

The Kinship and Demise of Poetry and Law: 1868-1927.

Research Thesis

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By

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*“In days of old did law and rhyme,  
 A common pathway follow,  
 For Themis in the mythic time,  
 Was sister of Apollo.”*  
 - JW<sup>1i</sup>

Following the Civil War, in a period stretching from 1868 to the turn of the century, many scholars commented on what they viewed as a fundamental connection between the fields of poetry and law, a connection that they claimed was rooted in the natural creation of both. As a natural creation, scholars regarded the law, as well as poetry, as a divine creation. In addition, law journals such as the *Green Bag*, the *Albany Law Journal*, and the *Central Law Journal* published poetry alongside their scholarly essays of jurisprudence. But shortly after the twentieth century began the kinship of poetry and law came to an end. Law journals refrained from publishing poetry, and law scholars spoke out against the importance of literature to a legal education and career. One of these unnecessary literatures was poetry, which went from being the “literature of the law”<sup>2</sup> to being absent from the law. Building off the argument that poetry and law were akin and then separated, I will also argue that during and after their separation, poetry and law changed within. Popular and renowned American poetry changed from something romantic and mystical to something of realism, something based on experience. Similarly, law scholars who originally spoke of law as a product of a divine idea were soon convinced that law education should focus solely around what they called the law’s “relation to everyday life.”<sup>3</sup> The remainder of this essay will be as much an historical narrative as it will be

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<sup>1</sup> *The Law Times: The Journal and Record of the Law and the Lawyers*. Vol. XCVI. London, 1894.

<sup>2</sup> A D.L Cady poem later covered in this paper. Also the title of a scholarly article, written by Ernest Huffcut, which will factor largely into my historical study.

<sup>3</sup> Ernest Huffcut, “The Elective System in Law Schools”, *The Albany Law Journal*, October 1905.

an historical study. In the following pages I will examine how poetry and law separated, as well as how the views on what constituted each changed. The primary sources I will be examining date from 1868 to 1927 and were all found through archival research. By examining each piece along with contemporary secondary opinion, I will create a narrative telling of the transition and all the factors that led to the transition of poetry and law.

My first section analyzes the discourse regarding the fields of poetry and law from 1868 to 1927. The discourse asserts an overwhelming natural connection between the two without any logical proof. Law scholars and poetry scholars argued that their respective fields were seemingly “natural” or “inherent.” Scholars connected the two fields on the simple basis that many historical figures had a background or interest in poetry and law. Lastly, I will examine a subgenre of poetry that scholars have seemingly not examined, and that is what I call case poetry. “Case poetry,” as I will define it, is poetry that records court proceedings. The lack of scholarly research regarding case poetry can most likely be attributed to the fact that there is only one known, published author in this genre, D.L. Cady. My thesis discovered him as well as this unknown poetic genre.

The second section turns to legal education and how it may have influenced both the discourse of the time and the growing distance between poetry and law. Moreover, scholars began to refer to the study of law as “scientific,” and begin to refrain from viewing law and poetry as connected subjects.

The third section will focus solely on poetry and poetic scholarly discourse, in order to show that poetry changed independently during this time period. As scholars such as Daniel Burt and Wisam Abdul Jabbar have pointed out, poetry shifted to a period focused more around

realism, which sprung from what Burt calls dynamic societal changes that developed “new concepts of American identity”<sup>4</sup> (336).

The fourth section of this essay will focus on American education as a whole, and how the changes in American education changed the ways in which people perceived and taught poetry and law. I will argue that the university became more of a “corporation,” and sought to focus on subjects that were more practical and mechanical. Along with that, I will examine how the addition of land-grant universities and the new socio-economic backgrounds of students shifted education away from the liberal arts.

I will first begin the study by introducing key terms via the Oxford English Dictionary. The first is “naturalness,” which is “an inborn way of behaving,” or “being in accordance with nature.” Over time the interest in naturalness will change to an interest in the “practical,” which for our purposes is “related to practice or action, as opposed to speculation or theory.” Similarly, the discourse will also begin with a displayed interest in the “divine,” or something “pertaining to God or a god.” But the discourse will end with an interest in “realism,” which is anything with “Inclination or attachment to what is real.” These key terms will be prevalent throughout the discourse I will be examining, and the shift from one word to a new word will be symbolic of the overarching change from 1868 to 1927.

In order to first search for a deeply rooted connection, we must establish a common ground of poetry and law. For that, we can examine the sort of naturalness that scholars attributed to both. First, we will examine the naturalness of law in an article titled “The Mission of American Jurisprudence,” by H. Teichmueller. In the article, published in *The American Law Review* in

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<sup>4</sup> From Burt’s *The Chronology of American Literature: America’s Literary Achievements from the Colonial Era to Modern Times*, 2004, Houghton Mifflin Harcourt.

1898, Teichmueller writes that “law is not made at all, but it is, and always exists.” If law is not made and always exists, law occurs naturally, without any manufacturing or production. And if he believes law always exists, Teichmueller is arguing that law is omnipresent and inherent in all mankind. He continues that law “emanates from the divine idea, or that immutable principle of right, justness, or justice which governs the universe.” Teichmueller’s argument that law is a direct emanation from the divine idea means that law is, in a sense, a direct descendant of God or “the divine.” It is as though Teichmueller is comparing his present day laws to the Levitical law of biblical times, which was said to be written by “the hand of God.”<sup>5</sup>

By connecting law to the divine, Teichmueller creates an argument about the law similar to the argument literary scholars were making about poetry. Acclaimed literary critic Edmund Clarence Stedman writes that poetry is “insight, of the human soul” (44) in his 1892 essay, *What is Poetry?* The Oxford English Dictionary specifically defines “soul” as “the spiritual part of man in contrast to the purely physical.” Stedman writes earlier that “The poetic spirit is absolute and primal, acknowledged but not reducible, and therefore we postulate it as an axiom of nature and sensation” (42). By saying that poetry is insight to the soul, Stedman is arguing that poetry sheds light on something abstract and metaphysical. Yes, poetry offers insight to the soul, but who can confidently define what the soul is? You cannot touch the soul, and there is no technical definition for it. Thus, poetry is, as Stedman defines, insight to something which the individual must define in his own terms. By referring to poetry as an “axiom of nature and sensation,” Stedman concludes, like Teichmueller, that there is a natural aspect of poetry. But Stedman defines poetry axiomatically, just like Teichmueller offers no thought process to arrive at his argument. Stedman also argues that poetic spirit is “absolute,” much like Teichmueller believes

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<sup>5</sup> “And the LORD said unto Moses, Come up to me into the mount, and be there: and I will give thee tables of stone, and a law, and commandments which I have written; that thou mayest teach them.” (Exodus 24: 12).

that law “always is.” While Stedman argues that poetry is something that always exists and occurs organically, Teichmueller believes that law possesses this same sort of naturalness—establishing a definite connection in the discourse of poetry and law. Though there is an absence of reasoning process in their viewpoints, poetry and law can find a connection during this time due to the common discourse surrounding them. The law scholars of the time period thought of law as natural, just as poetic scholars viewed poetry as natural. Arguments like Stedman’s and Teichmueller’s were soon to lose their validity because of their basis in metaphysical concepts—their arguments cannot be proven using factual evidence or logical reasoning. But the shift toward a more technical curriculum would soon challenge these metaphysical concepts.

