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PRACTICING POETRY, TEACHING LAW

David A. Skeel, Jr. *

BEFORE OUR EYES. By *Lawrence Joseph*. New York: Farrar, Straus and Giroux. 1993. Pp. 72. \$18.

INTRODUCTION

In his 1936 essay, *The Irrational Element in Poetry*, Wallace Stevens suggested that since the beginning of the first World War the "pressure of the contemporaneous" had become "constant and extreme."¹ No longer could poets ignore the contemporaneous, the urgent social, political, and economic crises of the time; poetry must address and respond to these pressing issues. The poet's task, Stevens insisted, is to take the contemporaneous as her subject. But only as her *nominal* subject. Her *primary* subject must always be the "poetry" of the contemporaneous.²

Far more than most of his peers, Lawrence Joseph³ has created a poetry of the contemporaneous. With *Before Our Eyes*, his third and most powerful book of poems, Joseph continues to take as his themes the pervasive, destructive realities of our time. Again and again he returns to Detroit, the city of his childhood, a city that evokes images of industrialization and its decline, of racial tensions and urban blight. Lebanon serves as a second, recurring motif in the poems, often associated with religious violence and, as Joseph himself is the grandson of Lebanese and Syrian immigrants,⁴ with questions of racial identity, family history, and memory itself. Images of New York form still another insistent motif: New York as the legal and financial capital of the nation, New York as a city of the alien and dispossessed.

While the discussion that follows will allude to each of these characteristic themes, the motif with which I will be most concerned in

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1. WALLACE STEVENS, *The Irrational Element in Poetry*, in *OPUS POSTHUMOUS* 224, 229 (Milton J. Bates ed., 1989).

2. *Id.* at 230.

3. Professor of Law, St. John's University.

4. Richard Tillinghast, Interview with Lawrence Joseph (Sept. 1988) (unpublished interview, transcript on file with author). Much of the biographical information that follows can be found in this interview, on the dust jackets of Joseph's books of poetry, and in his biographical entry in the American Association of Law Teachers Directory. ASSOCIATION OF AM. LAW SCHOOLS, THE AALS DIRECTORY OF LAW TEACHERS 1992-93, at 511 (1992).

this review is law and legal discourse. Focusing on the ways in which law informs the poems — both directly and, more interestingly, indirectly — yields important insights into Joseph's poems and the relationship between law and poetry generally.

My choice of motifs, and of Joseph's poems as an occasion to talk about law and poetry, is not accidental. Unique among contemporary poets, Joseph is a lawyer and a law professor.⁵ This in itself suggests that his poems may provide an excellent vehicle for assessing some of the intuitions offered in recent years by law and literature and by movements such as legal storytelling that have, at least in part, developed from or in reaction to law and literature.⁶ But Joseph's connection to this discourse goes even further. To an extent that is striking and at times uncanny, his development as a poet and a lawyer precisely tracks the emergence and growth of law and literature.

While its antecedents go back at least to the legal realists, the law-and-literature movement is usually traced to the work of James Boyd White and others in the early 1970s.⁷ Joseph had completed his undergraduate work at the University of Michigan and returned to the university to attend law school at this time.⁸ During this period, he also began to write many of the poems that later comprised his first book, *Shouting at No One*,⁹ a passionate and often lyrical discourse whose nominal subject is the urban realities of Detroit.

In the early 1980s, after five years clerking and teaching in Detroit, Joseph left Detroit for New York, where he practiced in the litigation department of a major New York law firm for several years before

5. While Joseph is not the first American poet to combine poetry with a career in the law, the combination has been as uncommon historically as it is today. Joseph's most famous predecessor is Wallace Stevens, who worked as a surety lawyer at the Hartford for more than 30 years. For a fascinating discussion of the relationship between law and poetry in Stevens's poetry, and an argument that Stevens's poetry parallels legal pragmatism in important respects, see THOMAS C. GREY, *THE WALLACE STEVENS CASE: LAW AND THE PRACTICE OF POETRY* (1991). Among the few other relatively well-known American poets who made a living in the law were Edgar Lee Masters and, more recently, Charles Resnikoff.

6. The relationship among these developments often is indirect at most. Legal storytelling, for instance, bears a more obvious kinship with critical race and gender theory and arguably relates to law and literature primarily as an implicit criticism of certain aspects of law and literature. Moreover, legal storytelling is sufficiently diffuse that it is not entirely clear whether it should be seen as a movement at all. See generally Jane B. Baron, *The Many Promises of Storytelling in Law*, 23 *RUTGERS L.J.* 79 (1991) (reviewing *NARRATIVE AND THE LEGAL DISCOURSE: A READER IN STORYTELLING AND THE LAW* (David R. Papke ed., 1991)).

7. See JAMES B. WHITE, *THE LEGAL IMAGINATION* (1973). Another important work from this period is WILLIAM R. BISHIN & CHRISTOPHER D. STONE, *LAW, LANGUAGE, AND ETHICS* (1972).

8. White has, of course, also long been associated with Michigan. He did not arrive at Michigan until shortly after Joseph graduated, but he subsequently became an important mentor for Joseph. See Tillinghast, *supra* note 4, at 13 (identifying White, Lee Bollinger, and Joseph Vining as significant influences, and noting that all three "have explored in their critical writings — with vigor, sophistication and passionate intelligence — different dimensions of legal language, discourse and rhetoric").

9. LAWRENCE JOSEPH, *SHOUTING AT NO ONE* (1983).

accepting a teaching appointment at Hofstra Law School and subsequently moving to St. John's University School of Law. Most or all of the poems of Joseph's second book, *Curriculum Vitae*,¹⁰ were written during these years. Much more than in the first book, law becomes an important, often explicit, motif in *Curriculum Vitae*.¹¹

The poems of each of Joseph's first two books bear witness to many of the intuitions that have emerged from law and literature, legal storytelling, and other developments in legal academia in recent years. From the earliest poems, his work has explored the marginalizing effects of law and other social institutions, a concern that has come to dominate debate in law and literature and other areas.

Joseph's approach to these issues has never been simply that of a reporter, however, or even that of an advocate. The poems of *Curriculum Vitae*, and still more those of *Before Our Eyes*, reflect an increasingly complex aesthetic. Joseph continues to take the contemporaneous as his subject. Yet, as the highly refracted quality of the poems and their constant attention to the status of language as language suggest, Joseph is obsessed with what Stevens called "the poetry of the subject."¹² It is in this tension between the subject and the poetry of the subject that the poems of *Before Our Eyes* achieve their intensity and their power.

The review that follows consists of three Parts. In Part I, I briefly discuss some of the similarities between law and poetry. I focus in particular on the increasing attention both poets and legal theorists have given to the situated, contingent nature of language. As has been frequently pointed out, however, the law has direct, instrumental consequences that distinguish it from poetry and other literature in important respects. In Part II, I use the analysis of the first Part to inform my discussion of the poems in *Before Our Eyes*. I argue in this Part that Joseph's experience as a lawyer has had an important influence on his poetry. In addition to including several poems that deal explicitly with the law and legal discourse, the book as a whole shows an awareness of the coercive effects of legal, social, and economic relations that is unusual in modernist poetry.

