

# **A Lawyer's Literary Miscellany**

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**James R. Elkins**

## Fragments

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Even the scant fragments of Sappho, Alcaeus, Anacreon, testify as indisputably as could their complete works to the mood of genius divinely set to words.

—Maurice Thompson, “The Touch of Magic,” 50 *The Independent* 1257 (November 3, 1898).

## Old History

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The connexion between poetry and law is as ancient as it is intimate.  
The earliest lawgivers in all nations were the bards.

—“The Poetry of Law and the Law of Poetry,” 65 (257) *New Monthly Magazine and Humorist* 65 (May, 1842).

## The Poetry of Law

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At first thought it would seem that no two callings could be more diverse in every respect than Poetry and the Law; and such being the case, it is curious to see how close the connection has been from earliest times between them. Lord Coke, the great English lawyer, boast that one of his works contains three hundred quotations from the poets; and in another place observes that “verses were at the first invented for the help of memory, and it standeth well with the gravity of our lawyers to cite them.” The Greeks looked upon their poets as legal authorities; and it would appear that the poems of Homer were laid on the able of the courts of justice, together with the volumes of their law. . . . The Roman lawyer constantly appealed to the ancient poets as we should to a statute or a decided case; and quotations from authors of this description are to be found even in their grave legislative ordinances.

Much of the Roman law was reduced from a metrical poem . . . . The reports of Lord Coke have in like manner been presented to us in a poetical version, while some of the State trials of England, which reflect so much light on her criminal law and its administration, have appeared in the shape of a series of poems. The northern nations employed verse upon almost all occasions.

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Is there not, too, a real poetical rhythm, uncouth it may be, in the Anglo-Saxon legal proceedings?

—“Poetry and the Law,” 3 *Green Bag* 523 (1891).

## The Separation

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[T]he separation of the substance of literature from the business of life and, particularly, from that aspect of life represented by the legal profession is a relatively recent development.

—Linda R. Hirshman, “Brontë, Bloom, and Bork: An Essay on the Moral Education of Judges,” 137 *U. Pa. L. Rev.* 177, 196 (1988).

## Lyric and Law

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[L]yric and law might be seen as two very different ways of instating what a “person” is. There appears to be the greatest possible discrepancy between a lyric “person”—emotive, subjective, individual—and a legal “person”—rational, rights-bearing, institutional.

—Barbara Johnson, “Anthropomorphism in Lyric and Law,”  
10 *Yale J. L. & Human.* 549, 550 (1998).

## Order and Art

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Obviously law and poetry are different approaches in dealing with the phenomena of this world, law being concerned with the preservation of order in the human society, poetry indulging in the cult of artful language and appealing to emotional feeling rather than cool reasoning.

—Maximillan Koessler, “Book Review,” 27 *Mo. L. Rev.* 167 (1962) [reviewing Percival E. Jackson (ed.), *Justice and the Law: An Anthology of Legal Poetry and Verse* (Charlottesville, Virginia: The Michie Co., 1960)].

## Of the Two, One Cannot Be

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Law and poetry are among the raw materials that are regarded as incompatible, and non-fusible.

—“They Won’t Mix,” 20 *The Bar* (West Virginia) 17 (December, 1913).



## Law's Prosy and Poetry's Attraction

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We certainly had supposed that, if there were any intellectual pursuit which could be deemed prosy, and void of poetical attractions, it was the profession of the law. Most law books that have come in our way have shown to us a very uninviting aspect, notwithstanding they made a handsome external appearance upon library shelves, dressed in their clean calf covers: their pages once opened however, and they have seemed as little touched by the Muse as the librarian's catalogue.

—"The Poetry of the Law," *The Literary World; a Monthly Review of Current Literature* 144 (February 1, 1877).

## A Conversation

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Richard Cranston, a young English barrister, who had attained eminence in his profession, while spending a few days in the city of New York, was the guest of Ogden Hoffman one evening. The conversation turned on lawyers and judges who wrote poetry. "I sometimes think, Mr. Hoffman," said Cranston, "that law and poetry are entirely opposite elements and cannot unite harmoniously in one character—that the lawyer who writes poetry and the poet who undertakes to practice law are both widely out of their spheres."

—"Law and Poetry," 4 (6) *The American Lawyer* 247 (June, 1896).

## The Lean and the Fat

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Poetry is made up of the less nutrient and useful materials, the fat part of life, while the law, on the contrary, is a builder of the tissues of private rights and social justice, and may be called the lean of life. The lawyer is so concerned with the lean part of life that, like Jack Spratt, he can eat no fat. The poet, like Jack Spratt's wife, can eat no lean. . . . The reason . . . for the incompatibility is found not in the difference between tastes, but in defects of digestion. The lawyer finds difficulty in digesting poetry, and the poet in digesting law.

—“Judicial Verse,” 21 *Green Bag* 504 (1909) [reviewing Charles John Darling, *On the Oxford Circuit, and Other Verses* (London: Smith, Elder & Co., 1909)].

## Two Callings

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That a person should actually pursue two callings with dedication to each is regarded by the press and consequently the general public as a phenomenon out of the ordinary and therefore as newsworthy as the birth of quintuplets.

—Melville Cane, “Lawyer-Poet, Poet-Lawyer,” in Melville Cane, *The First Firefly: New Poems and Prose* 50-53, at 51 (New York: Harcourt Brace Jovanovich, 1974).

## Cultivation and Neglect

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It appears to be a law of our nature, that an exclusive cultivation of any one mental faculty gives it an undue predominance over the others, and that just in proportion as the others are neglected, do they lose their power over the mind.

—An Observer, “On the Moral Influence of Learning and Literary Pursuits,” 5 (10) *The Christian Spectator* 505 (October 1, 1823).

## **To Know Hummingbirds**

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[A]n overwhelming urge to be one thing is rare . . . . [This is] a day of the varied man as well as the specialized man. The president of the Dupont Company prides himself on his knowledge of hummingbirds.

—K.L. Knickerbocker, “Talents for the Study of Law,” 12 *J. Legal Educ.* 532, 536 (1960).

## Literature of No Danger to the Lawyer

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The time when literary eminence, and even literary tastes, were deemed a danger and a reproach to a lawyer, has long gone by. The arrogant dullness of black letter students, content to know only the crude and barren learning of their books and despising all beyond, has been fortunately succeeded by a much higher and more liberal tone of feeling. For many years, science, history and general literature have been cultivated with distinguished success by men of no mean reputation at the bar; and some of the best writing for the press is done by members of that profession which was once thought too abstruse and scholastic to take part in the affairs of ordinary life. Even the seductive regions of Parnassus, it seems, are no longer forbidden ground. The Blackstones and Murrays of this age need not be mourned as Ovids lost, or bid farewell to Helicon and the muse, like monks of old, to the world.

—“The Late Mr. Justice Talfourd,” 2 *Am. L. Register* 33 (July, 1854).

