

JAMES R. ELKINS*

**AN ANTHOLOGY OF POETRY
BY LAWYERS**

I.

This *Legal Studies Forum* poetry anthology represents the first effort of a United States legal journal to devote an entire issue to poetry. Law journals do, of course, publish poetry, but they do it sparingly, and when they publish a poem it's usually a poem about law or the practice of law. For this anthology we have not sought out poetry *about* law, lawyers, and the legal world but rather poetry *by* poets educated and trained as lawyers.¹ The poets whose work we selected for the anthology write poetry not for their colleagues in the legal profession, but for readers of poetry, for fellow poets, and, of course, for themselves. A surprising number of the lawyer poets included in the anthology have published widely and received significant recognition for their poetry. We have also included in the anthology the work of several unpublished lawyer poets. If the focus has been more generally on published poets, it is simply because the publication of their poetry more readily brought them to our attention. Whether published or unpublished, many of these lawyers have been secret poets in our midst.

One does, of course, occasionally find a poem in a law journal. In earlier times, poetry was commonly found in journals like the *American Bar Association Journal*, *Case and Comment*,² and in still older journals like *The Green Bag* (1889-1914).³ But, today, a poem in a law journal

* Editor, *Legal Studies Forum*.

¹ We did not compile the collection with any preestablished criteria for the poetry or for the lawyers we would include. Basically, we included poets who have been educated and trained as lawyers, regardless of whether they now actively practice law.

² For indexes to the poetry published in the *ABA Journal* and *Case and Comment*, see appended indexes to the reprint edition of Ina Russelle Warren (ed.), *THE LAWYER'S ALCOVE: POEMS BY THE LAWYER, FOR THE LAWYER AND ABOUT THE LAWYER* [unnumbered appendices] (Buffalo, New York: William S. Hein & Co. 1990)(reprint edition)(New York: Doubleday, Page, 1900)(hereinafter *THE LAWYER'S ALCOVE*).

³ For an index to the *Green Bag* poetry. See "Green Bag Poetry Index," in *THE LAWYER'S ALCOVE*, *id.* The old *Green Bag* has been thoughtfully, brilliantly reinvented, beginning publication in 1997 as a "second series" *Green Bag*. The new *Green Bag* holds itself out to be an "entertaining journal of law" and we have found it so, much as law, literature, and politics provided entertainment in Chautauqua days. Unfortunately, the new *Green Bag* features little poetry.

stands out like an exotic weed seeking cover in a hostile habitat, its only protective coloration being the fact that it is “legal verse.”⁴ The solitary poems we find in law journals are so overshadowed by the heft and hardiness of the species which surround them, they are easy to overlook. We suspect that most law readers ignore these fugitive law-theme poems in professional journals in the way so many ignore poetry wherever it appears. With this poetry anthology issue of the *Legal Studies Forum*, we have created a place for poetry where it is no longer required to compete for attention.

II.

From our earliest days as a nation—still earlier in England, Ireland, Scotland, Wales and the vast world beyond Europe—we’ve had lawyer poets and poet lawyers. Lawyer poets have served as President, and sat as Justices on the Supreme Court and on state supreme courts. They have served in the Cabinet and as Governors and Attorney Generals of the various states. They have been elected to Congress. Some of the earliest women lawyers and African-American lawyers in the United States, surmounting obstacles we remember today with shame, were poets. Our lawyer poets have been journalists, ministers, physicians, novelists, sculptors, scholars, presidents of universities, generals in both the Confederate and Union armies, law professors, duelists, famous Masons, and state poet laureates.⁵

⁴ When law reviews and law journals publish poetry they generally confine themselves to “legal verse.” For a short historical survey of “legal verse,” see J. Wesley Miller, “Legal Poetry,” in, *THE LAWYER’S ALCOVE*, *supra* note 2, at i-xii. On “legal verse,” see generally Perceival E. Jackson (ed.), *JUSTICE AND THE LAW: AN ANTHOLOGY OF AMERICAN LEGAL POETRY AND VERSE* (Charlottesville, Virginia: Michie Co., 1960)(The editor, Perceival E. Jackson, was a lawyer and a poet); J. Greenbag Croke, *POEMS OF THE LAW* (Buffalo, New York: William S. Hein, 1986)(San Francisco: S. Whitney, 1885); J. Greenbag Croke, *LYRICS OF THE LAW: A RECITAL OF SONGS AND VERSES PERTINENT TO THE LAW AND THE LEGAL PROFESSION* (Buffalo, New York: William S. Hein, 1986)(San Francisco: S. Whitney & Co., 1884); Irving Browne, *LAW AND LAWYERS IN LITERATURE* (Holmes Beach, Florida: Wm. W. Gaunt & Sons, reprint, 1982)(Boston: Soule and Bugee, 1883). Legal verse seems to have found no serious place in the world of poetry generally, or in literary scholarship about poetry.

⁵ For the first comprehensive effort to identify the nation’s lawyer poets, see James R. Elkins, “Strangers to Us All: Lawyers and Poetry,” <<http://www.wvu.edu/~lawfac/jelkins/lp-2001/intro/lp1.html>>. See also Steven Richman, *Edgar Lee Masters and the Poetics of Legal Realism*, 31 Cal. W. L. Rev. 103 (1994)(“The other principal American lawyer-poets that I have identified are Sidney Lanier, William Cullen Bryant, James Russell Lowell, Joaquin Miller, Archibald MacLeish, Charles Reznikoff, Wallace Stevens and John Godfrey Saxe.” *Id.* at note 1); *Sidney Lanier and the Poetry of Legal Morality*, 25 Cumb. L. Rev. 309 (1995); *William Cullen Bryant and the Poetry of Natural Law*, 30

Lawyer poets have been so prevalent in our history that when we examine old poetry anthologies, we find lawyer poets in abundance.⁶ Consider, for example, Armistead C. Gordon, Jr.'s *Virginia Writers of Fugitive Verse* (1922). Gordon prefaces his anthology with the claim that the South has been a congenial place for poets, and that as of 1922, when his anthology was published, there were still 19th century Southern poets well-remembered in the South.⁷ Gordon notes, in the opening sentences of his preface:

What knowledge the reading public at large may have of Southern poetry is doubtless due not so much to the work of any one author, Poe and Lanier excepted, as to the numerous and fugitive poems which Southern writers have produced. Key's "Star-Spangled Banner," Wilde's "My Life is Like the Summer Rose," O'Hara's "Bivouac of the Dead," St. George Tucker's "Resignation," Randall's "Maryland, My Maryland," Pinkney's "A Health," Ticknor's "Little Giffen of Tennessee," and P.P. Cooke's "Florence Vane" form a galaxy of which any literature might be proud, and which a collection of the great mono-poems of literature would be most likely to include.⁸

Most striking, in Gordon's early 1920s compilation of singularly notable Southern poems, is the fact that of the two great poets mentioned, Edgar Allan Poe and Sidney Lanier, one of them, Lanier, was a lawyer.⁹ And

Akron L. Rev. 661 (1997)(Steven Richman is a Princeton, New Jersey lawyer, poet, and photographer).