Another connection that scholarly law discourse was making between poetry and law was that both were types of literature. The now defunct Boston-based law journal, the *Green Bag*<sup>6</sup>, is particularly important for my research because it was devoted in particular to studying the relationship between poetry and the law. The *Green Bag* was published from 1889 to 1914 and fits neatly into my historical study timeline. In an 1892 article from the *Green Bag*, titled “The Literature of the Law,” Ernest W. Huffcut argues not only that law is closely related to literature, but that law is very close to the humanities as a whole. He begins by arguing of literature and law that “no two branches are more closely united and interwoven,” then draws an even deeper connection by continuing that the “original literature in all languages is the literature of the law.” Not only does he believe that law and literature are connected, but he also believes that, on some level, law is literature. While it is a basic inference that poetry is a subgenre of literature, Huffcut also believes law to be a subgenre of literature. Therefore it follows that poetry and law find common ground for a thinker like Huffcut by both being types of literature. Huffcut goes a step

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<sup>6</sup> Bears no connection to the current law journal published by George Mason University that shares the same title.

further and declares that “law touches at some point every conceivable human interest, and that study is, perhaps above all others, precisely the one which leads straight to the humanities.” So while Huffcut initially groups poetry and law together through literature, he continues that law is not connected to just poetry, but every human interest. Moreover, he writes that the study of law is “perhaps” the study that leads to the humanities. “Perhaps” is a word of specific interest because it indicates that what Huffcut argues is not necessarily a fact, rather it is merely a postulation he makes but cannot prove. It seems that the people during this time who appreciated law or poetry thought of both as inherent products of the mind connected to metaphysical truth and rooted in ancient human endeavor, and on this level law and poetry are afforded that “common standing ground” of which the *Green Bag* speaks.

The next article, from the May 1890 issue of the *Green Bag*, uses a list of historical figures who were both lawyers and poets to attempt to explain the connection between the two fields. The article, aptly titled “Law and Poetry,” is focused largely on listing off famous lawyers who had a poetic side, and vice versa. The list includes men such as Boccaccio, Petrarch, Voltaire, Goethe, Heine, Goldini, Cicero, Sir Thomas More, Blackstone, and Longfellow. The author writes that the men mentioned “have found flirtation with the Muses no impediment to their marriage with the law” (202), and immediately makes a historical connection between the two subjects. After describing even more famous men connected to both literature and law, the author ends the article by writing that “it may be that close connection of the two seemingly irreconcilable pursuits is due to some rule of contrast; or is it fiction, romance, and verbiage afford to poetry and law a common standing ground?” (202). So while the author initially speaks as though law and poetry are directly connected, he later describes the two fields as “seemingly irreconcilable.” He is refuting the claim that law and poetry are fundamentally connected. The

author identifies what will become a common theme in the discourse of law and poetry. That is, he recognizes that a wealth of great men have displayed prowess or great interest in both law and poetry. Yet many others will follow this pattern of offering up an opinion that law and poetry are connected, but not offering up a clear path of logic to their claim. His argument seems to be that if so many icons and successful men were attached to both poetry and law, the connection must be important.

Perhaps the closest logical explanation comes from an article in the May 6<sup>th</sup>, 1899 edition of the *Albany Law Journal*. The article, written by Gilbert Ray Hawes and titled “Literature and the Law,” seeks to offer practical reasons why literature is important to the everyday lawyer. He begins with a quote from Sir Walter Scott, “a lawyer without history or literature is a mechanic” (386). Hawes continues on to say that “the lawyer, like the poet, is ‘born not made’<sup>7</sup>” (386). So Hawes makes it apparent initially that he is following the pattern of the aforementioned writers, and will elaborate on how poets and lawyers have a platonic, divine origin. And while he focuses on this relationship in part, he more importantly turns his focus to why the lawyer *needs* literature to be successful. He writes that “The lawyer who hopes to win his cases in court, to obtain verdicts from juries, or even to properly frame a brief or draft corporate papers, should have a wide acquaintance with literature” (386). Hawes believes lawyers must have strong levels of both charisma and reason. “How can one hope to rise to flights of eloquence,” Hawes asks, “if he has not studied the masterpieces of Demosthenes and the famous orations of Cicero? (386). He asks again, “Where can he find better models of logical and sustained argument than in the speeches of Chatham, Burke, Fox, and Pitt, and our own glorious Webster” (386). So while Hawes echoes the sentiments of Teichmueller and Stedman—that law is connected to divinity—

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<sup>7</sup> “Born not made” – Translated from the Latin, “*nascitur non fit*.” Hawes is quoting the Latin phrase.

he too formulates his case without logic or reasoning. Hawes does list important reasons why a lawyer should be acquainted with literature, but he does not arrive at this through logical assertion; rather he is merely sharing his opinion that successful men are gifted with certain intrinsic, congenital abilities to undertake the professions of writing poetry and practicing law.

The sense that poetry and law are both bequeathed onto man is an idea that seems ever present in the discourse from 1868 to 1927, along with the sense that poetry and law are tightly bound. But as the same discourse has also shown, these claims are not backed with factual evidence. Due to this lack of evidence, it seems that these claims were only validated because the opinion was shared by so many. The fact that the discourse was published in very reputable law journals only furthers this idea. The prevalence of this belief through media outlets of the time seems to have instilled the idea of a connection of poetry and law into society.

Now that we have examined some of the discourse surrounding law and poetry, we must study the actual law poetry during this time period. Perhaps the prevalence of writing concerning the inherent connection of the two subjects can explain why there was also a great amount of law related poetry. The first example I will look at is from the February 12<sup>th</sup>, 1881 edition of *The Albany Law Journal; A Weekly Record of the Law and the Lawyers*. *The Albany Law Journal*, as I will show, was renowned for its inclusion of poetry. The title of the poem, written by TD Davidson, is “Rules of Descent in the United States.: As Laid Down by Kent in 1831.” The poem is a prime example of law poetry because it is literally a poem describing the laws and how the laws function. . For example the first stanza reads:

If One dies owning an estate,  
 It lineally must gravitate!  
 If but one heir, it will annex  
 If there be more, as well there may,  
 They all shall take “per capita.” (1-5)

It is almost as though the poem is to serve as a small handbook to remember fundamentals involved in the practice of law. It is not over-embellished with sentimentality or romanticism; rather the entire poem continues the pattern of explaining the particulars of estate law in a very straightforward manner. In this sense the poem appears to be a sort of “educational poetry,” a name I have given it to explain the style in which it was written. While Huffcut and Pugh earlier discussed the interpenetration of law into the arts, Davidson’s poem is a physical example of the actual collapse. The subject of the poem is estate law, so the poetry literally contains the law. The work then becomes not just poetry alone but poetry and law, and the two fields collapse together into one.

Davidson’s poem is a didactic poem instructing the audience on common practices of estate law, making it an example of “didactic poetry,” which Peter Toohey defines as usually attempting “systematic instruction on some concrete topic” (2). Toohey also writes in his book, *Epic Lessons: an Introduction to Ancient Didactic Poetry*, that didactic poetry was “enormously popular in the ancient world” (1). Simply put, didactic poetry instructs or teaches the audience. Davidson’s poem, we can concur, is a didactic poem instructing the audience on common practices of estate law. A prime example from the ancient world that Toohey mentions is Virgil’s *Georgics*, which, translated to English, begins:

“How  
 To make fields fertile.  
 Under what star  
 It is right to turn the earth  
 And join vines and elms.  
 What the care,  
 Of cattle,  
 What the regimen,  
 For keeping herds.  
 How much expertise  
 You’ll need for thrifty bees”

(1-11).

The initial lines of the poem clearly introduce what the poem is going to be about. It is a poetic instructional guide. By channeling didactic poetry and channeling the learned subject of Latin, Davidson shows that he possesses prowess in both law and poetry. He is able to accurately teach estate law all the while keeping with the technical guidelines of a classic genre of poetry.

