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# Our Nature in Balance: An Essay on Eighteenth-Century Landscape Gardening and Twentieth-Century Lawyering

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# Our Nature in Balance: An Essay on Eighteenth-Century Landscape Gardening and Twentieth-Century Lawyering

John Nivala

Other people at other times in other disciplines have dealt with tensions similar to those with which modern lawyers wrestle. Their attempts to achieve a satisfactory balance furnish a guide for our attempt to reconcile the intellectual and emotional aspects of lawyering. Even an illustration as removed as the emergence of a new form of landscape gardening in England in the early eighteenth-century can offer us lessons.

In the early eighteenth-century, mankind, having passed through an era in which pure reason was ascendent, began to uncover and shape nature's secrets and to understand "the mysteries of time and space, and . . . the trembling balance between reason and the passions."<sup>1</sup> In England it was a time of remarkable intellectual liveliness and good taste.<sup>2</sup> It was "a period of good sense, restraint, and reasonableness . . . willing to settle for the possible within the limits of human intelligence and of the material world."<sup>3</sup> It was "blessed with a fundamental good taste and sense of proportion."<sup>4</sup> Although it valued "quickness and liveliness of mind, inventiveness, a readiness to perceive resemblances between things apparently unlike,"<sup>5</sup> such qualities were "thought to be irregular, wayward, extravagant, unless curbed and disciplined by another and soberer faculty, 'judgment.'"<sup>6</sup> The goal was not to suppress qualities of enthusiasm, energy, and originality but to train them, to make them more effective through intellectual discipline.

England was experiencing a new spirit, new attitudes, and new ways of thinking about all aspects of life.<sup>7</sup> The world was seen as being more diverse, more explicable, less to be feared, more to be enjoyed.<sup>8</sup> English

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1. Kingsley Bryce Smellie, *Great Britain Since 1688*, at 118–19 (Ann Arbor, 1962).
2. Donald Lindsay & E. S. Washington, *A Portrait of Britain From Peril to Pre-Eminence 1688–1851*, at 71–72 (Oxford, 1954).
3. *The Norton Anthology of English Literature*, ed. M. H. Abrams, 847, 3d ed. (New York, 1975) (introducing selections from the Restoration and the eighteenth century) [hereinafter *Norton Anthology*].
4. Nan Fairbrother, *Men and Gardens* 238 (New York, 1956).
5. *Norton Anthology*, *supra* note 3, at 852.
6. *Id.* at 853.
7. Frank R. Cowell, *The Garden as a Fine Art: From Antiquity to Modern Times* 169 (Boston, 1978).
8. See, e.g., Smellie, *supra* note 1, at 81.

people became more secure in expressing their own feelings and judgments, relishing the indigenous and natural, rejecting the foreign, stiff, artificial.<sup>9</sup>

Until the early decades of the eighteenth century, English landscape-garden design followed the formal French and Dutch styles.<sup>10</sup> The dominant influence was Le Notre, the French landscape architect responsible for laying out gardens such as Versailles. According to one critic, Le Notre's gardens "are hardly gardens at all. They are rooms, or rather vast halls out of doors. They are, at their best, stately and magnificent, but they are, to the English gardener, very dull. . . . [They have] no interesting detail; the visitors or the owners provide that, in their own persons."<sup>11</sup> Characterized by a predominance of "regular forms and right lines," they demonstrated the "value of art, of power, and of wealth . . . by an artificial arrangement of all the materials."<sup>12</sup> They dominated the natural world, molded it logically, and demonstrated control and rigidity.<sup>13</sup> Their beauties "were those of regularity, symmetry and the display of laboured art . . . attained in a merely mechanical manner [requiring] only the simplest perception of the beauty of mathematical forms."<sup>14</sup>

A formal garden appealed "more to the intellect by its design and proportion than to the heart by satisfying emotions with sensuous curves, moulded contours, subtle colourings or alluring scents."<sup>15</sup> The message of such gardens was that of a society dominating nature by intellectual force.<sup>16</sup> Formal gardens were constrained, regular, rigid, "barren of creativity, variation, and good sense."<sup>17</sup> In England, the extravagance of the formal garden, its obvious opposition to what was natural, brought about a fundamental change in taste. To an English mind grown confident in its ability to comprehend nature, the highly formal garden was, ultimately, ridiculous.<sup>18</sup>

