concerts have a great deal of value, both musically, for the pleasure and understanding of our humanity they give, and historically, for the understanding they convey about Bob Dylan as an artist and human being. These are the very things we value in art and music, and they are present in unreleased recordings as well as in officially released recordings.

Indeed, Dylan and Columbia Records recognize this fact. As a result, over the years they have released some recordings that remained unreleased for too long. The *Basement Tapes*, *Biograph*, and the *Bootleg Series* volumes are clear examples of this recognition. While fans of bootleg material buy all of these official releases, they also buy fuller and better versions that remain unreleased.

Whereas the *Basement Tapes* official release provides mono versions of sixteen songs recorded in 1967 by Dylan and the Band (the other eight are just the Band), bootleg releases provide four or five cd’s worth of recordings from that summer, many in stereo. Though Columbia has tried to release four of the New York recordings from the test-pressing that were left off the final *Blood on the Tracks*, they have used slightly different tracks in two cases, and with the release of the earlier “Idiot Wind” on the *Bootleg Series*, volumes 1-3 they left off the organ overdub, even though the booklet claims (p. 49) that you can hear it! In response to the official *Bootleg Series*, volumes 1-3, bootleggers

released three sets of 3 cd's. When Columbia released a complete concert on the *Bootleg Series, volume 4: Live 1966*, bootleggers released an 8-cd set of all the soundboard recordings from that tour.

While Columbia Records has been responsive to calls for more releases, what we have seen is how much more there is to go, and how much better it can be done. There is little question that bootleg recordings have great value and deserve to be released.

But Is It Right?

“Do you have any morals? / Do you have any point of view?”

(“Tell Me”)

The production and sale of bootleg recordings is illegal. This has been emphasized by major arrests and convictions of bootleg manufacturers and distributors in March 1997 and July 2004.

But Dr. Martin Luther King Jr. (1929-1968) reminded us that there is a difference between “illegal” and “immoral.” Something, such as segregation, can be legal and yet immoral. Or something like physician-assisted suicide might be illegal yet moral. What laws a country has in place can be an accurate reflection of sound moral judgments, or they can be in need of change: “Man's ego is inflated, his laws are outdated, they don't apply no more” (“Slow Train”).

Let's look at the issues concerning whether bootlegs are immoral or not. The *prima facie* justification for bootleg recordings based on their value could be overturned if there were considerations that showed them to be wrong on other grounds. Some

ancient philosophers who argued with Socrates, known as “Sophists,” claimed that whether an action was right or wrong was just a *subjective* matter of whether it was in your own interests or not. Dylan reminds us of this idea when he says: “You know it’s funny how some people just want to believe what’s convenient” (“New Danville Girl,” unreleased). There is, according to the Sophists, no *objective* right or wrong.

This attitude is one that many people hold. For example, people who illegally download music often think that it is okay, as long as they can get away with it. This is really just a way of holding that morality is irrelevant to our decisions. But such people are usually also confident in holding that terrorism and child abuse are wrong. Bob made a strong case, in his early recordings, that racism (“Death of Emmett Till,” unreleased), classism (“The Lonesome Death of Hattie Carroll”), and militarism (“Masters of War”) are wrong. Although it is harder to take morality seriously when it threatens to interfere with our own plans, we need to be consistent in our thinking. We need to take morality seriously.

Even if we do take morality seriously, we might think that behavior is moral if that’s how everyone else behaves. Dylan is familiar with this attitude: “You say, ‘Baby, everybody’s doing it so I guess it can’t be wrong’” (“Trouble in Mind,” B-side single). Philosophers call this view *relativism*. Again, this can be a rationalization for illegally downloading music. But this was also what Dr. King’s opponents believed. Certainly “everyone” believed segregation was okay—or at least many people did. But we know many people can be wrong. Many of Bob’s songs (“I Believe in You,” “License to Kill”) remind us that a popular attitude can still be wrong.

So morality is not simply a matter of what everyone thinks. Morality requires us to examine what we are doing, not just how people view it. We need to look closely at some of the reasons that bootlegging might be considered wrong.