While Davidson’s poetry seems to double as a sort of educational tool regarding law, another law poet, D.L. Cady, wrote poems that were informative of law proceedings. The first poem is from *The Albany Law Review*, but was originally published in the *Central Law Journal*. The title of the poem is “Poetry of the Law”, published September 27<sup>th</sup>, 1890. The subtitle, titled “Landlord and Tenant—Smith v. Marrable, 11 Mees. & W.5”, regards the case in particular. The

following passage from the first stanza will showcase how Cady's poem describes the case between Smith and Marrable:

London in summer is unbearable,  
 And gentle folk fall victims of ennui<sup>8</sup>;  
 So down to Brighton Sir T Marrable  
 And lady went, to rest beside the sea,  
 And sow whate'er they had 'twas wearable;  
 But 'twas their luck to have a pedigree,  
 Much long than their purse; hotels were dear,  
 And so they took a furnished house that year. (1-8)

Cady tells the story behind a court case, which is a dispute between the Marrables and a landlord by the name of Smith. By describing in poetic form a specific case, the poem literally becomes its title—a poem “of the law,”—a work of the “literature of the law,” referring back to Huffcut. Cady's poem is what I call “case poetry” because it is a poem regarding proceedings from an actual courtroom. I have coined this term because I have been able to find no prior research on the topic. While Cady's case poems were published and then republished in law journal after law journal, he seemed to be the only man of the time period writing case poetry.

Another poem of Cady's, also titled “Poetry of the Law,” shares the style of the first but also implements the classic literary tropes. The poem, published in the *Central Law Journal* on

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<sup>8</sup> French for “boredom.”

July 11<sup>th</sup>, 1890, is also like the first in that it has a subtitle regarding the case: “Criminal Law—Mayhem.—(State V. Girken.—1 ired L. 121)”. This second poem possesses a case more violent than the first; it does not deal with a simple landlord versus tenant issue. Rather this poem is concerned with “Mayhem” and “Criminal Law” instead of the much lighter dispute resolution. Yet the Cady is still able to maintain a lighter tone with talk of spring and serenity:

It was the time when roses blow,  
 And warbling songsters first appear,  
 That Girkin did for Watson go—  
 Like Anson for a colt that’s slow—  
 And took a mouthful of his ear. (1-5).

By bringing into his poem mention of “the time when roses blow” (1) and “warbling songsters” (2), Cady makes use of two classic poetic tropes: roses and songsters. Beginning the poem with these two specific lines, both containing classic references, can mean one of two things. Perhaps Cady is desperately attempting to connect to classic poetry so that his “case poetry” may seem more poetic. While we cannot know for sure why he uses classic literary tropes, I will argue the likely goal was to simply satirize romantic language. The poem was published in 1890, a time in American literary history that was transitioning to realism. I believe that Cady had an understanding of realism and therefore satirizes the inordinate elegance of past literature with the implementation of romantic tropes.

Each journal Cady was published in features contributions from prestigious judges, professors from universities as famous as Harvard and Cornell, and even United States Supreme

Court Justices. Because of these contributing pedigrees, the journals certainly seem very reputable, and if Cady's poetry was published in such journals it should follow that his poetry was widely accepted as a good example of the art. But is this necessarily true? It seems rational to think that if Cady's poetry was renowned, there would not have been an abrupt end to its production. In attempting to locate public reviews of Cady I was only able to discover one, found in the March/April 1893 edition of *The American Law Review*. However, the timing of this review is specifically interesting because it is the same year of the final published poem Cady in a law journal. None of Cady's works were published after the review. In particular, the review mocks Cady, putting quotations around the word "poetry" to denote that he does not consider Cady's works credible. The reviewer writes that Cady's poetry "is better than much of the alleged 'poetry' of the law which finds its way into some of the law journals". It is as if to say "this is technically poetry, but not good enough to be *actual*, reputable poetry." The reviewer does acknowledge the fact that Cady's poems are part of a wider genre by dubbing them "poetry of the law." This quote lends credence to the idea that there were other case poets or law poets that we have not had the chance to study. The review continues on, calling Cady's poetry "facetious" and an "imitation of the measure and style of Longfellow's song of Hiawatha." The reviewer ends with asking the question, "How did it escape the vigilance of the lynx-eyed editor of the *Green Bag*, and find its way into the columns of so *practical* a publication as the *Central Law Journal*?" Clearly the reviewer is not a fan of Cady's poetry. In fact, he seems to find it rather juvenile. A search through the American Periodicals research database reveals that Cady published five separate poems in law reviews in a span of three years. Yet the poems suddenly disappeared as soon as the review was published, effectively marking the demise of the short-lived case poetry. I believe, and it is certainly reasonable to believe, that Cady was never

published after this review due to the reviewer's scrutiny of the law journals that published him. Perhaps the journals did not want to stoop to publish Cady's poetry, and so they refrained from publishing it. Or another possibility is that Cady refrained from writing case poetry after the review spoke so lowly of him. Whatever the case, it seems no coincidence that the publishing date of the review in *The American Law Review* coincides with the last publishing date of any known D.L. Cady poem.

The review that does nothing but dismantle D.L. Cady's poetry does not bode well for a fundamental attachment between poetry and law. If anything, the reviewer seems to disconnect poetry and law, even writing that Cady's poetry is "better than most" poetry published in law journals at the time. One can only imagine his thoughts regarding this "other" poetry. But the reviewer also serves an important purpose, because he is able to opine that law and poetry seem to disgust him when placed together. He goes against all those whom I have discussed earlier who wrote about the connection of poetry and law as "natural" and "inherent." Enough people thought of Cady's case proceedings as sound examples of poetry that the poems were published in very reputable law journals. Yet once an opposing voice materialized, the case poetry suddenly disappeared. There was no answer to the reviewer's harsh opinion, and I will argue that there was no answer due to the fact that there was a natural idea that poetry and law were inherent, and therefore grouping them together was all the more virtuous. While there were many opinions in the late nineteenth century regarding the correlation of law and poetry, each was merely that—an opinion. The discourse I have studied lays out a different way in which poetry and law are connected or dissolved into one element. And while it certainly is not fair to say that poetry and law can always be dissolvable into each other, the examples I have shown reveal that both are certainly compatible together. Even if the discourse of the time was never able to

rationality show—if it is even possible—a connection between poetry and law, the writers of the time certainly held the inherent belief that the two were connected.

The review of D.L. Cady's poetry published in the *American Law Review* may also be a symbol of the disconnection of law and the humanities that was beginning to occur during the time period as law schools became more focused on professionalism than culture. Evidence of this change can be seen in an article from *The New York Times* dated March 31<sup>st</sup>, 1893. The article is titled "Columbia's New Law School: Important Changes in the Method of Instruction." Columbia says of itself that "The first characteristic of the new school is that it is intended for practical lawyers. The catalogue states that "the design of the school is to prepare students for practice in any State in the Union," and also makes it clear that the school is a strictly professional school, but not a school for general culture." In other words, Columbia is essentially turning away from anything that is not directly related to practicing law. Also, at this time period "general culture" would have meant "culture" as a humanistic endeavor. In other words, the law school is saying it is rejecting humanistic endeavors; the school is literally cutting its ties with the humanities. As one of the leading law schools in the nation, curriculum changes like this would surely catch the attention of competing law schools. Admissions requirements changed at the same time, which required all incoming students to "be graduates of a college or a scientific school," or pass equivalent examinations. Columbia Law School undoubtedly chose to narrow the focus of the law school with the belief that students had already received their quota of "general culture" through obtaining their earlier degrees or prerequisites. However, the separation of the arts from the study of law ended what appeared to be a very lengthy marriage as the profession of the law moved from the "general culture" to "practical law."