## An Early Love of Literature

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Although a bred lawyer, and the son of a lawyer, Henry Glassford Bell never forgot his early love for literature and the muses. Nature had made him a poet before the accident of education and position had constituted him a formal lawyer. And a poet he remained till the end, by instinct and by preference. During his long and busy life he issued in all some twelve volumes of original matter, comprising poems, literary, moral, and critical essays, tales and recondite papers on law.

—Alexander G. Murdoch, *The Scottish Poets: Recent and Living* 88 (Glasgow, Scotland: Thomas D. Morison, 1883).



## The Imagined and the Real

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The heretical impulse surging out of my deftly allocated text draws poetry and law into a correspondence—the text being T.S. Eliot’s “Burn Norton,” the first of *The Four Quartets* . . . the comparison is usually, of course, to the opposite effect. Poetry opposes law as imagined worlds oppose what is “real,” as the possible opposes the actual and established.

—Peter Fitzpatrick, “Law Like Poetry—Burnt Norton,” 23  
*Liverpool L. Rev.* 285 (2001).

## Eccentricities

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All great men, I believe, have their peculiar characteristics, which have been classed under the denomination of eccentricities. The divine, the statesman, the lawyer, the soldier, the poet—each has his eccentricities. I have heard that the Temple Church had a divine architect, and that the interior was built round that the devil might not have a corner wherein to conceal himself. Alexander, the greatest general on record, had his peculiarities; Napoleon was not less singular. The biographies of our greatest authors teem with extraordinary relations of individual personalities from the remotest ages to the epochs of Shakespeare and Milton, and from thence to the present day. Our law courts have been proverbial for the striking originality of their officers and members, from the grave and learned bench down to the sharp-faced detective attorney. Are they not the same at the present day?

—R.H. B., “The Lawyer’s Geese,” *New Sporting Magazine* 214  
(September, 1868).

## **But Again—The Stereotypes**

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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.”

—Walker Gibson, “Literary Minds and Judicial Style,” 36 *N.Y.U.L. Rev.* 915 (1961) [reprinted: 6 *Scribes J. Legal Writing* 115 (1996-1997)].

## Stereotypes—II

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In today's popular imagination, lawyers are a stolid group, with little imagination or love of literature, Poets, on the other hand, must all be like Dylan Thomas or Sylvia Plath, colorful and often tortured souls, living life to the fullest in the bohemian quarters of Paris or New York City, not the drab canyons of Wall Street. . . . Few of us can imagine a time or place in which lawyers were poets and poets lawyers, let alone when men could achieve fame as both.

—M.H. Hoeflich & Lawrence Jenab, "Three Lawyer-Poets of the Nineteenth Century," 8 *Green Bag 2d* 249 (2005).

### **Stereotypes—III**

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Stereotypes serve a purpose. In a complex world, stereotypes help a person to categorize what is observed from multiple possibilities. Stereotypes also calm the mind and reassure a person that he knows what he does not know.

The stereotype of the poet combines a number of easy attributes. The poet is a bohemian, irresponsible, free, flighty, subject to brilliant inspiration, aloof, poor, garroted, soulful, irreverent.

The stereotype of the lawyer also involves easy attributes. 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.* 678, 685 (2001).

## Stereotypes--IV

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And among the people, as a rule, the gift of poetry is considered as a mild type of insanity.

—Joaquin Miller, "What is Poetry?," 31 *The Independent* 1593  
(June 12, 1879) [Joaquin Miller was a lawyer and a poet.]

## **Insanity Transmuted**

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Genuine poetic production requires a double process. First there is what appears to be an intuitive flash of recognition of universal, divine or absolute truth or ultimate reality behind the sharply visualized object or the vivid image it invokes. This is that inspiration, that “blowing into,” that fine frenzy to which Democritus referred, and Plato: “God takes away the minds of poets, and uses them as his ministers in order that we who hear them may know that they speak not of themselves who utter these words in a state of unconsciousness, but that God is the speaker.” This it is that makes the lunatic, the lover and the poet all akin. This it is that makes us suspect the sanity and therefore doubt the practicality of the poet.

—Ben W. Palmer, “The Lawyer and the Poet: Grist for the Mill of Legal Art,” 35 *ABA J.* 375, 376 (1949).

## **Necessities and Propensities**

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Our necessities have been mistaken for our propensities. Having been forced to make rail-roads, it has been deemed impossible that we should make verse. Because it suited us to construct an engine in the first instance, it has been denied that we could compose an epic in the second. Because we were not all Homers in the beginning, it has been somewhat too rashly taken for granted that we shall be all Jeremy Bentham to the end.

But this is the purest insanity. The principles of the poetic sentiment lie deep within the immortal nature of man, and have little necessary reference to the worldly circumstances which surround him.

—Edgar A. Poe, “Griswald’s American Poetry,” 2 (5) *Boston Miscellany of Literature & Fashion* 218 (November 1, 1842).



## The Garret and the Boardroom

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The poet was led to believe that *they*, the business people, were a faceless conformist hierarchy busily destroying the world while doomed to a life of ineffable blandness. *We* poets, so business people told themselves, were all either starving in garrets or living comfortably in academic ivory towers, dreaming away our lives, contributing nothing to the practical matters of the world.

There *are* bland, faceless, and exploitative corporations, and there *are* starving, curmudgeonly, or academic poets unwilling to come to terms with the greater realities of existence, but . . .

—David Whyte, *The Heart Aroused: Poetry and the Preservation of the Soul in Corporate America* 9 (New York: Currency Doubleday, 1994).

## The Wealthy Man

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Most of the wealthy persons I know have, in the pursuit of the dollar, lost their ability to see value elsewhere. I cannot remember ever having met a wealthy man who was a poet. Most have not read a poem in thirty years.

—Gerry Spence, *Seven Simple Steps to Personal Freedom: A Handbook* 121 (New York: St. Martin's Press, 2001).

## **An Ascendency Over the Rest**

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It appears to be a law of nature, that an exclusive cultivation of any one mental faculty gives it an undue predominance over the others, and that just in proportion as the others are neglected, do they lose their power over the mind. . . . The reasoning faculty, by an exclusive cultivation, acquires an undue ascendency over the rest, and makes the mind resemble that of a celebrated philosopher, who having read a beautiful poem ever gravely asked, "And what does it prove?" The poet introduced him into a world to which he had been a stranger, and among all the bright forms of fancy he could not recognise an old acquaintance.

—"On the Moral Influence of Learning and Literary Pursuits,"  
5 (10) *The Christian Spectator* 64 (October 1, 1823).

## Being More than One Thing

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Why is it that the public never can see any man otherwise than in one direct light, and is totally at a loss to understand how certain various qualities may be associated in him?

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[W]hen one exhibits highly imaginative powers, and an open liberal nature, the public has usually much difficulty in conceding to him a reputation for accuracy of mind, or for a sober deportment in life. He ought, in their judgment, to be a hasty, childish, erratic being; and such they conclude him to be accordingly.