Throughout my discussion of the poems, I emphasize Joseph's perception of himself as a modernist poet. Unlike many postmodern theorists, who have rejected the possibility of knowledge or a coherent concept of self, Joseph refuses to abandon the quest for both. His treatment of these issues has intriguing implications for recent debate

10. LAWRENCE JOSEPH, *CURRICULUM VITAE* (1988).

11. See, e.g., "Curriculum Vitae," in JOSEPH, *supra* note 10, at 8 ("After I applied Substance and Procedure / and Statements of Facts / my head was heavy . . ."); "An Awful Lot was Happening," in JOSEPH, *supra* note 10, at 40 ("Uniform Commercial Code on the table."); "Any and All," in JOSEPH, *supra* note 10, at 51 (You "decide for [a senior partner] whether his clauses should be restrictive, / whether to replace every 'any' with 'all.'").

12. STEVENS, *supra* note 1, at 227.

about legal storytelling. I briefly consider these implications at the end of the Part.¹³

Finally, I turn in Part III to a puzzle raised by the exploration of law in Joseph's poems: Why do so few other poets address legal issues and discourse in their poems, despite the modernist credo that poetry must deal with pressing contemporary realities? I reject the view that the law is somehow unpoetic, arguing instead that legal language is surprisingly rich, even musical, and that certain legal concepts are inherently poetic. I suggest that, in addition to the practical barriers to both practicing law and writing poetry, the dearth of poetry about law reflects a tendency even among critical theorists to distinguish between one's "real" self and those aspects of life that, like the practice of law, are seen as inconsistent with or irrelevant to the self.

I. LAW, POETRY, AND THE LIMITATIONS OF LANGUAGE

A

The history of law and literature and of developments that have furthered or responded to it can be seen as an increasingly ambitious assimilation of literary theory and practice into legal discourse. In the infancy of law and literature, its advocates insisted that literary sources could be used to further legal analysis;¹⁴ these and other commentators subsequently made the simple yet profound observation that because law, like literature, is unavoidably linguistic in nature, literary insights into the situated, contingent, often ambiguous character of language were as applicable to legal texts as to literary ones.¹⁵ Recent law-and-literature commentary, much of it critical of the preoccupations of earlier law-and-literature analysis, has focused increasingly on the tendency of legal discourse to exclude the voices of outsiders.¹⁶ While its relationship with law and literature is a somewhat oblique one, legal storytelling adds yet another page to the merging of literature and law. Legal storytellers not only draw upon literary insights, but they also employ literary techniques.¹⁷

By itself, such an account might suggest that literary theorists have always appreciated the nature and limitations of language, and that

13. See *infra* notes 55-56 and accompanying text.

14. See generally BISHIN & STONE, *supra* note 7; WHITE, *supra* note 7.

15. See *infra* note 25.

16. Robin West, for instance, has used analyses of various novels in arguing for a more inclusive view of community in the law. See, e.g., Robin L. West, *Communities, Texts, and Law: Reflections on the Law and Literature Movement*, 1 YALE J.L. & HUMAN. 129 (1988); Robin L. West, *Adjudication Is Not Interpretation: Some Reservations About the Law-as-Literature Movement*, 54 TENN. L. REV. 203 (1987) [hereinafter West, *Adjudication Is Not Interpretation*].

17. The two commentators most prominently associated with this strategy are Derrick Bell and Patricia Williams. See DERRICK BELL, *AND WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE* (1987); PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* (1991).

lawyers and legal theorists have finally begun to catch up. In many respects, this perception is accurate; yet, as the brief sketch I give below of lawyers' and poets' changing perspectives on language will suggest, lawyers' apparent tardiness also highlights important distinctions between law and poetry.¹⁸

In the nineteenth century, both lawyers and poets viewed language as objective and transparent — primarily a vessel the writer used to transmit her message.¹⁹ Legal and poetic discourse differed in important respects, however. Whereas nineteenth-century poetry was explicitly subjective, legal writers remained outside of their text altogether. Legal discourse, unlike poetry, was supposed to be entirely detached and objective.²⁰

In poetry, the advent of modernism in the early twentieth century completely altered the way poets viewed poetry and poetic language. As modernism challenged the validity of received traditions, literature, and religion, modernist poets began to question the relationship between subjective — that is, personal, aesthetic, or otherwise associated with an identifiable “self” — and objective “reality.”²¹ No longer could one see the poet as standing outside a poem and acting upon its language. Rather, as Joseph has recently pointed out, the subjective realm of the poet was displaced into the poem itself, so that the poet was, and is, every bit as much a part of the language of the poem as is the objective realm she describes.²²

In law, legal realism attacked traditional legal theory in very similar terms. Unlike modernism in poetry, however, legal realism only partially destabilized the relationship between subject and object. Although rejecting the view that traditional legal categories correspond to “objective reality” in some metaphysical way, the legal real-

18. Much of the analysis that follows is indebted to two articles that use literary theory to examine legal thought, one a recent article by Joseph and the other by Gary Peller. See Lawrence Joseph, *Theories of Poetry, Theories of Law*, 46 VAND. L. REV. 1227 (1993); Gary Peller, *The Metaphysics of American Law*, 73 CAL. L. REV. 1151 (1985). Not surprisingly, Joseph's insights on the relationship between law and poetry provide an especially useful perspective on the issues he explores in his poetry.

19. This arguably was somewhat less true of poets than of lawyers, given the emphasis placed by romantic poets on moving beyond a limited view of the self. For an extended discussion of the law's traditional claim to objectivity, see MORTON J. HORWITZ, *THE TRANSFORMATION OF AMERICAN LAW, 1870-1960: THE CRISIS OF LEGAL ORTHODOXY* (1992).

20. Joseph, *supra* note 18, at 1234.

21. *Id.* at 1229-34. The precise parameters of poetic modernism have been the subject of unending debate. For the purposes of this review, I focus on two particular strands. The first concerns aesthetic issues such as modernists' fragmentation of the poetic line and their interest in the poet's relationship to the poem, as discussed in the text below. The second concerns modernist views about the appropriate subject matter for poetry. See *infra* note 44 and accompanying text. As will become clear in the analysis that follows, my characterization of poetic modernism differs in some respects from the narrower definitions modernism often is given in the legal literature. See, e.g., Anthony V. Alfieri, *Stances*, 77 CORNELL L. REV. 1233, 1234 (1992).