The switch from culture to professionalism, I will argue, arose as a direct effect of the implementation of mandatory public education following the Civil War. The availability and necessity of public education can eventually be linked to the rise in student enrollments in professional programs, and even the need to develop these professional programs. By looking specifically at discourse surrounding law schools, we can clearly see that there were grand changes in a very short period of time. An article from the August 1897 issue of *The American Lawyer* titled “The Function of the University Law School” focuses on this increasing number of professional students. The article is a transcribed address delivered before the Ohio State Bar Association by Mr. Maxwell Lawrence, Jr. Lawrence explains that during the time of his speech there were roughly 10,000 students enrolled in law school, whereas ten years earlier there were less than 4,000 students. Lawrence explains that the increasing number of students, as well as the number of law schools, led to establishing “a standard for admission to the bar all over the country.” The standard admission to the bar undoubtedly led to law schools becoming more like each other, as it became every law school’s duty to prepare its students for the same standardized exam. Lawrence explains that “the volume of the law and the difficulty of mastering it have increased immensely” during the course of American jurisprudence history, and that in his present day a lawyer must be “formed by a different process” than the days when legal clerking was a sufficient means of study. Finally, Lawrence explains that a law school’s main goal should be to create “assistance of trained men to guide the novice in his course through a most intricate and difficult science.” Lawrence’s reference to law as a science illustrates the change that has seemingly occurred in the 1890s. While law had been spoken of as kindred with literature and the humanities in discourse only a few years earlier, Lawrence refers to it as a “science.” Moreover, Lawrence’s article is a very important piece of discourse because it articulates the sort

of evolution in ideas about law that was taking place. There was a change in what it meant to be a lawyer, which had a direct effect on what it meant to study the law. Once the methods of studying law changed, law, at least in Lawrence's example, began to appear as more of a science and less of a humanity.

A second article published by Ernest J. Huffcut in 1905 only furthers the idea that law and poetry were become increasingly separated during the turn of the century. I will argue that Huffcut's opinion of how closely law and literature were connected had evolved from his earlier article in. In an article from the October 1905 edition of *The Albany Law Journal* titled "The Elective System in Law Schools," Huffcut weighs in on the elective system. Huffcut, who was at the time a faculty member of the Cornell University School of Law, earlier made the connection between law and the humanities. In his article, which I have earlier mentioned, he describes law and the humanities specifically as "interwoven." And although he believes literature and law to be so closely bound, the elective system for law schools he proposes is restricted to classes directly pertinent to law practice. Huffcut believes that the elective system is based on "general culture and discipline," yet his idea for the law school elective system contains nothing "general." Rather, he believes law electives should include subjects such as "sales, negotiable paper, corporations, and wills," because of "their vital relation to everyday life." I find it interesting that Huffcut, the same man who said of poetry and law "no two branches are more closely united", would find no place for literature or the humanities in general in law school electives. To better understand the change in Huffcut's philosophy, we need look no further than the year in which each article was published. His article "Literature of the Law," in which he describes the interwoven connection of law to the humanities, was published in February of 1892. To counter, his article discussing what classes should be included in a law school elective

system is dated October 1905—thirteen years later. We have already established that Columbia’s curriculum changed in 1893, and many other prominent law schools also changed their curriculums during the thirteen year period between Huffcut’s articles. It is also important to remember that Huffcut’s is writing in the middle of the period from 1887 to 1897 where the number of law students increased 250 percent, an increase that the aforementioned Maxwell Lawrence referred to as “phenomenal.” Moreover, by distancing himself from literature and speaking strictly of law courses, Huffcut effectively becomes a symbol for the shifting of law education after the dramatic increase of legal studies.

All of the research up until this point, I believe, lends enough information to argue that the legal education evolution occurring from about 1887 to 1905 is directly connected to the disappearance of case poetry. It is also directly connected to the quelling of discourse outlining a relationship between poetry and law. The fact that there is over an 80 percent decrease in the amount of discourse relating law and poetry is interesting, but not overly surprising due to the new scientific outlook on law. Lawrence connects the scientific opinion of law directly to the increase of law schools and students, and I agree that development of a thoroughly structured system for obtaining a law degree lent itself to science rather than the humanities. Because the path to a law degree was unbending and given to one beforehand, it lost the sense of liberal arts that it once had. There was no freedom involved in getting a law degree due to the fact that so many people were attempting to get them. With a 250 percent increase in law students, schools were forced to be strict and unflinching with granting admission and degrees. A *New York Times* article from 1893 even reports that Harvard Law School’s admissions decreased from the 1892-93 academic year to the 1893-94 academic year<sup>9</sup>. This decrease is presumably due to the fact that

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<sup>9</sup> Harvard Steadily grows.: Rapid Development in Standard as Well as Numbers.” *New York Times*. 21 Dec 1893.

there was a large increase in the amount of applicants that Harvard was forced to significantly raise their standards, and in doing so ended up accepting less students than the year before. Simply put: the increased demand for legal education produced a mechanized path to obtaining a degree, one that was forced to be restrictive and could not lend itself to a more liberal, cultured education.

These changes within legal education ultimately led to an overall absence of humanities within the law. We need look no further than the evidence from *ProQuest* to regard this as fact. Once law education became more specialized and less “intertwined” with the humanities, the writers in scholarly law journals refrained from writing about poetry. This seems understandable due to the fact that most of the writers in the scholarly journals were professors of law, and if it was not even worthy of mention in law school then it certainly was not worth discussing in a scholarly journal, either. This connection to science rather than the humanities continue well through the twentieth century, with the George Washington School of Law even announcing in 1940 that they would offer a Doctorate of Juridical Science<sup>10</sup>.

Now that we have a better understanding of the changes in legal education, we can revisit the poetry of D.L Cady in order to better understand its disappearance. First, we must examine when he last appeared, 1893. Interestingly enough, this is the same year in which Columbia introduced a new style of instruction and Harvard reported a smaller amount of degree candidates after raising their standards. It is also, as we have discussed, the same year he was dismantled and discredited as a poet in a review. There is surely no coincidence that these major events for the relationship of poetry and law occurred in the same year. By now re-examining the review of Cady’s poetry in light of the changing in the perception of law, it seems no great

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<sup>10</sup> “G.W. Law School to Offer Doctorate of Juridical Science.” *The Washington Post*. 25 Feb. 1940.

surprise that Cady's poetry was lambasted. This was the same year when law education was restricted to only classes directly pertinent to the courtroom in colleges such as Cornell, and here Cady was trying to accommodate law and poetry together. While the legal system was concerned with turning toward a scientific approach to education, D.L Cady's poetry was still trying to mesh law with the humanities. I believe that once the review of Cady was published in *The American Law Review*, Cady refrained from publishing any more poetry due to the fact that the review criticized him enough to realize that people no longer wanted poetry and law together. I believe that after this Cady began to see the shift of legal philosophy, after the review law journals simply wanted nothing to do with his case poetry. From here, mention of law and poetry together continues a steady decline up to the stopping point I am using, which is the Huffcut article from 1905. After this article, mention of law and poetry together essentially ceases to exist.