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It is a serious question for any man who is liable to be made better or worse off in the world by the opinion which is formed of him, whether, supposing he possesses more than one good strong faculty, he ought to shew any more than one. Say, for instance, he has the powers for being both a good lawyer and a good poet, it will probably be well for him that he makes his election, so as to come before the public either as the lawyer or the poet, instead of trying to be both. For in the latter case, it is ten to one if the world would admit that he was either lawyer or poet to any good purposes. More likely, troubled by a thing in its conception so anomalous, it would decided that he was not good in either capacity. I suspect that no small amount of the popularity of the proverb, "Jack of all trades, master of none," is owing to the harassment which the public feels regarding men who put on a plurality of irreconcilable aspects. It can't be troubled with such men. It condemns or slights them; not so much, perhaps, from any failing of theirs, or any judgment on the basis of observation, that where much is attempted, little will be performed, as from its own impatience under the call made upon it to trace out all the various and apparently incongruous powers which they shew forth.

—"Stray Notes on a Few Things," *Chambers's Edinburgh Journal* 423 (December, 1853).

## Ornamentation

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Unfortunately the statement needs little or no argument to support it, that an increasing number of practical men—from indifference or absorption in their several callings, or even from a conclusion that culture is rather a hindrance than an aid to the highest success in life—have no longer any adequate interest in the great books of literature. Many a library shelf has its ornament of fine editions; but often the volumes are dust-covered and, what is more to be regretted, some of the pages are uncut. The world of affairs and the world of letters, which should touch each other, often lie far apart.

—“Literature and the Practical World,” in Joseph Auerbach, *Essays and Miscellanies* 243-312, at 243 (New York: Harper & Brothers, 1914)(vol.1).

## **Travellers of the Interior**

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They who are unacquainted with the Common Law, are accustomed to regard it as a science without interest or entertainment, well calculated indeed to sharpen the wits of men, but destructive to the more ethereal powers of Imagination and Fancy. With strange inconsistency gentlemen of the bar are nevertheless accused of a disposition to *romance*, and a bad pun on the word lawyer, current among the vulgar, supposes them highly gifted also with that creative faculty, which would enable them to indulge in it. The enemies of the law, and the enemies of lawyers seem, therefore, in legal phrase, *to be at issue*, and having but little respect for either, we shall leave them to reconcile their own differences in their own way. For the benefit, however, of well disposed persons who have erred through ignorance, who, enabled to view the desert from its borders only, can be supposed to know nothing about the green and shady oases which are reserved as rewards for the more enterprising travellers of the interior, we propose to give a short account of what may be emphatically styled, “The Poetry of the Law.”

—V., “Poetry of the Law,” 1 *U.S. L. Intelligencer & Rev.* 203 (1829).

## A Letter to a Young Gentleman

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Dear Sir,

The very amiable manner in which you have requested my observations on the connexion of law with history and polite literature, has determined me to make the attempt in the best manner I am capable: if it contains any thing worthy your attention, my vanity will be completely gratified. You have just quitted an excellent seminary, with a mind richly storied in the literature and fine arts of Greece and Rome. You have been taught to love virtue, and to practice it; and your aim is to attain excellence. You are about to enter upon a profession: your future advancement to rank and distinction in that profession will depend upon the sentiments you entertain of it, and the knowledge you arrive to in it. Be not disheartened at the outset of your studies; persevere and you will conquer. Men of light and superficial minds have been apt to decry the study of law as dray and unprofitable, and as affording but little scope for the exertions of an elegant mind. Such opinions are not deserving your attention; they are unqualified. Jurisprudence, in all ages of polished society, has claimed the attention of the first-rate scholars and philosophers.

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When we enter upon the municipal law of any country in its present state, we resemble a traveller who, crossing the Delta, loses his way amongst the numberless branches of the Egyptian river; but when we begin at the source, and follow the current of law, it is in that course no less easy than agreeable, and all its relations and dependences are traced with no greater difficulty, than are the many streams into which that magnificent river is divided, before it is lost in the sea.

—R.D. Woodforde, Esq., “A Letter to a Young Gentleman Entering Upon the Study of the Law,” 1 (5) *New Monthly Magazine and Universal Register* 432-433 (June, 1814).

## Natural Affinities

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The affinity of poetry and law is no new thing, Cino da Pistoia is not least among sonnet-composers, Sir John Davies was Chief Justice of Ireland, and Donne proved that an epithalamium could be written even at Lincoln's Inn.

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The Provençal poets especially followed one another in blind admiration, lawyers and laymen alike had a loyal regard for precedent. The fact that many of the troubadours were lawyers may have had some effect on the popularity of the form. It would have been comprehensible even to laymen, for it occurs only in the Court-poetry, which circulated among a class in which the traditions of the Roman law were never wholly lost.

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The poetry of procedure was of several kinds, the *tenso*, the *partimen* or *jeu parti*, and the *guerrier*, the differences being very slight. The principle was the same, an argument and a decision. This kind of verse may have been founded on a reminiscence of the disputations in the Universities and of the Greek and Latin pastorals as well as of real proceedings in the Courts.

—James Williams, "Procedure in Poetry," 22 *Law Rev.*  
(5<sup>th</sup> series) 224, 226, 227, 228 (1896).



## By Way of History

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The intended celebration this year [1875] of the five-hundredth anniversary of the death of Boccaccio, who would have been a lawyer had it not been—so he says—for a sight of Virgil's tomb, suggests a remarkable addition to the museum of literary curiosities. Poetry could ill afford to spare the

Clerk foredoomed his father's soul to cross,  
Who pens a stanza when he should engross.

Petrarch was a law-student—and an idol one—at Bologna. Goldoni, till he turned strolling player, was an advocate at Venice. Metastasio was for many years a diligent law-student. Tasso and Ariosto both studied law at Pavia. Politian was a doctor of law. Schiller was a law-student for two years, before taking to medicine. Goethe was sent to Leipzig, and Heine to Bonn, to study jurisprudence. Uhland was a practising advocate and held a post in the Ministry of Justice at Stuttgart. Rükert was a law-student at Jena. Mickiewicz, the greatest of Polish poets, belong to a family of lawyers. Kazinczy, the Hungarian poet, and creator of his country's literature, studied law at Kaschau. Corneille was an advocate and the son of an advocate. Voltaire was for a time in the office of a *procureur*. Chaucer was a student of the Inner Temple. Gower is thought to have studied law: it has been alleged that he was Chief Justice of the Common Pleas. Nicholas Rowe studied for the bar. Cowper was articled to an attorney, called to the bar, and appointed a commissioner of bankrupts. Butler was clerk to a justice of the peace. The profession of Scott need not be stated. Moore was a student of the Middle Temple. Gray, until he graduated, intended himself for the bar. Campbell was in the office of a lawyer at Edinburgh. Longfellow, a lawyer's son, spent some years in the office of his father. The peculiarity of this list—which might be extended with little trouble—lies in the eminence of these six-and-twenty-names it contains. If they were omitted from literary history, Italian and German poetry would be nowhere. France would be robbed of one of its greatest and most national poets, English poetry would lose its father and in all respects be very appreciably poorer. If less classic names in poetical history are taken, such as Talfourd, Macaulay, Bryant, and Barry Cornwall, the list might be infinitely extended . . . .

—Sylvanus Urban, Gentleman, "Table Talk," 14 *The Gentleman's Magazine* 377-378 (1875).