22. Joseph, *supra* note 18, at 1230.

ists merely replaced one view of "objective reality" with another.²³ For legal realists, objective reality consisted not of the law's doctrinal categories but of the law as it functioned in society.²⁴

Not until very recently have legal theorists begun to question the relationship between subject and object in a more radical fashion.²⁵ The increasing skepticism of the law's traditional pretensions to objectivity is reflected, most recently and most visibly, in the explosion of legal analysis that itself evidences an explicit acknowledgment of its own subjectivity. Many critical race and feminist scholars, in particular, have eschewed the detached, impersonal style of traditional legal scholarship in order to explore more fully the limits of objectivity and implications of subjectivity for a critical analysis of legal issues. The most dramatic illustration of this trend is the new "legal storytelling" literature, whose proponents employ literary forms such as poetry and fictional narrative in their work, sometimes omitting altogether the kind of overt legal analysis that is usually associated with the law review format.²⁶

B

As the discussion above indicates, lawyers' awareness of the instability of language, and the inevitable subjectivity of law, has come decades after modernist poets first began to wrestle with closely analogous issues. In many areas of the law, the message still does not seem to have been heard. Judicial writing in particular is in many respects nearly as detached and impersonal in form, as confident of its "objectivity," as it ever was.²⁷

It is this relative tardiness of legal theory to appreciate the subjectivity of legal discourse, as well as other aspects of the status of legal language as language, that suggests legal theory is just now catching up to poetry. Though legal theory *has* in a sense lagged behind poetry,

23. See, e.g., Peller, *supra* note 18, at 1219-59. Peller treats this issue at length in his account of the radically "deconstructive" and "constructive" impulses in legal realism and how the constructive impulse eventually won out.

24. The most obvious effect of legal realism was to flip the emphasis in the subject-object dichotomy. Whereas nineteenth-century legal theorists privileged the role of the subject, which they saw as prior to and independent of the objective world, the legal realists shifted their focus to the object — to the role of law in society. *Id.* at 1257-58.

25. Two symposia in the 1980s are usually seen as watershed events in legal theorists' increasing recognition of the contingent, historically situated nature of legal discourse. Symposium, *Law and Literature*, 60 TEXAS L. REV. 373 (1982); *Interpretation Symposium*, 58 S. CAL. L. REV. 1 (1985).

26. See *supra* note 17.

27. In his essay, *Theories of Poetry, Theories of Law*, Joseph talks at length about the Supreme Court's decision in *Planned Parenthood v. Casey*, 112 S. Ct. 2791 (1992), which he sees as evidence of a transition to greater recognition of subjectivity in judicial decisionmaking. Joseph, *supra* note 18, at 1241-54. As the discussion below will show, see *infra* text accompanying notes 28-32, I have more doubts than Joseph does concerning the current status of such a transition.

the law's reluctance to acknowledge its inevitable subjectivity also reflects important differences between legal and literary discourse. As Robert Cover was perhaps first to emphasize, although judicial decisionmaking is an act of interpretation and is therefore somewhat similar to interpreting a poem or other text, judicial interpretation has uniquely immediate, direct, and coercive effects.²⁸

When a judge construes legal doctrine, she interprets not for herself but on behalf of the larger institutional structure that will carry out the exercise of power entailed in a judicial ruling. The law separates a judge from the instrumental effects of her decision in various ways, such as providing for appellate review and assigning enforcement responsibilities to other officials.²⁹ One can understand judges' use of objective language as another example of this separation. By writing in the third person, or at most in the first person plural, a judge further reinforces that her interpretation is mediated by the judicial institution as a whole.³⁰

As a descriptive matter, the judges' desire to locate themselves within a particular institutional structure helps to explain the uneven assimilation of poetic concerns into legal discourse.³¹ The legal theorists who have begun to demonstrate an increasingly acute awareness of subjectivity, and of the unstable relationship between subject and object, are significantly less constrained in this than judges because their interpretative project does not have immediate instrumental consequences.³² By contrast, even a judge who fully appreciates the limitations of language will be hesitant to acknowledge the subjectivity and contingency of her analysis in a judicial opinion.

An obvious problem with judges' continued use of detached, ostensibly objective language is that it reinforces the traditional portrayal of judges as neutral, aloof, and superior to the litigants that come before them. Some of the artifacts of this view of judging seem amenable to reform as we increasingly recognize the limits of judicial objectivity and the destructive consequences it has for litigants.³³ Yet, given the

28. Robert M. Cover, *Violence and the Word*, 95 YALE L.J. 1601, 1601 (1986).

29. See *id.* at 1625-27.

30. This effect is particularly striking when an individual trial or bankruptcy judge adopts the first person plural in her decisions, as if to make clear that she speaks for the adjudicatory process rather than on her own behalf. See, e.g., *In re Nicolet, Inc.*, 80 B.R. 733 (Bankr. E.D. Pa. 1987).

31. I do not mean to suggest that judges alone operate within an institutional structure. Rather, my focus is on the particular characteristics of the judicial system as an institution.

32. This is not to say that the choice of a "subjective" approach lacks consequences. Despite the popularity of storytelling and other expressions of subjectivity in the legal academy and among law review editors, many legal scholars are deeply suspicious of the trend toward increased subjectivity. As a result, in deciding to eschew traditional, "rigorous" legal analysis altogether in her work, a storyteller may, as a practical matter, be taking significant risks with her tenure prospects.

33. See Judith Resnik, *On the Bias: Feminist Reconsiderations of the Aspirations for Our*

inevitably coercive effects of judicial decisionmaking, it is unlikely that judges will soon explore issues of subjectivity and objectivity in the same way that poets and an increasing number of legal theorists do.

The instrumental effects of legal decisionmaking may also provide a partial explanation of legal theorists' tardiness in recognizing linguistic issues, such as the problematic assumptions underlying the distinction between subject and object. Because legal commentary traditionally has focused on the activity of judges, lawyers have in a sense been indirectly constrained by the same institutional structure that influences judicial discourse. One can easily imagine other,³⁴ and less benign,³⁵ explanations for the nature of legal analysis. The important point for present purposes, however, is that lawyers participate in, and as a result will frequently have an awareness of, the instrumental effects of the law — of societal power — that both consciously and unconsciously distinguishes their discourse from that of poetry and other disciplines. As we shall see,³⁶ this lawyerly sensibility contributes in important respects to the preoccupations that give the poems of *Before Our Eyes* their remarkable intensity and distinctive feel.

II. THE POEMS OF *BEFORE OUR EYES*

A

Critics have always seen Lawrence Joseph as a distinctively public poet — a poet who confronts the most pressing social, political, and economic issues of our time in his poetry.³⁷ His poems offer vivid accounts of race and class tensions and the harsh urban landscape of Detroit, and of the striking contrasts between high finance and homelessness in New York. Yet these images rarely are the primary subjects of the poems; as in much modernist poetry,³⁸ the more immediate concern is language itself and the process of making a poem. Only in

Judges, 61 S. CAL. L. REV. 1877, 1933-40 (1988) (arguing for reform of various practices based on a feminist critique).

