INSIGHTS INTO EQUITY

*Derek Roebuck**

Introduction

To have known David for forty-five years and Mary for thirty-five has given me many insights into precious things: first friendship; then the central role of generosity in scholarship; that good teaching is about helping others to understand, by clear presentation based on hard thinking and careful preparation; and perhaps most important of all, when paying tribute to their lifetime's work, a determination to fight fearlessly for the many kinds of standards which it is every generation's duty to maintain.

They have both accomplished much in many aspects of comparative commercial law but this little offering aims to honour their distinguished origins as Equity lawyers. It presents unconnected insights into the development of Equity in English law, mostly gleaned from searching primary sources for other purposes. Now we know that the presence, let alone the attitude, of the observer can affect the experiment's result, there is even more justification for publishing the chance discovery.

Classical Origins

I use Equity to refer to that part of English law, equity for the general concept. Even to make this distinction consistently is often difficult. No one has yet found a word, a phrase, or even a paragraph to describe Equity satisfactorily in English. The chances of holding the meaning stable when working across cultures and languages, historically or geographically, are even less. Yet there are worthwhile insights to be found as early as Plato,[1] who thought that equitable discretions were best left to arbitrators, but more elaborately expressed by his pupil, Aristotle.

Aristotle lived in Athens at a time when the great orators practised their craft before the assembly and the courts or wrote the scripts for the parties. He wrote

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1 Plato *Laws* 12; this part is based on research for *Ancient Greek Arbitration* (2001), Chapter 9.

his textbook on the craft of advocacy about 330BC.[2] The first book discusses the place of *to epieikes*, the equitable, or the concept of equity as that which is fair and yields to reasonableness. Though it is important to avoid associations with Equity, Aristotle uses the term quite similarly and technically. For example:

> 'The equitable' seems to be just. Equity is just, going further than the written law. That may be intentional or unintentional on the part of the legislators: unintentional when they have forgotten to put something in, intentional when they were unable to make distinctions but had to make a general rule, which turned out to be applicable to some cases but not others.

He gives the example that a rule, which made raising a piece of metal in anger a serious assault, would include a bare hand with a ring on a finger. That would not be equitable.

Aristotle discusses elsewhere the problem caused by the essentially general nature of a legal rule and the injustice which must arise when it is applied to facts unforeseen by the legislator.[3] His most elaborate discussion of equity, though, is in *Nichomachean Ethics*:[4]

> Our next topic is equity and the equitable: how does equity relate to justice, and the equitable to the just? On examination, they appear to be neither completely the same nor generically different. We praise the equitable and 'the equitable man', so much so that we use the word as a metaphor for good when we praise other things, making 'the more equitable' just mean 'better'. But when we go a bit deeper into it, it does not seem right that 'the equitable' should be praiseworthy if it is not 'the just'. For if they are different they cannot both be good and if both are good they must be the same….
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> 'The equitable' is better than a certain kind of 'the just' and is itself just. But it is not generically better than 'the just'. So 'the just' and 'the equitable' are the same, both are good, but 'the equitable' is superior. The difficulty arises because 'the equitable' is just but not 'just according to law'. It is a correction of legal justice. The reason is that every law is general and it is not possible to deal generally with some matters. In those matters which must be dealt with generally, but cannot be so dealt with correctly, the law takes into account the majority of matters, though it is

2 Aristotle *The Art of Rhetoric*; at 1.13.13-14 he elaborates on 'the equitable man' and his characteristic willingness to settle for less than he might gain by standing on his legal rights, best illustrated by his preference for arbitration.

3 Aristotle *Politics* 294-295.

4 Aristotle *Nichomachean Ethics* 5.10.

> not ignorant of the fact that that will lead to error. The law is none the worse for that. The fault is not in the law or the legislator but in the nature of the matter. The substance of what we do is straightforward enough. So, when the law speaks in general terms and something occurs which does not fit the general rule because the legislator by speaking generally has failed to cover that particular matter, then it is right to correct the omission by deciding the matter in such a way as the legislator himself would have done and legislating as he would have done, had he known of the particular circumstances.
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> Therefore, 'the equitable' is just and better than a certain kind of justice but it is not better than general justice, only than the justice which is general in error. This is the very nature of 'the equitable': a correction of the law when it fails for generality…. It is now clear what 'the equitable' is, that it is just, and better than a certain kind of justice. That shows what an 'equitable man' is: one who prefers to do equitable acts. He does not insist on his strict legal rights but is prepared to settle for less though he has the law on his side. Such is the equitable man and that is the character of equity: a kind of justice, not of a different character.