The most important argument against bootleg releases is the artist's *right* to control his material—what will be publicly released, and in what form. The theory of rights—in particular, rights to life, liberty, and property—was developed by the British philosopher John Locke (1632-1704), whose ideas influenced the American “Declaration of Independence.” A performance is a piece of property, to be distributed at the artist's direction and with the artist's consent. As Dylan once lamented: “Everything that's happening to us seems like it's happening without our consent” (“New Danville Girl,” unreleased). If bootlegging violates a performer's property rights, then it's wrong.

In theory this idea of property rights sounds plausible, but in practice things don't always work this way in the music business. There are a number of things that Dylan has planned to release, but couldn't. Columbia nixed “Talking John Birch Society Paranoid Blues” in 1962 and the original version of “Hurricane” in 1975 for legal reasons. There are concerts from Dylan's Christian period that he recorded and planned for release, but Columbia didn't think they would sell, so they weren't released. Dylan commented after a 1980 performance of the still unreleased “Ain't No Man Righteous (No Not One)”: “I'm sure that's gonna be on our next album,” but there was no such next album. There were recordings planned for the original 4-cd version of the *Bootleg Series, volumes 1-3* that had to be cut because Columbia decided a 3-cd box set would be more profitable. Bootleggers circulate these things, presumably in conformity with Dylan's wishes.

More problematic is when bootleggers release material that an artist might not want released. However, this already is done by record companies. Columbia released *Dylan* in 1973, a collection of songs that Bob never approved for release—in fact a collection so bad that it has yet to be officially re-released in the U.S. in cd form. The point here is not that record companies are an adequate model for excusing the behavior of bootleggers, but that artistic property rights already function in a very contingent manner. While they exist, they are often in competition with other rights.

The abortion controversy is a good illustration of this competition. A pregnant woman may claim a right to control over her own body, but this has to be considered in the light of a possibly competing right to life of the fetus. Since rights can sometimes be *overridden*, we must make sure we know what all the relevant rights are. And then we must make judgments about which rights are more weighty.

Even if the simple right to property is not decisive, what about a right to privacy? At least an artist should be allowed a right to privacy. As Dylan once pleaded:

There's some things not fit for human ears

Some things don't need to be discussed

Oh, darling, can we keep it between us?

("Let's Keep It Between Us," unreleased)

If Dylan records songs that he feels are too personal, such as the New York versions of some of the *Blood on the Tracks* tracks, doesn't he have a right to withhold them?

Perhaps so. But it is surprising how little effect concerns about musical privacy ultimately have in artists' choices. The too-personal recordings from the New York sessions for *Blood on the Tracks* were eventually approved by Dylan for release. And such decisions seem to depend not on personal considerations, but on whether the record company thinks they can now be profitably marketed. Nearly all performers are now willing to include old demos and alternate cuts as additions to "remastered" re-releases of their old albums. It is hard to give much weight to artistic rights when integrity is so often up for sale in this way.

In any case, private recordings can only be circulated if bootleggers can get their hands on them. And they can get their hands on them only if Dylan allows other people to hear them. It is interesting that unissued studio recordings made in the last dozen years have not circulated in bootleg form. This is presumably because Dylan has now seen to it that his studio recordings don't fall into the wrong hands.

Finally, a right of privacy could apply only to studio or home recordings, not concerts—which are by far the main source of bootlegged material. Once someone performs a song in concert, it has already been shared, and a right to privacy has already been waived.

The rights of the performer and the recording company have to be balanced against any competing rights—perhaps those of the fans. If an artist had no audience, then there would be no countervailing claims. But artists have the ability to get their recordings distributed by record companies only because of their popularity with and support from fans—popularity and support that the artist sought.

Fans wanting increased access to music seems to constitute an important claim. Art is not necessarily simply private property. A performance is a piece of art at least partly in virtue of having a potential audience. To then insist that the audience has no say in access to the art is to undermine its status as art. Fans have rights too.

The issue of rights and access to art looks very different when the art is a physical object, such as a painting or a sculpture, as compared to when the art is an electronically reproducible performance. If a physical piece of art is owned by an individual, then that puts severe limitations on public access. Any possible rights of the public clearly conflict with those of the owner, and presumably are overridden. But if an appreciation of a performance by one person, electronically, in no way interferes with another's appreciation of it, it is hard to see why ownership and control should be especially restrictive—as long as proper royalties are paid.

Aren't They Ripping Him Off?

“Do you want it for free?”

(“What Was It You Wanted?”)