34. For instance, lawyers traditionally have viewed the law as a species of philosophy. Thus, the same desire for rigor and objectivity that has caused analytic philosophers to adopt a detached, impersonal style may have encouraged similar stylistic choices in legal analysis. See, e.g., MARTHA C. NUSSBAUM, *Introduction: Form and Content, Philosophy and Literature*, in LOVE'S KNOWLEDGE: ESSAYS ON PHILOSOPHY AND LITERATURE 3 (1990).

35. Critical race and gender scholars have shown that traditional legal analysis has tended to exclude outsiders and to make it more difficult for them to be heard.

36. See *infra* section II.B.

37. Richard Tillinghast, *Five Poets of Our Time*, 23 MICH. Q. REV. 596, 602-03 (1984) (reviewing several books including JOSEPH, *SHOUTING AT NO ONE*, *supra* note 9, which he describes as a work of "witness"); Lee Upton, *As Memory Serves Them: Joseph and Revell*, NORTHWEST REV., July 1989, at 140 (reviewing JOSEPH, *CURRICULUM VITAE*, *supra* note 10, and DONALD REVELL, *THE GAZA OF WINTER* (1988)) (Joseph's "language of transaction and law . . . is compelling as an invocation of systems of power.").

38. As the discussion below emphasizes, Joseph clearly perceives himself primarily as a modernist poet. For a contrast between Joseph's vision of modernism and certain aspects of postmodern thought, see *infra* notes 51-56 and accompanying text.

the context of this obsession with aesthetic issues can we fully appreciate the power of the images Joseph employs.

While Joseph's readers sometimes seem to have missed the aesthetic dimension of his first two books,³⁹ in *Before Our Eyes* Joseph leaves no room to mistake his concern with the poem as an object. Toward the middle of the beautiful opening of the title poem, the first poem of the book, he states in no uncertain terms, "[b]y written I mean made, by made I mean felt" (p. 3). However compelling the descriptions and ongoing narrative discourse, Joseph never lets us forget that the poem is a made thing — an assemblage of words. By the end of the book, he is almost sardonic, as if to chide us in the event we have not yet gotten the point: "What do I mean? / Language means."⁴⁰

Joseph's acute sensitivity to the surface of a poem, to its language, is perhaps most immediately evident in the constant tension between subject and object, author and text — a tension that continually underscores the kinds of concerns I discussed in Part I. In "A Particular Examination of Conscience," for instance, the absence of an explicit subject for any of the poem's initial verbs and the almost painfully delayed appearance of the narrator alert us that something other than the transcendent subject and transparent language of traditional poetry are at work:

Awakened by your body, in the first place,
against mine, sweet and frenzied
skreekings and trillings of starlings
on the fire escape, and a rose sky.
Succumbed again to my gluttonous
appetite for the paper:
the front-page headline "Delusion,
Benign and Bizarre, Recognized As Common." [p. 64]

As in much of modernist poetry, the narrator — who does not appear directly until the stanza's fifteenth line — does not stand outside the text of these lines, acting upon them, but is as much a part of the poem's language as the newspaper headline and the ostensibly "objective" events being described.

Even in the most overtly subjective of the poems, the narrator of the poem is never simply its speaker. A poem such as "Some Sort of Chronicler I Am" may on one level describe the speaker's meditations on a drug-addicted AIDS victim he watches on a New York subway. But the narrator also is immersed in and limited by the language of the poem. By the time the narrator says, "I know — you'd prefer I change the subject / (I know how to change the subject)" (p. 50), we

39. See, e.g., Paul Breslin, *The Simple, Separate Person and the Word En-Masse*, POETRY, Oct. 1988, at 30, 32.

40. "Occident-Orient Express," p. 70.

realize that "changing the subject" refers not only to shifting to another topic of conversation but also to the aesthetic effect that language has upon the speaker within the context of the poem.⁴¹

Joseph's preoccupation with the unstable relationship between subjective and objective reflects the characteristically modernist view of poetry as what William Carlos Williams described as "new form dealt with as a reality in itself."⁴² This perspective also is manifested in a constant awareness of the language and syntax of a poem. "Brightness streaming in every / direction," Joseph writes in "Whose Performance Am I Watching?," "Judgment, desire, sentence structure taking place" (p. 30). Joseph's obsession with the nature of a poem as a poem never becomes an abstract formalism, however, nor a detached examination of language for its own sake. In the same passage referred to above, Williams goes on to suggest that "poetry has to / do with the dynamization of emotion into a separate form."⁴³ Joseph takes the goal of "dynamizing" emotion extremely seriously. His poems do not merely describe feeling; they seek through their use of language to create, themselves to enact, feeling.

How can a poem enact feeling? In *Before Our Eyes*, through the often startling intensity and pacing of its lines. The opening of "Generation" and another brief passage close to the end of the poem show this aspect of Joseph's imagination at work:

Matter smashed — Atomic Age America —
accelerated, dawn's desert light
blinding new. . . .

.....

Time, hypertense, turned into breadth
— a piece of flesh is stuck to a shoe! —
lightning syntax the color of skin [pp. 22-24]

The intensity of the first two lines — lines which are themselves as feverish as the frenzied state of modern life that the poem describes —

41. The complex relationship between the subjective self and both familial and other influences and the language of a poem is addressed in similar terms in "In a Fit of My Own Vividness," in which the narrator notes aphoristically that "[i]t's hard to throw off what you're subject to." P. 46. Joseph's fascination with the contingent nature of the self and with the extent to which each of us is "constituted" by her history and surroundings rather than distinct from them parallels postmodern thought in many respects. Unlike many postmodernists, however, he is unwilling to collapse the distinction between subject and object, self and world, altogether. For a more complete discussion, see *infra* notes 51-56 and accompanying text.

42. 1 WILLIAM CARLOS WILLIAMS, *Spring and All*, THE COLLECTED POEMS OF WILLIAM CARLOS WILLIAMS, 1909-1939, at 175, 219 (A. Walton Litz & Christopher MacGowan eds., 1986).

43. *Id.* My reference to modernist prescriptions for poetry, and in particular to the statements of Williams mentioned in the text, is not accidental. Joseph repeatedly returns to these ideas in both his poems and his critical prose. "Some Sort of Chronicler I Am" describes how Williams "felt a physician's pain" during the Depression of 1921 and notes parenthetically "(dynamization of emotions into imagined / form as a reality in itself)." P. 51. See also Joseph, *supra* note 18, at 1231 (describing and quoting Williams's views).

is generated by their extraordinary compression. Joseph begins the poem with a dense, seemingly endless string of *a* sounds and does not include a single article, preposition, or other filler word that might slacken the tension of the lines. Notice also how he uses the alliterating *d* and assonant *i* sounds of "dawn's desert light / blinding new" to slow and then suddenly increase the verbal speed of the passage. The effect here, and throughout the book, is to create the kind of "lightning syntax" alluded to — and produced — in the last of the quoted lines.

B

If Joseph's constant attention to language and syntax is one source of the poems' intensity, the other, which we now are ready to consider more explicitly, is his choice of subject matter. At least since the Depression, modernist poets have recognized that they no longer could ignore the political, social, and economic upheavals taking place around them.⁴⁴ Joseph's poetry has always been as sensitive to this aspect of modernism as to modernism's preoccupation with the status of a poem as an aesthetic object.