## Petrarch (1304-1375)

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Francesco Petrarca (July 20, 1304—July 19, 1375), known in English as Petrarch, was an Italian scholar, poet, and one of the earliest Renaissance humanists. Petrarch is often popularly called the “father of humanism.” . . . Petrarch is credited with perfecting the sonnet, making it one of the most popular art forms to date. His sonnets were admired and imitated throughout Europe during the Renaissance and became a model for lyrical poems. Petrarch was also known for being one of the first people to call the Middle Ages the Dark Ages.

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[Petrarch] studied law at Montpellier (1316–20) and Bologna (1320–23) with a lifelong friend and schoolmate called Guido Sette. Because his father was in the profession of law he insisted that he and his brother study law also. Petrarch however was primarily interested in writing and Latin literature and considered this seven years wasted. Additionally he proclaimed that through legal manipulation his guardians robbed him of his small property inheritance in Florence which only reinforced his dislike for the legal system. Protesting he declared, “I couldn’t face making a merchandise of my mind,” as he viewed the legal system as the art of selling justice.

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On April 8, 1341, [Petrarch] became the first poet laureate since antiquity and was crowned on the holy grounds of Rome’s Capitol. He was the first laureate of the tradition in modern times to be given this honor.

He traveled widely in Europe and served as an ambassador and has been called “the first tourist” because he traveled just for the pleasure alone . . . . During his travels, he collected crumbling Latin manuscripts and was a prime mover in the recovery of knowledge from writers of Rome and Greece. He encouraged and advised Leontius Pilatus’s translation of Homer, from a manuscript purchased by Boccaccio; although he was severely critical of the result. . . . In 1345 he personally discovered a collection of Cicero’s letters not previously known to have existed . . .

—“Petrarch,” *Wikipedia* (an Internet encyclopedia)

## **Torquato Tasso (b. 1544)**

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Torquato Tass . . . was born in the town of Sorrento, in the kingdom of Naples, on the 11<sup>th</sup> day of march, 1544. . . . [T]he father sent his son [Torquato] to Padu, a university of much celebrity at that time, to study law and qualify himself for the exercise of the legal profession. After obtaining his degree, he seemed irresistibly carried along by his inclination to poetical composition, and his experience convinced him that the profession of law, in which judgment and memory are only cultivated, was calculated to wither his imagination and vitiate and destroy his rich taste and luxuriant fancy.

—“Biographical Sketch of Tasso,” 1 (1) *Boston Monthly Magazine* 33 (June, 1825).

## Late Elizabeth Period: ca. 1580s

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[*Precisé*]: This article has its starting point in a late Elizabethan legal manuscript, compiled probably in the 1580s, by Ralph Stawell, a gentleman and lawyer from the Middle Temple. To folios of the manuscript contain ten unpublished Petrarchan sonnets and seven couplets embedded in Middle Temple notes: as well as reproducing the manuscript poems the article also prints these with annotation. It thus presents a new example, sharply contextualized by its manuscript setting, of the typical conjunction of law and poetry in the period and confirms that literary material of more than average merit may be found among its legal papers. It also offers an unusual case of *mise-en-page* of late Elizabethan sonnets in manuscript and adds significant new material to a poetic genre in full vogue at the time, the Petrarchan sonnet.

—Guillaume Coatalen, “Unpublished Elizabethan Sonnets in a Legal Manuscript from the Cambridge University Library,” 54 *Rev. English Stud.* 552 (2003).

## English Ancestry

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In England, as elsewhere, literature and law have traditionally been closely associated. Writers have often turned to law for their matter—Shakespeare, Dickens, and Browning come immediately to mind—and men of law have not hesitated to return the compliment. English literature is richer for their contributions of lawyers such as Thomas More and Francis Bacon, of the Inns of Court—which had become by the mid-1500s the chief center of literary activity in England—of the magistrate who gave us *Tom Jones*, and of those law school dropouts John Donne and William Makepeace Thackeray. The reasons for this mutual familiarity lie in the history and in the nature of the two activities. In earlier times a legal education was less technical, more humanistic, as much a preparation for the world of practical affairs as for the bar itself—in sum, as compatible with a literary avocation as any other training might have been. For most of its early history, of course, the study of law was closely connected with that of rhetoric. Writers and lawyers both live by words, and pleading a case or drafting a judicial decision requires no less art than writing a narrative poem. Stendhal once remarked that the only perfect example of prose known to him was the Code Napoléon; certainly few writers in our own time could improve upon the carefully crafted prose of Justice Holmes or Learned Hand. The precise and self-conscious use of words that characterizes both law and literature is amplified in their larger concern for created order. Perhaps no other human endeavors have set out so deliberately to structure our world. It is a shallow writer indeed who tries to consider, in its public aspect, the relation of man to society without venturing into law, for that relation is hedged all about by law, and society itself is in large measure a legal concept.

—John A. Alford, “Literature and Law in Medieval England,”  
*PMLA* 941 (1977).

**The Court of Chancery: A Satirical Poem**  
*by*  
**James Blewitt, late of Lincoln's Inn.**

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The object of this book is to embody in immortal verse the reflections of the author on every thing connected with the Chancery. He gives his opinions with equal freedom on the nature of equity in general—the men, the manners, and the proceedings of the court—the personal qualities and private habits of judges, officers, and bar—and comments with equal harshness on the limited expenditure of Lord Eldon, the obesity of Master Stratford, and the country house of Mr. Agar. Those, therefore, who may happen to hear of the publication, are certainly justified in asking who Reginald James Blewitt, late of Lincoln's Inn, may be. We inquired accordingly, and have satisfied ourselves, though we must decline the task of satisfying, our readers. We can merely permit ourselves to state, that he was once a practising solicitor, but whether he left his business or his business left him, we cannot venture to decide. He is, or lately was, residing in France, perhaps for his personal convenience, perhaps for the improvement of his property, both of which would very probably have been infringed upon had he been in England on the publication of his poem. It is a wretched attempt to versify abuse dull prose, forced into couplets by transposing words, and tagging rhymes. “As a poet, says he,” I must throw myself upon the indulgence of the public.” We do assure him that the public will not receive him in that character, though at the same time quite ready to believe that he “has thrown into the work as much amusement as his poor abilities would furnish him with.”

—[Review], 1 *Law Mag. Quart. Rev. Juris.* 124 (1828-1829)

## **Lawyers Reading Poetry**

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We do not advocate the reading of poetry as an antidote for the reading of law, but rather as a tonic. A few lines rightly and eternally said can set the litigating world at peace, in one's mind at least.

— [Editorial], "Poetry for the Defense," 3 *Det. L. Rev.* 33 (1932).

## Clever Men

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Lawyers, at least in every great commercial nation, have ever been conspicuous for ability, learning and general culture. The profession has attracted a goodly number of the brightest minds; and no profession, I think, affords quite so severe and valuable and intellectual discipline to its followers, or is quite so well fitted, on the whole, to develop the faculties. "The lawyers," says Dr. Holmes, "are the cleverest men, the ministers are the most learned, and the doctors are the most sensible. The lawyers are a picked lot, 'first scholars' and the like; but their business is as unsympathetic as 'Jack Ketch's.'" Indeed, this would seem to be the popular judgment of the profession. Satire has not spared us; it spares note; but the shafts leveled at the lawyer have seldom been barbed with any taunt on the score of dullness. It is for quite other reasons that the world is warned against us.