⁶ Historically, those with literary interests had little way to secure a livelihood as a writer, author, artist, or poet. Unless he came from a wealthy family, and had reconciled himself to living a life of leisure and intellectual pursuits made possible by family money, he had to have a way of making a living whatever his literary interests, talents, and skills might have been. And so, the literary-minded man became a lawyer, journalist, or physician. But we find that those most taken by the Muse would often take up the practice of law and then abandon the legal profession to find work more amenable to their true interest. It was common for lawyer poets, to seek out a place for themselves in journalism, and especially editing and publishing the literary newspapers and magazines of the day. Some lawyer poets found they could not make a worthwhile livelihood in the practice of law, while others found the practice of law distasteful, or so interfered with their writing interests, that they abandoned the practice of law to pursue their literary ambitions.

⁷ Armistead C. Gordon, Jr., *VIRGINIA WRITERS OF FUGITIVE VERSE* (New York: James T. White & Co., 1922).

⁸ *Id.* at 3.

⁹ See "Sidney Lanier," in F.V. N. Painter, *POETS OF THE SOUTH* 81-101 (New York: American Book Co., 1903)(Freeport, New York: Books for Libraries Press, 1968); Jack De Bellis, *SIDNEY LANIER: POET OF THE MARSHES* (Atlanta: Georgia Humanities Council, 1988); Edd Winfield Parks, *SIDNEY LANIER: THE MAN, THE POET, THE CRITIC* (Athens: University of Georgia Press, 1968); Lincoln Lorenz, *THE LIFE OF SIDNEY LANIER* (New

in the list of the authors of memorable poems that follows—Francis Scott Key, Richard Henry Wilde, Theodore O'Hare, St. George Tucker, Edward Coate Pinkney, Philip Pendleton Cooke, James Ryder Randall, and Francis Orray Ticknor—every poet on the list except Randall and Ticknor had been trained as a lawyer or practiced law.¹⁰ Interestingly enough, Gordon makes no reference to the fact that so many of the poets on his list were lawyers. Perhaps to Gordon, even as of 1922, the phenomenon was not so remarkable as it appears to us today. More curious still, Gordon, the author of *Virginia Writers of Fugitive Verse* was not only a poet,¹¹ but a lawyer.

If we take a still different text, Mildred Lewis Rutherford's *The South in History and Literature* published in 1906, we find still another claim for the importance of Southern literature, especially the literature produced before the Civil War.¹² In Rutherford's introduction there is again reference to Poe, who was not a lawyer, and to Francis Scott Key ("Star-Spangled Banner"),¹³ Theodore O'Hara ("The Bivouac of the Dead")(written in memory of those who fell at the Battle of Buena Vista),¹⁴ Philip Pendleton Cooke ("Florence Vane"),¹⁵ and Richard Henry

York: Coward-McCann, 1935); Aubrey H. Starke, *SIDNEY LANIER: A BIOGRAPHICAL AND CRITICAL STUDY* (Chapel Hill: University of North Carolina Press, 1933); Edwin Mims, *SIDNEY LANIER* (Boston: Houghton Mifflin, 1905).

¹⁰ James Ryder Randall (1839-1908), author of "Maryland, My Maryland," which was adopted in 1939 as the Maryland state song, taught English literature and was a newspaper editor. Francis Orray Ticknor (1822-1874), author of "Little Giffen of Tennessee," was a country doctor in Georgia.

¹¹ See Armistead C. Gordon, *FOR TRUTH AND FREEDOM: POEMS OF COMMEMORATION* (Staunton, Virginia: A. Shultz, 1898); *THE WESTERN FRONT: A LITTLE CALENDAR OF THE GREAT WAR* (Staunton, Virginia: Privately Printed, 1928); *THE FOUNT OF CASTALY* (Charlottesville, Virginia: Historical Pub. Co., 1934).

¹² Mildred Lewis Rutherford, *THE SOUTH IN HISTORY AND LITERATURE* 3-6 (Atlanta: Franklin-Turner, 1907)(1906).

¹³ Key's poetry was collected and edited, after his death, by Chief Justice Roger B. Taney. See Francis Scott Key, *POEMS OF THE LATE FRANCIS S. KEY, ESQ.* (New York: Robert Carter & Brothers, 1857)(introductory letter by Chief Justice Taney).

¹⁴ George W. Ranck, *O'HARA AND HIS ELEGIES* (Baltimore: Turnbull Brothers, 1875). See generally Nathan Cheairs Hughes, Jr. & Thomas Clayton Ware, *THEODORE O'HARA: POET-SOLDIER OF THE OLD SOUTH* (Knoxville: University of Tennessee Press, 1998).

¹⁵ Philip Pendleton Cooke, *FROISSART BALLADS, AND OTHER POEMS* (Philadelphia: Carey and Hart, 1847)(New York: Arno Press, 1972). See generally John Daniel Allen, *PHILIP PENDLETON COOKE* (Chapel Hill: University of North Carolina, 1942); David Kelley Jackson, "Philip Pendleton Cooke, Virginia Gentleman, Lawyer, Hunter, and Poet," in David Kelly Jackson (ed.), *AMERICAN STUDIES IN HONOR OF WILLIAM KENNETH BOYD* 282-326 (Durham, North Carolina: Duke University Press, 1940); Edward L. Tucker, *Philip Pendleton Cooke: This Virginia Man of Letters Preferred Poetry to the Law*, 19 (3 Va. Cavalcade 42 (1970).

Wilde ("My Life is Like the Summer Rose"),¹⁶ all lawyers included on Armistead Gordon's list. Rutherford goes on to name still other memorable Southern poets whose poetry appears before 1860, most notably Albert Pike¹⁷ and John Pendleton Kennedy.¹⁸ Pike and Kennedy were lawyers. In looking at the period after the Civil War, Rutherford points to Sidney Lanier, the most notable lawyer poet of the Civil War era ("unquestionably one of the greatest poets this country ever produced") and Henry Timrod,¹⁹ another notable Civil War poet. Lanier and Timrod were both, at one time, lawyers, although they are today remembered for their literary efforts.²⁰

III.

What literary scholars focusing on the history of poetry in the United States, or legal-literary scholars exploring the literary aspirations of this country's lawyers, may have to tell us about lawyer poets we do not know as they have commented so infrequently on the fact that so many of our notable early poets were lawyers.²¹ The lawyer poets have been, and continue to be, "strangers to us all." Ask a law colleague to

¹⁶ See generally Edward L. Tucker, *RICHARD HENRY WILDE: HIS LIFE AND SELECTED POEMS* (Athens: University of Georgia Press, 1966).

¹⁷ See generally Jim Tresner, *ALBERT PIKE: THE MAN BEYOND THE MONUMENT* (New York: M. Evans and Company, 1995); Walter Lee Brown, *A LIFE OF ALBERT PIKE* (Conway: University of Arkansas Press, 1997).

¹⁸ See generally "John Pendleton Kennedy," in Samuel Albert Link, 1 *PIONEERS OF SOUTHERN LITERATURE* 223-247 (Nashville, Tennessee: Publishing House, M.E. Church, South, Barber & Smith, agents, 1899).