While numerous other contemporary poets explore somewhat similar issues in their work, few achieve the kind of passionate engagement that one finds in the poems of *Before Our Eyes*. What makes Joseph's poetry unique is its awareness of precisely those aspects of law and legal discourse that distinguish law from poetry. *Before Our Eyes* does not itself have the kinds of direct, instrumental effects that the law has, of course, but poem after poem explores the implications of socially authorized exercises of power.

In several of the poems, the relationship between law and power is utterly explicit. In "Admissions Against Interest," the narrator, having admitted that he is a lawyer — hence the title of the poem — considers the legal coercion that lawyers encounter every day:

Now, what type of animal asks after facts?
— so I'm a lawyer. . . . Things like "you too
may be silenced the way powerful
corporations silence, contractually"
attract my attention. The issue's
bifurcated. "Why divide the dead?"

44. Wallace Stevens offers a fascinating, and particularly instructive, case study with respect to this aspect of modernism. Stevens's early poetry was often, and at times stridently, criticized for its apparent lack of concern for social and political issues. The statements quoted at the beginning of this review reflect Stevens's increasing awareness in the 1930s that poetry must respond to the pressure of the "contemporaneous." For a more detailed discussion, see David A. Skeel, Jr., *Notes Toward an Aesthetics of Legal Pragmatism*, 78 CORNELL L. REV. 84, 102-04 (1992) (reviewing THOMAS C. GREY, *THE WALLACE STEVENS CASE: LAW AND THE PRACTICE OF POETRY* (1991)).

the Foreign Minister asks, "what's one life
when you've lost twenty million?" [p. 12]

In addition to the suggestion that corporations may use their substantial bargaining power coercively, notice the less obvious reference to the bifurcation of issues in a trial. By linking this image — "the issue's bifurcated" — to a foreign minister's question — "[w]hy divide the dead?" — Joseph seems to imply that even a judge's ostensibly procedural decision regarding whether or not to bifurcate a trial, like participation in the legal system generally, can have enormous and even violent practical consequences.

Joseph's sensitivity to societal coercion is not limited to poems that directly address legal issues and the law. In each of his books, he develops a distinctively public discourse that is intensely concerned with issues such as wealth distribution and the societal effects of market activity, rather than simply the private examination of self that characterizes the work of many of his peers.⁴⁵ Few other poets would begin a poem with the lines "Now the governor of the Federal Reserve Bank / doesn't know how much more he can take" (p. 18), as Joseph does in "Under a Spell." Not only does Joseph frequently invoke the kinds of allocative and distributional languages that lawyers and other professionals use, but he also employs a strikingly discursive tone that is itself reminiscent of legal discourse. No matter how personal or confessional they may at first appear, the poems almost always speak to the reader, as if to cajole, describe, or persuade.⁴⁶

While the aesthetic qualities of the poems — such as compression and speed — and their subject matter both contribute to the passionate, emotional character of Joseph's work, they also create a palpable tension. The modernist poet who is genuinely concerned with the status of a poem as an object, a thing in itself, is continually tempted, as Joseph noted in a recent review, to "split off into [his or her own] subjective reality"⁴⁷ and to abandon any interest in engaging anything beyond the poem itself. Yet the subject matter of the poems, the urgent crises of contemporary life, continually intervenes, pressuring the poet to account for the crush of external events. Even more than either the aesthetics of the poems or the nature of their subject matter alone, it is the desperate tug and pull between the two that generates the explosive intensity of *Before Our Eyes*.

45. Part of Joseph's point, of course, is that there is no such thing as a truly "private" self. Recognition of this, the poems seem to suggest, entails an obligation to confront and examine pressing societal issues.

46. For a discussion by Joseph of this emphasis in his poems, see Tillinghast, *supra* note 4, at 6-8 (discussing efforts to develop a classical discourse and noting that a "primary purpose of classical poetry is to 'instruct' the listener through discourse").

47. Lawrence Joseph, *War of the Worlds*, 251 NATION 314, 315 (1990) (reviewing FREDERICK SEIDEL, *POEMS, 1959-1979* (1989) and FREDERICK SEIDEL, *THESE DAYS: NEW POEMS* (1989)).

This tension between the subject and the poetry of the subject is evident throughout Joseph's work. After its opening reference to the governor of the Federal Reserve Bank, "Under a Spell" spins through a dizzying array of current social crises, shifting from one to the next, then suddenly suggesting that the poem is about "language and image":

While the prisoners
on Death Row whose brain cells will reach
the point of boiling water during electrocution
receive blessings through cable television
and Presidents and Commissars devise
international house-cleanings
history won't recognize for years,
the precedence of language and image preoccupies me too
under the influence of a spell. [p. 18]

As this passage eloquently demonstrates, even as Joseph passionately engages the realities of contemporary existence, he simultaneously resists them. In "Variations on Variations on a Theme," we see this friction in a legal context:

And that's the law. To bring to light
most hidden depths. The juror screaming
defendant's the devil staring at her
making her insane. The intense strain
phrasing the truth, the whole truth, nothing
but sentences, endless sentences. [p. 43]

The "intense strain / phrasing . . . sentences" suggests both the strain of judicial interpretation given its coercive effect — the potential incarceration of a criminal defendant — and the strain of the poet who must recognize what judging entails and at the same time "dynamize" it into "sentences" of poetry.

Joseph is hardly alone in his fascination with the tension between contemporary events and the effort to engage these events on an aesthetic level. Other poets incorporate impressive amounts of information into their poetry. But few generate the passionate intensity of Joseph's poems. What makes *Before Our Eyes* different in this respect is Joseph's acute awareness of the effects of power in society. This unique sensitivity to power can be seen, at least in part, as evidence of a distinctively legal imagination at work in the poetic domain.

C

In its concern to create a poetry of the contemporaneous — one that both explores crucial social, political, and economic issues and recognizes the status of a poem as language — *Before Our Eyes* refines and continues the aesthetic project Joseph began in *Shouting at No One* and *Curriculum Vitae*, his two previous books. Yet, more than

either of the earlier books, *Before Our Eyes* pursues the project in connection with an ambitious assessment of the enduring modernist question — whether we still can aspire to knowledge or understanding in a world that has become deeply skeptical as to the possibility for either. Many postmodern poets and theorists have abandoned the inquiry, and the quest, altogether;⁴⁸ Joseph has not. He takes up the theme of knowledge, and how a poet might find or create it, from the very first poem in the book. After describing his approach early in the poem as “a morality of seeing, / laying it on” (p. 3), he concludes the title poem with these lines:

[B]ut poetry

I know something about. The act of forming
 imagined language resisting humiliation.
 Fading browns and reds, a maroon glow,
 sadness and brightness, glorified.
 Voices over charred embankments, smell
 of fire and fat. The pure metamorphic
 rush through with senses, just as you said
 it would be. The soft, subtle twilight
 only the bearer feels, broken into angles,
 best kept to oneself. For the time being
 let's just keep to what's before our eyes. [p. 5]

As the passage suggests, for Joseph, the poet's contribution to understanding is based on what he “sees.” The process is never simple, however. Just as what we perceive as color depends upon a complex refraction of light, the poems suggest that poetry must explore contemporary experience through the bewildering and often contradictory array of languages and perspectives that make it up.