—A.E. Wilkinson, "Law and Literature," 39 *American Law Review* 204 (March/April, 1905).



## Listening to Poems

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[J]udges should study poetry the same way all intelligent men and women study something serious about which they have a genuine curiosity—by asking questions, and by remaining open to being instructed by whomever, with regard to the subject at hand, may be wiser than ourselves, whether that person be a long-dead Greek poet, a less-long-dead English poet (Shakespeare), or a nineteenth-century American novelist (Melville). Can we ever be truly open to learning unless we have a genuine wish to know? Can we have a genuine wish to know unless we recognize that there may be things we do not yet truly understand?

—William T. Braithwaite, “Why, and How, Judges Should Study Poetry,” 19 *Loy. U. Chi. L.J.* 809, 821 (1988).

## The Jealous Mistress

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The law is a jealous mistress. It threatens to consume all our days, family life, and peace of mind, leaving us little energy for anything else. To escape the centripetal force of labor in the law, we find other interests.

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Professionally, lawyers have no special claim to poetic experiences. Romance is not one of the regular features of a lawyer's day. Those who find the inspiration to write creatively do so in spite of the work of the law office, the interviewing, writing, research, often involving dry, almost mechanical tasks, with few opportunities for the display of fancy and imagination. The raw material of poetry and prose, however, is richly available to the lawyer. The variety of human behaviors is endlessly enlightening, and cannot help but form the basis for a creative act.

There is a common link. Both law and poetry try to get people to see things differently, to put a different cast of light on the commonplace, to shock the indifferent and upset prejudice. Poets and lawyers both must be good storytellers, and able to recognize the difference between truth and falsehood, right and wrong, goodness and wickedness.

—Paul S. Gillies, "The Law and Vermont Literature: A Drive-By," *Vt. B.J. & L. Digest* 1 (1996).

## Half of the Story

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Modern business life arises from a love of the upper world, of material products, of order and organization; it celebrates the material, light-filled portion of existence. It is the world as we see it (or as we would like to see it) and as it most makes sense to us. It has been the basis for our Western affluence, and by the life it has provided many of us in the West, it has much to recommend it. But as many of us suspect, sensing the shock waves now traveling through our corporations and institutions, it is only half the story.

\* \* \* \*

This split between our work life and that part of our soul life forced underground seems to be at the root of much of our current unhappiness.

\* \* \* \*

Despite everything our inheritance may tell us, work is not and never has been the very center of the human universe; and the universe, with marvelous compassion, seems willing to take endless pains to remind us of the that fact. Once basic necessities are taken care of, there are other more immediate urgencies central to human experience, and it is these urgencies that are continually breaking through our fondest hopes for an ordered work life. The split between what is nourishing at work and what is agonizing is the very chasm from which our personal destiny emerges. Accepting the presence of this chasm we can begin to deal, one step at a time, with the continually hidden, underground forces that shape our lives, often against our will.

—David Whyte, *The Heart Aroused: Poetry and the Preservation of the Soul in Corporate America* 3, 4-5 (New York: Currency Doubleday, 1994).

## An Ideal Beckons

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However true or necessary all this specialized business is, it is not going to permanently satisfy men's souls. There is implanted in us an idea of the whole as well as of the parts. We experience only the imperfect and transitory; but we know that the perfect and eternal exist. We bruise our shins against the real; but the ideal beckons us on, and on we go. The innate ideas of goodness, splendor, happiness, live in us, like the Sleeping Beauty and her court behind the o'er grown hedge, and only the kiss of Experience is need to make them rise and right with life.

At bottom, literature is an intoxicant. It transforms us, takes us out of ourselves. Life is tolerably dull . . . . If the flying-machine is perfected, the globe-wanderer will be as bored on his tenth voyage as he is to-day. If we reach Mars, we will find we have not escaped our own personalities. . . . But man is eternally interested in his own traditions, his own deeds, his own fate. The talk about books is the one professional talk which is not "shop," because it is a talk about life itself. How instinctively we feel that the best society the world has known has been in those circles of men of intellect whose interest was in the humanities . . . . The mass of men read little enough, but they have an equivalent for literature in gossip and the swapping of stories.

—Charles Leonard Moore, "In Regard to Poetry," 24 (283) *The Dial* 217 (April 1, 1898) [Charles Leonard Moore was a lawyer and a poet.]

## **The Work of Blind Poets**

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The best trial lawyers, in their own way, are all blind poets, relying primarily on words to convey the reality of events and situations that neither they nor the jury have ever actually observed.

—Steven Lubet, “Oyez, O Muse,” 26 (6) *The American Lawyer* 118 (June, 2004).

## Whose Reality?

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[T]here is one major difference between the poet and the advocate, at least when it comes to the law. We, as lawyers, are bound to the truth and to the law. . . . Poets, on the other hand, have the luxury of creating their own atmosphere, their own reality. They control everything about a situation—how it begins, how it develops, and how it will end. Our advocacy and our job are based in truth and in fact. A poet’s advocacy is based in emotion, in personal experience, perception, or a desire for change, regardless of the factual realities of a situation. Poets can bend a story any way they choose, creating the environment they need, conveying their message to generate the response—the visceral reaction—that they wish to engender. They seek to spark that reaction; they seek to spark that emotional response. We, on the other hand, must deal in facts with the situation, the people, and the law as it is, whether that be good, bad, or indifferent.

—Tom Corbett, “The Lawyer-Advocate vs. The Poet-Advocate,”  
14 *Widener L.J.* 737, 738 (2005) [Tom Corbett served as the  
Attorney General of Pennsylvania, 1995-1997 and 2004-2008.]

## A Reply to the Attorney General

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Exploring poetry . . . sharpens a lawyer's eye and ear for the type of language that encourages critical reflection. Poetry teaches lawyers not to dilute their language. Intense arguments, especially when they stoke the emotions, are most persuasive because they focus both the mind and the heart. Intensity can be expressed with wit, wisdom, or humor. In any form, appeals to reason are fused with reliance upon emotion and imagination.

—James P. Madigan & Laura Y. Tartakoff, “Doing Justice to the Potential Contribution of Lyric Poems,” 6 *Legal Writing* 27, 44 (2000).

## The Taste for Poetry

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It is no small matter to get up a taste for poetry. It is no small matter to learn to read any book; to be able to feel in the mind ideas transferred from the printed page, as vividly as when uttered by the human voice, enforced by the gesture, and illuminated by the countenance. . . . True poetry is hewn out from the deep mines of the soul. As it is not easily uttered, it is not easily read. We must come prepared to the task, as the priesthood who robe themselves and burn incense around the altar when about to touch the symbols of their religion.

—“The Taste For Poetry,” 6 (21) *United States Democratic Review* 464 (September, 1839).



