



MUSINGS FROM ANOTHER TIME

Robert E. Rains

reviewing

Michael H. Hoeflich (ed.),
Anthology of Nineteenth Century American Legal Poetry
(Talbot Publishing 2018)

PROFESSOR MICHAEL H. HOEFLICH of the University of Kansas School of Law has produced a handsome and richly sourced volume of 19th century American legal poetry. In his “Introduction,” Hoeflich provides some personal background on his longstanding interest in poetry generally and legal poetry in particular. He proceeds to cite the marvelous, ongoing work of Professor James Elkins of the University of West Virginia Law School, whose website *Strangers to us All* is undoubtedly the most comprehensive listing of American lawyer-poets. Hoeflich explains his principles of selection of the poems in his *Anthology* and explains why he has provided a brief biography of most of the poets represented: A few of the poets are household names (at least in educated households), but the great majority have long since been obscured by the passage of time. The *Anthology* is arranged in alphabetical order by poet, and Hoeflich helpfully provides his source for each selection, where available.

After the almost obligatory “Hans and Fritz,” written in what purports to be Pennsylvania Dutch dialect by Charles Follen Adams, the *Anthology*

Robert E. Rains is a professor emeritus at the Penn State Dickinson School of Law, whose verses have graced (or perhaps disgraced) many academic and professional publications, including the Green Bag.

Robert E. Rains

features two poems by a better-known Adams: John Quincy. President Adams' two selections are "Charles the Fifth's Clocks" and "Justice, An Ode."

One mark of a really good book is that it inspires the reader to do additional research. I was sufficiently inspired by the inclusion of Adams' poems that I searched out the website *Presidents as Poets*. It turns out that JQA was so prolific a poet that after his death some of his poetry was published in the book *Poems of Religion and Society* (1848). He is also in a long line of presidents, continuing into the 21st century, who have either dabbled in poetry or taken their poetry writing quite seriously.¹ JQA is the only presidential lawyer poet included in the *Anthology*, but others might have been. Thomas Jefferson penned "A death-bed Adieu. ThJ to MR" shortly before his death, the MR being his daughter Martha Randolph. John Tyler wrote poetry of a personal nature, never intended for publication. But perhaps the most charming of lawyer-president poems was written by a young Abraham Lincoln in his arithmetic book:

Abraham Lincoln
his hand and pen
he will be good but
god knows When[.]

Following Adams' works are eight poems by David Barker, who was famous enough as a poet in his day to have been awarded the degree of A.M. by Bowdoin College. Many of the poems in the *Anthology* are hortatory in nature. Barker admonishes the reader to "Keep to the Right," warning that:

There are two roads on which we go
To other worlds than this, —
The one leads down to endless woe,
The other up to bliss

The final Barker selection, "True Poetry," takes aim at those who traffic in doggerel:

¹ Jimmy Carter famously published *Always a Reckoning and Other Poems*, and Barack Obama published two poems in his undergraduate literary magazine, *Feast*. It is not known whether the current incumbent in the White House is given to versification.

Musings from Another Time

How many squander off their hours
In rhyming *flea* with *tea*,
And fondly dream it constitutes
The soul of poetry! . . .

[True poetry] labors long and well
To learn the magic art
Of throwing on a screen the lights
And shadows of the heart.

One of the true jewels in the *Anthology* is E.W. Blake, Jr.'s "The Lawyer's Hereafter," an imagining of lawyers in the next life, filled with rich imagery, brilliant references, clever word-play, and internal rhymes. In it, we meet, among others, Bacon, L.C., Lord Coke, and three bar-maids whose characters might be cleaner: Miss Feasance, Miss Joinder, and coy Miss Demeanor.

It should come as little surprise that many 19th century lawyers were as disillusioned with the profession and the adversarial method of resolving disputes as those of today. In "The Festival of Injustice; Or the Lawsuit," Will Carleton relates the *Bleak House*-type tale of two friends, Mr. White and Mr. Brown, who have a falling out after Brown's dog (allegedly) kills White's only sheep, worth maybe two dollars:

White's lawyer was, when fairly weighed,
The meanest of that tempted trade,
With all the vices of his clan,
And not a virtue known to man,
In almost every calling, he
Had shown how little, men can be; . . .