As perhaps too many modern politicians can attest, it is one thing to be the object of disagreement and quite a different thing to be the object of ridicule. So it was for the formal French or Dutch garden. It became the satirist's target, a symbol of the foreign, the contrived, the tasteless, as seen

9. See, e.g., *British and American Gardens in the Eighteenth Century*, ed. Robert P. Maccubbin & Peter Martin, 2 (Williamsburg, Va., 1984) [hereinafter *British and American Gardens*]; *The Genius of the Place: The English Landscape Garden 1620–1820*, ed. John Dixon Hunt & Peter Willis (London, 1975) [hereinafter *Genius of the Place*].
10. Richardson Wright, *The Story of Gardening* 298 (New York, 1934). See also Ronald King, *The Quest for Paradise: A History of the World's Gardens* 177 (New York, 1979).
11. Edward Hyams, *The English Garden* 18–19 (New York, 1966).
12. Andrew J. Downing, *A Treatise on the Theory and Practice of Landscape Gardening* 11 (New York, 1841).
13. See, e.g., Fairbrother, *supra* note 4, at 29.
14. Downing, *supra* note 12, at 48–49.
15. Cowell, *supra* note 7, at 160.
16. See, e.g., Fairbrother, *supra* note 4, at 30; Cowell, *supra* note 7, at 160.
17. Peter Martin, *Pursuing Innocent Pleasure: The Gardening World of Alexander Pope* 9 (Hamden, Conn., 1984).
18. See, e.g., George W. Johnson, *A History of English Gardening* 144 (London, 1829); H. F. Clark, *The English Landscape Garden* 16, 2d ed. (Gloucester, Eng., 1980); King, *supra* note 10, at 179.

in this passage by Alexander Pope, himself an advocate and practitioner of the new style<sup>19</sup>:

His Gardens next your admiration call,  
On ev'ry side you look, behold the Wall!  
No pleasing Intricacies intervene,  
No artful wildness to perplex the scene;  
Grove nods to grove, each Alley has a brother,  
And half the platform just reflects the other.  
The suffring eye inverted Nature sees,  
Trees cut to statues, Statues thick as trees,  
With here a Fountain, never to be play'd,  
And there a Summer-house that knows no shade.<sup>20</sup>

The Englishman's suffering eye had seen enough of inverted nature.

The new English approach to landscape gardening accurately mirrored what was occurring in other aspects of life—social, political, literary, philosophical. The story of landscape gardening “is of the first importance in the history of civilization and culture, because it was in the garden that evidence was to be seen of that turning towards a greater delight in natural beauty mediated through the pleasures of the senses.”<sup>21</sup> It reflects the rejection of the artificial, of the obvious control of nature;<sup>22</sup> it reflects a people who now saw nature not as an enemy but as “an infinitely complex, but . . . measurable and manageable mechanism.”<sup>23</sup>

There was a physical as well as a philosophical basis for the dramatic break from the old, imported, rigorously controlled style of landscape gardening. The ongoing agricultural and industrial advances and “the final enclosure of the old open common land created a new orderly landscape” that “was altogether too neat and regular and tame.”<sup>24</sup> Monotony deadens; variety enlivens. This is as true in landscape gardening as it is in any other activity, including law.

The change that occurred in landscape gardening was fundamental. It rejected the foreign formal tradition and moved toward a freer, subtler, more expressive and nationalistic style.<sup>25</sup> The early eighteenth-century Englishman discovered that nature was intelligible, explainable, controllable.<sup>26</sup> It was no longer necessary to make the landscape visibly express the domination of nature and need for security. People were now secure enough to want an expression of romance and adventure. They did not need a reassuring symbolic representation of control. The land was enclosed and the people were settled; they no longer had to fear nature.<sup>27</sup> They could now “afford to turn about, look upon and think about nature and nature's forms as something controllable, friendly, and capable of

19. See generally John Dixon Hunt, *Pope's Twickenham Revisited*, in *British and American Gardens*, *supra* note 9, at 26; Martin, *supra* note 17.