¹⁹ See generally Henry Tazewell Thompson, *HENRY TIMROD, LAUREATE OF THE CONFEDERACY* (New York: AMS Press, 1971); Edd Winfield Parks, *HENRY TIMROD* (New York: Twayne Publishers, 1964); Jay B. Hubbell, *THE LAST DAYS OF HENRY TIMROD, 1864-1867* (Durham: Duke University Press, 1941); "Henry Timrod," in F.V. N. Painter, *POETS OF THE SOUTH* 65-80 (New York: American Book Co., 1903)(Freeport, New York: Books for Libraries Press, 1968); "Henry Timrod: The Unfortunate Singer," in Samuel Albert Link, 1 *PIONEERS OF SOUTHERN LITERATURE* 117-148 (Nashville, Tennessee & Dallas, Texas: Publishing House M.E. Church, South, Barber & Smith, Agents, 1899).

²⁰ Lanier studied law with his father after being released from imprisonment during the Civil War. In bad health, he attempted to practice law from 1869 until 1873 but finally decided to devote himself to literary efforts. See *WEBSTER'S AMERICAN BIOGRAPHIES* 607 (Springfield, Massachusetts: Merriam-Western Inc., 1974)(Charles Van Doren, gen. ed.); Archivist Biographical Sketch, Sidney Lanier Papers, Johns Hopkins University, Baltimore, Maryland.

"Timrod was admitted to the bar but had neither the health or the temperament for vigorous practice." Bruce R. McElderry, Jr., *THE REALISTIC MOVEMENT IN AMERICAN WRITING* 516 (New York: Odyssey Press, 1965).

²¹ For a notable exception, see Robert A. Ferguson, *LAW AND LETTERS IN AMERICAN CULTURE* (Cambridge: Harvard University Press, 1984).

name a lawyer poet, and it will be a rarity to hear any of the 19th century lawyer poets named by Gordon and Rutherford recalled. Most colleagues, if they can name a single lawyer poet, are more likely to recall that one of the most highly acclaimed poets of the 20th century,²² Wallace Stevens, practiced law²³ (although oddly enough, in literary circles, he is more commonly identified as an insurance company executive). Some few law colleagues, especially those who are well-versed in the “law and literature” scholarship may have chanced upon Archibald MacLeish’s short, intriguing “Apologia”—published over thirty years ago—in which we were alerted to his Harvard Law School education and his brief years as a Boston lawyer.²⁴

My first tangle with lawyer poets was sparked by an introduction to the work of John William Corrington,²⁵ whose life and work as a poet, lawyer, novelist, writer, and philosopher has been explored in recent

²² Wallace Stevens has become a sufficiently celebrated poet, that even legal scholars have had occasion to comment on his life and his work as a lawyer/poet. See Thomas Grey, *THE WALLACE STEVENS CASE: LAW AND THE PRACTICE OF POETRY* (Cambridge, Massachusetts: Harvard University Press, 1991); Thomas C. Grey, *Hear the Other Side: Wallace Stevens and Pragmatist Legal Theory*, 63 S. Cal. L. Rev. 1569 (1990); Daniel J. Kornstein, *The Double Life of Wallace Stevens: Is Law Ever the “Necessary Angel” of Creative Art?* 41 N.Y.L. Sch. L. Rev. 1187 (1997).

²³ Wallace Stevens was a lawyer but he practiced law as a legal counsel for an insurance company and went on to become a Vice President of the company. For some reason, in literary and poetry circles, Stevens is more often identified as an insurance executive than he is as a lawyer.

²⁴ Archibald MacLeish, *Apologia*, 85 Harv. L. Rev. 1505 (1972)(reprinted in Archibald MacLeish, *RIDERS ON THE EARTH: ESSAYS AND RECOLLECTIONS* 82-88 (New York: Houghton Mifflin, 1978)).

²⁵ For an account of the author’s introduction to John William Corrington’s life and writing, see James R. Elkins, *A Great Gift: Reading John William Corrington*, 26 Legal Stud. F. 425 (2002). The idea that a lawyer and judge might be imagined as a poet was first implanted in my first years of teaching by way of one of the most remarkable law school case books ever written, James Boyd White’s *The Legal Imagination* (published in 1973). *The Legal Imagination*, with its literary orientation and readings, reminded us that lawyers are “writers” who make their claim to meaning by their relationship to language and narrative, and in doing so may be imagined as poets. On the judge as poet, see James Boyd White, *THE LEGAL IMAGINATION: STUDIES IN THE NATURE OF LEGAL THOUGHT AND EXPRESSION* 761-806 (Boston: Little, Brown and Company, 1973); James Boyd White, *The Judicial Opinion and the Poem: Ways of Reading, Ways of Life*, 82 Mich. L. Rev. 1669 (1984). White is today credited as a major figure in the re-emergence of “law and literature” as a focus of legal scholarship; he might also be viewed as one of our major modern legal scholars whose work in the humanities has helped maintain the idea of legal studies as a humanistic enterprise, and his extended argument for the historical claim that law is a liberal art.

issues in the *Legal Studies Forum*.²⁶ When I began my work on Corrington, I knew my obligatory two lawyer poets—Wallace Stevens and Archibald MacLeish. My friend Lowell Komie²⁷ reminded me that Edgar Lee Masters, the author of the once wildly popular *Spoon River Anthology*,²⁸ was a lawyer. (I later learned that Masters practiced law with Clarence Darrow²⁹ and still later that Masters had befriended another lawyer poet, Ernest McGaffey,³⁰ who was also in the Darrow-

²⁶ *Fiction by John William Corrington*, 26 *Legal Stud. F.* 1-492 (2002); *Fishing Deep Waters: John William Corrington (1932-1988)*, 26 *Legal Stud. F.* 493-912 (2002); *John William Corrington*, 27 *Legal Stud. F.* 493-680 (2003)(focusing on Corrington's work as a poet in the decade before he took up the study of law).

²⁷ See James R. Elkins, *Lowell B. Komie of Chicago—Writer and Lawyer*, 25 *Legal Stud. F.* 1 (2001); *Lowell B. Komie: An Interview*, 25 *Legal Stud. F.* 223 (2001); *The Legal Fiction of Lowell B. Komie*, 25 *Legal Stud. F.* 11-213 (2001).

²⁸ Edgar Lee Masters, *SPOON RIVER ANTHOLOGY* (New York: Macmillan Company, 1915); Edgar Lee Masters, *SPOON RIVER ANTHOLOGY* (Urbana: University of Illinois Press, annotated ed., 1992)(John E. Hallwas ed.)

²⁹ Masters practiced law with Clarence Darrow from 1903 to 1911. Darrow had, we learn from a reading of Master's involvement with him, peculiar notions of ethics and friendship. See generally Herbert K. Russell, *EDGAR LEE MASTERS: A BIOGRAPHY* (Urbana: University of Illinois Press, 2001). On Darrow's ethics, see Gerald F. Uelmen, *Fighting Fire with Fire: A Reflection on the Ethics of Clarence Darrow*, 71 *Fordham L. Rev.* 1543 (2003).

Masters, like the more well-known, more highly-acclaimed, Wallace Stevens, has received little attention in legal scholarly circles. For what little attention he has received, see: Richman, *Edgar Lee Masters and the Poetics of Legal Realism*, *supra* note 6; John V. Orth, *The Law in Spoon River*, 16 *Legal Stud. F.* 301 (1992).