Aristotle's opinions on legal systems were of his time; like his scientific insights they could not survive unchanged. He was a philosopher, not a jurist, let alone a lawyer. But he was an admirable model for those who thought about law.

The Roman legal system was constructed by the practical minds of jurists, without too much dependence on philosophy. Their word was *aequitas*, closer to 'even-handedness' than the Greek's 'yielding to reasonableness'. Their concern was good faith, which was not something they associated with contemporary Greeks. Legal rights could not be enforced in bad faith. Yet there are signs that the Romans adopted some of Aristotle's ideas of equity. Cicero in his work on advocacy wrote:[5] 'all the boys do their exercises before their master when they are being taught to defend sometimes the written law, sometimes equity.' Though he too was a philosopher, he was an experienced advocate and knew the realities of legal practice. In his work on moral duties, he gave a practical example from his own knowledge.[6] Gratidianus, a kinsman of Cicero, bought a house from Orata. Some years later he sold it back to him. In the terms of that sale, nothing was said about an encumbrance, which both parties knew about. Roman law provided that a seller was bound to make good any defect known to the seller at the time of sale unless disclosed to the buyer. Crassus, for Orata, pleaded the strict law. Antonius, for Gratidianus, argued the equity: Orata must have known of the defect because

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5 *De Oratore* 1. 57. 244; also 1. 56. 240.

6 Fritz Schulz *History of Roman Legal Science* (1946) p.74 cites these passages but argues strongly against my interpretation: 'to the lawyers this distinction between law and equity was useless'.

he had previously owned the house and moreover had sold it to Gratidianus subject to that very encumbrance. Equity prevailed, as can be seen from the moral: 'this is so that you may understand that our ancestors would not put up with sharp practice.'

Moreover, a Roman heir could plead against a purchaser for value: 'Even if the purchaser has a legal right, it would be inequitable to enforce it against me'.[7]

The line from Aristotle runs through Cicero and the lawyers of the early empire to Justinian. Gaius recognised that old laws, still in force, like the Twelve Tables' provisions on intestate succession, had to be modified to avoid injustice. How? By the praetor: 'But these inequities (*iniquitates*) have been emended by the praetor's edict'.[8]

Papinian is quoted in Justinian's *Corpus Juris* describing the praetorian law as that which praetors 'introduced in aid or supplementation or correction of the civil law'.[9] Some scholars have seen a close resemblance between the role of the praetor in developing Roman equity and that of the Chancellor in England. Others prefer to stress the differences. But equity was not restricted to such legislative amendment; it was a general principle of construction.[10] Justinian's *Digest* provides examples: 'equity supports this even if the law is lacking';[11] 'indeed in all matters, but particularly in law, equity must be observed';[12] 'even though it is not easy to change anything formally laid down, yet relief must be allowed where equity clearly requires it.'[13] The prevalence of equity could hardly be more directly stated than in the emperor's own instruction:[14] 'It is my wish that the leading principle in all matters shall be justice and equity (*iustitiae aequitatisque*) rather than the strict law.'

As the poet perceived:[15]

> Justinian's Pandects only make precise
> What simply sparkled in men's eyes before,
> Twitched in their brow, or quivered on their lip,
> Waited the speech they called but would not come.

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7 The procedure is set out by WW Buckland *Equity in Roman Law* (1911) p5.
8 Gaius *Institutes* iii 25.
9 D 1. 1. 7.
10 HF Jolowicz *Roman Foundations of Modern Law (*1957) pp.12-13, 56-57.
11 D 39. 3. 2. 5.
12 D 50. 17. 90.
13 D 50. 17. 183.
14 C 3. 1. 8.
15 Robert Browning *The Ring and the Book* V 1781-1784..

The Chancellor

The extent to which Roman Law influenced the earliest Common Law has been much debated. There is now no doubt that Bracton knew, understood and adopted a great deal.[16] What may be much more important is the influence, not so easy to trace, of the education of all lawyers and judges, and indeed of all those who performed law jobs before there were any professional lawyers or judges. Every educated person shared a similar culture. It passed through the Christian church. It included Aristotle's ideas, given added authority by the endorsement and elaboration of the Church's own saints and scholars. One example must suffice. Aquinas developed Aristotle's theories of equity by applying them to the question of whether a promise is in all cases binding. Legislation in general terms must be modified by equity when it would cause injustice in circumstances which can be shown to be outside what the legislators foresaw. Similarly, a promise is not binding in unforeseen circumstances which would make it inequitable to enforce it.[17] These concepts were part of the general education of all, cleric and lay, who went on to do law jobs. Their correctness and their moral force were taken for granted. They were not so much part of the law as of civilised life.