Nor is Brown's lawyer any better:

Brown's lawyer equal praise would bear;
Ah me! They were a pretty pair!

An old man, possibly a preacher, strides into the courtroom and urges the former friends to shake hands, drop their litigation, and thereby make the angels glad. For this impertinence, the judge finds him in contempt of court. In the event, the old man's efforts are all for naught:

Robert E. Rains

His eloquence had no avail;
They took the old man off to jail.
The suit went on – please don't forget –
And, I believe, isn't finished yet.

Not all lawyer-poets in the *Anthology* take a dim view of the profession. To the contrary, in “The Lawyer,” Thomas D. Morse extols that worthy's virtues:

The World pours in his ear her tale
Of sorrow, sin, and shame;
His confidence, a sacred veil,
E'er guards it as a flame

Maligned, misused, least understood
Of all earth's good and great,
Still true, he guides a thankless brood,
As passionless as Fate

No collection of 19th century American poetry would be complete without addressing the central, cataclysmic event of that era, the Civil War. As a prelude, there is Joseph A. Wing's “Lines Written on Reading the Decision of Chief Justice Taney in the Dred Scott Case,” lamenting and foretelling:

Freedom has from our nation fled,
Her banner waves no more;
In vain our fathers fought and bled,
In vain each battle field made red
With dying patriots' gore

Unfurl the banner, let it fly
Where freedom had her birth;
'Twill tell to every passer by
That slavery rules in places high
And freedom's crushed to earth.

Though crushed to earth, that flag again,
Again in all her pride
Shall float o'er every hill and plain,
O'er every ship that plows the main,
O'er slavery's fields shall ride

Musings from Another Time

Isaac R. Pennypacker's "Gettysburg," which was read at the battlefield in 1889, recounts that glorious, yet terrible, Union victory. Likewise, "The High Tide at Gettysburg" by Will Henry Thompson. Finally, Lincoln's spirit of binding up the nation's wounds is captured in Francis Miles Finch's "The Blue and the Gray," with the final stanza:

No more shall the war cry sever,
Or the winding rivers be red;
They banish our anger forever
When they laurel the graves of our dead!
Under the sod and the dew,
Waiting the judgement day:
Love and tears for the Blue,
Tears and love for the Gray.

Taking a moralistic stance, W.H.C. Hosmer argues for the prohibition of alcohol in "Battle of Temperance," where he exhorts:

By no lines the realm is bonded
O'er which Alcohol, the king,
Holds his reign of death and terror
While the birds of hope take wing.
Based on God-like mind in ruin,
On Love's bleeding, broken heart,
In his throne, from which the Furies
On their fearful mission start . . .

Love, of course, is a frequent muse for poets. In the hopelessly saccharine "My Springs," Sidney Lanier gushes:

"O Love! O Wife! Thine eyes are they,
My springs, from out whose shining gray
Issue the sweet, celestial streams,
That feed my life's bright lake of dreams.

"Dear eyes, dear eyes, and rare complete,
Being heavenly sweet and earthy sweet,
I marvel that God made you mine,
For when He frowns, 'tis then ye shine."

Understandably there are no female lawyer poets represented in this 19th century *Anthology*. One must remember that in 1873, in *Bradwell v.*

Illinois,² the U.S. Supreme Court upheld the right of states to deny women entry into the legal profession. As Justice Joseph Bradley piously explained in his concurring opinion, “The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. That is the law of the Creator.” Nevertheless, the *Anthology* does include a poem written “To a Beautiful Authoress,” although admittedly John James Piatt dwells rather more on the authoress’s pulchritude than on her poetics.