20. Alexander Pope, *Moral Essays Epistle IV: to Richard Boyle, Earl of Burlington*, in *The Poems of Alexander Pope*, ed. John Butt, 586 (London, 1963).

21. Cowell, *supra* note 7, at 169.

22. See, e.g., King, *supra* note 10, at 186–87.

23. Smellie, *supra* note 1, at 81.

24. Fairbrother, *supra* note 4, at 210.

25. See, e.g., Anne Scott-James & Osbert Lancaster, *The Pleasure Garden* 52 (Ipswich, England, 1977).

26. Smellie, *supra* note 1, at 118.

27. See, e.g., Fairbrother, *supra* note 4, at 210–11; Hyams, *supra* note 11, at 34.

inspiring lofty flights of imagery."<sup>28</sup> They could now deal with nature not as combatants but as artists.<sup>29</sup>

Nature became "a friendly and equal partner" providing "inexhaustible interest, refreshment and moral uplift"; natural irregularities rather than an imposed regularity became the goal.<sup>30</sup> A more romantic tradition developed in counterpoint to still prevalent classical ideas.<sup>31</sup> The monotonous became "the enemy of imaginative life"<sup>32</sup>; the eye, the mind wanted "movement, variety, and fluidity."<sup>33</sup> In gardening, as in other areas, the movement was "away from stylization towards style . . . away from a regularity which was not a native product."<sup>34</sup> The landscape gardeners "were moving towards artistic control . . . [which was] very attractive to men who were becoming confident of their power to change the natural scene at will, and . . . were at last free to indulge their taste for its beauties and . . . set about improving on the arrangement of natural elements."<sup>35</sup> Reason now nourished feelings; comprehension and explanation loosened up imagination and emotion. Nature, which "prescribed balance, elegance, and even honesty,"<sup>36</sup> also fed the senses and awakened perception.

The emergence of the new landscape garden was prompted by a variety of motives that included the poetic and aesthetic and the practical and political. The English reaction to the formal garden had a nationalistic bent, reflecting historic animosity toward that which was imported. They saw themselves "happily spared the absolutism of French politics" and felt their landscape gardens should also "be cleared of the ordered and fiercely

28. George B. Tobey, *A History of Landscape Architecture* at xi (New York, 1973).

29. See, e.g., William A. Brogden, *The Fermé Ornée and Changing Attitudes to Agricultural Improvement*, in *British and American Gardens*, *supra* note 9, at 41–42:

In the 1730s and 1740s improvement is no longer, in itself, sufficient inducement for a man to make a "pretty landskip of his possessions," as Addison had phrased it. Certainly from the time that Pope looked through the gate of the botanical garden at Oxford and observed that "all gardening is like landscape painting—like a landscape picture hung up," a new force is apparent in garden making: a preoccupation with art, and, consequently, taste, and subsequently a reduction of the principles of garden making to those of art, and, specifically, landscape painting.

30. Geoffrey Jellicoe & Susan Jellicoe, *The Landscape of Man* 233 (New York, 1975).

31. See, e.g., Peter Coats, *Great Gardens of Britain* 188 (New York, 1967); Lindsay & Washington, *supra* note 2, at 158.

32. Martin, *supra* note 17, at 9.

33. Hyams, *supra* note 11, at 22.

34. *Id.*

35. *Id.* Not all observers are charmed. Compare Norman T. Newton, *Design on the Land* 208 (Cambridge, Mass., 1971):

The prevailing romantic and literary attitude toward Nature held also to certain misleading verbal abstractions about the natural world . . . . To put it bluntly, the sophistry of the time asserted, in effect, that "nature wiggles," that natural forces are casually haphazard, that they generate only irregular forms, and that any kind of curved line is somehow more natural—and therefore better—than a straight one.