All students of English law once learned about Equity from Maitland's lectures.[18] Most of us got as far as the second page and read:

> Already in Edward I's day the phrase 'common law' is current. It is a phrase that has been borrowed from the canonists – who used '*jus commune*' to denote the general law of the Catholic Church; it describes that part of the law that is unenacted, non-statutory, that is common to the whole land and to all Englishmen. It is contrasted with statute, with local custom, with royal prerogative. It is not yet contrasted with equity, for as yet there is no body of rules which bears its name.

Edward I reigned until 1307. By then there is no sign of an Equity separate from the Common Law. But if we persevere to page 6, Maitland pushes the date forward: 'I do not think that in the fourteenth century the Chancellors considered that they had to administer any body of substantive rules that differed from the

16 The careful textual analysis of H Kantorowicz, *Bractonian Problems* (1941) has, in the kindest way, shown that Maitland was astray here. Henry de Bracton died in 1268. He was a judge from about 1245. He wrote *De Legibus et Consuetudinibus Angliae*, the first systematic account of the whole of the common law, based on decided cases, arranged according to Roman models, recorded in his notebooks, which Vinogradoff discovered in the British Library and Maitland edited. Bracton's own manuscripts are still there to inspire any student.

17 Thomas Aquinas, *Summa Theologica* II-II q.88, a, 10; q.89, a 9; q.120, a, 1; James Gordley, *The Philosophical Origins of Modern Contract Doctrine* (1991) pp12-13.

18 FW Maitland Equity also the *Forms of Action at Common Law: Two Courses of Lectures* (1909).

ordinary law of the land.' That may still be true but there is some evidence of a non-lawyer's, perhaps precocious, perhaps unconscious, insight into the reality.

A manuscript in the Cambridge University Library,[19] in its present form dating from the fourteenth century, is well known to medievalists. It comes from Amesbury in Wiltshire, from the Benedictine priory of the Fontevraud order, which enjoyed royal patronage in the thirteenth century. Edward I visited at least seven times between 1281 and 1291. His mother, Eleanor of Provence, entered the convent in 1276 and died there in 1291. His sixth daughter, Mary, entered in 1285. The core of the manuscript is a book of hours but it also contains a pretty calendar of saints' days, with other additions, some of which, in the margins, are more scurrilous than saintly.

One prayer, to Saint Francis of Assisi, has received considerable attention and been edited and translated in a collection of Anglo-Norman lyrics.[20] There are five four-line stanzas. The first three remind the saint that his love of Jesus has been rewarded with replicas of the stigmata and appointment as the herald, *baneour*, of the holy passion. The significance for an understanding of thirteenth century attitudes to the Chancellor is in the last two stanzas. I have transcribed and translated the manuscript afresh, trying to catch the flavour of the original in a sort of verse, a poor sort but the original is charmingly robust rather than elegant.

> *Douz sire seint franceis ki deu ad si chier.*
> *En la court celestiene estes de grant poer.*
> *Et a vos amis especiaus poez mult aider.*
> *Car vo' portez le grant Sel si estes chanceler.*
>
> Sweet sir, Saint Francis, whom God holds so dear,[21]
> In the heavenly court you have such great power
> And your special friends you can help very well,
> Because you are Chancellor and hold the Great Seal.

The author, probably a Franciscan and not a lawyer, innocently provides evidence of contemporary attitudes to the earthly Chancellor. There would be no point in his allusions if he could not rely on his audience picking them up. Those readers or listeners had to understand insular French, the form spoken in England. If, as seems likely, the poem-prayer was first composed at some time between 1250 and

19 Ee.6.16, 204 folios.

20 DL Jeffrey and BJ Levy *The Anglo-Norman Lyric* (1990) pp49-51; also J Vising *Anglo-Norman Language and Literature* (1923) p.59, item 203; P Meyer (1886) 15 *Romania* 271-72.