As the turn of the century came closer, a generation of American poets who doubled as household names began to disappear. The Longfellows, Bryants, and Lowells were no longer, and a sort of "new poetry" was introduced to American literature. Joan Shelley Rubin writes in *Songs of Ourselves* that up and coming poets were "so called (and self-identified) 'new poets'" (36). Two poets Rubin mentions are Robert Frost and Edwin Arlington Robinson, both of whom I will provide examples of to juxtapose with Henry Wadsworth Longfellow. The "new poets," who also include men like William Butler Yeats, William Carlos Williams, and T.S. Eliot, were revered by some yet rebuked by many others, most notably the "old poets" who were still around. Case in point: Walt Whitman. In an 1890 essay in the *North American Review* titled "Old Poets.," Whitman remarked that new poetry was "largely a void" (610), and continued that

the entirety of imaginative literature's themes and results as we get them to-day seems to painfully narrow." (614). While it is important that an aging Whitman seems to be reminiscing on the "good old days" of poetry and does not seem to view the future of poetry optimistically, the language he uses is just as important. Not only does he use the term "imaginative literature" synonymously with poetry, but he also continues that if future poetry wishes to be successful, it must "run through entire humanity...twining all lands like a divine thread, stringing all beads, pebbles or gold, from God and the soul, and like God's dynamics and sunshine illustrating all and having reference to all" (614). Whitman articulates very clearly that his view of poetry is similar to the postulation of law made by Huffcut. While Whitman declares that successful poetry in the future must run through all of humanity, Huffcut believes that law is already on this level and touches "every conceivable human interest." Whitman also keeps with the initial definition of poetry which Stedman proposed, which I touched on earlier. Stedman defined poetry fully as "rhythmical, imaginative language, expressing the invention, taste, thought, passion, and insight, of the human soul" (44). Both Whitman and Stedman describe poetry as "imaginative," and both focus on the necessity that poetry is itself a tool to describe something abstract—whether it be Whitman's dynamics of God or Stedman's insight of the human soul. Whitman slights the practical in favor of the imaginative. He ignores the technical in favor of the abstract; the soul, a "divine thread", and God's dynamics. Stedman and Whitman speak to the literary icon's vision of poetry at the time. But, as I will show, the discourse about poetry changes during this time period. Both writers and critics of the time will begin to view poetry as less imaginative and more realistically and factually.

Phillip Barrish writes in his 2011 book *The Cambridge Introduction to American Literary Realism* that "realists sought meaning and value precisely within the elements of daily existence

as people were living in their own modern America” (12). He continues that because of this, “realist writers faced harsh censure from critics who complained that it was the task of art to create beauty and inspire people toward the ideal, not to reproduce what these critics saw as the flat, tedious, and often depressing vulgarities of commonplace American life” (12). The writings and reviews of William Dean Howells give credence to Barrish’s postulation. Howells, whom Barrish describes as a “successful novelist, powerful editor, and prolific reviewer and columnist, became the nation’s best-known explicator and defender of realism as a literary movement” (13), undoubtedly carried a great deal of power behind his critiques and reviews. At the time a literary critic and editor of the *Atlantic Monthly*, Howells spoke of the reasoning behind defenses of “old poets” in an 1899 *North American Review* article titled “The New Poetry.” Howells wrote that it was “always easy to show that what passes for poetry in any given time is not poetry, because it is not of the mood and temperament of the poetry of another given time” (581). In other words, Howells is describing the backlash against new poetry as nothing more than a generational gap; the adults could not understand the mood and temperament of the children, so to speak. The article is not a direct reply to Whitman, as it was written nine years later, but it does serve as a sort of reply to anyone criticizing the new poetry. Ashley Thorndike echoes Howells’s sentiments in his 1920 book *Literature in a Changing Age*, where he writes that “Though literature is manifestly the product of many individuals writing at different times and under varying conditions, it has nevertheless commonly been regarded as fixed in its purpose, its character, and its goal” (2). Thorndike would most likely align with the belief that new poetry is not a void, but the product of a different age of literature. In an evolving world the conditions and exigencies change, and Thorndike and Howells argue that literature is not a constant—it must evolve as the world evolves. By describing what constitutes poetry as changing from time

to time, Howells and Thorndike also identify that poetry is a mutable genre. Is it safe to say that law is an evolving, moldable entity as well? Many laws and foundational rules of society stay the same throughout the course of history, such as murder and theft. But there are also new laws and amendments to old laws that make the law a very evolving aspect of society. The Constitution alone has been amended by the United States government 27 times since it was ratified in 1788. I would argue that the majority of the law is evolving, and thus the law finds common standing ground with poetry in this category. But in terms of the evolutions of poetry and law around the turn of the century, there seems to be much more criticism regarding the poetic evolution than the law evolution.

Ralph Crum writes in his 1931 book *Scientific Thought in Poetry* that a study of poets in the latter half of the nineteenth century begs the question: “to what extent can a poet, in the face of the science of that time, rely upon reason and to what extent must he resort to mysticism?” (191). In other words, how could a poet restrain himself to Whitman’s “imaginative literature” in the wake of vast improvements to science and technology? Crum’s notion that poetry should, in some regard, rely upon reason would surely be devastating to Whitman, who referred to poetry as a divine thread. Ashley Thorndike continues in his book that “science as a whole cannot afford to lose interest in literature or the fine arts which record man’s untiring search for spirit as well as truth” (234-235). The Crum and Thorndike quotes are of particular interest because they reveal a change in thought and discourse similar to the aforementioned change that occurred with law. The vicious cycle goes from Whitman’s divine definition of poetry, to Howells saying that poetry should be defined specifically by the period in which it was produced, and finally to Thorndike saying that science should reference literature, and Crum saying that literature should reference science. Thorndike continues his analysis with the belief that “the poet and the inventor

have a good deal in common” (243), due to the process of creation that is involved in each. The “idea is found and then comes the slow process of bringing intractable words or metal to the service of the idea” (244), Thorndike writes: the drastic difference between the two is that “the mechanical creator has the surer goal and the more certain proof of his success” (244). Even Thorndike’s comparison of a poem to an invention shows a change in thought regarding poetry. While Whitman spoke more of imagination, Thorndike believes that a poem should have a firm idea behind it, and that the poem should service that idea. This would mean there would have to be a clear and direct *practical* purpose behind any poem. It also goes against the aforementioned idea that “poets are born, not made” and that poetry is an inherent quality bestowed upon a lucky few. Thorndike seems to view poetry as more of a means to an end, whereas before poetry was seen as an ultimate end. Thorndike’s likening of the inventor to the poet speaks to the change in discourse regarding poetry. As a professor of English at Columbia University, Thorndike’s voice in English studies was likely a notable one, and his discourse on the likening of poetry and science was likely reputable. The same can be said for Ralph Crum, a professor of English at the University of Wichita. With their discourse in mind, we can clearly see the change in poetry from one less of imaginative language and one seeking to be more practical.

Contemporary scholars also seem to unanimously agree that the end of the nineteenth century saw a change in poetry. For purposes of my thesis, the shift to romanticism to realism to modernism—a change that occurred roughly between the Civil War and World War I—is most helpful when considering the shifts in the genre of poetry. Paula Bennett writes in *Poets in the Public Sphere* that “One does not have to read far in the existing scholarship of nineteenth-century poetry to realize how profoundly influential the commitment of nineteenth-century anthologists to the genteel lyrics—the ‘rhythmical expression of emotion and ideality’—had

been” (20). Bennett’s point is important because, again, we come across emotion and idealism, two terms that go along with the naturality and divinity which our study is concerned. Daniel Burt specifically points out the change in his book *The Chronology of American Literature: America’s Literary Achievements from the Colonial Era to Modern Times*, where he writes that Romantic idealism in America “gave way to a realistic perspective on what America had become under the pressure of war and expansion as well as the acceleration of technological, economic, and social change” (219). Burt dates the beginning of the change to a realistic perspective as 1860, along the same lines of the time frame I am researching, which begins in 1868. And while Burt is speaking about literature in general, poetry is a part of the larger story of American literature and shares the same general patterns as American literature. Burt uses the time frame of 1860-1914 as the years where writing transformed into realism due to the fact that “No other period in American history brought more dynamic change or anxiety over what America was becoming” (219). While it is safe to say that not all literature from the Civil War to 1914 was Realism, the period marked a clear transition to a state where Romanticism was obsolete. After 1914 American literature underwent another transition, to what is now known as the Modern period. Burt argues that the new Modernist writing established “new concepts of American identity, concepts of justice and success” (336). Modernism focused on “the individual consciousness and the innovations necessary to reveal it” (336), and made the artist “a detached observer who produced art for art’s sake” (336). While Realism dealt with societal changes, Modernism dealt more with individual consciousness. Modernism also placed less emphasis on the artist than the two previous periods, as the artist could be completely detached. Lastly, Burt writes that Modernism, spurred by World War I, “purged Americans’ faith in progress and the perfectibility of man and replaced it with a cynicism preoccupied with dislocation,

fragmentation, and dehumanization” (335). Moreover, the discourse has laid out clear definitions for each type of poetry, and we can obviously see a change in the composition of poetry roughly from the Civil War to World War I.