36. Smellie, *supra* note 1, at 122. The new impulses eventually mutated into the wild, the picturesque, the unrestrained romantic emotionalism of the later eighteenth century. See, e.g., Mavis Batey, *The High Phase of English Landscape Gardening*, in *British and American Gardens*, *supra* note 9, at 45; Christopher Thacker, *The Volcano: Culmination of the Landscape Garden*, *id.* at 74.

prescriptive designs” that mirrored French politics.<sup>37</sup> The new approach to gardening was “expressive of English ‘liberty’ in contrast to French ‘tyranny’ and formality.”<sup>38</sup> Such gardens as Versailles, symbolized “autocracy and the absolute rule of man over nature”; the English reaction represented “constitutionalism and man’s alliance with nature.”<sup>39</sup> The English landscape garden “was an endorsement of liberty and tolerance against tyranny and oppression”<sup>40</sup>; it became “a constitutional taste, like the preference for Shakespeare, wild and unruléd . . . over the more correct, neo-classic Racine.”<sup>41</sup> The new landscape garden became an expression of England’s national pride.<sup>42</sup>

According to one promoter of the English style, Versailles and all it represented could be dismissed in five words: “Nature abhors a straight line,” words that were “new and simple and completely revolutionary . . . [and that seemed] to have the truth of an undeniable natural law.”<sup>43</sup> The new style “tolerated and encouraged incongruity, the grotesque, surprise and variety . . . because that was the way of nature and of liberty”; it was the “enemy of the monumental, of geometry, of regularity and the formal because that was artifice and autocracy.”<sup>44</sup>

Nature became the bride of art, the garden became freer and more natural, irregular but controlled.<sup>45</sup> The object was to “reproduce with as little artificiality as possible, the appearances of nature,” but “nature . . . must triumph over art.”<sup>46</sup> Nature was assisted but not controlled.<sup>47</sup>

[The new style required a] co-ordination with the landscape. Where nature is dominant, not only is it impossible to improve or modify her; but the attempt is against the dictates of common sense or artistic appreciation. She must be followed closely, in such situations, as to her lines and forms, and her component features. Her weak points may be strengthened, her most characteristic features heightened. But her essential character cannot be altered—that is, no such thing as ‘design’ may here be attempted. In short, the improver must follow in the footsteps of nature.<sup>48</sup>

The objective was nature perfected, not dominated.<sup>49</sup>

The landscape gardener was expected to consult “the Genius of the Place—the resident spirit or character of a situation”<sup>50</sup> and to master “the

37. Genius of the Place, *supra* note 9, at 138.

38. David Watkin, *The English Vision 1* (London, 1982).

39. Clark, *supra* note 18, at 22.

40. Peter Willis, Charles Bridgeman and the English Landscape Garden 18 (London, 1977).

41. David Jarrett, *The English Landscape Garden 13* (New York, 1978).

42. Wright, *supra* note 10, at 311.

43. Fairbrother, *supra* note 4, at 209.

44. Clark, *supra* note 18, at 48. See also *Genius of the Place*, *supra* note 9, at 178, in which the editors note that a landscape gardener was “guided above all by his distaste for ‘that abominable Mathematical Regularity and Stiffness’ and is determined patriotically to ensure that his country’s very different style comes quickly to rival the Continental ones . . . . [H]is ‘noble Idea’ of the English garden . . . [is] the insistence upon irregularity and variety, upon letting the site shape the form and arrangement of the landscape, upon bringing the countryside into the scope of the garden.”

45. See, e.g., Michael Symes, *Nature as the Bride of Art: The Design and Structure of Painshill*, in *British and American Gardens*, *supra* note 9, at 65.