21 Not 'who hold the Lord so dear', (Jeffreys and Levy); *ad* must be third person singular, not second.

1300,[22] that audience would include religious, whether Franciscans like the author, or Benedictines, female and male of the Amesbury priory, and perhaps others including layfolk.[23]

As well as providing evidence of expectations of saintly intercession, the prayer may show contemporary attitudes to the Chancellor and his role, functions and powers. Using the power which possession of the Great Seal gave him, he could favour his friends and was expected to do so. That is a rather different emphasis from that of the legal writers who have stressed his role as a facilitator of justice, of equity beyond the reach of the Common Law and its courts.[24]

However, it is the last verse that has the most telling information:

> *Por cele grace especiale qe ihesu fist a tei.*
> *Ke entre les autres seintz outre comune lei.*
> *En signe de sa passion te conforma a sei.*
> *Priez le douz ihu q il eit merci de mei. Amen.*
>
> By that special grace which Jesus gives you,
> Who of all other saints outside common law,
> In sign of his suffering made you like him to be,
> Pray gentle Jesus to have mercy on me. Amen.

The manuscript could not be clearer: *outre comune lei*.[25] What is one to make of it? It is impossible to conceive of any meaning other than 'outside common law'. It is true that *comune lei* could, if taken out of this context, mean the law which applied generally to all Christians. But it cannot mean that here. Saint Francis would surely have been quite offended if someone praying to him had suggested he was outside that communion. The author, with the Chancellor still in mind from the preceding verse, shows clearly enough that, by the second half of the thirteenth century, and even among non-lawyers, there was an appreciation of the

22 Jeffreys and Levy p2; Vising p59; Meyer p271.

23 DA Kibbee *For to Speke Frenche Trewely (*1991) pp39-47 and the works cited there; Ian Short 'On Bilingualism in Anglo-Norman England' (1980) 33 *Romance Philology* 467-79.

24 JH Baker, *An Introduction to English Legal History* 4th edn 2002 pxxx; SFC Milsom, Historical Foundations of the Common Law (1981) p83. G Spence The Equitable Jurisdiction of the Court of Chancery (1846-50), reprint Buffalo, Hein 1981, 2 vols I pp334-35 describes eulogies of the early Chancellors.

25 Strangely, Jeffrey and Levy do not translate this phrase at all. They simply omit it. Their paraphrase reads: 'among the other saints to have a special place'. Compare '*outre poer*', '*ultra vires*'.

distinction between the Common Law and the Chancellor's jurisdiction.[26] The Chancellor had something else.

The Chancellor's own court of Chancery was well enough established by 1340 to be included, separately by name, in an attempt to control court delays by statute:[27]

> *Item pur ce qe moultz des meschiefs sont avenuz de ceo qe en diverses places aussibien en la Chauncellerie en le Bank le Roi le comune Bank & Lescheqer les Justices assignez… les jugementz si ount este delaiez a la foitz…*
>
> Also, because many mischiefs have arisen as a result in different places, in the Chancery as well as King's Bench, Common Bench and the Exchequer, the judges assigned… the judgments have thus been sometimes delayed…

There is no evidence that the statute had any effect but it is evidence of a separate court of Chancery, or at least *in* a place called the Chancellery. Evidence, however, of a conscious distinction, drawn by judges between the Common Law and the something else, which the Chancellor no doubt had, but they as Common Law judges could also apply, comes from their own mouths.

Equity as Governor

I will not easily forget the mirth with which David and Mary greeted my suggestion, in an anachronistic flight of fancy, that Equity acted 'as a sort of governor or safety valve on the common law machine, necessary for its efficient working when faced with extraordinary pressures'.[28] So I would now suggest different, duller metaphors: auxiliary courts with supplementary systems.

The Court of Chancery offered remedies and defences which the Common Law courts did not. The Common Law courts did not claim a comprehensive jurisdiction, not even jointly. There was always room for the royal government to add to its machinery of justice, or to duplicate or prefer. Even in modern times the government creates new courts and tribunals as it thinks fit. During the reigns of the first three Edwards (1272-1377), judges went on circuit and received petitions

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26 It would be helpful if the manuscript could be dated with more accuracy. That would give us the latest date for the poem's composition. It would not, of course, give us the earliest, which is what we would really like to know. What if the prayer was first recited, say, in 1230? The Franciscans first arrived in England in 1224, so it cannot be earlier than that. By 1235 they had founded a lectureship in Oxford, which Grosseteste held, teach 'subtle moralities'.