Often the relationship between knowledge or understanding and the perception of color is direct, as when Joseph characterizes a memory of the narrator's grandfather in “Sentimental Education” as “dark, deep and dark, steel dark . . . almost as pure, / as pure unattainable light.”⁴⁹ Even when it is not so direct, metaphors of seeing and color appear again and again in the poems. In “Lines Imagined Translated into a Foreign Language,” for instance, “Egypt's disintegrating / unities” are described — in a meditation on the ancient antecedents to contemporary tensions in the Middle East — as “the spectrum / through which events / multiply and become / — hallucinations” (p. 57); and the references to orbits and the circuits of the eye/“I” are almost too numerous to mention.⁵⁰

48. See, e.g., RICHARD RORTY, *Introduction: Pragmatism and Philosophy*, in *CONSEQUENCES OF PRAGMATISM* at xiii (1982).

49. P. 35. Similarly, the stanza that follows the passage quoted in the text suggests that “[t]he palette's red. . . History, increasingly ephemeral, / is red.” *Id.*

50. In addition to the relatively literal exploration of the relationship between seeing and understanding that I describe in the text, the visual imagery in the poems also repeatedly puns on

This view of understanding as experiential and empirical, as a function of seeing, is deeply influenced by modern distrust of claims of access to ahistorical truth. The poems continually recognize that they cannot solve the contemporary crisis of meaning but can only offer partial approaches to understanding. Yet the poems, like Joseph's critical writings, also retain striking vestiges of essentialism. Unlike more pervasively postmodern critical theorists, Joseph speaks unembarrassedly of "fundamental" distinctions rather than contingent or provisional ones — of "epistemology" and epistemological aspirations.⁵¹

Joseph's differences with postmodern theory as to the possibility of meaning closely parallel similar distinctions as to the nature of self. Whereas postmodern theorists tend to view the self as a hopelessly incoherent construct, Joseph's poems suggest the continued validity of the concept of self. This is not to say that Joseph perceives the self as having an entirely independent status. On the contrary, the poems continually explore the extent to which self is constituted by history, language, and other influences. Yet, unlike many postmodernists, who refer to self and subjectivity ironically, only to explode them as myths,⁵² Joseph portrays the examination of self as a project still worth undertaking. The title of "Admissions Against Interest," for instance, suggests that the speaker has some control as to what he "admits" into his perception of self.⁵³

The visual imagery of *Before Our Eyes*, the "keep[ing] to what's before our eyes" (p. 5), thus bears witness to a distinctively modernist — not postmodernist — aesthetic sensibility. The authorial presence is constantly displaced in the poems, and Joseph continually reminds us of the contingent, situated nature of language. Yet the displacement is never complete. Joseph insists on retaining a distinction between subject and object, however unstable it may be, and refuses to abandon the modernist quest for meaning — for a contemporary grounding of belief. For Joseph, the struggle for understanding is, finally, coextensive with the process of making a poem: both depend upon seeing and an often religious passion, perception in its broadest sense as both seeing and feeling.⁵⁴

the relationship between the words *I* and *eye* and enacts a complex invocation of literary predecessors. Dante's conception of hell as a series of circles is particularly important to Joseph, as is Emerson's description of self as a seeing eye/*I*. As with much of *Before Our Eyes*, one can trace this preoccupation to Joseph's earlier poems. See, e.g., "By the Way," in JOSEPH, *supra* note 10, at 18, 19-20 (referring extensively to Dante).

51. See, e.g., Joseph, *supra* note 18, at 1228 (describing the difference between poetry and law as "fundamental").

52. See, e.g., James Boyle, *Is Subjectivity Possible? The Postmodern Subject in Legal Theory*, 62 U. COLO. L. REV. 48 (1991).

53. I am grateful to Tom Grey for suggesting this reading of the poem. For other connotations of "admission," see *infra* note 59.

54. One of the most beautiful passages exploring the relationship between feeling or passion

Joseph's grappling with issues of meaning in *Before Our Eyes* casts fascinating light on a similar dilemma in the legal storytelling movement. Legal storytellers have recently come under attack by commentators questioning the accuracy of the storytellers' "real-life" accounts.⁵⁵ At first glance, the criticism seems to miss the mark completely. Just as other writers routinely take liberties with "truth," often quite deliberately, legal storytellers inevitably will distort and embellish as they employ literary techniques in their legal commentary.

Yet the criticism reveals a contradiction in legal storytelling. While legal storytellers and other critical legal theorists have used postmodernist insights to challenge traditional legal theory — criticizing in particular its essentialist pretensions and the destructive uses to which those pretensions have been put — they have, at the same time, tended to privilege the role of experience.⁵⁶ They reject the possibility of ahistorical, noncontingent truth, yet some seem to insist on the priority of real-life experiences. The effect is to substitute one version of foundationalism for another.

If the poems of *Before Our Eyes* also seem in some respects to try to have it both ways, Joseph is always intensely aware of what he is doing. Joseph, too, turns to experience as an alternative to the philosophers' beautiful proofs, but he does so without having rejected altogether the possibility of making or finding knowledge and of retaining a meaningful sense of self. Moreover, he repeatedly reminds us of the contingent, situated nature of experience and perception — of its limitations as a source of "truth." "For the time being," he tells us — not for all time, not with unrealistic expectations — "let's just keep to what's before our eyes" (p. 5). In addition to their other qualities, these poems show Joseph probing the full implications of issues that legal storytellers and other critical legal theorists also will soon be forced to confront.

and understanding comes in "Admissions Against Interest": "but now I'm seeing / words are talk and words themselves / forms of feeling, rose-colored splashings / the ice-cold dawn." P. 16.

55. See Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807, 831-40 (1993); Mark Tushnet, *The Degradation of Constitutional Discourse*, 81 GEO. L.J. 251, 260-71 (1992).

56. The tension between postmodern theorists' rejection of foundationalism and the priority that many seem to assign to experience has received substantial attention in the feminist literature. For a recent example, see Elizabeth J. Bellamy & Artemis Leontis, *A Genealogy of Experience: From Epistemology to Politics*, 6 YALE J. CRITICISM 163 (1993). Jane Baron raises and discusses this issue in some detail in her commentary on Farber & Sherry, *supra* note 55. Jane B. Baron, *Resistance to Stories*, 67 S. CAL. L. REV. 255 (1994).

III. WHY ISN'T THERE MORE LAW IN POETRY?

A

The effectiveness with which Joseph brings his legal imagination to bear in his poems raises an intriguing question: Why have so few other poets addressed legal discourse, and the social impact of our legal system, in their poetry?