³⁰ Masters practiced with a number of different lawyers, including Ernest McGaffey, before he joined Darrow in the practice of law in 1903. (The Masters-Darrow partnership continued until 1911). Masters, in 1896, had shared an apartment with McGaffey, who encouraged his writing, and practiced law with McGaffey, but he "was a restless spirit" and stayed with Masters and his then partner, Kickham Scanland, only a year. *EDGAR LEE MASTERS: A BIOGRAPHY*, *id.*, at 37-38. Masters' first volume of poetry, *A Book of Verses* (1898) came about, in part, because McGaffey, his roommate, law associate, and fellow poet, urged its publication. *Id.* at 58. And McGaffey seems to have played a part in Masters "look homeward for literary material" as he and McGaffey spent several days in 1894 in Spoon River country (McGaffey returned to live and do research in the area some ten years later) exploring the towns and countryside that Masters would memorialize in *Spoon River Anthology*. *Id.* at 66.

McGaffey's poetry includes: *POEMS OF GUN AND ROD* (New York: C. Scribner's Sons, 1892); *POEMS* (New York: Dodd, Mead and Company, 1895); *A CALIFORNIA IDYL* (San Francisco: Published by the Channing Auxiliary, 1899)(illustrations by William H. Bull); *COSMOS* (Wausau, Wisconsin: The Philosopher Press, 1903); *SONNETS TO A WIFE* (St. Louis: W.M. Reedy, 1901)(St. Louis: W.M. Reedy, 1905)(Los Angeles: Printed by Wolfer & Co., 1922); *POEMS OF THE TOWN* (Boston: R. G. Badger & Co., 1901); *BALLADES AND IDYLS* (Los Angeles: Saturday Night Pub. Co., 1931); *BALLADES* (Los Angeles: Graphic Press, 1938); *WAR* (Los Angeles: Lymanhouse, 1939).

Masters firm.) Komie alerted me to still another interesting, far less well known lawyer poet, Charles Reznikoff.³¹ Reznikoff hacked around as a lawyer, worked in his parents millinery business and as an editor for the legal encyclopedia, *Corpus Juris*. While Reznikoff never managed to find his footing as a lawyer, his poetry was dramatically influenced by his training as a lawyer. His most famous work, *Testimony*, is drawn directly from the law reports of legal cases.³²

As I began to read Stevens,³³ MacLeish,³⁴ Masters,³⁵ and Reznikoff,³⁶ and edit the *Legal Studies Forum* issues devoted to John William Corrington, it dawned on me that I had inadvertently fallen into a great cavernous underground world, a world of which there is rare mention in the now voluminous "law and literature" scholarship. In this great new world, I found myself surrounded not with the "law and literature" work of legal and literary scholars (with its focus on literary criticism and legal interpretation, "narrative jurisprudence," and the "law and literature" we present in law school courses³⁷), but by men and women

³¹ See generally Benjamin Watson, *Reznikoff's Testimony*, 82 Law Lib. J. 647 (1990); Milton Hindus (ed.), *CHARLES REZNIKOFF: MAN AND POET* (Orono, Maine: National Poetry Foundation, University of Maine at Orono, 1984).

³² See Charles Reznikoff, *Testimony: The United States (1885-1890)-Recitative* (New York: New Directions/San Francisco Review, 1965); *Testimony: The United States (1891-1900)* (New York: Charles Reznikoff, 1968).

³³ Two of the best and most lively sources on Stevens are Peter Brazeau's oral biography, *Parts of a World: Wallace Stevens Remembered* (New York: Random House, 1983) and the Holly Stevens collection of her father's letters, *Letters of Wallace Stevens* (Berkeley: University of California Press, 1996)(1966). See also David Lavery, *Imagination and Insurance: Wallace Stevens and Benjamin Lee Whorf at the Hartford*, 24 Legal Stud. F. 481 (2000).

³⁴ For an introduction to MacLeish, see *Letters of Archibald MacLeish 1907 to 1982* (R.H. Winnick ed., 1983). See generally Scott Donaldson, *ARCHIBALD MACLEISH: AN AMERICAN LIFE* (Boston: Houghton Mifflin Company, 1992).

³⁵ Edgar Lee Masters wrote an interesting autobiography, *Across Spoon River* (New York: Farrar & Rinehart, 1936), but the sweep and pathos of Masters' life is best viewed by way of a masterful biography of Masters by Herbert K. Russell which appeared as my interest in lawyer poets was getting underway. See *EDGAR LEE MASTERS: A BIOGRAPHY*, *supra* note 29.

³⁶ For a brief autobiographical account of Reznikoff's life, see Charles Reznikoff, *By the Well of Living & Seeing: New & Selected Poems 1918-1973* 129-140 (Los Angeles: Black Sparrow Press, 1974). To date there is no biography of Reznikoff; the standard reference is Milton Hindus (ed.), *Charles Reznikoff: Man and Poet* (Orono, Maine: National Poetry Foundation, University of Maine at Orono, 1984). See also Milton Hindus (ed.), *SELECTED LETTERS OF CHARLES REZNIKOFF 1917-1976* (Santa Rosa, California: Black Sparrow Press, 1997); Watson, *supra* note 31.

³⁷ For an essay which echoes my own ambivalence about "law and literature" scholarship and the teaching of law and literature, see William Domnarki, *Law and Literature*, 27 Legal Stud. F. 109 (2003).

drawn by fate and disposition to be poets *and* lawyers, and in being both, embodiments of both the perceived and real tensions found *in* law and *in* poetry as well *between* law and poetry.

IV.

The idea of poetry in a legal journal, even an eclectic journal like the *Legal Studies Forum*,³⁸ may seem peculiar. For those who find it so, we might note that in poetry—and law—we find the familiar made strange.³⁹ Consider the situation of the student of law. She begins the study of law already enveloped in a familiar world.⁴⁰ Legal educators take it as their task to help the student recast this familiar world into a new universe of form and procedure, rule and decision, command and obedience, taking the familiar and giving it new names, producing new categories of thought, a new way of valuing, and in doing all this, producing a new system of meaning. We immerse students of the law in the strange, whispering to them as we do: “This isn’t so bad is it?” “It may be new to you now, but you’ll get the hang of it.” “This is the way one becomes a

³⁸ The *Legal Studies Forum* has from its founding at the Department of Legal Studies at the University of Massachusetts–Amherst in 1976, where it first served as the newsletter of the American Legal Studies Association (now inactive), staked its claim on being a journal devoted to humanistic, critical, and interdisciplinary approaches to law and legal studies. The humanistic legal education movement, the emergence of Critical Legal Studies, the re-emergence of law and literature, and the flourishing of interdisciplinary legal studies scholarship which followed the founding of the *Legal Studies Forum* confirms that our colleagues at the University of Massachusetts had a prophetic sense of where legal scholarship needed to go.