27 Statute made at Westminster 14 Edw III 1 Cap V, from Roughead's *Statutes* 1769 I pp223-24.

28 *Background of the Common Law* (1983) p76. 'Chancery as a Safety Valve' remains stubbornly as a heading in the Hong Kong 2nd edn 1990 p66.

of all kinds, which they dealt with not by applying the emerging rules of the Common Law but according to what they perceived to be justice and equity and sound administrative sense, probably by getting settlements wherever they could. The petitions, usually from those too poor to afford to bring an action, were directed to a judge, not to the king or his Chancellor. The language of these informal bills is sometimes similar to the Franciscan prayer. WC Bolland found and read over a hundred and concluded:[29] 'there can be no doubt that these bills are the very beginning of the equitable jurisdiction'.

The Common Law judges were not ignorant of the concepts of equity. In the earliest period they might well be asked to help out in Chancery or one of the other courts of Equity. They were often appointed to sit as arbitrators, sometimes by the Chancellor, to decide according to justice and equity.[30]

Chancery came to grant relief to those who had entered into penal bonds but the earliest example I have found was not in Chancery but Common Pleas. As early as 1308, Bereford J in *Umfraville v Lonstede*[31] refused to allow a claim for a penalty, which was good according to the rules of Common Law, because to do so would be inequitable. The plaintiff sought to enforce the penalty of one hundred marks, for breach of a condition in a bond by which the defendant promised to deliver up a document on a certain day. The defendant was abroad on that day but delivery had been offered at some later date and was still being tendered. 'See it here!' his counsel declared, insisting that the plaintiff had suffered no loss. Plaintiff's counsel merely reasserted the terms of the bond and their breach. Beresford CJ would have none of this technical argument. The plaintiff should take the document now offered. 'This is not purely debt but a penalty, so look you by what equity you can demand this penalty!… What sort of equity would that be, to award you the debt when the document is here and you cannot show you have suffered any damage by its detention?' He drew back from giving judgment *against* the bond holder, though, or forcing his attorney to accept the document, though he pressed him to do so. He contented himself with telling his counsel: 'Even if you keep on demanding our judgments, you will not have your debt these seven years, for the judgment of law [i.e. the Common Law] should not be made in that way'.

The origins of Equity would then be found not in Chancery but in the work of Common Law judges. Or, put another way, not only equity but Equity might precede Chancery.

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29 In his introduction (p.xxix) to WC Bolland, FW Maitland and LW Vernon Harcourt eds *The Eyre of Kent 6 & 7 Edward I* (1912) 27 *Selden Society*.

30 Derek Roebuck 'L'Arbitrage en Droit Anglais avant 1558' (2002) *Revue de l'Arbitrage* 535-577.

31 FW Maitland ed. *Year Books of Edward II 2 1308-9 and 1309-10* (1904) 19 Selden Society 58-59.

The Privy Council

Lest it be thought that the resort to equitable principles by Common Law judges was an early, passing phase in the development of our legal system, the evidence should be recalled of the ordinary work of Common Law judges at the request of the Council, in its various manifestations as a court of Equity.[32] Common lawyers were not members of the Council, except when it sat as the Star Chamber, but they were frequently and routinely appointed arbitrators and required to hear and end, *oyer et terminer*, according to justice and equity, and if possible bring the parties to a friendly end or charitable composition:[33]

> The Chief Justices of the King's Bench and Common Pleas were frequently named, either alone or in company with other common law judges. … Coke himself, both before and after his tenure of judicial office, was a member or chairman of such commissions. In some instances the issues appeared to be purely legal and appropriate for a common law trial. In many cases, however, it was perfectly clear that the claim for relief was equitable, and the arbitral commission was instructed to make an award according to 'conscience' or 'equity'.