46. George F. Pentecost, Jr., *The Formal and Natural Style of Gardening*, 12 *Architectural Rec.* 175, 181–82 (1902).

47. King, *supra* note 10, at 189–90.

48. Pentecost, *supra* note 46, at 188.

49. See, e.g., Hyams, *supra* note 11, at 250.

50. Martin, *supra* note 17, at 9.

natural character, or prevailing expression, of the place to be improved.”<sup>51</sup> Nature was not dominated, but it also was not left to its own devices. That would produce chaos, a result as unsatisfactory as that achieved by horticultural geometricians. What design there was accepted the landscape and heightened its effects in as natural a way as possible.<sup>52</sup> There was a mutual compromise between man and nature.<sup>53</sup> At its most exalted, the landscape garden aimed “to raise Nature to the human mind and by the same process raise the mind by exhibiting Nature’s . . . ideal truth.”<sup>54</sup> Its creation “constituted an act of faith in the fundamental excellence of humanity and the perfectability of Nature.”<sup>55</sup>

The landscape gardener also sought to arrange nature in a way that would “awaken emotions of grace, elegance, or picturesqueness, joined with unity, harmony, and variety, more distinct and forcible than are suggested by natural scenery.”<sup>56</sup> The gardener had to be interdisciplinary, had to know and appreciate poetry, painting, politics, and philosophy.<sup>57</sup> The gardener had to select and arrange and shape in such a way as to stimulate the mind as well as the soul. The garden was “made not only to please the eye but also to excite the imagination and produce sensations of grandeur, melancholy, gaiety and sublimity.”<sup>58</sup> There had to be a unity in this diversity, “a range of different kinds of effects that did not appear incongruous when juxtaposed.”<sup>59</sup> When practiced at the highest level, the art of landscape gardening could provide “an emotional and mental experience akin to a poem.”<sup>60</sup> It was stirring; it gave that “true pleasure in perception . . . derived from the ‘train of reflections’ in the mind.”<sup>61</sup> It gave pleasure to the eye and to imagination, the mind’s eye.

To its admirers, English landscape gardening is more than the mechanical rearrangement of nature. It is an art as complex and beautiful as music,

51. Downing, *supra* note 12, at 64.

52. See, e.g., Kenneth Woodbridge, *The Nomenclature of Style in Garden History*, in *British and American Gardens*, *supra* note 9, at 21; Martin, *supra* note 17, at 2; Fairbrother, *supra* note 4, at 266.

53. See, e.g., Fairbrother, *supra* note 4, at 31.

54. Christopher Hussey, *English Gardens and Landscapes 1700–1750*, at 100 (London, 1967).

55. *Id.* at 100–01. “[B]oth visually and historically, these majestic compositions can be said to have more to give us . . . than many of their more sensitively naturalistic successors. Their very combining of geometric with sensory forms, architecture with vegetation, landscape with garden, endows them with a substantial finiteness.” *Id.* at 11.

56. Downing, *supra* note 12, at 54.

57. See, e.g., Morris R. Brownell, “Bursting Prospect”: *British Garden History Now*, in *British and American Gardens*, *supra* note 9, at 5; Brenda Colvin, *Land and Landscape: Evolution, Design and Control* 67, 2d ed. (London, 1970); *Genius of the Place*, *supra* note 9, at 38.

58. Clark, *supra* note 18, at 29.

59. Symes, *supra* note 45, at 69.

60. *Id.* at 68. Alexander Pope, the great poet, was also an enthusiastic gardener. See Martin, *supra* note 17, at 229:

In his own garden Pope landscaped only five acres because he did not want any more . . . . Committed to his small demesne, he obviously accepted constraints upon his efforts to create the illusion of space and distance. It was precisely through a contrast of the irregular with the regular, of the straight with the curving line, of the open and flat with the winding and hidden, that this illusion and multiplicity of effects were achieved.

61. Batey, *supra* note 36, at 47.

painting, and poetry.<sup>62</sup> It is an art that appeals to the twentieth- as well as the eighteenth- century mind in its rejection of rigid order or imposed form and in its expression of a freer, simpler, more natural view.<sup>63</sup> It appeals to the head and the heart. Its study can reveal as much about the history of politics, society, and ideas as it does about horticulture. Its lessons, as well as its beauties, endure.<sup>64</sup>

The ideal landscape garden, “was nature improved, a landscape made more beautiful by art.”<sup>65</sup> Nature left alone was chaotic but nature assisted by art expressed character, spirit, and essence. It was not a mere imitation of nature “but an expressive, harmonious, and refined imitation” that sought “to separate the accidental and extraneous . . . and to preserve only the spirit, or essence.”<sup>66</sup>