As I have previously mentioned, Realism and Modernism directly contrasted the poetry of Romanticism, which focused more on feelings than reason. In order to better understand the difference, it would be helpful to look at examples of each and examine the evolution. For that we will start with the romanticism of Henry Wadsworth Longfellow and move into the new poetry of realism and modernism. I have chosen Longfellow because he is commonly regarded as a prime member of the American romanticism movement. Wisam Khalid Abdul Jabbar writes in *A Preface to Colonial American Poetry: A Study in the Poetry of the Age in Relation to American History and Literature* that Longfellow was “distinctly a part of the romantic movement” (9) and Tiffany K. Wayne echoes in the *Encyclopedia of Transcendentalism* that “Longfellow is acknowledged as the most important poet of American Romanticism” (169). Because of his popularity as a romantic, we will use him as a representation of the movement itself. Longfellow’s 1875 poem “The Tides” reads as follows:

“I saw the long line of the vacant shore,  
 The sea-weed and the shells upon the sand,  
 And the brown rocks left bare on every hand,  
 As if the ebbing tide would flow no more.  
 Then heard I, more distinctly than before,  
 The ocean breathe and its great breast expand,  
 And hurrying came on the defenceless land  
 The insurgent waters with tumultuous roar.

All thought and feeling and desire, I said,  
 Love, laughter, and the exultant joy of song  
 Have ebbed from me forever! Suddenly o'er me  
 They swept again from their deep ocean bed,  
 And in a tumult of delight, and strong  
 As youth, and beautiful as youth, upbore me.”

The poem is a stark contrast to the new poetry because it deals with “love, laughter, and the exultant joy of song” (10), three terms that all deal with pleasant, metaphysical feelings. The poem also includes the imaginative language Whitman spoke of; the speaker announces that he heard “the ocean breathe and its great breast expand” (6). The speaker also says that the ocean gives way to “thought and feeling and desire” (9), the very things that this more romantic type of poetry dealt with. Longfellow’s poem is an example of the emotive qualities that poetry mulled over. Channeling Bennett’s postulation, the poem explores both emotion and ideality. But in the years that followed, as we have examined, poetry made the shift away from emotion and ideality to topics more related to the new American society.

Next we will look at an example of American realism, and for that we will examine Edwin Arlington Robinson. Ben Ray Redman writes in his 1926 book *Edwin Arlington Robinson* that Robinson was “a poet who turned the ancient ballad to the purposes of psychological realism” (17). In other words, Robinson brought the poetic psyche down from the lofty ideals of the metaphysical world and replaced them with more realist, commonplace thoughts. The Oxford English Dictionary defines realism as “any view or system contrasted with idealism,” and Robinson is easily an embodiment of that definition. The first example is an 1897 poem from

Edwin Arlington Robinson titled "Richard Cory." Because the poem was published in 1897, it fits into the frame of realism. The poem reads as follows:

“Whenever Richard Cory went down town,  
We people on the pavement looked at him:  
He was a gentleman from sole to crown,  
Clean-favoured and imperially slim.

And he was always quietly arrayed,  
And he was always human when he talked;  
But still he fluttered pulses when he said,  
"Good Morning!" and he glittered when he walked.

And he was rich, yes, richer than a king,  
And admirably schooled in every grace:  
In fine -- we thought that he was everything  
To make us wish that we were in his place.

So on we worked and waited for the light,  
And went without the meat and cursed the bread,  
And Richard Cory, one calm summer night,  
Went home and put a bullet in his head.” (1-16)

The style is different from the “old poetry” because it presents itself in an unadorned, forthright manner. “Richard Cory” lacks Whitman’s imaginative language and makes no mention of a

divinity or ideal way of life. Jabbar writes that Robinson's "best poems are realist portraits of bleak and wasted lives in a New England village" (38), and the story of Richard Cory is a clear embodiment of Jabbar's ideal. Cory, a prominent man, commits suicide, meanwhile the people who work for Richard Cory "went without the meat and cursed the bread" (14), and live a meager existence. The workers have a bleak outlook and Cory is the wasted life, and the poem is melancholic and non-idealistic throughout. Whitman's ideas of natural accord and an interconnected humanity are gone. Instead, we are left with an overwhelming feeling of disconnectedness between classes and the more realistic, sobering issues of human values, depression, and poverty. Rather than focusing on "laughter, love, and exultant joy" Robinson focuses on topics much more somber. In dealing with a rich man juxtaposed with the working class, he brings up the economic changes in America and the anxiety heading toward the new century. By examining the life of an aristocrat and the economic situation of the working class, Robinson anxiously asks the audience if the importance of wealth and class heading into the new century is right path for the country. The economy and anxiety of a new century are two of what Burt argues were the main components of realism, so the poem is clearly realism as Burt would define it.

For the modernist example, we turn to Robert Frost. Frost published many poems during what Burt refers to as the modern period, and was a prominent figure in modernist poetry. Judith Oster writes in *Toward Robert Frost: the Reader and the Poet* that "Frost has helped to create modern reading, with its valuing of indeterminacy and open-endedness, with the broadening of its definitions of texts" (Xi). Oster notes that Frost's and other modernists' poetry lacks a determined ending, but that it is part of the mystic of modernist poetry. John H. Timmerman also finds Frost's place in modernism important, and writes in *the Ethics of Ambiguity* that Frost

“took Whitman’s ideals of a poetry for ‘the people’—an ideal Whitman seldom fulfilled—and made practical application of them” (34). Timmerman’s point is that Frost took something impractical and made it practical, a generalization echoed by what was happening in the field of law at the same time. But not just that, Frost, with his “open-endedness” gave the people poetry that was malleable enough for just about anyone. Thus, Frost’s poetry is very important to our study of the genre evolution over time. His 1923 poem “Acquainted with the Night” reads as follows:

“I have been one acquainted with the night.

I have walked out in rain -- and back in rain.

I have outwalked the furthest city light.

I have looked down the saddest city lane.

I have passed by the watchman on his beat

And dropped my eyes, unwilling to explain.

I have stood still and stopped the sound of feet

When far away an interrupted cry

Came over houses from another street,

But not to call me back or say good-bye;

And further still at an unearthly height,

O luminary clock against the sky

Proclaimed the time was neither wrong nor right.

I have been one acquainted with the night.”

Frost’s poem is also an example of poetic realism. Like Robinson’s poem, “Acquainted with the Night” is bleak in its outlook. The speaker says that he has been “acquainted with the night” (1), and has “walked out in rain” (2), “looked down the saddest city lane” (4), and “passed by the watchman on his beat” (5). Each of these images paints a grim picture; we can tell that the speaker is pained. This somber language encompasses the entire piece, and it is very clear that the poem is not a reflection of idealism. The poem, by not having a definitive conclusion, also gives credence to Oster’s idea of open-endedness. There is a certain ambiguity that leaves the reader with the opportunity to shape his or her own conclusion—the poem is not an end itself. Like Burt’s definition of Modernism, the poem’s cynicism is apparent in that the speaker does not seek to find a way to perfect himself. He offers no resolution to his depression; he only acknowledges that he is, in fact, depressed. The poem portrays his Modernist attitude toward the world.