In a 1951 essay entitled *A Collect of Philosophy*,⁵⁷ Wallace Stevens argued that certain philosophical issues, such as the concept of infinity, are inherently poetic. "It may be said," Stevens wrote, "that to the extent . . . the analysis of perception in philosophy leads to ideas that are poetic the problems [of poetry and philosophy] are identical."⁵⁸ At first glance, it might perhaps appear that one could not make a similar statement about the law; that is, the absence of poetry considering legal issues may reflect poets' view that the law, unlike philosophy, is by its very nature *unpoetic*.

Yet such a conclusion cannot withstand scrutiny. In addition to the obvious political and social significance of the law, one can view many aspects of the law as poetic in and of themselves. The language of legal discourse is replete with words and phrases offering both the richness of connotation and, perhaps more surprising, the music that are a poet's natural habitat. Joseph explores several such terms in *Before Our Eyes*. In both "Material Facts" and "Admissions Against Interest" he incorporates the technical legal standards of the poems' titles into a poetic discourse that seems to have little to do with law, subtly playing on their legal and nonlegal meanings and the relations between the two.⁵⁹ I myself have attempted a similar use of "probable cause," a term whose lovely sound and understated complexity have long held a fascination for me.⁶⁰

Nor is the poetry of law limited to its phraseology. In much the same respect as Stevens claimed for philosophy, many of the legal concepts defined by terms such as those to which I have alluded are themselves inherently poetic. One obvious example is the fiction of corporate existence. The concept of a *corporate entity* is a continual

57. WALLACE STEVENS, *A Collect of Philosophy*, in *OPUS POSTHUMOUS*, *supra* note 1, at 267.

58. *Id.* at 273.

59. "Material Facts," p. 7, 9 ("A child again, who doesn't use / words at all, says something / by slightly turning a corner / of the mouth, hiding material / facts from your perception."). As noted earlier, one of the "admissions" in "Admissions Against Interest" is the concession that Joseph is a lawyer, p. 12; this is an admission in light of, among other things, the public ambivalence toward lawyers and the perceived incongruity of being both a lawyer and a poet. For an illustration of Wallace Stevens's response to questions about his double life as a poet and lawyer, see Letter from Wallace Stevens to Harvey Breit (July 27, 1942), in *LETTERS OF WALLACE STEVENS* 412, 413 (Holly Stevens ed., 1966) ("After all, what is there odd about being a lawyer and being or doing something else at the same time?").

60. David A. Skeel, Jr., "Now" (1993) (unpublished poem, on file with author).

source of creative tension, much as *infinity* is, because it simultaneously has and yet in another sense cannot have perceptual significance.⁶¹ The recent development of derivative securities can be seen as equally poetic. The number and variety of derivatives — which are securities whose investment value is derived from interest rates, currencies, stock, or other commodities — is limited only by the imaginations of Wall Street lawyers and investment bankers. Each time these financiers dream up a new means of characterizing and packaging the source of an income stream, a new derivative is born.⁶² Because these investment devices owe their existence to such acts of imagination, and their continued vitality to the agency lawyers charged with their regulation, derivative securities further illustrate the poetic dimension of the law.⁶³

As even this brief survey of legal concepts and discourse suggests, nearly every area of the law has obvious potential for poetic exploration. Thus, focusing upon the nature of the law and legal discourse, which might initially seem relentlessly unpoetic, only adds to the puzzle of why poets so rarely write about the law.

B

How else, then, might one explain the dearth of poetry addressing the law and legal issues? The beginnings of an explanation may lie in the nature of the *practice* of law, rather than in the nature of the law itself.⁶⁴ Many, and probably most, lawyers work long hours; sixty, seventy, and even eighty hours a week in the office are an inescapable part of the job description. While work schedule alone might not deter a lawyer from writing poetry in her spare moments, more than the simple arithmetic of time is at work. The practice of law is mentally and emotionally demanding. Because the imaginative process of writ-

61. While the fiction of corporate form has often been criticized as an example of legal mystification, *see, e.g.*, John Dewey, *The Historic Background of Corporate Legal Personality*, 35 YALE L.J. 655 (1926), it retains enormous practical and legal significance in many contexts. *See, e.g.*, *Braswell v. United States*, 487 U.S. 99 (1988) (distinguishing between the corporate and personal capacities of the sole shareholder of a corporation). The concept of a bankruptcy "estate" that arises automatically when a debtor files a bankruptcy petition is similarly, and somewhat analogously, poetic. *See* 11 U.S.C. § 541 (1988).

62. *See, e.g.*, Kenneth H. Bacon & Eugene Carlson, *Market Is Seen in Small-Business Loans*, WALL ST. J., Oct. 18, 1993, at C1 ("Wall Street's alchemists haven't finished coming up with new financial concoctions. The latest involves securities backed by pools of small-business loans.").

63. The complexity of derivative securities raises the question whether legal language and concepts might be too specialized and arcane to warrant poetic exploration. While concerns of this sort might impose some limits on the suitability of law as poetic subject matter, much of law is both relevant and potentially accessible to nonlegal readers, as I have argued above. The discussion in section III.B details what I see as more immediate explanations for the absence of poetry about law.

64. The distinction between the law and how a lawyer practices it is of course a particularly artificial one. As the discussion that follows makes clear, I make the distinction only for the purposes of focusing on a single aspect of lawyers' practice of law.

ing a poem also requires an enormous amount of these resources, one cannot easily practice law full time and simultaneously pursue a literary career.⁶⁵ Thus, while lawyers may be those most likely to probe legal issues in their poetry, most lawyers abandon any serious literary aspirations when they choose to pursue a life in the law.

Yet, even if the demands of legal practice exclude the possibility of a poetic career for most lawyers, this fact only incompletely explains the absence of poetry about law. Some law jobs do leave time for other pursuits: governmental legal staffs and in-house counsel positions may offer a more stable practice environment than many private law firms.⁶⁶ Poetry concerning law might plausibly emerge from these contexts, or from poets with law degrees who are not currently practicing law. One might even expect to find the occasional, exceptional poet who combined a high-powered practice with poetry that probed that practice.

A better, or at least more complete, explanation of why we rarely see this combination, even in those poets who do or did practice law, can be traced to the remarkable persistence of traditional views of poetry. Early poetry frequently was associated with, and in many respects defined by, the pastoral mode. Classical poets wrote about idealized natural settings, whose leisurely pace and untainted lifestyle encouraged extended meditations on important issues such as love and the nature of the self.⁶⁷ Poets throughout the ensuing centuries responded to and satirized these impulses in classical poetry, yet without ever rejecting them.⁶⁸ While pastoral poetry, as narrowly defined, largely disappeared after the Middle Ages, many poets continued to view nature and rural life as the optimal domain for poetry, even in the face of the increasing urbanization of society.