Landscape gardening was art and nature in a happy combination.<sup>67</sup> It was “a matter equally of aesthetics, sentiment, and business. . . . [an] easy union of the pragmatic and the romantic”<sup>68</sup>; “the whole art of gardening lies in combining use and beauty, extensive countrysides and simple means of ornament . . . . [T]he insistence on combining traditional with novel elements, beauty with use, the grand scale with rural scenery, enrichment with simplicity, emphasises that the aim of reconciling these opposites was deliberate.”<sup>69</sup> The law is also an art that requires reconciling opposites. It is the intertwining of theory and craft; its components are intellect, technique, and spirit. Mechanical formula or rigid pattern is not enough for the able twentieth-century lawyer, just as it was not enough for the eighteenth-century gardener.<sup>70</sup> It does not satisfy. Law is not a “narrow intellectual drill”; it requires the “cultivation of emotional and moral sensitivities along

62. See, e.g., Coats, *supra* note 31, at 11:

For the landscape garden, it is often said, and often will be said again, is the great English contribution to the art of gardening, even to art itself . . . . The landscape garden is surely the only art form to be perfected in Britain; it should be the British pride—a thing of beauty, and a joy for as long as they have acres left unbuilt on.

See also Woodbridge, *supra* note 52, at 19, labeling gardening as “a composite and complex art.”

63. See, e.g., Fairbrother, *supra* note 4, at 237–38; Martin, *supra* note 17, at 21.

64. See, e.g., Genius of the Place, *supra* note 9, at 2; Martin, *supra* note 17, at xv; Brownell, *supra* note 57, at 9; Willis, *supra* note 40, at 8–9.

65. Fairbrother, *supra* note 4, at 208.

66. Downing, *supra* note 12, at 52–53.

67. See, e.g., W. A. Speck, *Society and Literature in England 1700–60*, at 49 (Highland, N.J., 1983); Clark, *supra* note 18, at 37:

[T]he natural landscape park was not a matter of chance—or picturesque neglect as later theorists were to suggest. Nature left to itself would produce chaos. But nature assisted by art, its inherent and potential pattern selected and clarified with a painter’s eye, was the ideal to be aimed at . . . . [W]hat shocked the eighteenth century gardeners in the formal garden was the impression and repetition of artificial patterns on a site which had its own natural character.

68. James Sambrook, *Parnell’s Garden Tours: Hagley and The Leasowes*, in *British and American Gardens*, *supra* note 9, at 63.

69. Hussey, *supra* note 54, at 13.

70. See, e.g., Soia Mentschikoff & Irwin P. Stotzky, *Law—The Last of the Universal Disciplines*, 54 U. Cin. L. Rev. 695, 700–01 (1986); Marvin E. Frankel, *Curing Lawyers’ Incompetence: Primum Non Nocere*, 10 Creighton L. Rev. 613, 633 (1977).

with intellectual development.”<sup>71</sup>

Law, like nature, cannot be subdued “to a formal intellectual pattern.”<sup>72</sup> Lawyers are humans, not automatons. They deal with human problems, not abstract constructs. They must coax, not coerce. Like a landscape gardener, they confront problems that require an analysis of the situation, the design of a solution, and the supervision of its implementation.<sup>73</sup> The lawyer’s problems, like those of the gardener, are not smooth, even, controlled; they do not come with simple, mechanical solutions. They require a creative, individualized imagination.<sup>74</sup>

Whether student, teacher, or practitioner, the twentieth-century lawyer, like the early eighteenth-century landscape gardener, can grow weary of the idea of law as intellectual dominance, divorced from what we know is the reality of human experience and emotion. The gardeners had “grown tired of order and formality and the Age of Reason”; their gardens were to be seen as “unsubdued by man’s too-dominate logic.”<sup>75</sup> They sought to balance, not replace, the purely intellectual with individuality, spontaneity, creativity—a balance the twentieth-century lawyer should also seek.<sup>76</sup> Merely thinking like a lawyer is not enough.<sup>77</sup>

The English Enlightenment rejected the previous century’s attempt to impose autocratic patterns on a growing, changing world. It reached “a working synthesis in place of conflict between the humanities and organic nature, young sciences and ancient traditions, reason and intuition.”<sup>78</sup> Lawyers should also reach such a working synthesis and reject the “palpable

71. Robert S. Redmount & Thomas L. Shaffer, *Learning the Law—Thoughts Toward a Human Perspective*, 51 *Notre Dame Law Rev.* 956, 959 (1976). See also Frank I. Michelman, *The Parts and the Whole: Non-Euclidian Curricular Geometry*, 32 *J. Legal Educ.* 352, 353 (1982).