The examples I have provided show that over time the poems that dealt with idealism—Longfellow’s love, laughter, and exultant joy—gave way to poems that dealt with poverty, depression, and class issues. Although it starts out depressing, his poem ends in an idealistic fashion, something that does not happen in either of the other two poems. Longfellow’s poem is also not a means to an end, it is an end itself. The poem presents the problem—whether or not the metaphorical tide would come back—and solves the problem. Meanwhile Robinson’s poem presents a copious amount of questions regarding class and society. But it does not answer the questions, there is no happy ending. Richard Cory commits suicide and the reader is left to think

about whether or not money guarantees happiness, or if the pressure of society and social status could depress even the most aristocratic of men. Finally the Frost poem deals with a man who is facing depression, but absolutely no solutions are given. The speaker states that he has depression and has been acquainted with the metaphorical night, but he does not offer up to society a way to conquer sadness. But the Frost and Robinson poems both spurn discussion regarding their topics, they leave the reader asking more questions regarding the roles of money, social status, and the loneliness that seems to plague Frost's narrator. Longfellow's poem, I will argue, does not beg as many questions because the speaker solves the problem within the confines of the poem. The reader does not have to do any problem solving outside of the text. Instead the poem asks the audience to think abstractly and imaginatively; of love and laughter, thought and feeling and desire.

It is clear through the poetry of D.L. Cady and the scholarly discourse at the turn of the century that the relationship between poetry and law became distanced. But it is also clear after the previous sections that, during their separation, poetry and law changed from within. Poetry became more reality-based, steeped in fact, away from the romantic terms of old. Law education, on a similar note, became more associated with business, and this is evident with Huffcut's 1905 proclamation that the only electives offered in law should be classes on "sales, negotiable paper, corporations, and wills". But why did both change into more *practical* fields? The answer to this question lies in an examination of education reform that was occurring in the United States at this time. I will argue that the change in university philosophies led to the changes in the ways poetry and law were taught. Schools moved from teaching mental discipline to focusing more on

technical, practical curricula. Not only did schools become increasingly capitalist, they also became a utility for the mechanical diffusion of diplomas into jobs, as the university became the tool by which to get a job, not the tool through which to get an education.

I begin by reexamining Huffcut's idea that sales, negotiable paper, corporations, and wills should be the only electives offered in law education. It is worth noting that all four of these electives are concerned with the transfer or accumulation of wealth. Huffcut seems to believe that earning a firm understanding of business practice should be on the curriculum of every law student. Certainly all of these electives involve a large sense of practical, technical subjects. But by believing electives should be restricted to almost solely business classes, Huffcut leaves no room for classes of abstract thought.

By arguing for more practical classes, Huffcut continues a trend that was very popular from the 1890s to the early 1900s. Up until this time in America the philosophy behind the university had been to encourage what scholar Laurence Veysey referred to as "mental discipline." Veysey writes in his 1965 book *The Emergence of the American University* that "in considering the aims of higher education, the believers in mental discipline began with an idea of the human soul. The soul was not composed of material substance, nor was it merely a part of one's mind" (22). He continues on that "the soul constituted the 'vital force' which in turn activated the mind and body. Science could neither measure the soul nor discover its properties inductively" (22). If the university taught through mental discipline it also meant the entire basis for education depended on the human soul. If the soul activated the mind, then intellect and knowledge were maintained through the soul. Thus belief in the mental discipline mode of education required an alignment of personal philosophies, and Veysey is right to say that belief in mental discipline was "part of an interlocking set of psychological, theological, and moral

convictions.” (22). For an example of mental discipline, we can turn to James McCosh, President of Princeton from 1868-1888. McCosh made his educational philosophy very clear in his inaugural address:

“I do hold it to be the highest end of a University to *educate*; that is, draw out and improve the faculties which God has given. Our Creator, no doubt, means all things in our world to be perfect in the end; but he has not made them perfect; he has left room for growth and progress; and it is a task laid on his intelligent creatures to be fellow-workers with him in finishing that work which he has left incomplete.” (22 as cited in Veysey).

McCosh makes his definition of education simple—improve the faculties which God has given. He views an education not only as God’s work but as a duty to make the world “perfect in the end” and to allow for individual and worldly “growth and progress”. Thus, McCosh aligns with Veysey’s psychological, theological, and moral requirements for mental discipline.

The morality of an instructor also played a large part in his evaluation at a university of moral discipline. Veysey writes “College presidents of this period rated instructors largely on their moral character—which, in turn, was seen to depend closely upon religious belief” (45). This is not to say that scholarship played no part in an instructor’s rating, but “it did not form primary consideration” (45). But the roles of morality and religious belief are hardly unexpected when we consider that enrichment of the soul was the foremost goal of education. When compared to theology and morality, earthly knowledge might seem a bit diminutive. Earthly knowledge does not derive from theology or even morality; it comes from rationale, reason, and science.

The mental discipline school of thought would have been prevalent in both poetry and law because of the Stedman-like view that poetry provided insight to the human soul and the Teichmueller-like view that law emanated from the same divine idea that governed the universe. Stedman believed that poetry and the soul were interconnected, while mental discipline believed that education and the soul were also interconnected. Thus, it is fair to say that poetry would have had a definite place in education. But if you were to take away the importance of the soul in education, poetry too would have lost its practical place. So it makes sense that poetry would have changed to something much more realistic than before to accommodate for the education evolution that is starting to take place at the time of Stedman's writing. Similarly, Teichmueller's beliefs about the law give law education a place in mental discipline. His opinion that law emanates from the divine and governs the universe specifically groups law with both divinity and morality, two of the main principles of mental discipline. Therefore it is clear why law education would be important in the field of mental discipline. It is also clear why law education would have to change once mental discipline dissipated. If you detach divinity and its universal morality from education, law education loses much of its importance. Therefore law education, like poetry, would have to accommodate the changing education system. It would have to change its primary focus from divine ideas of morality to practical, reasoned law. Burton Bledstein's *The Culture of Professionalism* echoes the idea that an emphasis on professionalism was growing. Bledstein writes that "In the 1870s and 1880s, examples of professional trends were already numerous" (81), and professional trends continued to grow into the twentieth century, with theology "[growing] the most slowly" (84). Theology, with its concentration on divinity and the study of religions, is an obvious example of mental discipline because it is based on metaphysics—faith and theory. Bledstein writes "in ratio to the population, all professional fields

were growing” (84). To counter theology, I will argue that these professional fields grew because they were based upon a more technical education that they deemed more relative to everyday life. Bledstein also describes the change in the *culture* of America as it related to education and professionalism. One example he provides is the establishment of ten different medical societies—such as the American Ophthalmological Society and the American Neurological Association—between the years 1864 and 1888 (85). The establishment of these societies show that the increase in professional degrees, such as medical degrees, had an effect even on the culture of the country, as professionals strove to network and connect with each other outside of work. This professional influence on society undoubtedly led to a greater respect for professional schooling over an abstract, liberal education, and it can be seen as a factor for the lack of emphasis that education would place on poetry, a field that was not professional but was instead steeped in mental discipline.

Now that we have examined the idea of mental discipline education and where poetry and law fit into such a system, we can begin to examine the evolution and how each field would fit into the new system. T.J Backus writes in his 1884 essay “The Philosophy of the College Curriculum” that college “is a system of mental gymnastics, essentially nothing else” (as sighted in Veysey 46). Backus’ opinion of a lack of direction in the college curriculum was echoed by many, and in 1908 then-President of Stanford David Starr Jordan remarked in his book *The Voice of the Scholar* that the entire university movement was “toward reality and practicality” (46). Jordan’s quote is of specific interest because he speaks of heading in a direction of *practicality*, a word that has permeated through much of the discourse in this essay. A need for practicality seems to be the reason behind the changing of education, poetry and the law—and I will argue that the evolution of the former led to the evolution of the two latter. Veysey continues

that the men looking to reform the education system “looked approvingly upon ‘the world of action or reality’” (62), rather than the mental discipline idea of educating the human soul. But why was there such a sudden usurpation of the soul by practicality and reality? Surely the men who were the driving forces behind the educational evolution did not just wake up one morning with a desire to change the basis of the college curriculum? I will argue that they were influenced both by industrialism and capitalism, as well as the growing number of students who were beginning to attend colleges. The curriculum was forced to adapt to the needs of the American society.