As one would expect of 19th century poetry by members of the noble profession, there is no sex, or, if there is, it is well-buried. Perhaps the closest to an expression of lust comes in Piatt’s “To a Lady,” where he writes:

I think of thee, when, soft and wide,
The Evening spreads her robes of light,
And, like a young and timid bride,
Sits blushing in the arms of Night.

Death, of course, provides poetic fodder in such poems as “The Good Man’s Death Hymn” by Eli K. Price, “The Bivouac of the Dead” by Theodore O’Hara, and “Seven Ages of a Lawyer” by Edward A.U. Valentine.

Naturally, lawyers then, as now, have written parodies of famous poems. The *Anthology* includes such works as “The Charge of the Lightning Judge” by Ray Porter and “A Psalm of Law” by Irving Browne. For those of my readers who don’t remember their high school Longfellow, his “A Psalm of Life” begins:

Tell me not, in mournful numbers,
Life is but an empty dream!
For the soul is dead that slumbers,
And things are not what they seem.

Browne’s “A Psalm of Law,” which pleads for succinct pleading, begins:

Tell me not, in accents croaking,
“Brevity’s an empty dream.”
What’s the use with verbal cloaking,
To make things other than they seem?

Among the better-known poets *qua* poets in the *Anthology* are Joaquin

² 83 U.S. (16 Wall.) 130 (1873).

Musings from Another Time

Miller (author of “Columbus”), James Whitcomb Riley (the “Hoosier Poet”), and John Godfrey Saxe (author of “The Blind Men and the Elephant,” for my money the most brilliant work ever written on the futility of arguing about religion). Additionally, the judiciary are well-represented here, most notably by Justices Joseph Story and Oliver Wendell Holmes, Jr., himself the son of a famous poet, Oliver Wendell Holmes, Sr., author of “Old Ironsides,” which is often credited with having saved the USS Constitution from being scrapped.



Hoeflich’s *Anthology of Nineteenth Century American Legal Poetry* will occupy a place of honor in my own poetry collection, and I expect to return to its wealth of treasures many times. But, here I must add two caveats.

First, the *Anthology* is marred by a surfeit of typographical errors, which are particularly disconcerting in a book of literature. It does not appear that anyone actually proofread the text. Sometimes the errors are quite funny, unintentionally, one assumes. Thus, in John Quincy Adams’ “Charles the Fifth’s Clocks,” we learn that that cruel monarch “feasted on windows’ and on orphans’ tears.” While one supposes that windows in poetry might cry, perhaps because of their panes(?), it seems rather more likely that the tears came from widows and orphans, not windows and orphans. In “A Limb of the Law,” Eugene J. Hall supposedly relates that a statue (not statute) “was clear that a fine be imposed.” What statue would that be?

Because Hoeflich has provided sources for almost all the poems, the reader can usually check to verify what was intended to be written. Certain poems are simply rife with errors. In the *Anthology*, “The Lawyer’s Hereafter” omits the apostrophe in the title, reads “at least” for “at last,” spells “halidom” as “haidom,” changes “possession” to “profession,” and has the deceased lawyers finally living in an “adobe” rather than an “abode.” Surely a law professor would rather to be known for his hypos than his typos.

Second, Hoeflich has very usefully compiled at the end of his text a list of sources, which includes a prior legal anthology, *The Lawyer’s Alcove*. But, inexplicably, there is no reference to that other great compendium (550+

Robert E. Rains

pages), *Justice and the Law: An Anthology of Legal Poetry and Verse* (1960), edited by Percival E. Jackson. Nor does Hoeflich cite to *Justice and the Law* anywhere.

Of the roughly 95 poems in Hoeflich's *Anthology*, fully 28 appear in *The Lawyer's Alcove* and another three in *Justice and the Law* (with 11 appearing in both). If you, dear reader, possess both those works, you already have roughly one-third of the poems in *Anthology of Nineteenth Century American Legal Poetry*. Still, with the biographies, especially those of now-forgotten lawyer-poets of that time, Hoeflich's *Anthology* will be a worthy addition to your library.