Unlike any previous literary movement, the modernism of the early twentieth century conducted a frontal assault on existing structures of belief and tradition. By its terms, modernism, with its insistence on making poetry "new" and on trafficking in the issues and discourse of the time, encouraged poets to depart from established po-

65. See, e.g., Anthony T. Kronman, *Living in the Law*, 54 U. CHI. L. REV. 835, 840 (1987) (describing the difficulty of viewing law as a means to other ends).

66. It is interesting to note in this regard that neither Wallace Stevens nor Charles Resnikoff worked in a private law firm: Stevens was an in-house lawyer at the Hartford, and Resnikoff worked for *Corpus Juris* for several years before being dismissed. See Skeel, *supra* note 44, at 94-95 (describing Stevens's career); Benjamin Watson, *Resnikoff's Testimony*, 82 LAW LIBR. J. 647, 650-52 (1990). None of this should be taken to suggest that governmental and in-house positions are not likely to be demanding. On the contrary, both quite frequently entail much the same intensity and hours as the most demanding private firm practice.

67. The pastoral form is often traced to the *Idylls* written by Theocritus in the third century B.C. Virgil significantly refined the form several hundred years later in the *Eclogues*. PRINCETON ENCYCLOPEDIA OF POETRY AND POETICS 603 (Alex Preminger et al. eds., enlarged ed. 1974).

68. *Id.* at 603-05.

etic norms.⁶⁹ Poets discarded traditional fluency for fragmented, refractory lines that emphasized the instabilities of language and of the poet's relation to her text; they also abandoned traditional strictures as to what is or is not appropriate subject matter for the poetic imagination.

Despite its sweeping rejection of the past, however, modernist poetry retains important vestiges of classical poetry. The most relevant of these vestiges for our purposes is a limited view of self, often coupled with and reinforced by a continued fascination with rural life, that can be traced in part to the rise of "professionalism" that has taken place in much the same time frame as poetic modernism itself.⁷⁰ Professions such as medicine and law became increasingly specialized as this country and others moved to market economies in the nineteenth century. In the view of many commentators, professions have used this specialization as a means of exclusion, so that a group such as lawyers can monopolize and prevent external control of its membership.⁷¹ Though often ostensibly antifoundationalist in its inclinations, the antiprofessionalist critique reinforces an essentialist view of the self. As Stanley Fish has pointed out, the antiprofessional attack on the professions as artificial, as an artifact of false consciousness, presupposes a distinction between one's "real" and "false" selves. Because what a professional does on the job is institutionally determined, declares the antiprofessionalist critique, it cannot be seen as a manifestation of one's real self; the real self is unconstrained — free of the malignant fetters of professional life.⁷²

Against the backdrop of this antiprofessional dismissal of the "artificiality" of professional life, the absence of poetry about law seems somewhat less surprising. Poetry is, for nearly every poet, an exploration of self. What makes Joseph distinctive in this respect is not that he declines to examine self but that he conceives of self in strikingly public terms, as inevitably bound up in societal issues.⁷³ Because the practice of law is seen as at best tangential, and at worst parasitic, to one's "real" self, other poets conceive their project as lying elsewhere:

69. Perhaps the best discussion of these aspects of modernism, focusing on Ezra Pound as the catalyst of many characteristically modernist innovations, is HUGH KENNER, *THE POUND ERA* (1971).

70. See generally MAGALI S. LARSON, *THE RISE OF PROFESSIONALISM: A SOCIOLOGICAL ANALYSIS* (1977).

71. See, e.g., *id.* at 40-52 (arguing that professions such as law and medicine standardized their educational process and knowledge base as a means of controlling access to the profession).

72. Stanley Fish, *Anti-Professionalism*, 7 *CARDOZO L. REV.* 645 (1986). Fish argues, accurately in my view, that this inconsistency between a rejection of foundationalism and essentialist assumptions about the nature of the self in the absence of the distortions of "false consciousness" pervades much of the critical legal studies literature. *Id.* at 655-61. For a contrary perspective, see West, *Adjudication Is Not Interpretation*, *supra* note 16, at 246-53.

73. See *supra* note 45 and accompanying text.

outside the workplace and, for many, outside urban life.⁷⁴

With respect to law perhaps even more than other professions, such as medicine, this indifference is reinforced by poets' long-standing hostility to "bourgeois" society.⁷⁵ Law's affiliation with business and finance, and with existing authority structures, makes it particularly problematic for many poets. As a result, most poets ignore the law altogether; those who do allude to lawyers or legal discourse frequently do so merely to dismiss the law as inimical to the development and appreciation of the individual self.

Thus, the perception that the practice of law is somehow separate from one's "real" self, together with its distasteful associations and the practical difficulties of both practicing law and exploring legal discourse in poetry, may offer the best explanation of poets' relative neglect of legal issues. Yet, as I have argued and the poems of *Before Our Eyes* make clear, not only are many aspects of the law poetic, but to ignore legal issues is to ignore some of the most important pressures brought to bear on the individual self. Rather than simply being an isolated deviation from most contemporary poetry, then, Joseph's book suggests how much of the modernist legacy, and its promise, remains to be fulfilled.

CONCLUSION

Law, and legal discourse, is only one of Joseph's complex array of themes and motifs in *Before Our Eyes*. As in his two previous books, Joseph also juxtaposes images of urban life in Detroit, the tension between high finance and the streets of New York, and his familial and religious ties to the Middle East. He has refined and refracted many of these themes for nearly twenty years now. With the most recent poems, we can increasingly see the motifs as a poetic discourse, not only with the pressing issues of our time, but also with Joseph's earlier poems.

In focusing on the legal aspects of the poems, I inevitably have sacrificed some of the sense of this interplay. Yet the influence Joseph's career as a lawyer has had on his poetry casts fascinating light both on the relationship between law and poetry and on the distinctive feel of his poems. Even if Joseph had stayed out of the academic law-and-literature debates altogether, his poetic career would in itself con-

74. One may view the common, and often romantic, perception of poets on the periphery of society as reinforcing this inclination in interesting respects. In this view, remaining outside mainstream society enables a poet to focus on her "real" self and to comment critically on the perversion of society.

75. Joseph's characterization of lawyers and legal issues often is critical and itself tends to reflect this antibourgeois animus. See, e.g., "Any and All," in JOSEPH, *supra* note 10, at 49 ("The lawyers from Mars and the bankers / from Switzerland have arrived to close the deal, / the money in their heads articulated / to the debt of the state of Bolivia.").

stitute a significant contribution to them.⁷⁶ The poems of *Before Our Eyes* are their own best evidence of a fine legal imagination at work in a literary context, and, in the end, they speak for themselves.

76. Two of Joseph's essays, one in a literary journal and one in a law review, are primarily concerned with "law-and-literature" issues. Lawrence Joseph, *The Voices Behind the Law*, 27 MICH. Q. REV. 503 (1988) (reviewing JOSEPH VINING, *THE AUTHORITATIVE AND THE AUTHORITARIAN* (1986)); Joseph, *supra* note 18.