## One Poem Reads Another

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[E]very poem one reads closely will teach him something about how to read another poem.

—John Ciardi & Miller Williams, *How Does a Poem Mean?* 6  
(Boston: Houghton Mifflin Co., 2<sup>nd</sup> ed., 1975)(1959).

## Reading Poems, Reading Law

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The meaning of a poem is not its paraphrase, but the experience of reading it—not just reading it once, but reading it to learn it, to master it, reading with imaginative engagement and readiness to learn, just as you read an important judicial opinion. Of course the poem may not have a simple statement at all; you may be left with an unresolved ambiguity, an ambivalence or paradox that cannot be put into simple declarative form, or perhaps with just an emotional impression. But some summary can always be made, and you should see that there is always something beyond this summary, beyond the message, in the good poem, and—although you may not in a particular case be able to state with any finality what it is—that it is this which gives the poem value. One has not a sense of solution but the reverse, and this works as an invitation.

Much the same can be said of the judicial opinion: its “rule” (for which it may be cited later in another opinion, in Gilbert’s Law outlines, or on an exam) is not the meaning of that opinion, or the opinion would have consisted of that rule without more. . . . [W]e know that at its best the judicial mind does more than this, that its expression defines and exemplifies an education.

—James Boyd White, *The Legal Imagination: Studies in the Nature of Legal Thought and Expression* 764-765 (Boston: Little, Brown and Company, 1973).

## Slowing Down

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And so in reading poetry, we give new meaning, new importance to each word because we are forced to slow down and digest, line by line, a story that leaves much untold. To treat other texts as if we are in the realm of poetry is to treat them differently—more carefully. To slow down and pay close attention to language is invaluable. And this is what lawyers can gain by reading poetry.

—Gabi E. Kupfer, “Margaret’s Missing Voice: Using Poetry to Explore Untold Stories in the Law,” 21 *Women’s Rts. L. Rep.* 177, 180 (2000).

## Getting Right With Poetry

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Poetry has its own peculiar attractions, but before it can do much for you, it is necessary for you to take a right attitude toward it. You must realize that it is one of the great forms of literature; that it can treat of subjects for which prose is inadequate. . . .

Of course, not all poetry is for all readers; you must not be discouraged if the first poem that you read does not appeal to you. One great reason why many persons do not like poetry is because they began their reading with the wrong poems and, having received an unfavorable impression from those that they did not enjoy, have abandoned the attempt to find any that they can enjoy. Each one must discover the poems that appeal to him. The realm of poetry is as wide as the world; we are free to wander through it, to take as our own what we like best, and to leave the rest for others.

—“What Can Reading Do For You?,” 90 *The Youth’s Companion*  
24 (January 13, 1916).

## What Poets Do

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Poets don't feel deeper, its's just that they don't run away.

—Kenney Hegland, "Poet," 13 *Ariz. L. Rev.* 266 (1971).

## What Poets Do That Prose Doesn't

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We speak prose when we have the utilitarian purpose to serve of conveying information to others and of getting a message across to them. When we want to convey an emotional state, to lend wings to the fancy, to break the fetters that bind us to our daily routine, we must resort to poetry. We are all born poets and remain poets until we have the poetry drummed out of us as children by unimaginative adults. Fortunately, some few escape this process.

The line between poetry and prose is sometimes hard to draw. As Aristotle said, when our souls become agitated, when our emotions are at white heat, we may unconsciously cross the line. In courts of law the line is frequently crossed. When an advocate rises to resist a great injustice, or to speak in defense of the fundamental liberties of every citizen—when “fir’d by thirst of fame, or urg’d by wrongs”—his lips may be sprinkled with the waters of inspirations, and he may utter words that take unto themselves wings and soar well above the boundary that separates poetry and prose.

—Roy St. George Stubbs, “Poetry at the Counsel Table,” 12  
*Manitoba L.J.* 271 (1983).

## What Poems Do

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[T]his leads me to one advantage of verse. Being hard to get at—of course I mean good verse—by both author and reader, it achieves a concentration that fastens on the memory. Its symmetry and numeric recurrence of sound and motion help it to a permanence which the looser members of prose can hardly hope to attain. It is discipline against the mob. Besides, this verse is a device, like the frame of a picture or the raised platform and footlights of the stage, which lifts a piece of literature above the ordinary level of life and envelops it in an atmosphere of its own.

—Charles Leonard Moore, “In Regard to Poetry,” 24 (283) *The Dial* 217 (April 1, 1898).

## What Poems Do—II

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Prose, also, to be sure, when it is literature has a mysterious reality which unifies it and irradiates it. But the mysterious reality of prose differs from the reality of poetry in that one can apprehend it through the eyes from the printed page. Poetry, however, can get only partly to the mind from the printed page; it can be really apprehended only by the ear, through the voice, for all poetry—even philosophic poetry—was and is written for an instrument, and that instrument is the human voice.

—Mary M. Colum, “What is Poetry?” 91 (6) *Forum & Century* 335, 336 (June, 1934).



### What Poems Do—III

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A reader encounters—when he involves himself with a poem or a novel—a patterning of sounds, a play of images, a structure of intricately organized meanings with the power to address his senses, feelings, and intelligence at one and the same time. They may enable him to become conscious of a kind of message which cannot be paraphrased, which does not exist except at the moment when the reader is actively engaged with the work. It need not be “true” in any empirical sense, although—within the frame of fictionality—it may be wholly believable. It need not be translatable in any way at all. But it is a message, nonetheless, about the human condition. It is an expressive rendering of what it is to be alive at a particular moment of time.

—Maxine Greene, “Literature and Human Understanding,” 2 (4)  
*J. Aesthetic Educ.* 11, 14 (1968).

## The Uneasy Work of Language

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The power of impressing personality on language is one of the strangest and most inexplicable in the world of the mind.

—Mary M. Colum, “Life and Literature: The Literary Life,”  
95 (2) *Forum & Century* 98, 99 (February, 1936).

## Science and Poetry

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In science one tries to tell people, in such a way as to be understood by everyone, something that no one ever knew before. But in poetry, it's the exact opposite.

—Paul Dirac, quoted in, Howard W. Eves, *Mathematical Circles Adieu* 70 (Boston: Prindle, Weber and Schmidt, 1977) [The quote has also been attributed to Franz Kafka].

## The Modern Mind and Poetry

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Modern thought is unquestionably hostile to great poetry.

—Charles Leonard Moore, “In Regard to Poetry,”  
24 (283) *The Dial* 217 (April 1, 1898).

## The Liberal Arts (Again)

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There are at least three reasons for supporting the liberal arts . . . : First, there is the simple battle against ignorance—the shattering of fetters which bind man in his natural state. Second, unless one has at least thumbed through *The Compleat Human Being*, he will never know how valid is the paradox of the usefulness of useless knowledge. And third, without having sampled widely, one will have difficulty in identifying what will best serve to release his best talents and energies.