Christopher Newfield writes in his book *Ivy and Industry: Business and the Making of the American University, 1880-1980* that “In the late nineteenth century, American capitalism underwent what we could call its first corporate revolution. This revolution created the modern form of business enterprise, in which relatively small firms were replaced with large, intensively managed corporations” (16). Newfield continues, using capitalism and industrialism interchangeably, that “The research university was a central component of this rising industrial system. It was a vital subcontractor, providing technical and organizational knowledge for the new business organizations” (16). And while Newfield declares that the university “harbored free thinkers and a few dissidents” (17), he also acknowledges that more important to the corporations of the United States was that the university “created managers, people who had the independence to manage others and the malleability to be managed themselves” (16). In other words, the university became first and foremost the vehicle in which to land a corporate job. The development of the corporation had led to a high demand for corporate jobs and it was the utility of the university to provide said jobs. And while the “subcontracting” and technical, business knowledge was undoubtedly great for the American economy, there were still those who

opposed the system. John Jay Chapman was a fierce critic of the new curriculum implemented by his alma mater, Harvard. Chapman wrote in 1909:

“The men who stand for education and scholarship have the ideals of business men. They are, in truth, business men. The men who control Harvard to-day are very little else than business men, running a large department store which dispenses education to the million. Their endeavor is to make the *largest* establishment of the kind in America.” (As cited in Newfield 15).

Chapman equates the university to a large department store, a capitalist entity, effectively positing that it is the goal of the university to make as much capital as possible. He writes that it is the university’s goal to make itself the largest establishment of its kind in America. Is that not true of corporations, too? A primary goal of any corporation is to constantly grow, never lose capital, and always grow clientele. The university certainly keeps with this pattern, and becomes emblematic of a major corporation.

Veysey’s study adds to Chapman’s idea that Harvard had essentially become a university. Veysey finds that “the 1890’s saw a flurry of articles by college presidents and professors seeking to recruit business-minded students on their own terms” (348). Going in the complete opposite direction of McCosh’s ideas of 1868, the articles bore “such titles as ‘The Practical Value of a College Education,’ ‘Does College Education Pay?’ and ‘College Men First Among Successful Citizens’” (348). The titles of the articles alone indicate, much earlier than Chapman’s declaration, that colleges were slowly becoming corporations. And what is a successful corporation without a successful marketing department? These essay titles are emblematic of the marketing that began to go into universities as they, akin to corporations,

strove to consistently grow. With the first essay we are again acquainted with the word *practical* and the clear importance of practicality in a college education. “Practical value,” we can assume because of the verbiage, most likely deals with value in a monetary sense, rather than value in a sense of intellect or liberal thought. The second, “Does College Education Pay?” conveys the same general idea as the first. And the third, “College Men First Among Successful Citizens,” uses “success” instead of “value” or “pay,” but the theme is the same. The “success” the article is talking about is certainly success in the monetary sense of the word. With practicality and capital at the heart of the university, it seems that the economy and capitalism had a truly profound effect on the education system. Clearly the university as it was known in the 1890s became a marketing machine.

Along with the capitalist influence, there was also the factor of post-bellum land grants. These grants, created by the Morrill Land-Grant Acts, funded a system of industrial colleges nationwide. The Morrill Acts allocated land based upon the number of senators and representatives each state had, and was proposed with the legislation that the institutions would teach engineering, agriculture, and military tactics especially. The first land-grant act, signed into law by President Lincoln in 1862, stated the purpose of the land-grant colleges as:

“without excluding other scientific and classical studies and including military tactic, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life.”<sup>11</sup>

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<sup>11</sup> Title 7, US Code. <http://www.law.cornell.edu/uscode/text/7/304>

Interestingly enough, even as early as 1862, there was a distinction in the legislation between a liberal education and a practical education. Although we can imagine that the legislators did not foresee the growing of the education system away from the liberal arts model. But for the purposes of our analysis, the legislation does not appear partisan to either liberal or practical education. By understanding where the first Morrill Act fits on our research timeline, we are able to easily understand why, as R. E. Whitmoyer writes in his essay “A Brief History of OARDC,”<sup>12</sup> “many land grant universities had moved to liberal arts institutions and away from the agricultural and mechanical arts.” To keep the balance of liberal and practical education, Congress passed The Hatch Act of 1877, which gave federal funds to land-grant colleges to further develop their agricultural programs. The government funded agriculture programs surely increased the emphasis on agriculture, thus taking attention away from the liberal arts

Besides the drive toward agriculture, there was also a cultural barrier that helped to dismantle the role of the liberal arts. Elizabeth Renker also writes in *The Origins of American Literature Studies* that, in the postbellum land-grant era, liberal arts were viewed as “conspicuously wasteful” (98) in the amount of time they required. Renker also argues that society began to view liberal arts as “a mark of social distinction for the upper class” (98) and that it made sense for the newly instituted land-grant colleges to establish a revolt of sorts against the liberal arts. The newly established institutions afforded an education to many first-generation college students—students who had no familiarity with the social distinction of the upper class. The model of the college student in the United States changed because college itself was no longer a mark of social distinction; college was more readily available. Since college was no longer necessarily a mark of social distinction, the college itself could not be modeled around

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<sup>12</sup> Whitmoyer’s essay is digital, <http://www.oardc.ohio-state.edu/secondary2/History.htm>

social distinction, so the elite sense of the liberal arts dissipated with the old social distinction model of the university. Society's new opinion that the liberal arts were "conspicuously wasteful" directly led to the change in educational style, which was then a contributing factor to the separation between poetry and law.

Until approximately 1905, American Society viewed poetry and law as connected through their metaphysicality and naturality. Around this time, society disconnected poetry and law as education moved toward the "practical and technical." Society distanced law from poetry because poetry was not a practical way of helping a future lawyer in his capitalist pursuits. And while poetry evolved from Romanticism to Realism and finally to Modernism, poetry also distanced itself from the idealistic thoughts and emotions that were once its hallmark. To conclude, I believe both the scholarly discourse and firsthand evidence I have presented lends itself to the idea that poetry and law were once connected through the way society viewed each. D.L. Cady's poems—the very few case poems available today—are living proof that poetry and law were inextricably connected. Meanwhile, the scathing review of Cady shows the slowly evolving opinions concerning law, and how law was moving in a direction based on, as Huffcut called it, the law's "vital relation to everyday life." Huffcut's polar opposite opinions regarding the importance of literature to law are also completely representative of the changes in education, but more importantly he is representative of the relationship between poetry and law during this time period. Moreover, my goal is not to attempt to reconcile the fields of poetry and law, but to show that poetry and law historically maintained a kinship that disappeared around 1905 due to changes in the role of the university and the educational system—changes that eliminated a practical reason for poetry to be associated with law.

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<sup>i</sup> For this research project, I have gathered both primary and secondary sources from online research databases. Those that I have not cited as print sources have either been obtained through trusted websites such as The Poetry Foundation, eBooks, or databases accessed through The Ohio State University libraries. The two databases I have cited are *HeinOnline*, a database of online legal journals, and *ProQuest. American Periodicals*, which is prevalent throughout the Works Cited, is a branch of the *ProQuest* database system.