Coke's role is particularly instructive, bearing in mind his quarrels with Bacon and later Ellesmere over Chancery's jurisdiction. Dawson draws attention to three matters in which Coke exercised an Equity jurisdiction, including breaches of trust and fraud.[34] Coke was Chief Justice when matters in Common Pleas were, at that court's own initiative, referred to arbitrators to deal with according to equity, and he certified its actions to the Privy Council for confirmation. Dawson also points out that special commissions were issued appointing Common Law judges to the Court of Chancery, in 1529 Fitzherbert CB and Scott B, in 1591 Clench, Gawdy, Peryam and Wyndham JJ; and he adds: 'From 1596 to 1603 a similar commission of four common law judges presided on alternate days and issued all the normal orders in equity cases'.[35]

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32 The documents are to be found edited in Cecil Monro Acta Cancellariae; or Selections from the Records of the Court of Chancery, Remaining in the Office of Reports and Entries. In Two Parts: Part First Containing Extracts from the Masters' Reports and Certificates during the Reigns of Queen Elizabeth and King James the First. Part Second Containing Extracts from the Registrars' Books from AD1545 to the End of the Reign of Queen Elizabeth London Benning 1847 and in JR Dasent (continued by others) Acts of the Privy Council of England New Series London HMSO 1890 -.

33 JP Dawson 'The Privy Council and Private Law in the Tudor and Stuart Periods' (1950) 48 *Michigan LR* 393-428.

34 Dawson p426 fn111.

35 Dawson p427 fn114.

Conclusions

What good are any of these alleged insights? What possible relevance can they have for lawyers and judges today?

Those who try to dispense justice have to face the dilemma which Aristotle elaborated so well. The law tries to ensure consistency. Certainty is a value. But no law can be refined enough to meet all the contingencies that life presents. We just are not clever enough to foresee all possible future events and then put into words the rules we want to govern them. So we give our decision-makers discretions. As long as we recognise this inevitability, we can do our best to be fair. Fairness and certainty are both desirable. Some judges feel more comfortable if they work well within the rules. Some like to create more flexibility for themselves and are so uncomfortable with what they see as an unfair outcome that they cannot rely on the rules to relieve them from unease. For most judges, the nature of the dispute and the prevailing wisdom among their colleagues will influence which way they go.

In the eighteenth and nineteenth century, there were Chancellors who felt most comfortable when they were working within an elaborate, detailed and sophisticated system of rules. Some were happy to postpone the resolution of their pretty conundrums indefinitely. So their separate jurisdiction was abolished. The rules of Equity were adopted into the general law applied by all the courts. There is the most respectable judicial authority for the assertion that the Judicature Acts 1873 were intended to fuse Common Law and Equity into one undifferentiated body of law, though the parliamentary debates are clear evidence to the contrary. Judges of the greatest distinction have suggested that the amalgamation has happened since. Yet that cannot be right. The courts of Equity and Common Law and their procedures and rules are no longer separate parts of the legal system. But the continued existence of the trust, with one kind of ownership in one person, protected by Common Law, and another kind protected by Equity, is sufficient to prove the separate survival of Equity. Equitable remedies provide another kind of proof.

There is a more profound proof of the necessity of equity, not only in those legal systems where Equity survives. In any legal system which claims to provide justice - and which does not? - there must be scope for Aristotle's equity, that which provides for exceptional and unforeseen problems to be dealt with exceptionally. In introducing equity into the interpretation of statutes and development of common law principles, their contemporary descendants may draw sustenance from the knowledge that they are doing no more than Common Law judges have always done.

I cannot end without thanking David and Mary for another insight, into how scholars should work together in joint authorship. There is more to it than generosity. There is a discipline of thinking through the others' minds and sometimes feeling through their hearts that, if it does not start in friendship, leads to it. My free translation of Martial *Epigrams* X 47 says it for me:[36]

> Listen, my friends, these are the things which make
> Life happier. Something not won by toil
> But happened on. A comfortable home.
> A garden which responds. A quiet mind.
> No litigation but perhaps the odd committee.
> Sufficient health and mental faculties.
> A simple sort of sense and equal friends.
> Easy discussion. A table not too rich
> Nor nights too boozy, just a bit relaxed.
> A carefree pillow in a guiltless sleep
> Which shrinks the shadows.
>
> Whatever it may be, let it be gentle
> With no intrusion of malevolence. In sum,
> May you not fear the day, nor hope too much.

36 Vitam quae faciunt beatiorem,
Iucundissime Martialis, haec sunt:
Res non parta labore sed relicta;
Non ingratus ager, focus perennis,
Lis nunquam, toga rara, mens quieta,
Vires ingenuae, salubre corpus,
Prudens simplicitas, pares amici,
Convictus facilis, sine arte mensa,
Nox non ebria sed soluta curis;
Non tristis torus et tamen pudicus;
Somnus qui faciat breves tenebras.
Quod sis, esse velis nihilque malis.
Summum nec metuas diem nec optes.