³⁹ Anthony G. Amsterdam and Jerome Bruner, in *Minding the Law*, remind us that: There are many ways of making the familiar strange. . . . Juxtaposing the past and the present is surely one way—the historian’s honored way of quickening consciousness. But it is no mythic whim that Clio, the Muse of History, has four sisters who are muses to poets of diverse sorts. For poets, like historians, toil relentlessly to estrange the familiar, though they do it differently. Their tropes and metaphors, conceits and images and evocations cut across our daily, dulled perceptions of the world and lure us, even yank us, out of the banality of routine. Anthony G. Amsterdam & Jerome Bruner, *MINDING THE LAW* 4 (Cambridge: Harvard University Press, 2000).

⁴⁰ “I and you, and all of us live in a monotony which would be all right except for the horrid disturbances that come chiefly from within ourselves.” Wallace Stevens letter to Henry Church, dated May 18, 1943, in *LETTERS OF WALLACE STEVENS*, *supra* note 33, 448–449, at 449. There are any number of poets, lawyer poets among them, who would amend Stevens to include recognition that the disturbances that prompt poetry are not only from “within ourselves,” but from without, as we may be disturbed by what we see in the world beyond us as well as what we find within us.

lawyer.” “You will become one of us soon enough.”⁴¹ Given this steady—if arrhythmic—translation of the familiar to the strange so that it, too, can then be made familiar, we may have found an unsuspected relationship to poetry.

Day-to-day, most of us seem to get by well enough without a pressing need for poetry.⁴² (Something of a similar sort might be said about the man-on-the-street who, in his daily life, doesn’t have a great hankering for law.) And so we find with poetry, at least those of us left untouched by the hand of the Muse, that we can live as if we didn’t have a need for it at all. At the instance of first encounter, having followed such different paths, poetry and law show up on our doorstep as well-clad strangers, bearing a practiced, knowing smile, as if to say, “You may not know me, I most certainly know you. I know you. I know you quite well. You must surely have known I would come.”⁴³

⁴¹ Disrupting a familiar world, trafficking in the strange, we make students anxious, and stir up old unresolved anxieties as well. One way we take the sting out of the strangeness (in the guise of dealing with anxiety) is by insisting that if a student will brief cases, if she will apply the IRAC formula (an issue-rules-analysis-conclusion structure for organizing case briefing and legal writing), to the texts she reads, that what at first appears strange will again become familiar. Students learn to chant the IRAC formula they learn from their legal research and writing teachers as if it might evoke some new found strength, as if it might regularize and sanitize and make painless a new discipline and entry into a new world. If IRAC is anything more than a structural map for clear thinking, drawing upon everyday reasoning and logic, I can’t see what it might be. IRAC may get you a cup of coffee, but it won’t buy lunch! Perhaps what we do in legal education with our obsessive focus on IRAC is to make our students competent writers by a means akin to having all poets write nothing but sonnets. In the IRAC/sonnet school of law/poetry, only by learning and doing sonnets does one qualify as a real poet. Of course, with this obsessive focus on the sonnet, one can lose interest in poetry. We have, in legal education, with frightening success, bound every ounce of wild energy to the conventions of a formula, and in doing so, made it all the harder for today’s lawyers to be poets.

⁴² One might, of course, find any given expression of “needs” wanting, as in “I don’t need all that much poetry to practice law.” One might be cautious about such expressions as they are so thoroughly shaped by the social, political, and culture forces which swirl around and through us. We may well have need of poetry, literature, music, and art that goes unrecognized and unacknowledged, a need we do not know how to articulate.

⁴³ The countryman in Franz Kafka’s parable, “Before the Law” learns, as he seeks to gain admission to the Law, that the gate at which he has so long awaited and has become the Great Obstacle is his alone: “No one else could ever be admitted here, since this gate was made only for you. I am now going to shut it.” “Before the Law,” in Franz Kafka, *THE PENAL COLONY: STORIES AND SHORT PIECES* 148-150 (New York: Schocken Books, 1961)(1948)(Willa & Edwin Muir trans.). A student of the law wants to believe that the countryman’s fate was one he brought upon himself, that his denial of admission can be attributed to his “personal” failings. The poet joins the sociologist and the psychologist to teach us otherwise.

Law and poetry, strangers to many, pose a still more portent, uncanny, strangeness each to the other. Imagine, if you will, Archibald MacLeish, a grand, stately, and distinguished man, a graduate of the Hotchkiss School,⁴⁴ Yale, and Harvard Law School, a man whose place in the law was all but certain. There was a partnership at the Boston firm, Choate, Hall and Stewart in the offering, and something akin to a standing offer to join the Harvard Law School faculty, and he walks away from the life laid before him—his life as lawyer—to be a poet and a successful one. He won three Pulitzer Prizes for his poetry⁴⁵ and while he may have abandoned what would have been an illustrious career as a lawyer—he practiced law for only three years—MacLeish never forgot his education and training as a lawyer. And he was never allowed to forget that his lawyer colleagues at Harvard, and one might assume elsewhere, viewed him as an odd duck for giving up law to be a poet.

MacLeish, almost 80, appeared as a special guest at the 85th Anniversary Banquet of the Harvard Law Review. In his remarks to the banquet gathering, published under the title “Apologia,”⁴⁶ MacLeish

⁴⁴ Hotchkiss, founded in 1891, is an independent boarding school located in Lakeville, Connecticut. The Hotchkiss School encompasses numerous buildings on a strikingly beautiful 550 acre campus. A student at such place might well expect to do well in life.

⁴⁵ One of MacLeish’s Pulitzer Prizes came for his epic poem *Conquistador* (1932) which he researched by retracing the route of Cortez’s army through Mexico. A second Pulitzer came in 1952 for his *Collected Poems 1917-1952* (1952), while the third Pulitzer was for *J.B.* (1957), a drama in verse.

His first book of poetry appeared in 1917 while he is serving in the Army, the war interrupting his studies at Harvard Law School. He finished his law studies after the war, practiced law with the Boston firm, Choate, Hall and Stewart for three years, and after a protracted struggle with himself, gave up the practice of law to become a poet. In addition to his poetry, MacLeish was a dramatist, writer, statesman and diplomat. He wrote not only 21 books of poetry, but also 17 volumes of drama (many of them in verse) and another 17 books of prose (political writings, essays, including two books of essays on poetry).

⁴⁶ Archibald MacLeish, *Apologia*, 85 Harv. L. Rev. 1505 (1972). MacLeish included the “apologia” in his collection of essays and commentaries, *Riders on the Earth*, but retitled his remarks with the more generic title “Art and Law.” Archibald MacLeish, *RIDERS ON THE EARTH: ESSAYS AND RECOLLECTIONS* 82-88 (Boston: Houghton Mifflin, 1978).