72. Fairbrother, *supra* note 4, at 29. See also James B. White, *The Study of Law as an Intellectual Activity*, 32 *J. Legal Educ.* 1, 8–9 (1982): “One never knows all the law; one never feels wholly confident about any step taken in the law. The lawyer lives in an uncertain and indeterminate world, and his profession is to survive and flourish in it.”

73. See, e.g., Colvin, *supra* note 57, at xxi; Newton, *supra* note 35, at xxi.

74. See, e.g., S. Lang, *The Genesis of the English Landscape Garden, The Picturesque Garden and Its Influence Outside the British Isles*, ed. Nikolaus Pevsner, 6 (London, 1974); Clark, *supra* note 18, at 26; Fairbrother, *supra* note 4, at 267–68.

75. Fairbrother, *supra* note 4, at 30.

76. See, e.g., Batey, *supra* note 36, at 44; Gordon A. Christenson, *Studying Law as the Possibility of Principled Action*, 50 *Den. L.J.* 413, 430 (1974):

The cultivation of the skills of inquiry requires intellectual competence which becomes one with the skills of practice or action. To this end, there are a limited number of skills which law schools ought to promote in preparing novice lawyers.

The most basic of these are (1) analysis, (2) criticism, (3) creativity, (4) artistry or craft, (5) restraint, and (6) systematic comprehension.

77. See, e.g., John O. Mudd, *Beyond Rationalism: Performance Referenced Legal Education*, 36 *J. Legal Educ.* 189 (1986), Sallyanne Payton, *Is Thinking Like a Lawyer Enough?* 18 *U. Mich. J.L. Ref.* 233, 240 (1985), and Derek C. Bok, *A Flawed System of Law Practice and Training*, 33 *J. Legal Educ.* 570, 582 (1983):

If law schools are to do their share in attacking the basic problems of our legal system, they will need to adapt their teaching as well as their research . . . . [O]ne can admire the virtues of careful analysis and still believe that the times cry out for more than these traditional skills . . . . [T]he capacity to think like a lawyer has produced many triumphs, but it has also helped to produce a legal system that is among the most expensive and least efficient in the world.

78. Hussey, *supra* note 54, at 16.

noetic hierarchy” that regards as worthy “only that knowledge in the empirical-analytical category” and treats the rest as “gas.”<sup>79</sup> A single-minded view of law as “intense rationalism” lacks the necessary “sense of how legal problems are experienced by those that have them or face them and just what this means to the practicing lawyer.”<sup>80</sup> We should reject this as firmly as the landscape gardener rejected the sterile geometry of the formal garden.

No two legal problems are alike, just as no two landscapes are alike. Each has limitations and opportunities; each has its own genius that must be approached with pragmatic ingenuity.<sup>81</sup> The solutions must be more than abstractly coherent; they must be for real people, not for abstract beings but for the people who must live with them. The solutions must consider feelings, emotions, and aspirations as well as intellectual symmetry; they must harmonize the real and the ideal; they must achieve a “congruence of inward and outward.”<sup>82</sup>

The early eighteenth-century landscape gardener worked to resolve the tension created by “traditional opposites—pleasure and business, use and beauty, harmony with surprise, ‘unification’ with ‘variety.’”<sup>83</sup> The twentieth-century lawyer needs “to find social sciences, philosophies, and teaching strategies which recognize the dialectical embracing of individual subjective awareness, i.e., the “inner world,” and of the social world, where experience is linked to life itself, to the past and to the future.”<sup>84</sup> Like the eighteenth-century gardener, the twentieth-century lawyer needs to balance “the tensions between affective and objective values” and to understand that a union of the two is desirable and possible.<sup>85</sup>

79. John D. Ayer, *Isn't There Enough Reality to Go Around? An Essay on the Unspoken Promises of Our Law*, 53 N.Y.U. L. Rev. 475, 480 (1978).