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What one needs to know in order to lead a reasonably good life cannot very well be determined with precision. I am speaking here of course, not of what will make a good law student, but of what will tend to increase somewhat the changes an individual has for leading a reasonably full and balanced life. Along with the rest of us, the law student and what he will become—the lawyer—will want this chance. It has been said that Sophocles “saw life steadily and saw it whole.” Most of us see only a small portion of life and that small portion waveringly. A curriculum should make possible, from numerous vantage points, the steady, unblinking view.

—K.L. Knickerbocker, “Talents for the Study of Law,” 12 *J. Legal Educ.* 532, 533, 534 (1960).

## The Not So Liberal Art

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There has always been something puzzling about law's encounter with the humanities. Learned Hand (or James Boyd White) might wax eloquent about what lawyers can learn from the great humanists of the past and about how the humanities can enrich the lawyer's moral imagination, but these hopes must confront the harsh reality that there has always been a dehumanizing tendency in legal education. Legal education, and hence legal scholarship, tends to promote the tough-minded values that William James once famously described rather than the tender-minded ones. Indeed, law seems almost to relish the extirpation of the latter, as if tenderheartedness were a mental disease that only the discipline of law could cure.

—Jack M. Balkin & Sanford V. Levinson, "Law and the Humanities: An Uneasy Relationship," 18 *Yale J. L. & Humanities* 155, 184-185 (2006).

## A Memo to Legal Educators

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Notwithstanding the seeming incongruity, there subsists a very intimate connection between law and literature. To the legal profession, more than any other, we are indebted for the magnitude and splendor of our literature. Nor is it only with one or two branches or divisions of literature that the connection exists. On the contrary, there is scarcely a single department in which the legal profession is not represented. History, biography, philosophy, metaphysics, poetry, the drama, fiction, oratory, criticism, and even theology, have all been contributed to by men who at one time or other were connected with the legal profession. Nor is the literature which has emanated from that source of a superficial or evanescent nature. Much of it has passed away, and is now almost unknown; but a great deal still remains, forming some of the best and most enduring of our classics. . . .

There is an opinion very prevalent among the public generally, and the legal profession in particular, that the study of literature is at variance and inconsistent with the study of law; that the more the former is indulged in, the more the latter will decline. In support of this opinion we are told that very few men have distinguished themselves in both avocations; that men of great literary attainments have seldom risen to eminence in the legal profession. . . .

The duties which lawyers are called upon to discharge are many and various, and consequently a vast deal of general knowledge is indispensable to the formation of a really good lawyer. It is not sufficient that he is well versed in legal principles and precedents. . . . It is when he is called upon to deal with such cases that the lawyer feels the advantages of varied information. If he is ignorant of almost everything but law, he must be painfully aware of his utter incompetence to do justice to his client.

—J.C.S., “Law and Literature,” *St. James Magazine* 194 (September, 1865)[reprinted in, *The Catholic World: A Monthly Magazine of General Literature and Science* (January, 1866)].

## The Legal Brief as a Writer's Art

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[It is my] central theory . . . that brief writing is essentially a creative function in just as real a sense as writing dramas, novels, poems or short stories; that the greatest and most lasting satisfactions in life can be gotten from truly creative work; that thus really understood brief writing can become the most desirable and satisfaction-giving activity of the lawyer; further, that to the lawyer with the necessary equipment (principally a clear, emotional, as well as intellectual, understanding of the truth of this statement) the job will be attacked with pleasurable anticipation and zest.

—Arthur C. Bachrach, “Reflections on Brief Writing,” *27 Ill. L. Rev.* 374, 377-378 (1932).



## The Lawyer and the Poet

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It is related that when Keats was composing *Endymion* he originally wrote as the first line:

“A thing of beauty is a constant joy.”

He showed it to his friend, Henry Stephens, who pronounced it “a fine line, but wanting in something.” Keats pondered it over and at length broke out with an inspired, “I have it,” and set down the never-to-be-forgotten line:

“A thing of beauty is a joy forever.”

No doubt lawyers, judges, statute writers and others have, upon occasion, experienced the same high feeling when finding just the right word or phrase to express something until that moment inexpressible. It is more than a problem of accuracy or precision in the use of words. The problem is to put the thing so well, so clearly, so perfectly that, to borrow from Justice Holmes, the living thought is clothed and stands revealed in its own radiant skin. To be eminently successful, even in law, words should appeal to the imagination as well as the reason. Though lofty flights of rhetoric are now denied the average practitioner of the law, there remains a wide field in which he can use cultivated, dignified, and occasionally inspired, prose.

We know of nothing so likely to develop a feeling for words in their proper place as the reading of poetry, particularly great poetry . . . .

— [Editorial], “Poetry for the Defense,” 3 *Det. L. Rev.* 33 (1932)

## Dry? Not So Dry?

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So, let us not be wed to the notion that law is “dry as dust”; that its study and application deprives life of the finer and subtler instincts and free intuitions and leaves only the husks of form and the shell of regulation. On the contrary, given the proper frame of mind—the appropriate attitude of approach—it is a very potent school of discipline and source of provocation for the dormant spirit of poetic expression. Fundamentally, it deals with all the passions; the normal instincts; the emotions and impulses; the promptings of the soul and the ecological problems of mankind, the natural and acquired—rational and irrational. While essentially the law finds its genesis in the field of inhibition, the formulation of its rules and their application requires a study—an analysis—of these uninhibited attributes of man. The law offers a remarkable prepoesy course for the “born,” as well as the “made” poet.”

—Walter R. Arnold, “The Law and Poetry,” 1 *Notre Dame L.* 78, 80 (1926).

## Most Arid Land

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In the dead waste of arid law through which one must wade over shoe-top in reading the opinions of our courts, an occasional refreshing oasis pleasantly varies the monotony. Our judges once in a while drop into poetry, or at least a snatch of poetry drops into the opinion. It is very sweet to reflect about those who must apply their busy hours to unadorned and technical learning find relief, in the intervals of labor, in pondering the ornamental wisdom which the poets weave into verse.

—“Poetic Opinions,” 3 (6) *The West Virginia Bar* 111 (June, 1896).

## Judicial Oracles

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When we consider the poetical materials with which lawyers are conversant, and of which the law is made up, particularly when we reflect upon the extent to which the law is dependent upon “metaphysical aid,” the freaks of imagination, the play of fancy, and the resources of inventive genius, instead of feeling surprise at those instances in which legal lore has issued forth from the lips of judicial oracles in poetic metre, we must rather be disposed to wonder how lawyers and judges ever expressed themselves in prose. How can authors write, or orators speak of an “incorporeal tenement,” “an inheritance in the clouds,”—a freehold towering from earth to heaven,—or even of a mere “estate *for ever*,” and not burst into song and stanza?

—“The Poetry of Law and the Law of Poetry,” 65 (257) *New Monthly Magazine and Humorist* 65, 72 (May, 1842).

## Does a Judge Need Poetry?

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In order to be fully rational a judge must be capable of literary imagining and sympathy. She must educate not only her technical capacities but also her capacity for humanity. This means, I think, that literary art is an essential part of the formation of the judge—and, more generally, of the formation of citizenship and public life.