My review of the various meanings and root of the of the term “apologia”—by way of a *Webster’s Seventh New Collegiate Dictionary*—suggest that MacLeish seems to have found a title befitting his remarks, a title given MacLeish’s academic and literary background, which was undoubtedly, carefully chosen. Apologia is derived from the prefix *apo* (found in Middle English, Middle French, Greek, and Latin) meaning away from, detached, separate, or formed from and the Greek *logos* or speech, word, reason; reason that in Greek philosophy that is the controlling principle in the universe; the divine wisdom manifest in the creation, government, and redemption of the world. Apology “now commonly applies to an expression of regret for a mistake or wrong with implied

didn't dwell on the events of his accomplished life, but on the notion that in becoming a poet he had made himself a strange bird in the eyes of his Harvard colleagues. MacLeish, on this special occasion, describes himself as "a Law Review dropout, a maker of verses, a fifth intellectual wheel, a dispensable irrelevance. . . ."⁴⁷ MacLeish knows, as we all know, the reputation that goes along with being a poet. The great irony in MacLeish's self-description is that he had lived, as well as a man can, a life in opposition to irrelevance, in opposition to the idea that a poet cannot be involved in the affairs of the world. MacLeish was an avowedly public man, evidenced in his political writings and his service in governmental and diplomatic positions, a man of his times, embroiled in the politics and social concerns of his day. MacLeish's passion for poetry may have taken him away from the practice and teaching of law, but it never led him away from the social and political world in which he found himself living.

In his "apologia," MacLeish seems compelled—driven—to deal with the conventional notion that lawyers and poets exist as strangers in different universes of thought, feeling, and practice.⁴⁸ We assume, and

admission of guilt or fault; like *apologia* it may be used to imply not an admission of guilt or error but a desire to make clear the grounds for some belief or course of action." Apologia is a term, at least by *Webster's* unpacking, which can be associated with excuse, plea, pretext, and alibi. One suspects that Archibald MacLeish was, in his *apologia*, working out for himself, as for his audience, an accounting of having lived in two worlds, worlds of the kind we imagine as universes apart.

I am not the first to make use of MacLeish's rather striking commentary on his life as a lawyer and poet. See e.g., Milner Ball, *A Little Mistrust Now and Then*, 66 U. Cin. L. Rev. 877 (1998). For an engaging, brilliant exploration of the two worlds phenomenon in the life of the lawyer poet Wallace Stevens, see Kornstein, *supra* note 22.

⁴⁷ MacLeish, *id.*, at 1505.

⁴⁸ Wallace Stevens, in his early 70s, was invited by Morris Peckham, then director of an institute for young executives at the University of Pennsylvania, to address the institute on being an executive at an insurance company and a poet. Declining the invitation, Stevens noted: "I have never believed that it took a great deal to be both a poet and something else, and to lend myself to the opposite belief, as if to illustrate it and even expound it, would be difficult." Wallace Stevens letter to Morris Peckham, dated January 19, 1954, in *LETTERS OF WALLACE STEVENS*, *supra* note 33, 814-815.

Stevens seems never to have found it odd that he was both a lawyer for an insurance company and a poet, and that doing both well was anything to be considered exceptional. In a letter to Harvey Breit, written over a decade before the letter to Peckham, Stevens asks: "After all, what is there odd about being a lawyer and being or doing something else at the same time?" Wallace Stevens letter to Harvey Breit, dated July 27, 1942, in *id.* at 412-413. As Stevens put it, in a follow-up letter to Breit, two days later: "I don't have a separate mind for legal work and another for writing poetry. I do each with my whole mind . . ." Simply put, for Wallace, "one is not a lawyer one minute and a poet the next." Wallace Stevens letter to Harvey Breit, dated July 29, 1942, in *id.* at 413-415. Stevens

accept as conventional truth, that if law leads north, then poetry takes one due south. To follow law is to do violence to the Muse; the Muse turns out to be every bit as jealous a mistress as law.⁴⁹

MacLeish, who struggled with the lawyer-poet opposition at various times in his life, and most acutely in making the decision to abandon the legal profession,⁵⁰ returns to the "scene" of his early fateful decision to

declined Breit's invitation to be interviewed and photographed for a *Harpers Bazaar* article which would focus on his being a lawyer and a poet, and suggested that if Breit wanted to pursue this idea that they were in some kind of opposition, then he might contact Edgar Lee Masters or Archibald MacLeish. Stevens. See Stevens' July 27, 1942 letter to Breit, *id.* at 413.

⁴⁹ We know the law to be a jealous mistress in its dominating ways, both in the life of the lawyer, and in the life of a culture. Poetry has no great impulse to dominate as it does to steadfastly insist on having a seat at the table where the great feast is being served, to not be left out in the cold. Wallace Stevens noted once that, "a man who writes poetry never really gets away from it. He may not continue to write it as poetry, but he always remains a poet in one form or another." Wallace Stevens letter to Thomas McGreevy, dated April 20, 1948, in *LETTERS OF WALLACE STEVENS*, *supra* note 33, at 586. The imminently quotable Ralph Waldo Emerson observed that "Art is a jealous mistress, and, if a man has a genius for painting, poetry, music, architecture or philosophy, he makes a bad husband and an ill provider." Ralph Waldo Emerson, *THE CONDUCT OF LIFE* ch. 3 (1860)).

Margaret J. Preston, writing to Paul Hamilton Hayne (1830-1886), the "Laureate of the South," notes that:

Poetry has been only my pastime, not the occupation or mission of my life, which has been too busy a one with the duties of wifeness, motherhood, mistress, hostess, neighbor, and friend. . . . I think I can truly say that I have never neglected the concoction of a pudding for the sake of a poem, or a sauce for a sonnet. Art is a jealous mistress and I have served her with my left hand only.

16 *THE CAMBRIDGE HISTORY OF ENGLISH AND AMERICAN LITERATURE (1907-21)* <<http://www.bartleby.com/226/1801.html>> Preston wrote an introduction to a collection of Hayne's poetry in the form of a "Biographical Sketch," in which she notes of Hayne: "From earliest boyhood his fondness for literature, particularly poetry, was pronounced, and there was everything around him to foster this love." Paul Hamilton Hayne, *POEMS OF PAUL HAMILTON HAYNE* v-viii, at vi (Boston: D. Lothrop and Company, 1882). Preston does not, in her biographical sketch, have occasion to mention that Hayne tried, if only briefly, to practice law.)

Lawyers today, unlike those in the 19th century, may be far more consumed by life's "duties" and the demands of their occupation, and may never neglect the "sauce for a sonnet," but many lawyers continue, against the odds, to serve poetry with the left hand, while they practice law with the right. Reading the poetry of lawyers, one finds surprisingly little poetry about the law. Few lawyers, serious about being poets, confine themselves to law as a theme for their poetry. Poetry takes the lawyer beyond law, just as readers of poetry we get beyond the boxes in which the world (and law) seek to confine us.

⁵⁰ On MacLeish's struggle to decide whether to stay with his work as a lawyer or give up law work to devote himself to poetry, see R. H. Winnick (ed.), *LETTERS OF ARCHIBALD MACLEISH 1907-1982* (Boston: Houghton Mifflin Company, 1983). Robert Ferguson,

abandon law to become a poet in his presentation to the Harvard Law Review gathering. This is the way MacLeish describes the “two worlds” problem he confronts as a poet and former lawyer who must now address his law colleagues:

The fundamental assumption, common to all these pleasant occasions, seem[s] to be that although a Law Review editor might reasonably be expected to end up as president of a bank or head of the Natural Gas Association, he ha[s] no right to turn himself into a poet. Why? I don’t know, though I have often asked. People shuffle their feet and light a cigarette and look away and you walk back to the [Harvard] Yard wondering if you really are queer after all.⁵¹

MacLeish finds that for those who think him odd, they must assume there “to be a difference in nature, a difference in worlds [between law and poetry], a difference so fundamental that it reflected in some way on the [Harvard Law] School itself.”⁵² It is a way of thinking about law and poetry which Wallace Stevens steadfastly resisted; MacLeish feels it necessary to address it.

