

PHIL BEIDLER*

ON THE LAW/LANGUAGE POEMS

For more than thirty-five years, beginning with graduate school at the University of Virginia and subsequent careers at the University of Alabama, as friends and fellow Americanists, Hank Lazer and I have held an ongoing conversation about the unique role of style in early American literature and culture. From the outset, we agree, Americans have always been a people creating themselves endlessly, for both good and ill, by linguistic fiat. In our classic political and literary texts, we keep looking for the Word, the new American logos that might somehow enable us to fulfill the national promise.

Of course Americans think they invented language-poetry. And in their own way they did. Only they did it long before there were language poets in the technical sense. They did it in a Puritan poetics; they did it in a Revolutionary poetics; they did it in a Transcendentalist poetics, and so forth. In the first great age of common literacy, born of the twinned pressures of Renaissance and Reformation, they attempted to take the resources of everyday human language and to speak and write queer collocations of words into the language of grace.

Albeit with incomplete insight and success, they also wished to observe that sense of eccentric mission in attempting create a new political order of relationship between language and power. In our basic documents of governance, the vision of redeemer nation, the City on a Hill, still labors to institutionalize itself at once linguistically and politically into "*Annis Coeptit*": "*Novus Ordo Seclorum*," the new design of History. You can find it today right there on the one-dollar bill. It should hardly be surprising then that such a sense of linguistic and political mission transmitted itself as well into the everyday business of laying down the law.

That is one of the fundamental literary, linguistic, and—in the fullest sense of the term—cultural insights, I believe, evidenced in Hank Lazer's "Law Poems": for Americans, at least, as Emerson phrased it, language always has been fossil poetry. (That is not a scientific verity, by the way—just an article of cultural belief, of the sort created not by linguists but by poets.) To be sure, poets everywhere claim that, especially when they attempt to corner the market on oracular gibberish. "Poets are the unacknowledged legislators of mankind," Shelley said. It

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took an American, on the other hand, Ezra Pound, to call them “the antennae of the race.”

As it turns out, not only have I read a good deal of American poetry with Hank Lazer on these accounts. In my own, parallel career, I have also read a good deal of American legal and judicial writing—in my research career as a cultural-studies specialist, that is, but also in consulting work I have done as a teacher of writing seminars for American judges around the country. Accordingly, I testify to the insight I claim for Hank as a poet precisely because I have read so much of the American fossil poetry called law. Look for it where you will, in America it is right there in front of you, in “the pass-word primeval,” as Whitman called it (a lawmaker wannabe if there ever was one), the “sign of democracy.”

So let me speak briefly here, then, from experience, on both counts. Poetry uses odd language occasionally—or, perhaps more often, uses common language oddly—in curious patterns, organizations, rhythms, constructions of tropes and figures, even spaces and punctuations, to say complicated things that, taken together, might comprise a kind of natural history of mankind. As a language, Law does the same thing, especially when it melds the magisterial traditions of Greco-Roman and Judaeo-Christian jurisprudence into the tradition that we call common law. There’s a specialized legal diction—some people would call it jargon, although when used properly, it might be called “terms of art”—that in the Anglo-American tradition also aspires sincerely to work toward what Wordsworth called the language really spoken by men. Legislators, lawyers, and judges obviously do not observe certain conventions considered peculiar to poetry—ritual, or at least vestigial, observances of rhyme and meter, for instance, the history of poetic genre, diction, line length, stanza form, typography, etc.—but they certainly employ many of the same stylistic signatures in other forms. Indeed, a large number of the judges I have known, at least, actively attend in their writing to what might be called literary concerns—the balance of specialized and common language, the technologies of sentence and paragraph construction, the evocative power of tropes and figures, the hortatory rhythms of various rhetorical devices and modes. Indeed, I have known innumerable judges who were fossil poets. And the parallel texts of Hank Lazer’s twinned poetic and legal passages in the “Law Poems” show exactly why.

You will see several of Lazer’s poem clusters organized, for instance, around questions of legal definition: “redemption;” “execution”—in this case “execution or other legal process;” “cause of action for seduction of an unmarried woman;” “streets, avenues, boulevards, roads, lanes, alleys, viaducts, and other ways;” “SEWER SERVICE;” “deception;” “Life insurance;” “Surety insurance;” “PERSON;” “MASCULINE GENDER;”

“PRESENT TENSE;” “INCOMPETENT VETERAN;” “SEXUAL INTERCOURSE;” “Oleomargarine Fortification Act;” etc., etc. We see that what a given word means in a given code is at once both a matter of law and of common usage, albeit also depending on the precise nature and date of the code—1938, 1914, 1887. If it were 1823, for instance, the date (I happen to know) of the Alabama Code of Justice Harry Toulmin, “the Frontier Justinian,” “person” would be severely limited. In fact, there would be a whole code—in fact, called a slave code—devoted to persons dealing with non-persons. Or here is “Pritchett versus State (1959)” in which “Castration was a kind of mayhem.” There are all those bizarre negatives: “No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand on the handlebars.” Sometimes the acts themselves are so far gone we cannot rely on words to imagine them: “who,” indeed, “salts the track of said railroad for the purpose of attracting cattle thereon”? Whoever it is/was, said offender “must, on conviction, be punished by imprisonment in the penitentiary for not less than ten years.” Or if we can envision the problem, the words have now become irretrievable metaphysical nonsense. “A belief that statements are true/does not create a privilege of publishing them./Absolute verity is essential to the privilege,” says *Starks v. Cramer* (1914). “Ah, very true,” we keep wishing we could say. “Very, very true.”

How can one say that this is not exactly what poets do, marshaling the visible out of the invisible and vice versa—putting together words and things, in their queer serendipitous ways, across history, through the various moods and tenses (vocative, declarative, subjunctive, performative; past, present, future; past perfect; perfect; future perfect)? How, except through poetry, do we actually try to conceive of the innumerable ways we have of making predications, wishful and legal, making all the definitions, lists, prohibitions, exhortations, amount to something in the world of mortgages, taxes, crop failures, worthless checks, land disputes, titles, alienations of affection, unsanitary and unsafe buildings, license tags, bicycles, guardians, schools, circuses, railroads, convicts, public lewdness, corpse abuse, families, guilt and remorse, semiologies, people that live in Montgomery—that is, the world in which we live? Hank Lazer says as much, on the two-way street: “poetry can be a vehicle for thought/have you driven a ford lately;” or, “reading as a derangement of the systematic senses/is that my mother on the phone speak up/seven is the natural number seven is an integer the baal/shem tov hid for seven years before being called to reveal himself/seven is a whole number seven is a prime number/seven is an odd number and sometimes confused with one.” Somewhere in there with the letters, words, number, integers is the law of the father. “I am not a songbird nor was ever

meant to be," says the poet, invoking Hamlet, Prufrock, and sundry other nightingales and skylarks. Law/Language poets do not work that way. Be they poets or jurists, jurists or poets, they bend language to the work of the world, as we all do.

So elegizes John Berryman's *Huffy Henry*, we remember, laying down the law, as fathers do, for the umpteenth time:

If there were a middle ground between things and the soul
or if the sky resembled more the sea,
I wouldn't have to scold
 my heavy daughter.

In Hank Lazer's "Law Poems," as in the *Dream Songs*, one does not call certain outcomes poetic justice for nothing.