—Martha Nussbaum, “Poets as Judges: Judicial Rhetoric and the Literary Imagination,” 62 *U. Chi. L. Rev.* 1481, 1519 (1995).

## Grist for the Mill

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[T]he intellectual appeal of our profession, and one of its glories, is that everything is grist to our mill. We can never tell when a bit of information will be of value, perhaps fit into the mosaic of a lawsuit. Today it may be a knowledge of the chemistry of flour or the anatomy of the eye, tomorrow how a piece of machinery works or how long it ought to take a bricklayer to lay a certain course of bricks. Always there is the problem of human nature: the unique witness, judge, juror, clients actual or prospective. We know from experience that our practice is not simply science: it is an art. And since it is an art we can gain knowledge and inspiration, insight into the emotional and mental processes of ourselves and others by some consideration of the other arts.

So it is that we refrain from saying of the lawyer and the poet what Hamlet said of the player: What's Hecuba to him, or he to Hecuba?

—Ben W. Palmer, “The Lawyer and the Poet: Grist for the Mill of Legal Art,” 35 *ABA J.* 375 (1949).

## A Great New England Lawyer

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Among all professions of callings it may be doubted whether there is one in which greater endowments, physical and intellectual, are required for its successful prosecution today, one in which success is a surer text of ability and acquirement, than in the law. Dr. Cowell (or Cowhell, as Coke calls him), an eminent civilian and common lawyer, considered three centuries ago that the range of a lawyer's study should be coextensive with Nature herself. "He sparks of all the sciences," said Sir Henry Finch, "raked up in the ashes of the law." Chitty tells the law student that he must not only master the law itself, but fill up his leisure hours with the study of anatomy, physiology, pathology, surgery, chemistry, medical jurisprudence, and police. "Ours," wrote William Wirt to a friend sixty years ago, "is not a profession in which a man gets along by a hop, skip, and jump. It is the already march of a heavy-armed legionary soldier." If such were the conditions of success at the bar in ages long gone by, what must be the talents and the toil exacted today?

—William Mathews, "A Great New England Lawyer: Henry W. Paine," 10 *New England Magazine* 189-190 (1894)(Old Series, Vol. 16).

## A Modest Ambition

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To be eminently successful, even in law, words should appeal to the imagination as well as the reason. Though lofty flights of rhetoric are now denied the average practitioner of the law, there remains a wide field in which he can use cultivated, dignified, and occasionally inspired, prose.

—Editorial, “Poetry for the Defense,” 3 *Detroit L. Rev.* 33, 34 (1932).



## Our Whereabouts

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We have, so to speak, covered great distances in our national life by dead reckoning, and it is time we knew something definite as to our whereabouts. In the best literature rightly interpreted there will be found more of such knowledge than we are apt to realize.

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There is to-day another reason why in the interest of both enjoyment and knowledge, the practical man should have recourse to literature. Though we are no longer making the voyage of life by some old religious charts, we have not yet found—and perhaps we have not sought to find—any substitute for what we have lost. If in our indifference we fail to search for it in literature, we have no good reason to expect, however much else we may do, that material considerations or at best mere moral excellence will not continue to be too controlling a factor with us. Science has its well-defined function for teaching men precision of thought and morality has its decalogue; but neither should usurp the province of the emotions and the imagination.

—“Literature and the Practical World,” in Joseph S. Auerbach, *Essays and Miscellanies* 243-312, at 263, 303 (New York: Harper & Brothers, 1914)(vol.1).

## Coming Back to Old Affinities

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Though Mr. Justice Holmes properly said the law is not the place for the poet, there are affinities between the lawyer and the poet not visible to the undiscerning eye. Both travel the highway of thought and advocacy, though their ways diverge at the crossroads when the lawyer takes the path of logic and utility and the poet treads the byway of emotion and beauty. To persuade, the lawyer carries a staff of guile; the poet a wand of truth. Therein lies the poet's disqualification for the law. But therein, too, lies the social value of the poet's lay, as he tersely but discerningly appraises the wanderings and works of the lawyer.

—Percival E. Jackson (ed.), *Justice and the Law: An Anthology of American Legal Poetry and Verse* xxi (Charlottesville, Virginia: The Michie Co., 1960).

## Reconciliation

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I write poetry and, from time to time, publish it. I also practice law. The two occupations are not always mutually exclusive. There are interesting moments when one discipline seeps into the other, and there seems to be sense—poetic or legal—as it may be. There are other times when my dual interests could not seem further apart. During a prolonged and boring deposition a few months ago, my attention wandered out the window of the conference room to a hawk spiraling above the river bluffs with perfect grace and intention—making our lawyers’ squabbles over construction change orders and contract interpretation seem remote and intensely silly. The poetry of the hawk’s flight was obvious. The poetry of the stock phrase in an answer to a complaint—“Defendant is without knowledge or information sufficient to form a belief as to the truth of the matter, and, therefore, denies the same”—is less apparent.

—Tim Nolan, “Poetry and the Practice of Law,” 46 *S.D. L. Rev.* 677 (2001).

## Reconciliation—II

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I have written and published a good deal of poetry. I used to think poetry and law were far apart. But no two things that exist together in one person are never really separate.

—Charles Black [Jr.], “Correspondence” (a letter to Ms. Anne Black Goldberg), 27 *J. Mar. L. & Com.* 501 502 (1996).

### Reconciliation—III

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In the hidden, elite realm of attorneys, poetry is an apparent intruder, a weak outsider doomed to irrelevancy in a place where only the strong and the self-interested survive. Yet poetry, like trial practice or legal writing, if it works well, is an art of rhythms, imagery, and the crafting of language, with the intent to have a certain effect upon the reader/listener. Poetry is a twin to the law, in a sense, walking in the twilight between this world and the next, in its own way just as potentially dangers to some, just as demanding, and ultimately as capable of being used toward a multiplicity of ends, depending upon whose hands wield its awesome power.

—Charles Abourezk, “From a Lawyer’s Heart, A Pulse of Poetry”  
(Book Review), 41 *S.D. L. Rev.* 624 (1996).

## Getting Beyond Law's Discipline

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The sense of the lawyer's life as one of art suggests a spirit in which we might turn to literature, namely to find an array of texts that can help us see our own situation as artists more fully by comparison with others. The hope would be that we could discover opportunity for art in our life where now we see routine and at the same time develop a sense of what the possibilities for success might be. Comparison with other texts and discourses might expose the characteristics of legal discourse and yield a juster sense both of its limits and of its peculiar resources for meaningful talk and action. In this sense the comparison with literature, which at first may seem outre, could be seen as highly practical, for the aim of the comparison would be to improve our own capacities of mind and language in ways that can affect all that we do.

But the meaning of the humanities can go beyond even that, and in many different directions. Reading texts composed by other minds in other worlds can help us see more clearly (what is otherwise nearly invisible) the force and meaning of the habits of mind and language in which we shall in all likelihood remain unconscious unless led to perceive or imagine other worlds.

—James Boyd White, "What Can a Lawyer Learn from Literature?" (Book Review), 102 *Harv. L. Rev.* 2014, 2023 (1989).