MacLeish tries to get at the conventional thinking about law and poetry and being thought odd by fellow Harvard lawyers and legal academics by admitting that there are some rather obvious differences between poets and lawyers. But once the obvious has been honored, MacLeish gets to the real question which plagues him: “[I]s the difference between the law as the [Harvard Law] School teaches it and poetry as a man pursues it as deep and wide as all that?”⁵³ Whatever it is that poets do, or lawyers may think poets do, MacLeish lays claim to the proposition that “this does not mean that poets exist in a world of their own or even that they cannot live and breathe in the lawyer’s world.”⁵⁴

focusing on the work of three early America writers and poets who left the law to pursue literary interests, notes that:

The decision to leave the law constituted the crisis of a lifetime for Charles Brockden Brown, the country’s first important novelist, for Washington Irving, its first prominent author, and for William Cullen Bryant, its first national poet. In each case, the crisis of decision led directly into the writer’s best work.

LAW AND LETTERS IN AMERICAN CULTURE, *supra* note 21, at 89.

⁵¹ *Apologia*, *supra* note 24, at 1505. MacLeish returned to Harvard as the Boylston Professor of Rhetoric and Oratory in 1949 and remained until 1962 when he reached the age for mandatory retirement.

⁵² *Id.* at 1506. For those who have so mightily bound their lives to the law (and to all it represents), to have a life, and disciplines that reach beyond the law, represent a threat, and becomes a source of anxiety.

⁵³ *Id.*

⁵⁴ *Id.* at 1507.

Lawyers and poets may do different things with language in their day-to-day work, but MacLeish, with the hindsight of experience, and a citizen of both universes, imagines for us a bridge between the realms of law and poetry, two kingdoms thought to be set apart at once and forever. It is a bridge we see best by shifting our focus from immediate practices of poet and lawyer to the purposes served by poetry and by law. "The business of the law," MacLeish tells us, "is to make sense of the confusion of what we call human life—to reduce it to order but at the same time to give it possibility, scope, even dignity." And what is the business of poetry? "Precisely to make sense of the chaos of our lives. To create the understanding of our lives. To compose an order which the bewildered, angry heart can recognize. To imagine man."⁵⁵

MacLeish concludes his Harvard Law Review banquet remarks by reminding the audience, as he has other audiences on other occasions, that his *education* came at the Harvard Law School.

And what was the substance of that education? The Socratic spark which set insatiable fires where no flame was ever seen before—and not in my mind only but in many others (I think of my classmate at Yale and in the School—my late and oldest friend, Dean Acheson). But beyond the spark? Beyond the spark a vision—the vision of mental time, of the interminable journey of the human mind, the great tradition of the intellectual past which knows the bearings of the future. No one, not the most erudite or scholarly man, who has failed to see that vision can truly serve the art of poetry or any other art, and by no study

⁵⁵ *Id.* at 1508. MacLeish recites for his audience lines from a poem he wrote for his fellow poet Wallace Stevens at his death: The labor of order has no rest:

To impose on the confused, fortuitous
Flowing away of the world, Form—
Still, cold, clean, obdurate,

Lasting forever, or at least
Lasting. . . .

One may find it odd, that in making specific reference to Stevens and his poem, MacLeish makes no mention of the fact that Stevens, like MacLeish, was a lawyer. Stevens however, unlike MacLeish, did not abandon the legal profession to become a poet, and expressed bemusement at the idea it would be thought remarkable that a person could be a practicing lawyer (in Stevens case, a surety/bond/guaranty lawyer for the Hartford Accident and Indemnity Insurance Company, where he worked for almost 40 years) and a poet. Steven is often identified as an insurance executive, and he did serve for many years as Vice President at The Hartford (as it was called), but seemed to have always identified himself as a lawyer rather than as a insurance company man. Stevens, to one correspondent, noted: "While I am in the insurance business, I am a lawyer and all my work is on the legal side." Wallace Stevens letter to Victor Hammer, dated July 20, 1948, in *LETTERS OF WALLACE STEVENS*, *supra* note 33, 606-607, at 607.

better than the study of the law can that great sight be seen. The law has one way of seeing it. Poetry has another. But the journey is the same.⁵⁶

MacLeish's Harvard Law Review "apologia" provided an opportunity to confront the commonplace view by which we cast lawyers and poets in conventional "roles" only to find that lawyer and poet stereotypes⁵⁷

⁵⁶ *Id.* at 1510. MacLeish sounds in this paragraph a great deal like Cardozo in one of his elegant moments, who we might note, also had an interest in "law and literature." Benjamin N. Cardozo, *Law and Literature*, 14 *Yale Rev.* 699 (1924-25)(reprinted in Benjamin Cardozo, *Selected Writings of Benjamin Cardozo* (New York: Matthew Bender, 1980)(Margaret E. Hall ed.) and in Benjamin N. Cardozo, *Law and Literature and Other Essays and Addresses* (New York: Harcourt, Brace and Company, 1931)).

⁵⁷ Tim Nolan, a practicing lawyer poet, and contributor to this poetry anthology issue of the *Legal Studies Forum*, observes that we think of the poet as "bohemian, irresponsible, free, flighty, subject to brilliant inspiration, aloof, poor, garroted, soulful, irrelevant." The stereotypical image of the lawyer is "masterful, composed, certain, needling, dogged, practical, insistent, combative, annoying, overdressed." Tim Nolan, *Poetry and the Practice of Law*, 46 *S.D. L. Rev.* 677, 685 (2001). Keep in mind, that we are dealing here with stereotypes, and as damning and pernicious as they can be, they also, as Nolan points out, "serve a purpose." We think by way of stereotypes because they are efficient, lead us astray so often as they do. Nolan reminds us that stereotypes "calm the mind and reassure a person that he knows what he does not know." *Id.*

Lawyers and poets tend, within their own camps, to think rather grandly of themselves, and in doing so they too are susceptible to stereotypes, the kind of stereotypes by which we think crudely, and badly, of the other. (This business of celebration and damnation of lawyers and poets becomes rather confused when we find a man or woman embracing the practices of both the lawyer and the poet.)

Whatever one may think about lawyers and poets, we are fast becoming a society in which we know far more about lawyers than we do poets. We know it to be the exceptional reader and person who reads and sets his compass by poetry. With our great ignorance if not active disdain) of poetry, how can the poet be anything other than a stereotype or a mythical construct?

For still another view of the stereotypes evoked by lawyers and literary men/women more generally, and the MacLeish effort to see the bridge between law and poetry, consider this effort to describe the stereotypes:

To the literary man, the language of the law is likely to seem abstract, cumbersome, and remote from life, though alarmingly powerful over the actions of human beings. On the other hand, the legal man, who often believes himself sympathetic to books and the arts, thinks of literary study nevertheless as irrelevant to his own profession, fuzzy in its definitions, and essentially a frivolous "escape." Both these judgments are more than half wrong. The two worlds of discourse are certainly different, and should be, but they may have something to learn from one another, and an effort to open communications might actually provide some useful consequences for both parties.

