ABSTRACT. Poetry and legal rhetoric are both forms of what the ancient Greeks called 
\textit{poiēsis}: the art of the word. Tradition nonetheless assigns poetry to the realm of art 
and beauty, and legal rhetoric to the different realm of law and truth. The late William 
Matthews’ poem “Negligence” transgresses the boundaries that we have erected between 
art and law, and beauty and truth. The poem presents a well-crafted piece of legal rhetoric 
in the form of art. This essay draws out the implications of Matthews’ transgression, and 
suggests that in the end poetry and law have a lot in common: both are forms of manipula-
tion by means of words. The essay develops this connection in order to join with Emmanuel 
Levinas in calling for a “breakup in the omnipotence of the logos.”

KEY WORDS: art, beauty, law, legal rhetoric, logos, negligence, poetry, suffering, truth

The aesthetic dimension of law shows itself most clearly in the admiration 
that lawyers feel when they encounter a clever legal argument that manages 
to make the most of a bad situation. Such admiration, however reluctant, 
can even attach itself to arguments for morally questionable causes. Just 
as Leni Riefenstahl’s \textit{Triumph of the Will} is one of the greatest propaganda 
films ever made notwithstanding its theme (the 1934 Nazi Party rally in 
Nuremburg) and intention (to glorify Hitler), there is also such a thing as 
a good legal argument made in the service of a bad cause. In short, legal 
rhetoric is an art, occasionally even a dark art, and some manifestations 
of its artistry are more beguiling than others.\textsuperscript{1} The lay public intuitively 
knows that this is so, even if they may not be in a position to evaluate, or 
even identify, those particular pieces of legal advocacy that are, shall we 
say, \textit{beautifully crafted}. Perhaps that is why non-lawyers tend to fear and 
mistrust lawyers so. It is quite unsettling to think that an extremely clever 
argument – as opposed to what common sense calls “the facts” or “the 
law” – could put you in jail, all the more so if you suspect that your own 
advocate is not up to the standards of a Cicero or a Clarence Darrow.

Viewed in its creative aspect, legal argument has a lot in common with 
poetry. According to Heidegger, the word \textit{poiēsis} meant the art of the word 
to the ancient Greeks, in the sense of that which is brought forth in words

\textsuperscript{1} See, e.g., M. Townsend, “Cardozo’s Allegheny College Opinion: A Case Study in Law 
in a process of bringing-forth. The process of creation is connected to the created outcome in *poiêsis*, thereby linking the said with its saying, and the written with the writing of it. By this definition, what we call “poetry” is but a special case of the art of the word. The poet writes to create a concentrated imaginative awareness by language chosen and arranged to evoke an emotional or intellectual response through meaning, sound, and rhythm. If the truth be told, however, a competent lawyer putting together a jury speech aims at evoking the same kind of response. The main difference is that the lawyer wants to move his audience to do something quite specific and mundane, something with immediate practical consequences, whereas the poet is usually happy to achieve a particular intellectual and emotional effect as such, and is less concerned with where it may lead in the world of affairs. In short, the typical lawyer intends this effect as a means to an end, whereas the typical poet views it as an end in itself. Nevertheless, both legal rhetoricians and poets employ the art of the word, and both want their words to produce an immediate emotional and intellectual response. A cynic might say that both kinds of word-artists delight in jerking people around by means of language – in making them puppets of the lawyer or the poet, if only for a few moments. (The polite way to say this is that the word-artist’s words aspire to “move” people.) That lawyers strive for this kind of power is all too obvious. But even the poetic aesthete who says, honestly enough, that he writes solely because he feels the need to write can hardly be expected to remain indifferent to the pleasures of manipulating others, especially since the fruits of successful poetic manipulation are popular and critical acclaim. Perhaps this helps explain why Nietzsche characterized the creative urge – and the artist – as the supreme manifestations of will-to-power.

Seen from an unsentimental point of view, therefore, legal rhetoric and poetry occupy common ground – the ground of manipulation by means of words – notwithstanding the many obvious differences that can be measured between them in terms of their social meanings and significance. But if good legal argument is an art of the word that can aspire to be *poiêsis* in the Greek sense, what are we to make of poetry that takes the form of a legal argument? I do not mean a real legal argument that is whimsically cast in the form of poetry – usually this kind of project ends up being little more than amusing doggerel. I mean a “serious” poem that pretends to

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5 Consider, for example, U.S. District Judge Edward Becker’s verse opinion denying a motion to dismiss a seaman’s suit to recover his wages in *Mackensworth v. American*.