80. Gary S. Goodpaster, *The Human Arts of Lawyering: Interviewing and Counseling*, 27 J. Legal Educ. 5 (1975). See also Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. Legal Educ. 247, 261 (1978):

The utility of the “tough minded” characteristics in many settings is not in issue. The question is whether the selection and training of law students does not neglect humane aspects of personal development and experience, the emotional aspects of the professional relationship, and the development of capacities of imagination, empathy, self-awareness, and sensitivity to others.

81. See, e.g., Willis, *supra* note 40, at 130; Symes, *supra* note 45, at 72–73; Clark, *supra* note 18, at 19.

82. *Genius of the Place*, *supra* note 9, at 41. See also Robert S. Redmount, *The Future of Legal Education: Perspective and Prescription*, 30 N.Y.L. Sch. L. Rev. 561, 563 (1985):

A law school is not . . . a laboratory, and legal education must mirror broad issues and concerns in society if it is not to be an anachronism vested in power but not in intelligence . . . [T]he values that attach to clinical emphasis stress, to some degree, human concerns, social relevance, and practical consequences. This is of no small moment when the law is viewed as a mechanism for adjusting social excesses and failures rather than as a liturgy of a vested priesthood.

83. Hussey, *supra* note 54, at 33. See also Brownell, *supra* note 57, at 10.

84. James R. Elkins, “All My Friends Are Becoming Strangers”: The Psychological Perspective in Legal Education, 84 W. Va. L. Rev. 161, 222 (1982). What most contemporary legal psychologists lack is that quality of mind which sees the relationship of self and world and the dynamic interplay of the inner world of experience and experience in the world. *Id.*

85. Steven H. Leleiko, *Love, Professional Responsibility, The Rule of Law, and Clinical*

The art of law, like that of landscape gardening, is “the imposing of a measure of order on the disorder of experience, while respecting and not suppressing the underlying diversity, spontaneity and disarray.”<sup>86</sup> The law, like the landscape, is “a composition . . . not a construction, mathematically composed.”<sup>87</sup> And like the landscape, the law has a structure that “is both cultural and creative, operating on various levels of thought and emotion,” using reason and feeling.<sup>88</sup> Each has quality and diversity; each is intellectual and emotional; each gives “practical reality . . . to vision and ideals”<sup>89</sup>; each engages the intelligence and the imagination; for each “the final judgment is an aesthetic one . . . the final touchstone one of measure, proportion, coherence, fitness.”<sup>90</sup>

Legal Education, 29 Clev. St. L. Rev. 641, 642 (1980). See also Sambrook, *supra* note 68, at 56 noting that the gardener’s “appetite for romance is as strong as his sense of reality and he is not aware of any contradiction between the two.”

86. Paul A. Freund, Dedication Address: The Mission of the Law School, 9 Utah L. Rev. 45 (1964). See also Downing, *supra* note 12, at 10:

The development of the Beautiful is the end and aim of Landscape Gardening, as it is of all the other fine arts . . . . Landscape Gardening differs from gardening in its common sense, in embracing the whole scene . . . which it softens or refines, or renders more spirited and striking by the aid of art . . . . [I]n the landscape garden we appeal to that sense of the Beautiful and the Perfect, which is one of the highest attributes of our nature.

87. Clark, *supra* note 18, at 15.  
 88. Christenson, *supra* note 76, at 428–29. See also Martin, *supra* note 17, at 10; Coats, *supra* note 31, at 11.  
 89. Karl N. Llewellyn, Charles Bunn, David F. Cavers, Judson F. Falknor, Lester W. Feezer & Frederick J. Moreau, The Place of Skills in Legal Education, 45 Colum. L. Rev. 345, 391 (1945).  
 90. Freund, *supra* note 86, at 45.