Walter Gibson, *Little-Known Gems on Judicial Writing: Literary Minds and Judicial Style*, 6 *Scribes J. Legal Writing* 115 (1996-97)(reprinted from 36 *N.Y.U.L. Rev.* 915 (1961)).

tell only half the story. Stereotypes, whatever purposes of mental efficiency they serve, grounded in experience as they purport to be, “fall apart when applied to a single human being. The mask of the poet or mask of the lawyer are poor substitutes for the real human being and his collection of fear, joy, bewilderment and experience.”⁵⁸

With Archibald MacLeish’s *apologia*, we find confirmed what we would like to think unlikely—even in the august company of Harvard Law Review editors, old and young alike, there must be addressed this moment of oddness when the poet returns home to honor his education as a lawyer. Can we afford, or find desirable, or applaud as practical, a *school of law* whose graduates adopt ways of thinking—and being—that lends credence to the belief that the practice law, a life in law, can be lived without the poet’s sensibilities, awareness, introspection, and care for the things and the particulars of the world? A New York lawyer, Daniel F. Tritter, has observed that in his trial practice, the contemplation of literary lawyers is never far from his thinking. He goes on to muse:

Perhaps law educators now [with the emergence of “law and literature” as a development in contemporary jurisprudence and legal scholarship]

Wallace Stevens, when asked to be interviewed and photographed for a *Harper’s Bazaar* article that would focus on the fact that he was an insurance company lawyer and a poet declined the invitation, and pointed out to Harvey Breit, who had been commissioned to do the article, that the “real subject” of his article might be “destroying the caricature in people’s minds that exists there as the image of the poet.” Wallace goes on to suggest:

If we could get rid of all the caricatures of the past: the caricatures not only of the poet and the actor but also the caricatures of the business man and the barkeeper and of a lot of other people, we should only be seeing what we see very day, which is not so easy after all.

Wallace Stevens letter to Harvey Breit, dated July 29, 1942, LETTERS OF WALLACE STEVENS, *supra* note 33. Stevens, far more than most, lived a life beyond caricature. See generally Peter Brazeau, PARTS OF A WORLD: WALLACE STEVENS REMEMBERED, *supra* note 33 (a biography in the form of oral interviews with those who knew and worked with Stevens).

⁵⁸ Nolan, *supra* note 57, at 686. Charles Black (1915-2001), a lawyer, poet, law professor, musician, and legal scholar, reflecting on the fact that he “written and published a good deal of poetry” and at one time “used to think poetry and law were far apart,” reported that he had changed his mind. “[N]o two things that exist together in one person are ever really separate.” Charles Black, *Correspondence*, 27 J. Mar. L. & Com. 501(1996)(letter to Ms. Anne Black Goldberg). Black’s published collections of poetry include: TELESCOPES AND ISLANDS: POEMS (Denver: Alan Swallow Press, 1963)(New York: AMS, 1975); OWLS BAY IN BABYLON (Paradise, California: Dustbooks, 1980); THE WAKING PASSENGER (New Orleans: New Orleans Poetry Journal Press, 1983). See also David Black, *Poems by Charles Black*, 111 Yale L.J. 1927 (2002)(a selection of Black’s poetry by his son, David Black).

see an opportunity to rescue the profession from creeping tedium. Does this portend a new kind of lawyer to be minted for the new millennium? For those of us who have never stopped dreaming of a civilized profession, where the word is its enduring currency, we wish it so.⁵⁹

The “new kind of lawyer” envisioned by Daniel Tritter has been with us from the beginning. We have *always* had lawyer poets; we know now, with the publication of this anthology of poetry, that we still do. Should we actually be surprised to learn that lawyers, by training and craft attuned to the nuance and power of language, schooled in the clever rhetorical deployment of language, performers in our legal dramas (great and small), should also serve as our poets? Accustomed as we may be in this John Grisham era of legal thrillers, to the now common idea of the lawyer-novelist, there is still some mystery, sense of wonderment, and bedevilment at the idea of a person who has the capacity, sensibilities, skills, and talents to be a poet and a lawyer.⁶⁰

⁵⁹ Daniel F. Tritter, *Lusty Voice II*, 10 *Cardozo Stud. L. & Lit.* 143 (1998). “To study this legacy [of law in the early days of American literature and the literary aspirations of early lawyers] is,” says Robert Ferguson, “to retain the example for a modern culture in which the stark separation of intellect, art, and politics should give every citizen pause.” Ferguson, *supra* note 21, at 10.

⁶⁰ Perhaps there is no reason to think grandly of our poets, but many of us do, even with the little we might know about the *purpose* of poetry, or how we might know the world and our work differently, if we were schooled in the work of poets, and in their lives. T.R. Hummer, in still another poet’s “apologia,” notes that:

I confess that I approach the task of making a statement of poetic purpose with the same apprehension Randall Jarrell felt on being asked what he did for a living by a stranger in the next airplane seat. It is difficult to explain to others just what we are up to as poets; one is tempted simply to point to the poems and leave it at that. But that isn’t fair to people of good will who find the profession of poetry puzzling.

What does poetry do, people sometimes ask, exasperated, it seems, by what they have read or what they have not read; what good is poetry if it has so small an audience? What good is your pituitary gland, I am prone to answer, and can you say that at this moment you are aware of it? Do you even know what it does? Are you even sure you have one? For the culture, I am convinced, poetry functions on that level; for the engaged individual reader, its work is something else: an electrification, a reminder that there are real mysteries left. For the poet, it is a pure obsession, a sequence of questions which have no answers, of demands that have no satisfaction other than the satisfaction of obsession itself.

T.R. Hummer, “Apologia” <<http://members.aol.com/poetrynet/month/archive/hummer/intro.html>> What makes poetry, and thus the work and life of the poet of special interest to us, special enough to study and puzzle over? Do we misunderstand our poets, the way we do lawyers, psychiatrists, scientists, because we know little of their practices, their language, and the mind-set (and sensibilities) that give coherence and meaning to their practices and language? Perhaps, the poet, like the lawyer, sees the world in a nuanced way that demands the world be addressed with special language, language that calls attention to itself, language that sets itself apart by form and practice. Both poetry and

If we think literature matters, matters to those who endeavor against the odds to create it, matters in some deep and abiding way in sustaining our belief that the use and shape of the language we use drives us toward a worthwhile future, then the best education of a lawyer remains an education in skills practiced as an art, an occupational poetics of the real.

We read poetry because it matters as a way of making a conversation with ourselves and with others; in poetry we find new ways to talk intelligibly about our lives and the world we inhabit. We may talk incessantly about our lives, but it is the poet who creates artifacts of his struggle to see the world with clarity, rendered in the immediate realness of language, a language that is the best of what we do with words. We honor the poet for saying what seems so inescapably hard to say, for being in the poem and in life a seeker of intelligence in language.

Reading the lawyer poets and thinking about their lives, has drawn me to poetry, in a way I could not have imagined or foretold. I can no longer—even from the depths of a great ignorance about poetry—ignore poetry and those who I came upon as strangers; they are now friends.

law are acquired taste. We are surprised, in this instance, only by the fact that the taste of both can be acquired by a single person.