The main economic argument against bootlegging is that it deprives artists and their record companies of huge amounts of money, since bootleggers pay no royalties. However, most of the estimates of losses—in the billions of dollars—are due to piracy, rather than bootlegging. Music pirates clearly take sales away from record companies. That is one reason it is important to distinguish piracy from bootlegging.

It's hard to see how bootleg products deprive companies of any money at all, since what is bootlegged is material that companies have chosen not to market. Usually, due to the large scale of commercial record production, it would not be profitable for companies to market material that gets bootlegged, since it would not sell enough.

Sales of typical bootleg cd's range from a few hundred to a few thousand copies. (Now that burned cd-r's are common, the numbers can even be far smaller.) Best-selling bootlegs might sell ten thousand copies. Bootleg producers operate in the cracks that are unprofitable for record companies to exploit. A given item would have to sell about fifty times as well as it does on the bootleg market for it to be worth the attention of a record company. Thus, record companies choose to forego the sales that bootleggers make.

In fact, a case can be made that bootlegging boosts the sales of record companies. It was because of the publicity that *Rolling Stone Magazine* gave to the *Great White Wonder* bootleg album, and the interest that it provoked in the public, that Columbia Records eventually released the *Basement Tapes*. Dylan himself was amused by the large sales of the official album because he thought "everybody had it already." The same can be said for the on-going *Bootleg Series* releases by Columbia, and all manner of official releases from the vaults of record companies. In fact a search of "bootleg" on Amazon.com turns up literally scores of items being officially marketed with that label! Bootleg producers have not only catered to interest, but have created interest in unreleased material.

Once a recording sees official release, bootleg customers will buy it, and if it is well done, the market for the bootlegged version will dry up. (We have seen, however, that it is not always well done.)

Sony has done an impressive series of releases over the last few years of Pearl Jam concerts in minimal packaging, meant to imitate bootleg releases. (Though “minimal” is only a stereotype—some bootleg releases are lavish!) Perhaps the originator of this approach was Arista Records, which once sold cds of Grateful Dead concerts—“Dick’s Picks”—by mail-order.

Even if bootleggers inadvertently function as advance-marketers for record companies, they still need to pay royalties to artists for the use of their performances. In fact, some already do. One famous bootleg-producing company—Great Dane Records, in Italy—printed the following message on its releases:

We bring to the attention of the performing artists . . . that upon publication of the present phonographic recording, the deposit of a sum for each copy made as fair consideration has been made on their behalf . . . [as required by Italian law].

This deposit has been made in the form of a passbook savings account with the Banca Popolare di Milano . . . and will be transferred to the legitimate owners upon specific request.

While this may not be done by other companies, it should be. It would be interesting to know whether artists ever actually take the money. Presumably doing so would constitute acknowledgement of the legitimacy of the enterprise.

So, What’s The Bottom Line?

“Are you ready for the judgment?”

(“Pressing On”)

We have examined some of the moral issues surrounding bootleg recordings, primarily in terms of conflicting rights: On the one hand, bootlegs may violate rights to property, privacy, and profits. On the other, they may support rights of fans. Some of these claimed rights turn out to be weak or problematic. On balance, bootlegs seem morally acceptable under the following conditions: Fair royalties must be paid. Laws against theft (of studio and soundboard tapes) must be obeyed. And perhaps, if one is impressed by concerns of privacy, only public performances should be distributed.

If bootlegs are morally acceptable with these provisions, then it is also worth wondering whether there are any legal changes that could be made to reflect the value and moral legitimacy of access to unreleased recordings. If the production and distribution of recordings within the limits mentioned above were legalized, presumably there would be an incentive for record companies to lease the use of recordings to smaller companies that would find the venture to be sufficiently profitable.

Reflecting on the value of Dylan's unreleased performances is essentially incomplete without hearing any of them. Perhaps the best the reader can do is listen to "Foot of Pride," "Angelina," and "Blind Willie McTell" on the *Bootleg Series, volumes 1-3*, and recall that these songs were unreleased for eight years, and only released because bootleggers made them known. And then listen to the second, electric, disc on the *Bootleg Series, volume 4: Live 1966*, and reflect that the performance went unreleased for thirty-two years. Even now, half the recordings on the *Great White Wonder* remain officially unreleased.